

# **POLICY MANUAL**

## ***NORTHWEST AREA SCHOOLS MULTI-DISTRICT / EDUCATIONAL COOPERATIVE***

**Updated  
September 2021**

# **Northwest Area Schools**

## **POLICY MANUAL**

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## BOARD/ GENERAL ADMINISTRATION

The Northwest Area Schools Multi-District AND Northwest Area Schools Educational Cooperative are each a separate legal entity for the purposes of providing services to school districts through a cooperative effort according to SDCL 13-39-41 through 64, 13-5-31, and 13-5-32.1. The school districts of Dupree, Faith, Harding County, McIntosh, McLaughlin, Smee, Timber Lake and Tiospaye Topa make up the Multi-District. The School Districts of Bison, Dupree, Faith, Harding County, McIntosh, and Timber Lake make up the Educational Cooperative. The governing boards of said Multi-District/Educational Cooperative hereby state their intent to comply with the laws governing operation and practices of school districts, "Multi-Districts" and "Educational Cooperatives" as set forth in SDCL and the adopted Cooperative Agreement and hereby adopt the following specific "Board" policies as guidelines for the operation of said Multi-District/Educational Cooperative within the boundaries of the law.

September 2012

<b>Northwest Area Schools Education Cooperative</b>	<b>NEPN Code: AC</b>
<b>Nondiscrimination in Federal Programs</b>	<b>NWAS Policy # 2010 Adopted: 3/3/2021</b>

**NONDISCRIMINATION IN FEDERAL PROGRAMS**

Northwest Area Schools Education Cooperative 52201 (hereby referred to as NWAS) will not violate any of the provisions of applicable federal programs, statutes or regulations, including but not limited to Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), ESSA and McKinney-Vento Act (homeless children). NWAS does not discriminate on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies:

504 Coordinator: Monica Mayer  
 Northwest Area Schools Educational Cooperative 52201  
 503 North Main Str. P O Box 35  
 Isabel, SD 57633  
 Phone # 605-466-2206

Title IX Coordinator: Monica Mayer  
 Northwest Area Schools Education Cooperative 52201  
 503 North Main Str. P O Box 35  
 Isabel, SD 57633-0035  
 Phone: (605) 466-2206

NWAS will provide the following:

1. an adequate, reliable, and impartial investigation of complaints, including the opportunity for the complainant and alleged perpetrator to present witnesses and provide evidence;

2. evaluation of all relevant information and documentation relating to a complaint of discrimination;
3. specific, reasonably prompt time frames at each stage of the grievance process;
4. written notice to all parties within a specified timeframe of the outcome or disposition of the grievance at each stage of the process;
5. an opportunity to appeal the findings or remedy, or both;
6. an assurance that NWAS will take steps to prevent recurrence of any discrimination and correct discriminatory effects on others; and
7. language in the policies and grievance procedures indicating that any attempts to informally or voluntarily resolve the complaint or grievance should not delay the commencement of the NWAS's investigation.

In compliance with applicable federal laws and regulations, the NWAS Board has appointed the NWAS Business Manager, Monica Mayer as NWAS's Compliance Officer to coordinate program compliance with federal programs. The NWAS Business Manager, Monica Mayer can be reached at:

Compliance Officer: Monica Mayer  
Northwest Area Schools Education Cooperative 52201  
503 North Main St., PO Box 35, Isabel, SD 57633  
Phone #: (605) 466-2206.

A complaint may also be filed with the United States Office for Civil Rights, U.S. Department of Education at: One Petticoat Lane 1010 Walnut Street, 3<sup>rd</sup> floor, Suite 320, Kansas City, Missouri 64106: Telephone: (816) 268-0550; Facsimile: (816)268-0599; Telecommunication Device for the Deaf: (800) 877-8339; E-mail: [OCR.KansasCity@ed.gov](mailto:OCR.KansasCity@ed.gov).

## **COMPLAINT PROCEDURE**

The NWAS Board has adopted a specific procedure to ensure that parental/student/public complaints related to the provisions of applicable federal programs, statutes or regulations, including claims of retaliation. The NWAS Board does not discriminate, on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups.

The purpose of this complaint procedure is to outline a procedure for addressing parental/student/public complaints about federal program compliance and/or discrimination. *Complaints against school employees and complaints related to sexual harassment, bullying, and instructional and library materials are addressed through other NWAS policies and not through this policy.*

For the purposes of this policy, a "complaint" is a perceived or alleged violation of federal programs, statutes or regulations (e.g., Title IX, ESEA/Title I, Rehabilitation Act Section 504, Title II (Americans with Disabilities Act), ESSA, McKinney-Vento Act (homeless children), etc.) and/or discrimination in a policy and/or program on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups.

To protect the confidentiality of all concerned, it is imperative that any school employee in receipt of a complaint treat the complaint as confidential and that the complaint not be

reproduced in any form, nor disclosed or discussed with any person other than those identified as proper recipients of the complaint (i.e., NWAS Compliance Officer/Business Manager, Monica Mayer, NWAS Director, NWAS Board).

When a federal program compliance complaint or discrimination/harassment complaint based on race, color, national origin, age or sex (excluding sexual harassment complaints) is brought directly to an individual board member or the entire Board, the board member or entire Board may listen to the person's complaint but shall take no action unless there has been compliance with this Policy. The person bringing the complaint will be directed to the procedure as set forth below. The following procedure is designed to ensure the proper balance in protecting the rights of the person(s) bringing the complaint and the rights of the employee against whom the complaint is made. It is only when the person having the complaint and the employee involved cannot resolve the problem, and the complaint cannot be resolved at the administrative level, will the NWAS Board and board members become involved.

Should it be determined that discrimination or harassment occurred based on race, color, national origin, disability, sex, or age in its programs and activities or equal access to the Boy Scouts and other designated youth groups, NWAS will take steps to prevent recurrence of any discrimination or harassment and to correct its discriminatory effects on others, if appropriate.

### **STEP 1: Initial Complaint**

- A. The person having the complaint related to federal program compliance or discrimination/harassment complaint based on race, color, national origin, sex disability, or age in its program and activities and equal access to the Boy Scouts and other designated youth groups (excluding sexual harassment complaints), the person must initiate the complaint procedure in one of the following ways:
- meet and discuss the concern with the Employee involved; OR
  - meet and discuss the concern with the Employee's Business Manager.
1. If the Complainant met with the Employee and the complaint was not resolved, the Complainant must meet and discuss the complaint with the NWAS Business Manager, Monica Mayer, within ten (10) calendar days of the meeting with the Employee. The NWAS Business Manager, Monica Mayer, shall complete a Complaint Form, Exhibit AC-E(1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its content.
  2. If the Complainant initiates the complaint by meeting with the NWAS Business Manager, Monica Mayer, the NWAS Business Manager, Monica Mayer, shall complete a Complaint Form, Exhibit AC-E(1). The Complainant shall sign and date the Complaint Form verifying the accuracy of its contents.
- B. Upon the Complaint Form being signed and dated by the Complainant, the NWAS Business Manager, Monica Mayer, shall give a copy of the complaint to the NWAS Director. The NWAS Director shall also give a copy of the complaint to the Employee and schedule an informal meeting with only the Complainant,



and Employee present. At the meeting, the NWAS Director shall attempt to facilitate discussion between the Complainant and Employee by seeking clarification of the issue(s) and seeking a resolution to the complaint. However, attempts to informally or voluntarily resolve the complaint should not delay the commencement of NWAS's investigation. Should a resolution be obtained, the resolution shall be noted on the Complaint Form. Should a resolution not be obtained, the Complainant and/or the Employee may request a decision by the NWAS Director on the merits of the complaint by making the request on the Complaint Form.

- C. If the NWAS Director is asked to make a decision on the merits of the complaint, the NWAS Director has the authority to investigate the complaint beyond the information received from the Complainant and Employee during the meeting with the Complainant, and Employee. During the investigation the complainant and alleged perpetrator shall both have the opportunity, at separate times, to present witnesses and provide evidence to the NWAS investigator. The NWAS investigator shall evaluate all relevant information and documentation related to the complaint of discrimination or harassment and shall render a decision in writing within fourteen (14) calendar days of the request for a decision on the merits of the complaint. The time frame for rendering a decision by the NWAS Investigator may be extended for good cause and upon written notification to the Complainant and Employee. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered. The Complainant and the Employee shall receive written notification of the NWAS Director's determination/resolution.
- D. The NWAS Director's decision may be appealed by the Complainant or Employee to the NWAS Board within (10) ten calendar days of receipt of the NWAS Director's written decision pursuant to Step 2. If the NWAS Director does not render a written decision within the required time frame (14 days unless extended) the Complainant or Employee may appeal to the NWAS Board.

*Should the complaint be against the NWAS Director the Complaint Form, Exhibit AC-E(1), shall be given to the Business Manager, Monica Mayer. The Business Manager, Monica Mayer, shall give the Complaint Form to the NWAS Board President or Chairperson. At the next NWAS Board meeting, the NWAS Board will designate a person who is not an Employee of the District to address the complaint through the procedure set forth in Step 1. An appeal by the Complainant pursuant to Step 1D may be filed with the NWAS Board pursuant to Step 3.*

## **STEP 2: Complainant's Appeal to the School Board**

The following procedure shall be used to address an appeal of the NWAS Director's decision, or if the NWAS Director failed to render a decision in the required time frame:

- A. An appeal to the NWAS Board shall be in writing using Exhibit AC-E (2). The Complainant must attach the complaint, the NWAS Director's written decision if a decision was rendered.
- B. The appeal must be filed with the President/Chairperson of the NWAS Board or Business Manager, Monica Mayer, within ten (10) calendar days of Complainant's receipt of the NWAS Director's written decision, or within ten (10)

days of the deadline for the NWAS Director's written decision, whichever comes first.

- C. Upon receipt by the NWAS Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the Employee involved.
- D. Upon receipt of an appeal to the NWAS Board, the NWAS Board shall schedule a date, time and location for the appeal hearing.
- E. The following procedure shall be applicable at the appeal hearing before the NWAS Board:
  - 1. The NWAS Board shall appoint a NWAS board member or a person who is not an employee of the school district as the Hearing Officer.
  - 2. Within thirty (30) calendar days of an appeal being filed with the NWAS Board, the NWAS Board shall conduct a hearing in executive session.
  - 3. The Complainant, Employee and NWAS Director each have the right to be represented at the hearing.
  - 4. The NWAS Board shall make a verbatim record of the hearing by means of an electronic device or a court reporter. This record and any exhibits must be sealed and must remain with the Hearing Officer until the appeal process has been completed.
  - 5. The issue on appeal is whether the NWAS Director's decision should be upheld, reversed or modified by the NWAS Board; the NWAS Board will make a decision on the merits of the complaint.
  - 6. All parties shall be given the opportunity to make an opening statement, with the Complainant being given the first opportunity, followed by the Employee and then the NWAS Director.
  - 7. The Complainant shall present his or her case first, and the Employee shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The Hearing Officer and NWAS board members may ask questions of any witness.
  - 8. After the Complainant and the Employee have presented their respective cases, the NWAS Director shall then present the basis of his/her decision which led to the appeal, if a decision was rendered. The Complainant and Employee shall have the opportunity to ask the NWAS Director questions. The Hearing Officer and NWAS board members may also ask questions of the NWAS Director.
  - 9. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the Hearing Officer rules otherwise. All witnesses must take an oath or affirmation administered by the NWAS Board President/ Chairperson, Hearing Officer or other person authorized by law to take oaths and affirmations.

10. The Hearing Officer shall admit all relevant evidence. The Hearing Officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595, 602 (S.D. 1979) (“This [school board hearing related to teacher contract nonrenewal] does not mandate nor necessitate the use of strict evidentiary rules.”).
11. Both parties shall be given the opportunity to make a closing statement, with the Complainant having the first opportunity, followed by the Employee, and then the NWAS Director. The Complainant shall be given the opportunity for a brief rebuttal.
12. After the evidentiary hearing, the NWAS Board shall continue to meet in executive session for deliberations. No one other than the Hearing Officer may meet with the NWAS Board during deliberations. During deliberations, the NWAS Board may seek advice from an attorney who did not represent any of the parties in the hearing. Consultation with any other person during deliberation may occur only if a representative of the Complainant, Employee and NWAS Director are present. The NWAS Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date.
13. Within twenty (20) calendar days of the hearing, the NWAS Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to the Complainant, Employee and NWAS Director. The notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.
14. The decision of the NWAS Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The NWAS Board will reconvene in open session. The NWAS Board may uphold, reverse, or modify the NWAS Director’s decision, or render a decision on the merits of the complaint in the absence of a NWAS Director’s decision. Findings of Fact, Conclusions of Law and Decision, consistent with the NWAS Board motion, shall be in writing and approved by the NWAS Board. The Complainant, Employee, and NWAS Director will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the NWAS Board.
15. If the Complainant is dissatisfied with the NWAS Board’s decision, the Complainant may appeal the decision by filing an appeal to the circuit court pursuant to SDCL Ch. 13-46.

Legal References: SD Constitution Article 6 (Bill of Rights)  
SDCL 13-28-14 (School privileges of persons honorably discharged from military service)  
SDCL 13-28-5 (Public school privileges free to children of legal age)

SDCL 13-28-6 (Continuation of privileges to pupil becoming twenty-one during school year)  
SDCL 13-37 (Special assistance and related services)  
SDCL 20-13 (Human rights)  
CFR Title 34 Part 104 (Rehabilitation Act Section 504)  
CFR Title 34 Part 300 (Education of Children with Disabilities)  
CFR Title 45 Part 81 (Practice and procedure for hearings)  
CFR Title 45 Part 86 (Nondiscrimination on the basis of sex in education programs)

USC Title 20 §1681-1688 (Nondiscrimination on the basis of sex in educational programs and activities)  
USC Title 20 §6301 et. seq. (Every Student Succeeds Act)  
USC Title 20 Chapter 33 (Education of Individuals with Disabilities)  
USC Title 29 Chapter 14 (Age discrimination in employment)  
USC Title 29 Chapter 16 (Vocational rehabilitation)  
[USC](#) Title 42 [§11431](#) (McKinney-Vento Homeless Assistance Act)  
USC Title 42 §2000 (Civil Rights Act of 1964 - Prohibits discrimination by covered employers on the basis of race, color, religion, sex or national origin)  
USC Title 42 §6101-6103 (Age discrimination in federally assisted programs)

Cross References: ACB: Nondiscrimination on the Basis of Handicap/Disability  
EH: Service Animals at School  
FEFA: Contractor's Fair Employment Clause  
GBA: Equal Opportunity Employment  
JECG: Education of Students in Foster Care

Northwest Area Schools Education Cooperative	NEPN Code: AC-E (1) NWAS Policy # 2010 Adopted: 3/3/2021
Nondiscrimination in Fed. Prog. Comp. Rpt. Form	

**NONDISCRIMINATION IN FEDERAL PROGRAMS  
COMPLAINT REPORT FORM (to NWAS Director)**

Date Form Completed:

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Form Completed by:

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Person Filing the Complaint (Complainant):

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Address/Phone # of Complainant:

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Employee Involved:

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Nature of Complaint: The person making the complaint shall with specificity identify the basis of the complaint (i.e., what, when, where, witnesses, and any other pertinent information).

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\_\_\_\_\_ (use additional sheets if necessary).

Was a meeting held between the person having the complaint and the employee?

Yes \_\_\_\_\_ No \_\_\_\_\_

If a meeting was held, when was it held, what happened at the meeting and what was the outcome of the meeting:

\_\_\_\_\_  
\_\_\_\_\_.

If a meeting was not held, explain why not: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

Resolution requested/sought by complainant: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
Date

\_\_\_\_\_  
School Official Completing the Report Form

Step 1 mutually agreeable resolution was reached:

Yes \_\_\_\_\_ No \_\_\_\_\_

If resolution, manner in which the complaint was resolved:

\_\_\_\_\_  
\_\_\_\_\_.

Complainant (initial/date) \_\_\_\_\_ Employee (initial/date) \_\_\_\_\_

If no mutually agreed upon resolution was reached, I request a decision by the Principal on the merits of the complaint:

Yes \_\_\_\_ No \_\_\_\_ Complainant (initial \_\_\_\_\_) Date \_\_\_\_\_

Yes \_\_\_\_ No \_\_\_\_ Employee (initial \_\_\_\_\_) Date \_\_\_\_\_

Adopted: 3/30/2015 ASBSD

Revised:

Reviewed:

Northwest Area Schools Education Cooperative	NEPN Code: AC-E (2) NWAS Policy # 2010 Adopted: 3/3/2021
Nondiscrimination in Fed. Prog. Comp. To Board	

**NONDISCRIMINATION IN FEDERAL PROGRAMS  
COMPLAINT APPEAL TO THE NWAS BOARD**

I/We Appeal the NWAS Director’s decision for the following reason(s): [With specificity, Complainant should state how or why the Complainant believes the Director’s decision is wrong]:

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ATTACH A COPY OF THE COMPLAINT, NWAS DIRECTOR’S DECISION, APPEAL TO THE NWAS BOARD, WRITTEN RESPONSE(S) IF ANY.

\_\_\_\_\_   
Date

\_\_\_\_\_   
Complainant

\_\_\_\_\_   
Date Received

\_\_\_\_\_   
Board President/Chairperson – Business Manager:

Adopted: 3/30/2015 ASBSD  
Reviewed:  
Revised:

Northwest Area Schools Education Cooperative	NEPN Code: ACAA NWAS Policy # 2030 Adopted: 3/3/2021
Sexual Harassment	

## SEXUAL HARASSMENT

### I. Policy Statement

Northwest Area Schools Education Cooperative 52201 (hereby referred to as NWAS) does not discriminate on the basis of sex in any education program or activity that it operates, including admission and employment. NWAS is required by Title IX of the Education Amendments of 1972 and the regulations promulgated through the U.S. Department of Education not to discriminate in such a manner. Inquiries about the application of Title IX to NWAS may be referred to NWAS's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both. (*34 CFR § 106(b)(1)*)

NWAS is committed to a school environment which is free from sexual harassment and conducive to all students' educational opportunities. Sexual harassment can inhibit a student's educational opportunities and an employee's work. Sexual harassment of students attending school in the NWAS member Districts or students from other schools who are at a NWAS activity, and sexual harassment of school employees, school volunteers, parents, guests, visitors and vendors of NWAS shall also not be tolerated and is strictly prohibited.

All students, school employees, school volunteers, parents, guests, visitors and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with school policies. This policy prohibiting sexual harassment shall apply to all students, school employees, school volunteers, parents, guests, visitors and vendors while on school property, while attending or participating in school activities, on school-owned property or on non-school property, while in any school-owned or leased vehicle, while at a school bus stop, or when in a private vehicle located on school property during school or during school activities.



Federal law (34 CFR § 106.30) defines “sexual harassment” as conduct on the basis of sex that satisfies one or more of the following: (34 CFR § 106.30)

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. (34 CFR § 106.8(a))

Any student who believes that he or she has been or is being subjected to sexual harassment or has reason to suspect another person has been or is being subjected to sexual harassment may also report it to a teacher, guidance counselor, or school administrator. The report may be made verbally or in writing.

NWAS’s response shall treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with Title IX requirements before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. (34 CFR § 106.44(a))

## II. Designation of Title IX Coordinator

The NWAS Board has designated the following NWAS employee to coordinate its efforts to comply with its responsibilities as set forth in 34 CFR Part 106, who shall be referred to as the “Title IX Coordinator.” (34 CFR § 106.8(a))

Name or Title: Monica Mayer, NWAS Business Manager

Office Address: 503 N. Main Street, PO Box 35, Isabel, SD 57633

Email Address: [monica.mayer@k12.sd.us](mailto:monica.mayer@k12.sd.us)

Telephone Number: (605)-466-2206

NWAS shall notify applicants for employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with NWAS, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator. (34 CFR § 106.8(a))

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. (34 CFR § 106.30(a))

### **III. Dissemination of Policy**

NWAS shall notify persons entitled to the notification under Section I. above that NWAS does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX and this policy not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to NWAS may be referred to NWAS's Title IX Coordinator, to the U.S. Assistant Secretary of Education, or both.

NWAS shall prominently display the contact information required to be listed for the Title IX Coordinator on its website, and in each handbook or catalog that it makes available to persons entitled to a notification pursuant to Section I. above. (34 CFR § 106.8(b))

### **IV. Adoption of Grievance Procedures**

NWAS has adopted and published grievance procedures (ACAA-R (1), Sexual Harassment – Regulations) that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and this policy. NWAS shall provide to persons entitled to a notification under Section I above notice of the NWAS's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how NWAS will respond. (34 CFR § 106.8(c))

### **V. Definitions** (34 CFR § 106.30(a), *except when otherwise indicated*)

- (a) "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to NWAS's Title IX Coordinator or any official of NWAS who has authority to institute corrective measures on behalf of NWAS, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability (when a person has a particular legal relationship to the person who acted negligently) or constructive notice (deeming notice of something to a person having been given, even though actual notice did not exist) is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of NWAS.
- (b) "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- (c) "Dating violence" means violence committed by a person:
  - 1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. the length of the relationship.
  - ii. the type of relationship.
  - iii. the frequency of interaction between the persons involved in the relationship. *(34 U.S.C. 12291(a)(10))*
- (d) “Decision-maker” means the school administrator who has primary responsibility and authority related to students, staff and attendance center where the alleged sexual harassment occurred, unless otherwise designated by the NWS Board, and who has the authority to make a determination on the complaint as to responsibility of the respondent.
- (e) “Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. *(34 U.S.C. 12291(a)(8))*
- (f) “Education program or activity” includes locations, events, or circumstances over which NWS exercised substantial control over both the respondent and the context in which the sexual harassment occurs. *(34 CFR § 106.44(a))*
- (g) “Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that NWS investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of NWS. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by NWS.
- (h) “Document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by NWS) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Should the Title IX Coordinator sign the formal complaint, the Title IX Coordinator is not a complainant or otherwise a party, and the Title IX Coordinator must comply with the Title IX requirements.
- (i) “Notice” includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.
- (j) “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- (k) “Sexual assault” means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks capacity to consent. *(20 U.S.C. 1092(f)(6)(A)(v))*
- (l) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. fear for his or her safety or the safety of others; or
  2. suffer substantial emotional distress. (34 U.S.C. 12291(a)(30))
- (m)“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to NWAS’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or NWAS’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escorting the complainant while on NWAS property or while a NWAS off-campus activity, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

## **VI. NWAS’s Response to Sexual Harassment (34 CFR § 106.44)**

- A. General response to sexual harassment. Regardless of whether or not a formal complaint is filed, should NWAS have actual knowledge of sexual harassment in a NWAS educational program or activity against another person in the United States, NWAS shall respond promptly in a manner that is not deliberately indifferent (i.e., if NWAS’s response to sexual harassment is clearly unreasonable in light of the known circumstances).
- The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
- B. Response to a formal complaint. In response to a formal complaint, NWAS shall follow the grievance process as set forth in ACAA-R(1), Sexual Harassment – Regulations.
- C. Time frames. The timeframes set forth in the regulations shall be considered as a maximum length of time within which the related step is to be completed, however, the time frames may be extended for good cause upon written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause includes, but is not limited to, utilization of the informal resolution process, availability of an investigator if not a school employee, complexity of the investigation, absence of a party, a party’s advisor, a witness, or decision-maker (including a person necessary for addressing an appeal), concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- D. Emergency removal. Nothing in Title IX regulations or this policy prohibits NWAS from removing a respondent from NWAS’s education program or activity on an emergency basis, provided that NWAS undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal,

however, nothing in Title IX regulations or this policy may be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Additionally, nothing in the Title IX regulations or this policy prohibits NWAS from placing an employee respondent on administrative leave during the pendency of a grievance process, however, nothing in Title IX regulations or this policy may be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

## **VII. Informal Resolution (34 CFR § 106.45(b)(9))**

- A. NWAS may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy.
- B. NWAS may not require the parties to participate in an informal resolution process under this policy and may not offer an informal resolution process unless a formal complaint is filed.
- C. At any time prior to reaching a determination regarding responsibility NWAS may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that NWAS:
  - 1. provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
  - 2. obtains the parties' voluntary, written consent to the informal resolution process; and
  - 3. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

## **VIII. NWAS's Grievance Process for Formal Complaints of Sexual Harassment (34 CFR § 106.45(b))**

- A. For the purpose of addressing formal complaints of sexual harassment, NWAS's grievance procedure as set forth in ACAA-R(1), Sexual Harassment – Regulations, shall be followed. There must be compliance with the requirements of this section, and any provisions, rules, or practices other than those required by this section that NWAS adopts as part of its grievance process for handling formal complaints of sexual harassment must apply equally to both parties.
- B. Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following written notice to the parties who are known (34 CFR § 106.45(b)(2))
  - 1. Notice of NWAS's grievance process, including any informal resolution process.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice shall inform the parties of any provision in NWAS's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- C. NWAS shall treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. Remedies may be disciplinary in nature. Such remedies may include the same individualized services identified as supportive measures. Remedies must be designed to restore or preserve equal access to NWAS's education program or activity. *(34 CFR § 106.45(b)(1)(i))*
- D. NWAS shall follow the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. *(34 CFR § 106.44(a))*
- E. Investigation of a formal complaint. When investigating a formal complaint and throughout the grievance process, NWAS:
1. shall have the burden of proof and the burden of gathering evidence sufficient to reach a determination, and the parties shall not have either burden; *(34 CFR § 106.45(b)(5)(i))*
  2. cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless NWAS obtains that party's voluntary, written consent to do so for a grievance process under this section. If a party is not an "eligible student," (i.e., student who has reached 18 years of age), NWAS must obtain the voluntary, written consent of a "parent," (i.e., natural parent, guardian, or an individual acting as a parent in the absence of a parent or a guardian; *(34 CFR § 106.45(b)(5)(i))*
  3. shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; *(34 CFR § 106.45(b)(5)(ii))*
  4. shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence; provided, however, nothing in this provision prohibits NWAS from taking disciplinary action due to a party retaliating against any person due to that person having made a report or complaint, testified, assisted, or participated or

refused to participate in any manner in an investigation, proceeding, or hearing under this policy. (34 CFR § 106.45(b)(5)(iii))

5. shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, NAWAS may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. (34 CFR § 106.45(b)(5)(iv))
- F. There shall be an objective evaluation of all relevant evidence, and credibility determinations may not be based on a person's status as a complainant, respondent, or witness. (34 CFR § 106.45(b)(1)(ii))
- G. No individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by NAWAS to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. (34 CFR § 106.45(b)(1)(iii))
- H. The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process, shall receive training on the definition of sexual harassment, the scope of NAWAS's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. (34 CFR § 106.45(b)(1)(iii))
  1. The decision-makers shall receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
  2. The investigators shall receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
  3. No materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, may rely on sex stereotypes, and training materials must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- I. Until a determination regarding responsibility is made at the conclusion of the grievance process, the respondent is presumed to not be responsible for the alleged conduct. (34 CFR § 106.45(b)(1)(iv); 34 CFR § 106.45(b)(2)(i)(B))
- J. NAWAS's grievance procedure as set forth in ACAA-R (1), Sexual Harassment – Regulations, shall:
  1. including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if NAWAS offers informal resolution processes; (34 CFR § 106.45(b)(1)(vi))
  2. include a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written

notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities; (34 CFR § 106.45(b)(1)(v))

3. include the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that NWAS may implement following any determination of responsibility; (34 CFR § 106.45(b)(1)(vi))
  4. state that for all formal complaints of sexual harassment filed against students and employees, the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard. (34 CFR § 106.45(b)(1)(vii))
  5. include the procedures and permissible bases for the complainant and respondent to appeal; (34 CFR § 106.45(b)(1)(viii))
  6. describe the range of supportive measures available to complainants and respondents; (34 CFR § 106.45(b)(1)(ix)) and
  7. not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. (34 CFR § 106.45(b)(1)(x))
- K. If, in the course of an investigation, NWAS decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision B in this section, NWAS shall provide notice of the additional allegations to the parties whose identities are known. (34 CFR § 106.45(b)(2)(ii))
- L. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. (34 CFR § 106.45(b)(5)(v))
- M. All parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. (34 CFR § 106.45(b)(5)(vi))
- N. Prior to completion of the investigative report, NWAS must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. (34 CFR § 106.45(b)(5)(vi))
- O. The investigator shall create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a determination by a decision-maker regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. (34 CFR § 106.45(b)(5)(vii))



- P. No adversarial hearing shall be held unless the determination of the NWS Director is appealed to the Board, or unless the NWS Director recommends the suspension without pay or termination of employment of an employee. *(34 CFR § 106.45(b)(6)(ii))*
- Q. The NWS Director may also make a recommendation to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with NWS be terminated. Should either recommendation be given by the NWS Director, a formal adversarial hearing shall be held before the Board as set forth in ACAA-R(1), Sexual Harassment – Regulations. *(34 CFR § 106.45(b)(8)(ii))*

## **IX. Appeal**

- A. Both parties have the right to appeal to the NWS Board the NWS Director's determination regarding responsibility, and also from a dismissal of a formal complaint or any allegations therein, on the following bases:
1. Procedural irregularity that affected the outcome of the matter; *(34 CFR § 106.45(b)(8)(i)(A))*
  2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; *(34 CFR § 106.45(b)(8)(i)(B))* and
  3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. *(34 CFR § 106.45(b)(8)(i)(C))*
- B. As to all appeals, the Title IX Coordinator shall: *(34 CFR § 106.45(b)(8)(iii))*
1. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  2. ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
  3. ensure that the decision-maker(s) for the appeal complies with the standard of evidence as required in this policy;
  4. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  5. ensure that a written decision is issued describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

## **X. Consolidation of Formal Complaints**

NWS may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable. *(34 CFR § 106.45(b)(4))*

## **XI. Dismissal of a Formal Complaint.**

- A. NWAS must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in NWAS's education program or activity, or did not occur against a person in the United States, then NWAS must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment, however the dismissal does not preclude action under another provision of NWAS's code of conduct. *(34 CFR § 106.45(b)(3)(i))*
- B. NWAS may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: *(34 CFR § 106.45(b)(3)(ii))*
  - 1. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - 2. the respondent is no longer enrolled in or employed by NWAS; or specific circumstances prevent NWAS from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- C. Upon a dismissal required or permitted pursuant to Section A. or B. above, NWAS shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. *(34 CFR § 106.45(b)(3)(iii))*

## **XII. Recordkeeping** *(34 CFR § 106.45(b)(10))*

- A. NWAS shall maintain for a period of seven years records of:
  - 1. each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
  - 2. any appeal and the result therefrom;
  - 3. any informal resolution and the result therefrom; and
  - 4. all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A recipient must make these training materials publicly available on its website, or if the recipient does not maintain a website the recipient must make these materials available upon request for inspection by members of the public.
- B. For each response required under XII.A., NWAS shall create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If the complainant is not provided with supportive measures, NWAS shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## **XIII. Retaliation Prohibited** *(34 CFR § 106.71)*

- A. Neither NWAS or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege

secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

- B. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this policy, constitutes retaliation.
- C. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination pursuant to NWSA's Nondiscrimination Policy.
- D. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this provision.
- E. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy does not constitute retaliation prohibited by this policy, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

#### **XIV. Confidentiality**

- A. NWSA shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX (34 CFR part 106), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. (34 CFR § 106.71(a))
- B. NWSA shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of NWSA to provide the supportive measures. (34 CFR § 106.30(a))

Legal References: CFR Title 34 Part 106 (Nondiscrimination on the basis of sex)

USC Title 20 §1092(f)(6)(A)(v) (Definition of sexual assault)

USC Title 34 §12291(a)(8) (Definition of domestic violence)

USC Title 34 §12291(a)(10) (Definition of dating violence)

USC Title 34 §12291(a)(30) (Definition of stalking)

Title IX of the Education Amendments of 1972

Cross References: AC: Nondiscrimination in Federal Programs  
JF: Student Rights and Responsibilities  
JFA: Student Due Process Rights  
JFC: Student Conduct  
JFCD: Bullying

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Reviewed: 5/10/2012; 3/30/2015

Northwest Area Schools Education Cooperative	NEPN Code: ACAA-E (1) NWAS Policy # 2030 Adopted: 3/3/2021
Sexual Harassment Complaint Report Form	

**SEXUAL HARASSMENT**

**COMPLAINT REPORT FORM (to NWAS Director)**

Date Form Completed:

\_\_\_\_\_

Form Completed by:

\_\_\_\_\_

Person Reporting the Sexual Harassment:

\_\_\_\_\_  
\_\_\_\_\_

Address/Phone # of the Person Reporting the Sexual Harassment:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Nature of Complaint: (With specificity, identify the person(s) alleged to have sexually harassed, the conduct which is the basis of the sexual harassment complaint, when/where the conduct occurred, the person(s) alleged to have sexually harassed, witnesses, and any other pertinent information):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (use additional sheets if necessary).

\_\_\_\_\_  
Date School Employee Completing the Sexual Harassment Report Form

\_\_\_\_\_  
Date Person Reporting the Sexual Harassment



<b>Northwest Area Schools Education Cooperative</b>	<b>NEPN Code: ACAA-R (1) NWAS Policy # 2030 Adopted: 3/3/2021</b>
<b>Sexual Harassment--Regulation</b>	

## **SEXUAL HARASSMENT - REGULATIONS**

### **SECTION 1 - Policy Statement**

Northwest Area Schools Education Cooperative 52201 (hereby referred to NWAS) is committed to a school environment which is free from sexual harassment and conducive to all students' educational opportunities. Sexual harassment can inhibit a student's educational opportunities and an employee's work. Sexual harassment of students attending school in NWAS or students from other schools who are at a NWAS activity, and sexual harassment of school employees, school volunteers, parents, guests, visitors and vendors of NWAS shall also not be tolerated and is strictly prohibited.

All students, school employees, school volunteers, parents, guests, visitors and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with school policies. This policy prohibiting sexual harassment shall apply to all students, school employees, school volunteers, parents, guests, visitors and vendors while on school property, while attending or participating in school activities, on school-owned property or on non-school property, while in any school-owned or leased vehicle, while at a school bus stop, or when in a private vehicle located on school property during school or during school activities.

NWAS's policy prohibiting sexual harassment is ACAA. This regulation supplements that policy, and the policy and these regulations are consistent with the federal regulations set forth in 34 CFR Part 106.

Employees who violate this policy shall be subject to appropriate disciplinary action, up to and including termination of employment. School volunteers, parents, guests, visitors, and vendors who violate this policy may be prohibited from being on school property.

*Complaints based on nondiscrimination in federal programs, complaint against school employees, and complaints related to bullying are addressed through other school district policies and not through the policy prohibiting sexual harassment and this regulation.*

## **SECTION 2 - Definitions**

- A. Sexual Harassment. Federal law (34 CFR § 106.30) defines “sexual harassment” as conduct on the basis of sex that satisfies one or more of the following:
1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
  3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Sexually oriented words and actions which tend to annoy, alarm or be physically or verbally abusive toward another person and which serve no legitimate or valid purpose regardless of the intent of the person accused of the sexually harassing conduct, constitutes sexual harassment. Not all harassment falls within the definition of sexual harassment (i.e., harassment that is of a sexual nature).

Other laws, regulations and policies also prohibit inappropriate conduct and provide a means for addressing inappropriate conduct should it occur.

Sexual harassment is a specific type of harassment which is prohibited under this policy. Examples of sexual harassment include, but are not limited to:



- Unwelcome sexual flirtations, advances or propositions;
- Verbal comments, jokes, or abuse of a sexual nature;
- Graphic verbal comments about an individual's body;
- Sexually degrading words used to describe an individual;
- Displaying pornographic material;
- Physical contact or language of a sexually suggestive nature.

B. Other definitions. Other definitions applicable to these Regulations are the definitions as set forth in Policy ACAA, Sexual Harassment, Section V.

### **SECTION 3 - Sexual Harassment Reporting Procedure**

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

Any student who believes that he or she has been or is being subjected to sexual harassment or has reason to suspect another person has been or is being subjected to sexual harassment may also report it to a teacher, guidance counselor, or school administrator. The report may be made verbally or in writing.

The written Complaint or Sexual Harassment - Complaint Report Form, ACAA-E (1), must include the following:

- the date the written Complaint was filed or the Sexual Harassment - Complaint Report Form was completed,
- the school employee receiving the Complaint (if applicable),
- the name of the person reporting the sexual harassment,

- the address/phone # of the person reporting the sexual harassment,
- the specific conduct or nature of the sexual harassment complaint including the person(s) alleged to have sexually harassed the complaining party or another person, the date(s) and location where the conduct occurred, witnesses, etc.,
- the date the school employee completed the form (if applicable),
- the date and signature of the person reporting the sexual harassment.

If the signed written Complaint was given to a teacher, guidance counselor or administrator, or if the Sexual Harassment - Report Form was completed by a teacher, guidance counselor or administrator, the teacher, guidance counselor or administrator shall forward the complaint or Sexual Harassment - Report Form to the Title IX Coordinator.

Regardless of whether or not a formal complaint is filed, should NWAS have actual knowledge of sexual harassment in a NWAS educational program or activity against another person in the United States, NWAS shall respond promptly in a manner that is not deliberately indifferent (i.e., if NWAS's response to sexual harassment is clearly unreasonable in light of the known circumstances).

#### **SECTION 4 - Retaliation Prohibited**

- A. Neither NWAS or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- B. The prohibition against retaliation related to a sexual harassment complaint is set forth in full in Policy ACAA, Sexual Harassment, Section XIII, and by this reference incorporated herein as if set forth in full.

#### **SECTION 5 - Procedure for Addressing Sexual Harassment Complaints**

##### **A. General Provisions.**

1. The Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive measures (see Policy ACAA, V(m)) and consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

2. The timeframes set forth in these regulations shall be considered as a maximum length of time within which the related step is to be completed, however, the time frame may be within which NWAS is required to complete a step may be extended for good cause upon written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause includes, but is not limited to, utilization of the informal resolution process, availability of an investigator if not a school employee, complexity of the investigation, absence of a party, a party's advisor, a witness, or decision-maker (including a person necessary for addressing an appeal), concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities;
3. Nothing in the policy or these regulations prohibit NWAS from removing a respondent from NWAS's education program or activity on an emergency basis, provided that NWAS undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal, however, nothing in the policy or regulations may be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Additionally, nothing in the policy or regulations prohibits NWAS from placing an employee respondent on administrative leave during the pendency of a grievance process, however, nothing in the policy or regulations may be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

B. Confidentiality

1. NWAS shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by Family Educational Rights and Privacy Act (FERPA), or as required by law, or to carry out the purposes of Title IX (34 CFR part 106), including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
2. NWAS shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of NWAS to provide the supportive measures.

C. Informal Resolution:

1. NWAS may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy, may not require the parties to participate in an informal resolution process under this policy, and may not offer an informal resolution process unless a formal complaint is filed.

2. Policy ACAA, Sexual Harassment, Section VII, is the section explaining informal resolution and by this reference incorporated herein as if set forth in full.

D. Formal Complaint:

1. Upon receipt of a formal complaint, the Title IX Coordinator shall provide the following written notice to the parties who are known:
  - a. Notice of NWAS's grievance process, including any informal resolution process.
  - b. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence. The written notice shall inform the parties of any provision in NWAS's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. NWAS shall treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. Remedies may be disciplinary in nature. Such remedies may include the same individualized services identified as supportive measures. Remedies must be designed to restore or preserve equal access to NWAS's education program or activity.
3. NWAS shall follow the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

E. Investigation of a Formal Complaint

1. NWAS must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in NWAS's education program or activity, or did not occur against a person in the United States, then NWAS must dismiss the formal complaint with regard to that does not preclude action under another provision of NWAS's code of conduct.
2. Unless the nature of the complaint and investigation dictate otherwise, the Investigation should be completed within sixty (60) calendar days of receipt of the complaint.
3. When investigating a formal complaint and throughout the grievance process, NWAS:

- a. shall have the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility;
  - b. shall provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
  - c. shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, provided, however, nothing in this provision prohibits NWAS from taking disciplinary action due to a party retaliating against any person due to that person having made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy;
  - d. shall provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, NWAS may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
4. If, in the course of an investigation, NWAS decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision D.1., NWAS shall provide notice of the additional allegations to the parties whose identities are known.
  5. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
  6. All parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
  7. Prior to completion of the investigative report, NWAS must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. NWAS shall make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
  8. The investigator shall create an investigative report that fairly summarizes relevant evidence and, at least ten (10) calendar days prior to a determination by a decision-maker regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

## F. Determination

1. The decision-maker (NWAS Director) shall not be the same person as the Title IX Coordinator or investigator(s).
2. After the Investigator has sent the investigative report to the parties, and before reaching a determination regarding responsibility, the decision-maker (NWAS Director) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. All parties shall have ten (10) calendar days from the date the investigatory report was sent to the parties to submit written, relevant questions to the decision-maker, who shall forward the questions to the other party following the ten (10) period, unless all parties submitted questions prior to the end of the ten (10) day period and in such case the decision-maker shall forward the questions upon receipt of questions by all parties. All parties shall have (5) calendar days to submit to the decision-maker and the other parties any written responses to the questions.
3. The decision-maker (NWAS Director) shall have fourteen (14) calendar days, after the expiration of time frame set forth in E.8. above to issue a written determination as to the complaint.
4. The decision-maker (NWAS Director) shall not conduct an adversarial hearing unless the Board conducts a hearing following an appeal of the NWAS Director's decision to the Board, or recommend to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with NWAS be terminated.
5. Standard of evidence. For all formal complaints of sexual harassment filed against students and employees, the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard.
6. Upon recommendation of a decision-maker (NWAS Director), on following an appeal of the decision-maker's (NWAS Director's) determination, the NWAS Director may also make a recommendation to the Board that an employee determined to having sexually harassed another person be suspended without pay or the person's employment with NWAS be terminated. Should such a recommendation be given by the NWAS Director, a formal adversarial hearing shall be held before the Board.
7. Disciplinary sanctions. Following any determination of responsibility NWAS may implement disciplinary sanctions and remedies that include, but are not limited to:
  - a. if an employee
    - i. written reprimand;
    - ii. written plan of improvement, which may include directive to obtain training related sexual harassment and the prohibition against sexual harassment;
    - iii. suspension without pay;
    - iv. termination of employment.
  - b. if a guest or vendor
    - i. restrict access to school property;

- ii. deny access to school property.
8. The decision-maker (NWAS Director) must issue a written determination regarding responsibility. To reach this determination, the decision-maker (NWAS Director) shall apply the preponderance of evidence standard of evidence.
  9. The written determination shall include:
    - a. identification of the allegations potentially constituting sexual harassment;
    - b. a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
    - c. findings of fact supporting the determination;
    - d. conclusions regarding the application of NWAS's code of conduct to the facts;
    - e. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions NWAS imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by NWAS to the complainant; and
    - f. NWAS's procedures and permissible bases for the complainant and respondent to appeal.
  10. NWAS shall provide the written determination to the parties simultaneously.
  11. The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

#### G. Appeal

1. Both parties have the right to appeal to the Board the NWAS Director's determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:
  - a. Procedural irregularity that affected the outcome of the matter;
  - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
  - c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
2. As to all appeals, the Title IX Coordinator shall:
  - a. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  - b. ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

- c. ensure that the decision-maker(s) for the appeal complies with the standard of evidence as required in this policy;
  - d. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  - e. ensure that a written decision is issued describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.
3. Appeal to the School Board. If a party is not satisfied with the NWAS Director's decision, or if the NWAS Director does not without good cause render a written decision within fourteen (14) calendar days of the receipt of the appeal, that party may appeal to the School Board by filing with the Business Manager using Form ACAA-E(3), Sexual Harassment – Complaint Appeal to the School Board, within ten (10) calendar days of receipt of the NWAS Director's written decision, or ten (10) days of the deadline for the NWAS Director's written decision, whichever comes first. The appeal shall be in writing and the appealing party must attach to the appeal the decision-maker's (NWAS Director's) written decision, and the NWAS Director's written decision or notice of the NWAS Director's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the NWAS Director's decision on the merits related to a sexual harassment complaint:

1. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the person alleged to have violated the sexual harassment policy;
2. Upon receipt of an appeal, the Board shall at its next meeting schedule a date, time and location for the appeal hearing.
3. The following procedure shall be applicable at the appeal hearing before the Board:
  - A. The Board shall appoint a board member or a person who is not an employee of NWAS as the hearing officer;
  - B. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session;
  - C. The Complainant, person alleged to have violated the sexual harassment policy, and NWAS Director each have the right to be represented at the hearing;
  - D. The Board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
  - E. The issue on appeal is whether the NWAS Director's decision should be upheld, reversed or modified;



- F. All parties shall be given the opportunity to make an opening statement, with the appealing party being given the first opportunity, followed by the other party, and then the NWS Director;
- G. The appealing party shall present his or her case first, and the other party shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The hearing officer and board members may ask questions of any witness;
- H. The NWS Director shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the NWS Director questions. The hearing officer and board members may also ask questions of the NWS Director;
- I. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the hearing officer rules otherwise. All witnesses must take an oath or affirmation administered by the School Board president, hearing officer or other person authorized by law to take oaths and affirmations;
- J. The hearing officer shall admit all relevant evidence. The hearing officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595, 602 (S.D. 1979).
- K. All parties shall be given the opportunity to make a closing statement, with the appealing party having the first opportunity, followed by the other party, and then the NWS Director. The appealing party shall be given the opportunity for a brief rebuttal;
- L. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the hearing officer may meet with the Board during deliberations. The Board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of both parties and NWS Director are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date. Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to both parties and the NWS Director, and the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered;
- M. The decision of the School Board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The Board will convene in open session and a motion to uphold, reverse, or modify the NWS Director's decision shall be made and voted upon. Findings of Fact, Conclusions of Law and Decision, consistent with the Board motion shall be in writing and approved by the Board. Both parties, the decision-maker and the NWS Director will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.

- N. Following the Board hearing, should the Board determine there has been a violation of this policy prohibiting sexual harassment, Board action may include but is not limited to the following: (1) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (2) prohibit a third person from being on school property or at school activities for such time as may be determined by the Board.
- O. If either party is dissatisfied with the Board's decision, that party may appeal the decision by filing an appeal pursuant to law.

## **SECTION 6 - Miscellaneous**

- A. Consolidation of formal complaints. NWAS may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular "party," "complainant," or "respondent" include the plural, as applicable.
- B. Dismissal of Complaint:
  - 1. NWAS may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing:
    - a. a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
    - b. the respondent is no longer enrolled in or employed by NWAS; or specific circumstances prevent NWAS from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
  - 2. Upon a dismissal required or permitted pursuant to B.1. above, NWAS shall promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
  - 3. Any party whose participation is invited or expected, shall be given written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
  - 4. Both parties shall have equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Adopted: 8/31/2020 Revised: Reviewed:
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**2040**

New Members to the Multi-District

A school approved for membership by Northwest Area Schools Multi-District Center Board may be required to pay a fee, as allowed by SDCL 13-39-60. The fee will be set by the center board upon that district's application for membership. The fee will be calculated using the following formula: fee = estimated amount of capital expenditures made by center board prior to the application for membership divided by number of member schools (including applicant school) times ninety percent. As a guide, the center board will estimate the amount of capital outlay expenditures, excluding state and federal reimbursement, made by the center board prior to the application for membership by the applying district. The new member district may pay the fee in one lump sum, or it may make payments over a course of years set by the center board. Once the new member district has paid its fee, it shall be considered fully vested in the multi-district.

October 2007

**2100**

The Cooperative Agreement establishing Northwest Area Schools Educational Cooperative outlines the terms and conditions of membership. This agreement is contingent upon LEA member districts' board approval. Signed Cooperative Agreements are kept on file at the NAWAS business office.

January 2008

**2110**

The Northwest Area Schools Multi-District/Educational Cooperative Administrative Advisory Board shall consist of the Superintendent or designated alternate representative from each participating school district.

June 2008

**2111**

The Northwest Area Schools Multi-District Center Board and the Northwest Area Schools Educational Cooperative Governing Board will both be made up of one board member from each member district of the respective organization. The board of each school district participating in the Northwest Area Schools Multi-district and/or Northwest Area Schools Educational Cooperative shall designate an alternate member who would fulfill any requirements of a regular board member. Although an alternate member could attend any meeting, that member will have voting privileges and receive compensation for attendance only if the regular member were not in attendance.

August 2008

**2130**

It shall be the responsibility of the Northwest Area Schools Multi-District Center Board/Educational Cooperative Governing Board to employ a full-time Director.

**2131**

The Northwest Area Schools Multi-District/Educational Cooperative shall employ a full-time Business Manager.

**2132**

The Northwest Area Schools Multi-District/Educational Cooperative shall adopt a Job Description for each employee to be kept on file and used as a guideline in employing personnel.

**2140**

In the absence of a Multi-District/Cooperative board policy in matters which must be resolved immediately, the Director will judge, evaluate and resolve the issue.

<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: GBEC</b>
<b>NWAS Policy 2141 Revised: 9-8-2021</b>	

## **USE OF ALCOHOL, DRUGS, AND CONTROLLED SUBSTANCES**

Student and employee safety is a paramount concern to the school board. Employees under the influence of alcohol and/or other drugs are a serious risk to themselves, to students, and to other employees. Therefore, the school board will not tolerate the unlawful manufacture, use, possession, sale, distribution, or being under the influence of alcohol and/or other drugs on school property or at a school event off school property. Additionally, it shall be a violation of this policy for any employee to manufacture, use, possess, sell, distribute or be under the influence of medical cannabis in any manner inconsistent with South Dakota state law. Any employee who violates this policy will be subject to disciplinary action, which may include dismissal, and referral for prosecution. Each employee of the district is hereby notified that, as a condition of employment, the employee must abide by the terms of this policy and will report to the Director any criminal alcohol and/or other drug statute convictions for any alcohol and/or drug violation. Such notification must be made by the employee to the Director no later than five (5) days after conviction. Should the affected employee be the Director s/he will report to the Board no later than the next regular meeting of the Board.

If there is reason to suspect that a staff member is under the influence of alcohol and/or illegal drugs, the staff member will not be allowed on school property or to participate in school activities. Staff members will be subject to discipline for arriving at school or at a school activity under the influence of alcohol and/or an illegal drug. For the purposes of this policy, "illegal drug" means narcotics, drugs and controlled substances as defined in federal law or state law. "Illegal drugs" also includes any prescription or over-the-counter drug that does not meet the following four criteria:

1. the employee has a current and valid prescription for the drug or the drug is sold over-the-counter;
2. the drug is used or possessed for the purpose for which it was prescribed or sold over-the-counter;
3. the drug is used or possessed at the dosage prescribed or recommended; and
4. the drug is used or possessed consistent with the safe and efficient performance of the employee's job duties.

Any staff member who is taking a drug or medication, whether or not prescribed by the staff member's physician, which may adversely affect that staff member's ability to perform work in a safe or productive manner is required to report such use of medication to his or her supervisor. This includes drugs that are known or advertised as possibly affecting judgment, coordination or any of the senses, including those that may cause drowsiness or dizziness.

The school board hereby commits itself to a continuing good faith effort to maintain a drug-free environment.

A copy of this policy shall be given to all present and future employees.

Northwest Area School District Funds, whether derived from local, state or federal sources, cannot be used for partisan political purposes.

July 1993

Legal Ref: Hatch Act (5 USC 1501-1508 and Intergovernmental Personnel Act of 1970, as amended by Title VI of Civil Service Reform Act Public Law 95-44 Section 4728); Davis-Bacon Act; SDCL 12-25-2.

### **Internet Safety Policy for Northwest Area Schools**

#### **Introduction**

It is the policy of **Northwest Area Schools** to: (a) prevent user access over its computer network to, or transmission of, inappropriate material via Internet, electronic mail, or other forms of direct electronic communications; (b) prevent unauthorized access and other unlawful online activity; (c) prevent unauthorized online disclosure, use, or dissemination of personal identification information of minors; and (d) comply with the Children's Internet Protection Act [Pub. L. No. 106-554 and 47 USC 254(h)].

#### **Definitions**

Key terms are as defined in the Children's Internet Protection Act. □

#### **Access to Inappropriate Material**

To the extent practical, technology protection measures (or "Internet filters") shall be used to block or filter Internet, or other forms of electronic communications, access to inappropriate information.

Specifically, as required by the Children's Internet Protection Act, blocking shall be applied to visual depictions of material deemed obscene or child pornography, or to any material deemed harmful to minors.

Subject to staff supervision, technology protection measures may be disabled for adults or, in the case of minors, minimized only for bona fide research or other lawful purposes.

#### **Inappropriate Network Usage**

To the extent practical, steps shall be taken to promote the safety and security of users of the **Northwest Area Schools** online computer network when using electronic mail, chat rooms, instant messaging, and other forms of direct electronic communications.

Specifically, as required by the Children's Internet Protection Act, prevention of inappropriate network usage includes: (a) unauthorized access, including so-called 'hacking,' and other unlawful activities; and (b) unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

#### **Education and Monitoring**

It shall be the responsibility of all members of the **Northwest Area Schools** staff to educate, supervise and monitor appropriate usage of the online computer network and access to the Internet in accordance with this policy, the Children's Internet Protection Act, the Neighborhood Children's Internet Protection Act, and the Protecting Children in the 21st Century Act.

Procedures for the disabling or otherwise modifying any technology protection measures shall be the responsibility of the Director or designated representatives.

#### **Adoption**

This Internet Safety Policy was adopted by the Board of **Northwest Area Schools** at a public meeting, following normal public notice, on \_\_\_\_\_, September 5, 2012

<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: GCDB</b>
<b>NWAS Policy # 2144 Adopted October 2017</b>	

## **CRIMINAL BACKGROUND CHECKS**

### **Definitions**

*Authorized Persons:* Individuals determined by the superintendent or designee to need access to or need to view criminal history record information in their official capacity with the district.

*Criminal History Record Information (CHRI):* A criminal history of an individual obtained through the South Dakota Division of Criminal Investigation (SDDCI) and/or the Federal Bureau of Investigation (FBI) using the individual's fingerprints. CHRI includes information on the arrest, detention, complaint, indictment or former criminal charge of an individual as well as the disposition of any charges. The FBI rules differ from the DCI rules regarding the disclosure of criminal history record information.

*Criminal Justice Information Services (CJIS):* The FBI's Criminal Justice Information Services Division, or CJIS, provides a range of state-of-the-art tools and services to law enforcement, national security and intelligence community partners, and the general public. Its purpose is to equip law enforcement, national security, and intelligence community partners with the criminal justice information needed to protect the United States and the public. The CJIS Division was established in 1992 to serve as the focal point and central repository for criminal justice information services in the FBI. It is the largest division in the FBI.

*Local Agency Security Officer (LASO):* liaison with SDDCI to ensure the agency is in compliance with security procedures. The LASO shall (1) maintain a list of users who have access to CHRI, (2) identify and maintain a list of persons who are authorized to use the approved hardware, software and firmware to access CHRI and ensure no unauthorized individuals have access to this technology, (3) identify and document how the equipment is connected to the state system, (4) ensure that personnel security screening procedures are being followed, (5) ensure that approved and appropriate security measures are in place and working as expected, (6) promptly notify the SDDCI of any security incidents, and (7) support any district security audits.

*Noncriminal Agency Coordinator (NAC):* primary contact person for the District who serves as the liaison between the District and SD Division of Criminal Investigation, responsible for notifying SDDCI when a new employee starts or an employee leaves so SDDCI can keep CJIS Security training records current and such other duties as required.

*Point of Contact (POC):* District's contact person when SDDCI sends out Audit information, the contact person when an onsite Audit is scheduled.

*Security Incident:* An act of violating an explicit or implied security policy regarding CHRI including, but not limited to (1) attempts (either failed or successful) to gain unauthorized access to a system or its data, (2) unwanted disruption or denial of service, (3) the unauthorized use of a system for the processing or storage of data, and

(4) changes to system hardware, firmware or software characteristics without the district's knowledge, instruction or consent.

### **Policy Statement**

The District is committed to providing a safe learning and working environment. As part of this effort, and in accordance with state and federal law, regulations, and policies, the district will require each person over eighteen years of age hired by the district, who is a volunteer two or more times during the school year, or is employed by an entity which provides the District direct or indirect student services shall be required to submit to a criminal background investigation, by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. The district and its employees, officers and agents will only obtain CHRI when authorized by law and will only use CHRI, or the personally identifiable information first obtained by the district in CHRI, for the purposes of determining whether a person should be employed by the district.

In accordance with law and to protect the district's students, criminal background checks on persons who are employed in the district, who volunteer two or more times during the school year, or are employed by an entity which provides the District direct or indirect student services shall be required. The criminal background investigation shall be done by means of fingerprint checks by the Division of Criminal Investigation. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check. The district and district employees will comply with state and federal law, rules, procedures and policies regarding the receipt, use and dissemination of criminal history record information of any individual.

### **Designations**

1. The Superintendent, as the Agency Representative, is responsible for signing the SD Division of Criminal Investigation (SDDCI) User Agreement on behalf of the District.
2. The Superintendent shall be the District's Point of Contact (POC) and Noncriminal Agency Coordinator (NAC) to act as the primary contact person for the District, shall serve as the liaison between the District and SD Division of Criminal Investigation, and will fulfill all responsibilities of the POC/NAC, including but not limited to being the contact person when SDDCI sends out Audit information, shall be the contact person when an onsite Audit is scheduled, and responsible for notifying SDDCI when a new employee starts or an employee leaves so SDDCI can keep CJIS Security training records current.
3. The Superintendent is designated to be the Local Agency Security Officer (LASO) to act as liaison with SDDCI to ensure the agency is in compliance with security procedures. The LASO shall be knowledgeable in CHRI, policies and mandated rules and regulations as well as knowledge of IT security procedures. The LASO shall actively represent the District in all matters pertaining to information security, dissemination of information security alerts and other material within the District, and responsible for contacting SDDCI if there has been misuse of CHRI.



## **Criminal Background Checks**

1. Each person over eighteen years of age hired by the district, who is a volunteer two or more times during the school year, or is employed by an entity which provides the District direct or indirect student services shall be required to submit to a criminal background investigation.
2. The school district shall submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee or volunteer enters into service.
3. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check.
4. The District shall pay any fees charged for the cost of fingerprinting or the criminal background investigation for any person whose employment with the District or status as a volunteer is subject to the requirements of this section.
5. Any person hired to officiate, judge, adjudicate, or referee a public event sponsored by a school district is not required to submit to a criminal background investigation.
6. Any person whose employment or status as a volunteer is subject to the requirements of this section may enter into service on a temporary basis pending receipt of results of the criminal background investigation. The District may, without liability, withdraw its offer of employment or terminate the temporary employment or status as a volunteer without notice if the report reveals a disqualifying record.
7. The criminal investigation required by this section with respect to a student teacher completing requirements for teacher certification shall be conducted by the District, and the District may rely upon the results of that investigation for employment of that person as an employee of the district. Results of a criminal background investigation conducted by another South Dakota public school district of a student teacher, hired by the District, may be relied upon by the District.
8. A District employee who is employed simultaneously with another school district is only required to obtain one criminal background investigation, if the background investigation was conducted less than five years before the person was first employed by the District.
9. The District shall run a background check on employees of or applicants for employment with a contractor that does business with the district if the person will be working on school property. The contractor shall be responsible for the cost of the criminal background check.
10. No person may be employed by the District, either directly or by contract, and no person employed by a contract provider and who would have direct student responsibilities may provide direct student services, if the person has been convicted of a crime of violence (murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first degree, arson, kidnapping, felony sexual contact, felony child abuse, or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device), sex crimes (including but are not limited to, rape, felony sexual contact with a minor under sixteen, sexual contact with a person incapable of consenting, possessing, manufacturing, or distributing child pornography, and sexual exploitation of a minor), or distribution or trafficking in controlled substances or distribution of marijuana.

- a. The District may also refuse to employ a person who has been convicted of a crime involving moral turpitude. "Moral turpitude" is defined "an act done contrary to justice, honesty, principle, or good morals, as well as an act of baseness, vileness, or depravity in the private and social duties which a person owes to his fellow man or to society in general.
  - b. The District may consider any criminal conviction in making a hiring decision. The District has the sole and absolute discretion to determine whether the results of a criminal background investigation disqualify a person from employment within the District.
  - c. For purposes of this policy, the term conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere (no contest) in this state or any other state.
11. The District's employment application form shall inform applicants that if no SD statutorily disqualifying conviction is identified at the state level the fingerprints will be forwarded by the S.D. Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check.
  12. The application form shall also inform applicants that if the applicant believes the criminal background result is incorrect or incomplete in any respect and the applicant wishes changes, corrections or updating of the alleged deficiency, the applicant should make application directly to the agency which contributed the questioned information or direct the applicant's challenge as to the accuracy or completeness of any entry on the applicant's record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306.
  13. Should an applicant be disqualified from employment due to the results of a criminal background check, the District shall inform the applicant that the criminal background check results prohibit the District from employing the person. The District will not delay the employment hiring decision solely because the applicant seeks to correct his or her FBI criminal history record information (CHRI).
  14. Before a person's conditional employment is terminated as a result of the person's CHRI, the District shall inform the person whose conditional employment is subject to termination that the criminal background report reveals a conviction which prohibits the District from employing the person, and inform the person of his or her right to appeal the accuracy or completeness of the CHRI to the SDDCI or FBI. Employees shall be afforded procedural due process consistent with their employment status (i.e., whether the person is an employee-at-will, a school-year employee, or a ten month or twelve month employee) should termination of conditional employment be a possibility following the District's receipt of the CHRI.
  15. All employees and other persons required to submit to a criminal background check pursuant to this policy must notify the district in writing if they are convicted of any offense of domestic violence, child abuse, sex offense, drug (including marijuana) or any felony offense. This notification must be made as soon as possible, but no later than five business days after the event.
  16. The District reserves the right to require any employee or volunteer to submit to additional criminal background checks at the district's expense. The district reserves the right to require any employee of an entity which provides the District direct or indirect student services to submit to additional criminal background checks which shall be at the entity's or person's expense.

17. As required by state law, SDCL 13-10-15, if, as the result of a criminal conviction the school board suspends an employee without pay, or an employee resigns, or an employee is terminated, the superintendent shall within ten days of the date of the suspension or the date the employment is severed report the circumstances and the name of the employee to the S.D. Department of Education.

### **Training**

The District will ensure that all employees who have access to CHRI shall be trained by SDDCI on the rules and responsibilities for the confidentiality, receipt, use and dissemination of the CHRI.

### **Confidentiality**

1. Before requesting CHRI on any individual, the district will give the individual written notification that his or her fingerprints will be used to obtain the CHRI of the individual, and the district will provide the individual a copy of the statement "Noncriminal Justice Applicant's Privacy Rights." Exhibit GCDB-E (1).
2. Information received by the district pursuant to a criminal background check is confidential. Only authorized persons within the district may access, view or use CHRI. Authorized persons may not share or otherwise disclose information contained in CHRI to unauthorized persons unless explicitly allowed for in this procedure.
3. Unless otherwise allowed by law, the District will only use this information for the district's internal purposes in determining the suitability of an applicant, employee, or other worker on district property. The district will note in an employee's or applicant's personnel file that the background check was completed and if the person was disqualified by the CHRI for employment or assignment. The District will keep the CHRI in a separate file in a location that is only accessible to persons who need to know the information to carry out their responsibilities with the District.
4. Individuals that have access to CHRI will receive CJIS security training provided by SD DCI. Once the individual has completed the CJIS online training and has taken the test each individual will receive and acknowledge in writing the receipt of the following: (1) User Rules of Behavior Acknowledgement form, (2) CHRI Disciplinary Policy, and (3) Acknowledgment Statement of Misuse. The District will keep a copy of the signed documents in each individual's personnel file.

### **Access and Retention**

1. The District may print or electronically share records when necessary to determine whether the person is authorized to work for the district. In those situations, the physical or electronic copy will be destroyed immediately after the decision is made.
2. If the District runs a background check on employees of a contractor that does business with the district, the district will not provide the CHRI to the contractor. Instead, the district will provide a clearance letter notifying the contractor whether the employee is cleared to provide services in the district.

3. The District will not disseminate CHRI across state lines.
4. Upon request the district will provide a copy of the SDDCI CHRI to the person who is the subject of the background check. The SDDCI CHRI will only be released to the individual and not to relatives, spouses or friends. The District will note in the dissemination log that a copy was provided to the individual.
5. FBI rules prohibit the District from providing a copy of the FBI CHRI to the person who is the subject of the criminal background check.
6. The results of the background investigation done by the District shall be transferred to another South Dakota public school district if the other public school district, or current District employee, submits a written request to the District that the results be transferred to the other public school district. The District employee who was the subject of the criminal background investigation must sign a written release authorizing the transfer. The information will be sent by U.S. Mail or encrypted email.

### **Recordkeeping**

A Secondary Dissemination Log shall be maintained in which all authorized disseminations of FBI and State DCI criminal background check results are recorded. The following shall be recorded in the District's Secondary Dissemination Log:

- a. name of District;
- b. name of person subject to the criminal background check review;
- c. date of birth of person subject to the criminal background check review;
- d. SD public school district requesting FBI and DCI criminal background check results and person/title requesting on behalf of the SD public school district;
- e. written request signed by person subject to the criminal background check review for a copy of the SDDCI criminal background check results, attached to the Secondary Dissemination Log; NOTE: FBI CHRI cannot be released to the person who is the subject of the criminal background check.
- f. date of release of criminal background check results;
- g. description of the record that was shared;
- h. how the record was sent or received
- i. person to whom criminal background check results were disseminated;
- j. signature of District employee disseminating the criminal background check review pursuant to a valid request.

The Secondary Dissemination Log shall be maintained until the onsite audit is complete and the District receives from the SD Division of Criminal Investigation written notice of a successful Policy Compliance Review, unless the log is needed or required for other purposes

## **Security**

The district will provide for the security of any CHRI received, including the appropriate administrative, technical and physical safeguards to provide for the security and confidentiality of the information. This includes, but is not limited to, the following:

1. The LASO shall maintain a list of school district authorized persons who have access to CHRI.
2. In those cases when the District has physical copies of CHRI, the District will restrict access to authorized persons only. Physical copies of CHRI, if any, will be maintained in a controlled, secure environment, such as a locked cabinet in a room that is free from public or unauthorized access. The room or the locked cabinet will include an "Authorized Personnel Only" sign.
3. The District will not routinely maintain electronic copies of CHRI; however, in the rare instance where the district has electronic copies of CHRI, the district will restrict access to authorized persons only. Electronic data will be protected with encryption as designated by the state or federal government or will only be accessible by individual password. Computers, printers and monitors used to access CHRI must be situated to prevent unauthorized viewing of the information. CHRI cannot be accessed using computers available to the general public or personal devices. CHRI will not be stored on a server that is unprotected or accessible by an unauthorized entity.
4. CHRI will not be relocated, transmitted or transported outside a secure location unless encrypted according to FBI standards or transported in a locked container or in folders where the information is not visible to the public. A log must be kept if electronic information systems, such as a laptop, flash drive or CD with CHRI information on it, leaves a secured area.
5. The District will dispose of records securely. Physical records will be cross-shredded or incinerated. If the district contracts out for record destruction, the destruction must be supervised. The District shall notify SDDCI of the entity with whom the District contracts for records destruction and must receive SDDCI approval to use the contractor for purposes of disposing of CHRI. Electronic records will be deleted and overwritten as required by the SDDCI or FBI.
6. The District will not provide auditors access to CHRI unless the auditor is authorized by the SDDCI or the FBI.

## **Security Incident Response Plan**

All District employees will immediately report to the LASO information security incidents such as the theft or loss of physical records or the hacking or failure of electronic systems or suspicions that an incident has or will take place. The LASO will document receipt of all reports, investigate incidents and report incidents to SDDCI. LASO documentation will include (1) date of security incident, (2) location of security incident, (3) systems affected, (4) method of detection, (5) nature of security incident, (6) description of security incident, (7) actions taken/resolution, (8) current date, and (9) contact information for LASO.

## **Consequences**

Employees who fail to keep background check results confidential or fail to follow this policy or any laws or rules regarding the access, receipt, use or dissemination of CHRI as required by law will be subject to disciplinary action up to and including termination. Unauthorized requests, receipts, release, interception, dissemination or discussion of CHRI may also result in criminal prosecution.

Legal References: SDCL 13-10-12 (Criminal background investigation)  
SDCL 13-10-13 (Criminal conviction as factor in hiring decision)  
SDCL 13-10-14 (Persons continuously employed exempt)  
SDCL 13-10-15 (Suspension or resignation for criminal conviction)  
SDCL 13-10-16 (Conviction defined)  
SDCL 22-1-2(25) (Moral turpitude defined)  
SDCL 22-1-2(9) (Crime of violence defined)  
SDCL 22-24B-1 (Sex crimes defined)  
CFR Title 28 §16.34 (Procedure to obtain, change, correction or updating identification record)  
CFR Title 28 §50.12 (Exchange of FBI identification records)  
SD Division of Criminal Investigation (Guide for Noncriminal Justice Agency)  
SD Division of Criminal Investigation (Non-Criminal Justice Agency User Agreement)

<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: GCDB-E (1)</b>
<b>NWAS Policy # 2144 Adopted October 2017</b>	

**CRIMINAL BACKGROUND CHECKS  
NONCRIMINAL JUSTICE APPLICANT'S PRIVACY RIGHTS**

As an applicant who is the subject of a national (FBI) fingerprint-based criminal history record check for a noncriminal justice purpose (such as an application for employment), you have certain rights which are discussed below.

- You must be provided written notification <sup>(1)</sup> that your fingerprints will be used to check the criminal history records of the FBI.
- You must be provided, and acknowledge receipt of, an adequate Privacy Act Statement when you submit your fingerprints and associated personal information. This Privacy Act Statement should explain the authority for collecting your information and how your information will be used, retained, and shared. <sup>(2)</sup>
- If the FBI criminal background check reveals that you have a criminal history record, the officials making a determination of your suitability for the employment must provide you the opportunity to complete or challenge the accuracy of the information in the record.
- The officials must advise you that the procedures for obtaining a change, correction, or update of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34.

You have the right to expect that officials receiving the results of the criminal history record check will use it only for authorized purposes and will not retain or disseminate it in violation of federal statute, regulation or executive order, or rule, procedure or standard established by the National Crime Prevention and Privacy Compact Council. <sup>(3)</sup>

FBI rules prohibit the District from providing you a copy of the FBI record. You may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>.

If you decide to challenge the accuracy or completeness of your FBI criminal history record, you should send your challenge to the agency that contributed the questioned information to the FBI. Alternatively, you may send your challenge directly to the FBI. The FBI will then forward your challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an official communication from that agency, the FBI will make any necessary changes/corrections to your record in accordance with the information supplied by that agency. (See 28 CFR 16.30 through 16.34.)

<sup>(1)</sup> Written notification includes electronic notification, but excludes oral notification.

<sup>(2)</sup> <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>

<sup>(3)</sup> See 5 U.S.C. 552a(b); 28 U.S.C. 534(b); 42 U.S.C. 14616, Article IV(c); 28 CFR 20.21(c), 20.33(d) and 906.2(d)

**Acquisitions, Disposals and Exchanges**

NWAS policy and procedure for Acquisitions, Disposals and Exchanges will follow the procedures set forth by the SD Dept. of Legislative Audit pertaining to Local Government Guide for Acquisitions, Disposals and Exchanges.

Approved by NWAS Board: November 7, 2018

**Northwest Area Schools**

**POLICY NAME:** FEDERAL PROCUREMENT POLICY

**Regulations:** CFR 2; STATE AND LOCAL LAWS AND REGULATIONS NEPN CODE: DH

**Procedures:** Northwest Area Schools will purchase materials and supplies with Federal Program Funds in compliance with Federal regulations in Code of Federal Regulations Volume 2 state and local laws and regulations, using the procedures outlined on this and attached pages. The procurement plan provides for free and open competition, transparency in transactions, comparability and documentation of all procurement activities.

Purchasing will be conducted at the most restrictive procurement threshold:

	<b>Federal Procurement Threshold</b>
<b>Micro-Purchase</b>	Less than \$10,000
<b>Small Purchase</b>	Less than \$250,000
<b>Formal Purchase</b>	Greater than \$250,000
<b>Formal Purchase/Services and Supplies</b>	Greater than \$25,000
<b>Capital Equipment/Not on Pre-Approved List</b>	Greater than \$5,000

**A.** If the total amount of purchases exceeds small purchase threshold, the District will use formal procedures. Formal procedures can be Invitation for Sealed Bid or Request for Proposal. Formal procedures will be as follows:

1. Develop descriptions for all items.
2. Develop instructions for providing service or product.
3. Advertise in a newspaper of general circulation.
4. Mail descriptions, instructions, and response documents to all potential bidders.
5. Open and tabulate responses and present to board of education in a public meeting.
6. Submit staff recommendation to the school board for award of contract.

**B.** If the purchases are not covered by Section A of this plan, these purchases shall be made by use of the applicable state or local procedures.

If the amount of purchases for items is less than the micro-purchase threshold, the following procedure will be used:

1. The aggregate dollar value of each transaction shall be less than the micro-purchase threshold above. Purchases will not be separated into 2 or more purchases to meet or be below the threshold.
2. Purchase prices shall be reasonable.
3. Micro-purchases shall be spread equitably among qualified suppliers. If the District is unable to spread purchases equitably, it shall document the reason why (example: the next grocery store is located 50 miles away: Micro-purchase Procedures Table attached as Attachment A).

Small purchase procedure is as follows:

1. Develop descriptions for all items.
2. Develop instructions for providing service or products.



3. Attempt to obtain price quotes from a minimum of three suppliers.
4. Prepare a price quote documentation sheet, and indicate the supplier who was awarded the quote and the length of time the price is set.
5. Submit documentation sheet for approval to Business Manager.

**C.** If it is necessary to make an emergency purchase to continue uninterrupted service, the purchase shall be made using noncompetitive negotiation. A log of all such purchases shall be maintained and reviewed monthly by the Business Manager. The log shall include the item name, dollar amount, vendor and reason for emergency.

**D.** All purchases will be conducted as follows:

1. The Director/Business Manager or appropriate program director will requisition supplies and materials for site use. Requisition does not mean a form. It could be electronic, a preprinted form, or any method that leads to an efficient ordering system.
2. The Director/Business Manager will place orders based on prices that are established through an approved purchasing method.
3. The Director/Business Manager will be responsible for tracking, checking in, accounting for all inventory, and receipting the products.
4. The Director/Business Manager will develop and interpret specifications/descriptions.
5. The Director/Business Manager will approve brand and quality substitutions prior to delivery.
6. The Director/Business Manager will issue requests for prices and receive the responses to the requests for prices.

**E.** Procedure for inventory after purchase:

Each item is recorded into the individual inventory with the date/fiscal year of purchase of that product, serial # if applicable, and cost. This is done when the ordered items have been received and checked in at the NWAS office, by the Administrative Assistant

Inventory is kept updated all year long, and individual inventories are updated by NWAS staff each year in May

The inventories are kept electronically with the Administrative Assistant, and in hard copy format in the NWAS Business Manager's Office, with a copy of each inventory sent to the individual responsible for the inventory.

Inventory items that are lost, stolen or need to be disposed of are recorded on a "request to remove items from inventory/surplus" form by the person responsible for the inventory, and then the sheet is forwarded to the NWAS Business Manager along with the item if it is to be disposed of, or declared as surplus. Depending upon the program, items may be declared as surplus by the NWAS Board for either "no value", "dissolution" or "sale at auction". Once declared surplus, the item is then removed from the inventory.

Items reported as lost or stolen—every attempt is made to locate that item, but if that is unsuccessful, the item is listed on the "request to remove items from inventory/surplus" form as either lost or stolen, brought before the Board and noted as such, and then removed from the inventory.

**F.** All records shall be maintained for a period of three years plus the current year.

**G.** Code of Conduct

The following conduct is expected of all persons who are engaged in the award and administration of contracts supported by all Federal Programs. No employee of Northwest Area Schools shall participate in selection or in the award or administration of a contract supported by Federal program funds if a conflict of interest, real or apparent, would be involved. Conflicts of interest arise when a school district employee:

- Has a financial or other interest in the firm selected for the award;

- Is an employee, officer, or agent of the firm selected for the award;
- Has a member of the immediate family who is an employee, officer, or agent of the firm selected for the award;
- Has a financial interest in the firm selected for the award;
- Is about to be employed by the firm selected for the award; or
- Has a member of the immediate family who is about to be employed by the firm selected for award.

To ensure objective contractor performance and eliminate unfair competitive advantage, a person that develops or drafts specifications, requirements, statements or work, invitations for bids, requests for proposals, contract terms and conditions or other documents for use by the Federal program in conducting procurement shall be excluded from competing for such procurements. Such persons are ineligible for contract awards resulting from such procurements regardless of the procurement method used.

Northwest Area School employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of material monetary value from contractors, potential contractors, or parties to sub-agreements.

The purchase during the school day of any service from a contractor for individual use is prohibited.

The removal of any supplies or materials on school property, such as official records and the like, is prohibited.

Failure of any employee to abide by the above stated code could result in a fine, or suspension, or both, or dismissal. Interpretation of the code will be given at any time by contacting the NWAS Director at 605-466-2206. Northwest Area Schools will not be responsible for any other explanation or interpretation which anyone presumes to make on behalf of the Board of Education.

#### **H. Resolution of Controversies**

1. Any actual or proposed supplier who is aggrieved in connection with a proposed purchase may protest to the NWAS Director.
2. The protest shall be in writing.
3. The protest shall be delivered within 10 days of the action which is being aggrieved.
4. A hearing will be scheduled within 15 days of receipt of the protest.
5. The proposed purchase will be delayed until the protest is resolved. In the event it is determined that the purchase is necessary, an emergency shall be declared by the Director and emergency purchase procedures will be followed until protest resolution.
6. The decision of the Director will be in writing and shall be delivered to the aggrieved supplier with proof of delivery required.
7. The aggrieved supplier shall be notified that an appeal of the Director's decision is possible. The appeal request shall be written and addressed to the Board of Education.

#### **I. Public access to procurement information**

1. Procurement information shall be a public record to the extent provided in the State open records law.
2. All bids/offers shall be taken under advisement. Between the time an IFB/RFP (Invitation for Bid/Request for Proposal) is opened and awarded it may be viewed by any company or individual who entered a response to the proposed intent to purchase.
3. After acceptance, procurement information is available to the general public except as noted below:

- Any supplier providing information as a part of a proposal or offer shall stamp each page which they consider proprietary information “Not for Public Release”.
- Should Northwest Area Schools receive a request to release this marked information, the supplier shall be notified within 24 hours and given 10 working days to obtain a court order to stop release.
- In 10 working days, the party requesting the information shall be provided a copy of the court order or instructions on when to review the information.

For further questions, contact:  
 NWAS Director: 605-466-2206  
 Attachment A:

<b>MICROPURCHASING- PURCHASE PROCEDURES TABLE</b>		
<b>Store and Category</b> (list what vendor is being used and what product, services or supplies will be purchased)	<b>Justification</b> (justification for using vendor)	<b>Duration/Frequency</b> (weekly, monthly, yearly, per purchase)
Small Town Grocery Store-Fresh Produce/ and or auto parts stores	We can buy what we need, when we need it. Can't order small enough quantities from vendors who deliver. Use grocery/auto parts store in nearest available community	Weekly

Adoption of Revision of NWAS Policy 2146: 9-8-2021

**2150**

Northwest Area Schools Multi-District mobile classrooms shall be included in the participating local schools' disaster plan.  
 Revised: August 4, 2021

**2151**

Field trips taken to complement the vocational programs must have prior permission from the local school administrator. The local school will be responsible for all expenses incurred for each field trip. Northwest Area Schools will provide participating schools with an outline of scheduled field trips requested per vocational programs. Each district can utilize the information for planning of local budgets.

September 1989

<p><b>Associated School Boards of South Dakota</b></p>	<p><b>NEPN Code: AH</b></p>
<p><b>NWAS Policy # 2160 Adopted December 2016 Updated November 2017</b></p>	

**CONFLICT OF INTEREST DISCLOSURE AND AUTHORIZATION**

*SDCL 3-23-6 states*

*“3-23-6. No board member, business manager, chief financial officer, superintendent, chief executive officer, or other person with the authority to enter into a contract or spend money in an amount greater than five thousand dollars of a local service agency, school district, cooperative education service unit, education service agency, nonprofit education service agency, or jointly governed education service entity that receives money from or through the state may have an interest in a contract nor receive a direct benefit from a contract in amount greater than five thousand dollars or multiple contracts in an amount greater than five thousand dollars with the same party within a twelve-month period to which the local service agency, school district, cooperative education service unit, or education service agency is a party except as provided in § 3-23-8.”*

**I. DEFINITIONS:**

- a. “School Official” refers to a school board member, business manager, chief financial officer, superintendent, chief executive officer, or other person with the authority to enter into a contract or spend money in an amount greater than five thousand dollars.
- b. “Interest in a contract” is when (1) a School Official, the spouse of a School Official or any other person with whom the School Official lives and commingles assets, is employed by a party to any contract with the school district; or (2) the School Official, the spouse of a School Official, or any other person with whom the School Official lives and commingles assets, receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract.
- c. “Direct benefit from a contract” is when a School Official, the spouse of a School Official or any other person with whom the School Official lives and commingles assets (1) is a party to or intended beneficiary of the contract between the school district and a third party, or (2) has more than a five percent ownership interest in an entity that is a party to the school district contract, or (3) acquires property under the contract with the school district, or (4) receives compensation, commission, promotion, or other monetary benefit directly attributable to any contract.

## II. PROHIBITION:

This policy prohibits School Officials board members, business manager, superintendent, and any other person who has the authority to enter into a contract or spend money on behalf of the school district from having an interest in a contract or receiving a direct benefit from one or more contracts between the school district and a third party, if the total contract amount is more than \$5,000 within a 12 month period, unless the School Official discloses to the school board his or her interest in the contract, or in the case of a direct benefit from the contract, discloses the direct benefit and receives school board authorization to receive the benefit.

## III. EXCEPTIONS:

If any of the following apply, the School Official does not have an interest in the contract and does not derive a direct benefit from a contract, and disclosure (and authorization, if a direct benefit) is not required:

1. when the person's relationship to the contract is based solely on the value associated with the person's publicly-traded investments or holdings, or the investments or holdings of any other person with whom the board member, business manager, chief financial officer, superintendent, or chief executive officer lives or commingles assets;
2. when the person's relationship to the contract is due to participating in a vote or a decision in which the person's only interest arises from an act of general application;
3. when the person's relationship to the contract is due to the person receiving income as an employee or independent contractor of a party with whom the local service agency, school district, cooperative education service unit, or education service agency has a contract, unless the person receives compensation or a promotion directly attributable to the contract, or unless the person is employed by the party as a board member, executive officer, or other person working for the party in an area related to the contract;
4. when the contract is for the sale of goods or services, or for maintenance or repair services, in the regular course of business at a price at or below a price offered to all customers;
5. when the contract is subject to a public bidding process;
6. when the contract is with the official depository as set forth in SDCL 6-1-3;
7. when the person only receives income or compensation, a per diem authorized by law or reimbursement for actual expenses incurred; or
8. when the contract or multiple contracts with the same party within a twelve-month period with whom the school district contracts in an amount less than five thousand dollars.

#### **IV. DISCLOSURE:**

A *School Official* who has an interest in a contract or who receives a direct benefit from a contract must disclose to the school board the existence of a contract in which the person has an interest or receives a direct benefit.

1. the disclosure must include the following: (i) all parties to the contract, (ii) the person's role in the contract, (iii) the purpose or objective of the contract, (iv) the consideration or benefit conferred or agreed to be conferred upon each party, and (v) the duration of the contract;
2. the disclosure must be in writing;
3. to the extent circumstances allow, disclosure must be given prior to entering into any contract that requires disclosure, and if circumstances do not permit disclosure prior to entering into the contract then within forty-five days after entering into the contract, and if the contract extends into consecutive fiscal years, disclosure shall also be made at the annual reorganization meeting.
4. The school board will have a regular agenda item at the beginning of the school board meeting agenda at which time the school board will address conflict of interest disclosures.
5. Conflict of interest disclosures must be submitted to the President of the School Board, the Superintendent or the Business Manager, at least 5 calendar days before the scheduled meeting in order to be included in the posted meeting agenda for the next school board meeting. Conflict of interest disclosures submitted to the President of the School Board, the Superintendent or the Business Manager after the proposed agenda has been posted may be deferred until the following school board meeting.

#### **V. BOARD ACTION UPON DISCLOSURE:**

1. interest in the contract:
  - a. the school board is not required to authorize a School Official's interest in a contract;
  - b. the interest disclosure must be included in the official minutes of the school board (the official minutes are not required to be sent to the auditor-general and attorney general).
2. Direct benefit from a contract:
  - a. the school board shall review the disclosure and decide if the terms of the contract are fair and reasonable, and if the contract is contrary to the public interest.

- i. if the school board determines the contract terms from which a direct benefit is derived are fair and reasonable, and that the contract is not contrary to the public interest, the school board shall vote to authorize the School Official to derive a direct benefit from the contract.
  - ii. After the school board authorizes a School Official to derive a direct benefit from a contract, no further disclosure or authorization related to the contract is required unless the contract extends into consecutive fiscal years. If the contract extends into consecutive fiscal years, disclosure must be made at the annual reorganization meeting but no new authorization is required.
- b. If the school board determines the contract terms from which a direct benefit is derived are not fair and reasonable, or is contrary to the public interest, the school board shall vote to not authorize the School Official to derive a direct benefit from the contract. If the school board votes to not authorize a direct benefit, the contract is voidable and subject to disgorgement (i.e., the act of giving up on demand or by legal compulsion something that was obtained by illegal or unethical acts) or the person may resign from the school district.
  - c. The disclosure and school board action is public record.
  - d. The official minutes of the school board shall include the school board action on each disclosure and request for authorization to derive a direct benefit from a contract. A copy of the official school board minutes shall be sent to the auditor-general and attorney general within thirty (30) days of board approval of the minutes.
  - e. No school board member may participate in or vote upon a relating to a matter in which the school board member derives a direct benefit.

## **VI. MISCELLANEOUS:**

- 1. Consequences for knowingly violating the Conflict of Interest laws set forth in SDCL Ch. 3-23:
  - a. It is a criminal violation for a *School Official* to knowingly violate the Conflict of interest law.
  - b. A *School Official* who knowingly violated the Conflict of interest law will be removed from office or employment and is disqualified from holding any public office, elective or appointive.
  - c. Any benefit which a *School Official* derived from the person's knowing violation of the conflict of interest law is subject to forfeiture.
  - d. Any contract made in violation of this policy may be voided by the school board.

2. The School District Attorney represents the school district and the school board and may answer questions about the law that address conflict of interest. As the school district attorney does not represent School Officials in their individual capacity, School Officials should consult with their own private attorney related to questions they may have regarding how this policy applies to their individual interests and contracts.

Legal References: SD Constitution, Article 8, §17 (Interest in sale of school equipment prohibited)  
SDCL 1-27 (Public records and files)  
SDCL 13-20-2.1 (Interest in sale of school equipment unlawful)  
SDCL 13-43-1 (Employment of board member in same district prohibited)  
SDCL 22-30A-11 (Disqualification from public office)  
SDCL 22-30A-45 (Public official defined)  
SDCL 22-30A-46 (Public official's use of public funds for official's financial benefit as theft)  
SDCL 3-1A (Officers' statements of financial interest)  
SDCL 3-23-1.1 (Conflicts of Interest – Definitions)  
SDCL 3-23-6 thru 9) (Conflict of Interest)  
SDCL 6-1-1 (Local officer's interest in public purchase or contract unlawful)  
SDCL 6-1-2 (Conditions which contract with local officer permitted)  
SDCL 6-1-17 (Prohibition from discussion or voting on issue if conflict of interest exists)

Cross References: BBF: Board Member Code of Ethics  
BBFA: Board Member Conflict of Interest  
GBC: Staff Ethics  
GBCA: Staff Conflict of Interest

Adopted: 6/28/2016 Revised: 5/16/2017 Reviewed:
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<p align="center"><b>Associated School Boards of South Dakota</b></p>	<p align="center"><b>NEPN Code: AH-E(1)</b></p>
<p align="center"><b>NWAS # 2160 Adopted December 2016 Updated November 2017</b></p>	

**CONFLICT OF INTEREST DISCLOSURE**

Date: \_\_\_\_\_

Name of the School Official submitting the Conflict of interest disclosure:

\_\_\_\_\_

The disclosure is for the purpose of notifying the School Board of  
 \_\_\_\_\_ an interest in a contract  
 \_\_\_\_\_ a direct benefit from a contract:

Identify the following:

- (1) all parties to the contract
- (2) the person's role in the contract
- (3) the purpose(s)/objective(s) of the contract
- (4) the consideration or benefit conferred or agreed to be conferred upon each party
- (5) the length of time of the contract
- (6) any other relevant information

If the disclosure relates to the School Official deriving a direct benefit from a contract, explain how the terms of the contract are fair, reasonable, and not contrary to the public interest such that authorization should be granted by the school board.

Signature of School Official: \_\_\_\_\_

**THIS IS A PUBLIC DOCUMENT**

<p>Adopted: 6/28/2016          Revised: 5/16/2017          Reviewed:</p>
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<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: AH-E (2)</b>
<b>NWAS Policy # 2160 Adopted December 2016 Updated November 2017</b>	

**SCHOOL BOARD ACTION ON CONFLICT OF INTEREST DISCLOSURE  
OF A DIRECT BENEFIT**

Conflict of interest disclosure of a direct benefit, dated \_\_\_\_\_,  
was received from

\_\_\_\_\_. The  
disclosure was considered by the \_\_\_\_\_ School District School Board  
during a meeting held on \_\_\_\_\_.

\_\_\_\_\_ The request for authorization was denied because the terms of the contract were  
determined to not be fair and reasonable, and/or were contrary to the public  
interest.

\_\_\_\_\_ The direct benefit from the contract was authorized because the terms of the  
contract are fair and reasonable, and not contrary to the public interest.

\_\_\_\_\_ The direct benefit was authorized because the terms of the contract are fair and  
reasonable, and not contrary to the public interest such that a waiver should be  
granted, subject to the following conditions:

Signature of School Board President /Chairperson

\_\_\_\_\_

Printed Name: \_\_\_\_\_

Date \_\_\_\_\_

**THIS IS A PUBLIC DOCUMENT**

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Upon School Board approval of the official minutes of the meeting when the School  
Board acted upon the above conflict of interest disclosure, a copy of the official minutes  
will be emailed to the Auditor General and mailed to the Attorney General.

Adopted: 6/28/2016 Revised: 5/16/2017 Reviewed:
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Associated School Boards of South Dakota	NEPN Code: BDDH
NWAS Policy # 2170 Adopted July 2018	

## PUBLIC PARTICIPATION AT BOARD MEETINGS

The School Board recognizes and respects the input which may be provided by the public on school district matters. The Board also recognizes and respects the distinction between a school board meeting and a public meeting.

- At a school board meeting which is open to the public, members of the public may be present, observe and listen to the school board conduct its business and may speak during the school board meeting consistent with this policy.
- At a public meeting/hearing there is usually one topic to be presented by the District and discussed. The public is given the opportunity to speak and be heard on the topic which is the reason for the public meeting. This type of meeting allows for public participation under the rules designed specifically for that meeting and is not subject to this policy.

Policy BDDH, Public Participation at Board Meetings, applies only to topics addressed in open/public. Matters addressed in executive session pursuant to SDCL 1-25-2 are not open to the public.

*Persons speaking during the Public Forum at a school board meeting shall not cause public inconvenience, annoyance, or alarm to the school board or any person, and shall not engage in threatening behavior, make unreasonable noise, be disruptive, boisterous, argumentative, or threatening, shall not make comments which are disrespectful to one or more persons, and shall not use profanity.*

The time designated for Public Forum on the agenda shall be immediately before the adoption of the meeting agenda by the school board.

In order to assure that the Board may conduct its meetings in a respectful and efficient manner, the procedure for public participation at regularly scheduled monthly school board meetings is as follows:

### 1. Agenda and Non-Agenda Items:

- a. Before the meeting is called to order, an individual who desires to speak at a school board meeting must verbally or in writing inform the Superintendent, the Business Manager or the Board President of the person's desire to speak and the topic upon which the person intends to speak. The requesting party must sign a form (prepared by the school district) with their name, address, email and topic to be addressed.

- b. During the time designated for Public Forum the Board President will recognize the person who signed up to speak and the person may speak on the topic according to the rules set forth in this policy.
- c. A speaker shall be granted 5 minutes to present comments to the school board. Upon receiving a request for an extension of time from the speaker, the school board, upon a motion being made and passed by a majority of school board members present and voting, may grant an additional amount of time not to exceed 5 minutes. Additional extensions may be granted only upon a two-thirds vote of school board members present and voting.
- d. Should a number of persons wish to address the school board on the same agenda item, or should the comments become repetitious, the School Board President, in the President's sole discretion, may shorten the time for comments to two minutes per person in order that persons wishing to address the school board may be heard and still allow the school board sufficient time to conduct its agenda business.

**2. Adding an Item to the School Board Meeting Agenda in Order to Request Specific School Board Action:**

- a. Any person or delegation (with one person being the spokesperson for the delegation) making a specific request to the school board which would require formal action by the school board must present a written request to the Superintendent for the item to be placed on the school board meeting proposed agenda. The written request must be submitted to the Superintendent at least five calendar days before the school board meeting.
- b. The specific request to add an item to the agenda shall clearly identify what is being requested and why, signed by the person making the request, and include the person's name, address, email and telephone number.
- c. The Superintendent will forward the request to the School Board President and the Board President will decide whether the item will be placed on the proposed agenda. Whether any item is to be addressed at the school board meeting is determined by a majority of school board members at the beginning of the school board meeting when the school board adopts the proposed agenda as printed or adopted after being modified.
- d. If the item on the meeting agenda is adopted by the school board, the person or spokesperson for the delegation who has submitted the request for specific school board action will be granted 10 minutes to explain the request to the school board. Upon receiving a request for an extension of time from the speaker, the school board, upon a motion being made and passed by the majority of school board members present, may grant an additional amount of time not to exceed 5 minutes. Additional extensions may be granted only upon a two-thirds vote of school board members present and voting.
- e. In the sole discretion of the school board, requests to the school board for specific action submitted after the proposed agenda has been posted may be:

- deferred until the next regular meeting or a special school board meeting, or
- added to the meeting agenda for discussion purposes only, or
- added to the agenda for discussion and possible action.

### 3. Authority of Presiding Officer:

The Board vests in its presiding officer the authority to terminate the right of any person to speak at the end of the time granted pursuant to provision 1.d, provision 1.e. or provision 2.d. as set forth in this policy. The presiding officer may also terminate the right of a person to speak at a school board meeting should the person cause public inconvenience, annoyance, or alarm to the school board or any person, engage in threatening behavior, make unreasonable noise, disturb or be disruptive of an official school board meeting, or when comments are disrespectful to one or more persons, boisterous, argumentative, threatening, or contain profanity. If deemed necessary by the presiding officer, the presiding officer may contact local law enforcement to have a person removed from the school board meeting as it is a violation of law for a person to intentionally cause or create a risk of serious public inconvenience, annoyance, alarm or disturbance at a school board meeting.

#### Notes:

*(1) ASBSD recommends that during the board meeting and prior to adoption of the agenda members of the public be given an opportunity to speak on matters both which are on the posted proposed agenda and also on matters which are not on the posted proposed agenda. If the topic is not on the proposed agenda, the school board could (but would not be required to) add the topic to the agenda when the Board adopts the final meeting agenda.*

*As an alternative to allowing people to speak on an agenda topic during Public Forum, the Board may want to consider allowing people to speak on that topic when it is before the school board for discussion and possible action; however, if allowed, the Board should take into consideration that it may be difficult to limit public comments when the school board is discussing that topic.*

*(2) See Policy Alert dated May 25, 2018 related to a board resolution which makes policy BDDH applicable to the 'public participation at board meetings' requirement found in SDCL 1-25-1.*

Legal References: SDCL 1-25-1 (Official meetings open to the public)  
 SDCL 1-25-2 (Executive or closed meetings)  
 SDCL 13-8-39 (Management of schools by board – general powers)  
 SDCL 13-32-6 (Disturbance of school as a misdemeanor)  
 SDCL 22-18-35(3) (Disorderly conduct – disturbing any lawful assembly or meeting of persons without lawful authority)

## Amendment to PUBLIC PARTICIPATION AT BOARD MEETINGS

BE IT RESOLVED that in order to comply with SDCL 1-25-1, as amended by HB 1172 (2018 legislative session), which states “the chair of the public body shall reserve at every official meeting by the public body a period for public comment, limited at the chair’s discretion, but not so limited as to provide for no public comment,” and also provide for a known procedure by which there may be public participation at school board meetings, the President/Chairperson of the Northwest Area Schools Education Cooperative shall apply and follow school board policy 2170 with respect to public participation at all school board meetings.”

Adopted: July 5, 2018

Adopted: 1/1/2007 Revised: 11/3/2011; 12/8/2016 Reviewed: 6/14/2012
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<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: BDDH-E (1)</b>
<b>NWAS Policy # 2170 Adopted July 2018</b>	

**SCHOOL BOARD MEETING SPEAKER SIGN-IN SHEET**

DATE \_\_\_\_\_  
page \_\_\_\_\_ of \_\_\_\_\_

	<b>Name &amp; Address</b>	<b>Email &amp; Phone #</b>	<b>Topic</b>
1			
2			
3			
4			
5			
6			
7			
8			
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11			
12			

Adopted: 12/8/2016 Revised: Reviewed:
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## BUSINESS AND NON-INSTRUCTIONAL OPERATIONS



All assessments shall be paid within 30 days following receipt of the statement.

Special Education assessment shall be paid as invoiced.

Vocational Education assessment shall be made in two equal payments, with the first one-half to be billed after July 1 of each year and the remaining one-half to be billed after January 1 of each year.

August 2001

Revised: August 4, 2021

3110

When a request for a refund of any portion of an assessment paid by any participating school district is received and determined by the board to be made to that district because of less than full time service to that district, the share or portion to be refunded shall be calculated according to the following formula:

Total amount budgeted for the operation of Unit "x" \$\_\_\_\_\_

PLUS

1/8 (or 1/number of participating schools) of the total amount budget for fixed expenses such as Board Expense, Administration, Business or Moving Expense

TOTAL AMOUNT \$\_\_\_\_\_

CHARGEABLE TO UNIT "X" \$\_\_\_\_\_

The total amount chargeable to Unit "X" as above shall be divided by the number of days Unit "X" should have operated according to the school calendar adopted by NWAS to obtain a total cost per day for Unit "X" multiplied by the number of days Unit "X" actually was in operation = the total cost the requesting school district shall be obligated to assume. The amount to be refunded to the requesting school district shall be the Total Assessment Paid for Unit "X" less the amount assumed obligations as calculated above.

ANY EXTENUATING CIRCUMSTANCES SHALL BE TAKEN INTO CONSIDERATION AT THE TIME REFUND IS REQUESTED.

August 2002

3111

**The following guidelines shall be observed in the following areas:**

ACADEMIC OLYMPICS - All schools will pay equally whether they participate or not. Billing will be included in 1<sup>st</sup> half of assessment.

K - 8 SPELLING CONTEST - All schools will pay equally whether they participate or not. Billing will be included in 1<sup>st</sup> half of assessment.

IN-SERVICE WORKSHOPS - (Administrative, Board, Teacher, Student Assemblies, Negotiations, etc.). Participation is optional. Those participating will pay the cost equally through NWAS office. You will be billed after the activity.

SPECIAL EDUCATION COOPERATIVE - All schools will participate. All pay base assessment according to student count. All other services are on a contract basis. School participation is at a level according to need. All flow-through funds of IDEA Part B and Part C may be channeled to NWAS. Schools are given dollar for dollar credit towards their account for these monies.

CTE(Career and Technical Education) - Budget presented and signed in the spring. Payments are made in two parts.

September 2013

Revised: August 4, 2021

### **3200**

The Unemployment Fund shall be maintained at \$12,000.00. Any interest earned over and above that amount shall be deposited on a pro-rated basis to the Special Education General Fund (40%) and Vocational Education Fund (60%) unless otherwise designated by the Board.

August 1989

### **3400**

A fiscal audit shall be made at a minimum of once every two years according to statutory requirement for school districts or at any time the board deems necessary.

### **3410**

In accordance with state law, an annual report covering the educational and financial activities of the school district will be prepared by the business manager, with the assistance of the chief officer (CEO)/superintendent. The report will be filed with the State Division of Elementary and Secondary Education.

May 2013

### **3500**

Northwest Area Schools Multi-District/Educational Cooperative will pay the registration fee for attendance at various conferences if state or federal funds are available for that particular program or with specific board approval.

### **3510**

Northwest Area Schools Multi-District and Northwest Area Schools Educational Cooperative will allow payment of board meeting when the Chairperson of the Administrative Board attends the meetings of the Multi-District and/or the Educational Cooperative at the then approved board meeting attendance rate.

August 2002

### **3520**

Newspaper entities within the participation area of Northwest Area Schools Multi-District/Educational Cooperative shall be designated official newspaper to serve on a rotation basis of one year each with the designation to be made at the annual meeting of the board each year according to SDCL 13-8-10.

July 2005

For any check outstanding more than **90 days**, the following form letter shall be sent by certified mail with return receipt requested:

"Our records indicate that Check No. \_\_\_\_\_ issued to you from our \_\_\_\_\_ account on \_\_\_\_\_, 20\_\_\_\_, is outstanding. We would like to keep our financial records as current as possible and need your cooperation. Would you please check below the circumstances applicable in this matter and return this form at your earliest convenience;

- Thanks for the reminder; check will be cashed within **10 days**.
- Check was cashed by me on \_\_\_\_\_, 20\_\_\_\_\_.
- Check was not received by me.
- Check misplaced, lost, other. (Please circle one.)

If one of the above applies, please contact our business office for procedures to follow in obtaining a replacement check.

After one year from date of issue, the funds will be turned over to the State of South Dakota, unclaimed property, in accordance with SDCL 43-41B-14. Thank you for your cooperation and assistance.

Yours truly  
Business Office

June 2009

## PERSONNEL

**4000**

The policies adopted by Northwest Area Schools Multi-District/Educational Cooperative shall be followed by all personnel unless there shall be a difference between the NWAS policy and the policies governing the school to which they are assigned. When NWAS staff assume duties in a local school district, they will be under the same policies and procedures that govern the local school staff. Any exceptions to the normal procedures and policies will be resolved in advance, by the staff member, local school, NWAS Director and governing board.

**4110**

“Working Day” for staff shall be determined by their respective local district policy unless otherwise specified by contract. See Appendix for further details.

July 1996

**4111**

The Northwest Area Schools Multi-District/Educational Cooperative shall adopt a school calendar annually which shall be used as a general guide; however, employees shall be specifically governed by the school calendar of the district to which they are assigned. See Appendix for further details.

**4112**

All certified personnel contracts issued by Northwest Area Schools Multi-District/Educational Cooperative shall be subject to the following:

It is hereby resolved that this contract may be terminated only by mutual consent of the contracting parties or by the statutory provisions of the laws of South Dakota.

If no mutual consent as to termination exists and if the teacher initiates the termination of the contract prior to its termination date, Northwest Area Schools Multi-District/Educational Cooperative reserves the right to pursue any remedies available by law.

March 2006

**4113**

At minimum, NWAS Multi-District/Educational Cooperative certified/licensed staff shall be evaluated according to SDCL 13-42-34. Each certified staff in year one shall be evaluated not less than biannually; years two through three shall be evaluated not less than annually, and each certified teacher in the fourth contract year or beyond, not less than every other year.

May 2013

**4114**

For the purpose of this policy, the effective date of a lay-off by reduction in force shall be June 30. If, during the first fiscal year subsequent to the time a continuing contract teacher is laid off because of reduction in staff and a vacancy occurs in the grade, subject areas and activities in which a laid-off teacher had been teaching or is qualified to teach, re-employment shall be extended to the teacher in reverse order of lay-off. When more than one staff member has the same recall date and is qualified for the open position the board may consider, among other things, recommendations of administrative staff, qualifications, years of service and educational background in selecting the person to be hired. A recalled teacher shall retain previously accumulated sick leave benefits. Recall privileges cease when a staff member resigns. Recall privileges will also cease if upon being recalled the staff member fails to report within 20 calendar days after the mailing of a written notice of recall. Such notice shall be sent by certified mail to the last address furnished to the Director by the staff member and the 20 day period shall commence to run on the day the notice is mailed. Recall privileges will not apply to teachers under contract with another school district unless that recall is for anticipated positions in the ensuing year.

May 1985

Revised: August 4, 2021

**GRIEVANCE PROCEDURE POLICY:****I. DEFINITIONS**

- A. A grievance is a complaint by a person or group of persons employed by Northwest Area Schools Multi-District 52-201 or Northwest Area Schools Educational Cooperative, made either individually or by a duly recognized employee association through its representative, that there has been a violation, misinterpretation or inequitable application of any existing agreement, contract, policy, rule, practice or procedure of the boards. Negotiations for, or disagreement over a non-existing agreement, contract, policy, rule, practice or procedure is not a "grievance".
- B. Non-renewal of contract is not a cause for "grievance".
- C. An "aggrieved person" is the person or group of persons making the claim.
- D. "Board" means the governing Center Board of Northwest Area Schools Multi-District or Governing Board of Northwest Area Schools Educational Cooperative.
- E. "Days" shall mean calendar days unless otherwise specified.
- F. "Employee", as used in this policy, is considered to apply to any person employed by the Northwest Area Schools Multi- District/Educational Cooperative.
- G. "Party in Interest" is the person or persons making the claim and/or any person or persons who might be required to take action or against whom action might be taken in order to resolve the problem.
- H. "Immediate Supervisor" as used in this policy may be either local Principal or division Coordinator. (May 1985)

**II. PURPOSE**

- A. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may from time to time arise between employees and the Multi-District/Educational Cooperative and to facilitate this purpose, these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.
- B. Nothing herein contained shall be construed as limiting the rights of any employee having a grievance to discuss the matter informally with any appropriate member of the administration and having the grievance adjusted without the intervention of the employee association, provided the adjustment is not inconsistent with the terms of any settlement with the employee association then in effect. The employee or the administrator involved in the grievance may be represented by a representative at such an informal discussion only by the mutual consent of the employee and the appropriate member of the administration.

**III. TIME LIMITS**

- A. It is important that grievances be processed as rapidly as possible and every effort should be made to expedite grievance procedures.
- B. If the employee does not file a grievance in writing with the immediate supervisor within thirty (30) days after the employee knew, or should have known, of the act or condition on which the grievance is based, the grievance shall be considered as having been waived.

**IV. INFORMAL PROCEDURES**

- A. If an employee feels he/she has a grievance, he/she should first discuss the matter with his/her immediate supervisor, to whom he/she is directly responsible in an effort to resolve the problem.
- B. If, after such discussion with the supervisor, the employee is not satisfied with the disposition of the matter, she/he shall have the right to present the matter to and discuss it with the Director.

## V. FORMAL PROCEDURES

### LEVEL ONE - Immediate Supervisor

If an aggrieved person is not satisfied with the disposition of the problem through informal procedures, the employee may submit a claim in writing to the immediate supervisor. The supervisor shall, within five (5) days render a decision and the reasons therefore in writing to the complainant. The supervisor shall keep on file a statistical summary of the number and types of grievances processed, including the names and details of the grievances.

### LEVEL TWO - Director

If the aggrieved person is not satisfied with the disposition of the grievance by the immediate supervisor, or if no decision has been rendered within five (5) days after presentation of the grievance in writing, the person may file a formal written grievance with the Director and the Director shall meet with the aggrieved person and a representative, if the aggrieved person desires representation, for the purpose of considering the grievance. The Director shall within ten (10) days of such meeting, render a decision and the reasons therefore in writing to the complainant.

### LEVEL THREE - Multi-District/Cooperative Board

If the aggrieved person is not satisfied with the disposition of the grievance by the Director or if no decision has been rendered within ten (10) days after conference with the Director, the aggrieved person may file the grievance with the Northwest Area Schools Multi-District Center Board or Northwest Area Schools Educational Cooperative Governing Board (by filing with the Business Manager). The Northwest Area Schools Multi-District/Educational Cooperative Board may appoint a committee and set a time and place for a hearing. The committee shall consider the complaint and report to the Northwest Area Schools Multi-District Center Board or Northwest Area Schools Educational Cooperative Governing Board at the next regular or special meeting. The aggrieved person, with a representative of their choice, if desired, may appear before the Board at such meeting. A decision of the Board on such grievance shall be rendered in writing to the aggrieved person within ten (10) days after such meeting.

### LEVEL FOUR

If the aggrieved person is not satisfied with the disposition of the grievance at Level Three or, if no written decision has been rendered within the time period set forth in the preceding paragraph, a person may, within ten (10) days after receipt of the written decision is due, whichever is earlier, appeal to the Department of Labor, pursuant to SDCL 3-18-15-2. The inclusion of this paragraph in this Grievance Procedure shall not constitute a waiver by either party of its rights to dispute the authority of the Department of Labor to hear the appeal and/or render any particular decision.

### LEVEL FIVE

All provisions as provided in SDCL 3-18-15.2.

## VI. MISCELLANEOUS

A. Any party or parties in interest shall appear and may, upon two (2) days notice in writing to the other party, have council pre- sent at formal levels.

B. Meetings and hearings under this procedure shall not be conducted in public and shall include such parties and only such parties in interest and their designated or selected representatives heretofore referred to in this Grievance Procedure. The vote on the Board's decision on Level Three grievances shall be made in open sessions.

C. When it is necessary for a party or parties in interest to attend a board meeting, or a hearing called during the working day, the Director shall so notify the party or parties in interest, immediate supervisor, and the party or parties in interest shall be released without loss of pay for such time as their attendance is required at such meeting or hearing.

D. At all hearings conducted under this procedure, the aggrieved person and the administrative representative may call witnesses and present evidence that is relevant to the matter being considered. The Board may request that other witnesses be called for questioning by the parties.

**4116**

Substitute teachers shall be paid at a rate consistent with the respective local school policy. In the event that a teacher is absent for more than ten consecutive days, or if an absence of that duration is anticipated, then the Director will have the authority to negotiate with a capable substitute teacher at a rate outside of local school policy.



<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: JGB</b>
<b>NWAS Policy # 4117 Adopted July 2018</b>	

## **RESTRAINT AND SECLUSION**

### **I. Policy Rationale and Philosophy:**

Reasonable efforts should be made to prevent the use of restraint and the use of seclusion. A non-aversive effective behavioral system such as Positive Behavioral Intervention and Supports (PBIS) should be used to create a learning environment that promotes the use of evidence-based behavioral interventions, thus enhancing academic and social behavioral outcomes for all students.

The District believes that the school environment should be one in which the care, safety, and welfare of all students and staff members are priorities. Efforts to promote positive interactions and solutions to potential conflict should be extensive. In the event that an individual's behavior presents a threat of imminent harm to self or others the use of approved physical intervention or seclusion strategies to maintain a safe environment may be used as a last resort.

### **II. Definitions:**

#### **a. Positive Behavior Interventions and Support:**

- i. A school-wide systematic approach to embed evidence-based practices and data driven decision making to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, and
- ii. Encompasses a wide range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrences of challenging behaviors and teach appropriate behavior to students.

#### **b. Physical Restraint:**

- i. The use of physical contact that immobilizes or reduces the ability of a student to move their arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint.
- ii. Physical restraint does not include brief, but necessary physical contact for the following or similar purposes:
  1. To break up a fight;
  2. To knock a weapon away from a student's possession;

3. To calm or comfort;
4. To assist a student in completing a task/response if the student does not resist the contact;
5. To prevent an impulsive behavior that threatens the student's immediate safety (i.e. running in front of a car).

c. Seclusion:

The involuntary isolation of a student in a room, enclosure or space from which the student is prevented from leaving by physical restraint or by a closed door or other physical barrier. It does not include a timeout.

d. Time out:

A behavioral intervention in which a student, for a limited and specified time, is separated from the class within the classroom or in a non-locked setting for the purpose of self-regulating and controlling his or her own behavior. In a timeout, the student is not physically restrained or prevented from leaving the area by physical barriers.

**III. Requirements for the use of Physical Restraint:**

Physical restraint may be used only when there is an immediate risk of physical harm to the student or others and no other safe and effective intervention is possible, if physical restraint is applied the staff member must;

- a. implement in a manner that is age and developmentally appropriate;
- b. ensure safety of other students and protect the dignity and respect of the student involved. Combine use with other approaches (non-physical interventions are always preferred) that will diminish the need for physical intervention in the future;
- c. use the least amount of force necessary, for the least amount of time necessary;
- d. be appropriately-trained;
- e. continually observe the student in restraint for indications of physical or mental distress;
- f. contact appropriate emergency entities according to district crisis policy if at any point the staff assesses that the intervention is insufficient to maintain safety of all involved;
- g. remove the student from physical restraint immediately when the immediate risk of physical harm to self or others has dissipated; following the use of physical restraint, the individual should be assessed for injury or psychological distress and monitored as needed following the incident.

#### IV. **Prohibited Practices for Use of Restraints:**

Staff members are not to use any physical restraints for which they have not been trained by the district. Staff members are not to use any unauthorized physical restraints. This includes but is not limited to:

- a. Prone restraint, which is physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when the use is necessary and reasonable in manner and moderate in degree;
- b. Any form of physical restraint that involves the intentional, knowing, or reckless use of any technique that involves the use of pinning down a student by placing knees to the torso, head, and or neck of the student;
- c. Using any method that is capable of causing loss of consciousness or harm to the neck or restricting respiration in any way;
- d. Uses pressure point, pain compliance, or joint manipulation techniques;
- e. Corporal punishment;
- f. Dragging or lifting of the student by the hair or ear or by any type of mechanical restraint;
- g. Deprivation of basic needs;
- h. Chemical restraint;
- i. Mechanical restraint (that does not include devices used by trained school personnel, or by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed);
- j. Using other students or untrained staff to assist with the hold or restraint;
- k. Securing a student to another student or fixed object;
- l. Aversive behavioral interventions; or
- m. Seclusion in a locked room or area.

#### V. **Requirements for Use of Seclusion:**

Given a threat of immediate risk of physical harm to the student or others, the following principles must always be applied:

- a. A room or area used for seclusion must:
  - i. provide for adequate space, lighting, ventilation, clear visibility and the safety of the student; and

- ii. not be locked.
- b. Staff must:
  - i. implement in a manner that is age and developmentally appropriate;
  - ii. ensure safety of other students and protect the dignity and respect of the student involved;
  - iii. the least amount of time necessary;
  - iv. be appropriately-trained;
- c. staff must continually observe the student for the duration of the seclusion;
- d. if at any point the staff assesses that the intervention is insufficient to maintain safety of all involved, emergency personnel will be contacted;
- e. seclusion ceases when the immediate risk of physical harm to self or others has dissipated;
- f. upon each use of seclusion, the student shall be assessed for injury or psychological distress and monitored as needed following the incident.

**VI. Prohibited Practices for Use of Seclusion:**

- a. Use of seclusion in any environment that does not meet the above criteria.
- b. Deprivation of basic needs;
- c. Seclusion shall not be used;
  - i. As a form of discipline/punishment;
  - ii. As a means to coerce, retaliate or in a manner that endangers a student;
  - iii. For the convenience of staff;
  - iv. As a substitute for an educational program;
  - v. As a substitute for less restrictive alternatives;
  - vi. As a substitute for inadequate staff; and/or
  - vii. As a substitute for positive behavior supports or other crisis prevention.

**VII. Reporting and De-Briefing Requirements after the use of Physical Restraint or Seclusion:**

- a. The staff member(s) using physical restraint or seclusion shall complete all district required reports and document staff's observations of the student.
  - i. As soon as possible under the circumstances the staff member(s) using physical restraint or seclusion shall inform the appropriate school administrator of the use of physical restraint or seclusion.
  - ii. The District's Incident Report shall be completed upon occurrences of physical restraint or seclusion.
  - iii. Completion of the form and submission of the Incident Report to the appropriate administrator must be done the same day the staff member(s) used physical restraint or seclusion.
  - iv. An administrator shall attempt to contact the parent/guardian during the same day of incident.
  - v. A copy of the Incident Report must be made available to parent/guardian by the administrator within 24 hours after receipt of the Incident Report.
- b. The administration shall conduct a de-briefing with all involved staff and parents and, if appropriate, the student;
  - i. Debrief utilizing the District's Debriefing Form.
  - ii. Evaluate the trigger for the incident, staff response, and methods to address the student's behavioral needs;
  - iii. During the debrief, if the behavior is noted as a pattern of dangerous behavior that leads to the use of restraint and/or seclusion, a Functional Behavior Assessment, and/or a Behavior Intervention Plan must be completed.

**VIII. Training and professional development:**

- a. The district will ensure that an appropriate number of personnel in each building are trained in crisis management and de-escalation techniques.
- b. The school district will maintain written or electronic documentation on training provided and lists of participants in each training.
- c. All student personnel shall be trained annually on this policy.

**IX. District Monitoring:**

- a. The school board and superintendent shall monitor the implementation of this policy.
- b. This policy shall be accessible on the district's website.
- c. The district shall notify all parents annually on the school's website of its policy on seclusion and restraint.

**X. Complaint:**

- a. A parent/guardian who feels that a school employee violated this policy may file a complaint pursuant to Policy KL: Complaint Against School Employee.
- b. If the student is a student with a disability, the parent/guardian of the student with a disability may file a complaint with the South Dakota Department of Education, Office of Special Education instead of filing a complaint pursuant to Policy KL: Complaint Against School Employee.

*Notes:*

*(1) Section VII (a)(ii) and (b)(i) refers to ASBSD sample policy exhibits JGB-E(1):Restraint and Seclusion - Incident Report Form, and JGB-(E2):Restraint and Seclusion - Debriefing Form. Your District may use a different Incident Report Form and Debriefing Form.*

*(2) Section X. a. and b. refer to ASBSD sample policy KL: Complaint Against School Employee. If your district's Complaint Against School Employee policy is coded differently than KL, your district's policy would be referenced in section X.*

Legal References: **SB 46 (2018)**

Cross References: KL: Complaint Against School Employee

Associated School Boards of South Dakota	NEPN Code: JGB-E(1)
NWAS Policy # 4117 Adopted July 2018	

**RESTRAINT AND SECLUSION  
INCIDENT REPORT FORM**

\_\_\_\_\_  
Student Name Date of incident

Does this student have a disability?    \_\_\_\_ Yes    \_\_\_\_ No

If yes, what is the disability? \_\_\_\_\_

Student ethnicity: \_\_\_\_\_ Student gender: \_\_\_\_\_

Teacher/class/grade \_\_\_\_\_

Staff person(s) initiating restraint; others present/involved:

Staff person(s) initiating seclusion; others present/involved:

Describe the behavior that led to restraint/seclusion, including time, location, activity, others present, other contributing factors:

Procedures used to attempt to de-escalate the student prior to using restraint/seclusion:

Describe the restraint/seclusion:

Duration of time of restraint/seclusion

\_\_\_\_\_  
Staff member submitting report

Submitted to Administration at \_\_\_\_\_ time \_\_\_\_\_ date

Adopted: 4/19/2018 Revised: Reviewed:
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<b>Associated School Boards of South Dakota</b>	<b>NEPN Code: JGB-E(2)</b>
<b>NWAS Policy # 4117 Adopted July 2018</b>	

**RESTRAINT AND SECLUSION  
DEBRIEFING FORM**

Student: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date of Debriefing: \_\_\_\_\_

Present:

Name	Position	Signature	Has the staff completed restraint training?

1. Give a brief description of the circumstances (antecedents) leading up to this incident.
2. Give a summary of the incident.
3. What was the intervention used?
4. What was the outcome?
5. From information gained, what changes (if any) should be made?
6. Has a support plan been initiated?     \_\_\_Yes     \_\_\_No  
    If yes, who was contacted?
7. If applicable, how will the support plan affect any of the following:
  - Behavior intervention plan (BIP)
  - 504 plan
  - Individualized Education plan (IEP)
  - Does the team need to reconvene?

If yes, name of person responsible for notifying the team

BIP   \_\_\_Yes     \_\_\_Date     \_\_\_N/A

504   \_\_\_Yes     \_\_\_Date     \_\_\_N/A

IEP   \_\_\_Yes     \_\_\_Date     \_\_\_N/A



8. Is this a repeated instance of restraint or seclusion, if so, a Functional Behavioral Assessment (FBA) shall be conducted. Has an FBA been initiated? \_\_\_Yes \_\_\_No / completed? \_\_\_Yes \_\_\_No

NOTE: Process for requesting additional help. (District should insert their specific process to direct teams in next steps for additional help)

9. Additional comments (if any)

April 19/2018

Revised:

Reviewed:

**4118**

One-on-one Prohibition: Northwest Area Schools Multi-District prohibits any CTE mobile unit instructor from being alone (one-on-one) with a student in the mobile unit.

Adopted: August 4, 2021

**4200**

Salary index guidelines for certified personnel shall be adopted annually.

**4210**

Salaries for certified personnel of the Northwest Area Schools Multi- District/Educational Cooperative shall be determined by the approved salary guidelines. The board shall make every reasonable effort to maintain said guidelines, but it also reserves the right to hire incoming personnel off the guideline in the case of hardship or emergency due to lack of qualified applicants.

**4211**

New personnel with additional training and/or experience shall be placed on the salary guideline. The location of such placement will be negotiated with the Northwest Area Schools Director and approved by the Northwest Area School Multi-District Center Board or the Northwest Area Schools Educational Cooperative Governing Board.

August 2002

**4212**

Any Multi-District certified employee who, on or before September 1<sup>st</sup>, can demonstrate evidence of having advanced from one educational category to a higher one, will have salary adjustments to the amount allowed on the approved salary guideline. Hours on the salary schedule shall be interpreted as semester hours. Employees shall notify Northwest Area Schools Business Manager and/or Director in writing prior to May 1<sup>st</sup> of their intention of gaining additional hours which will grant them a lane change in the salary schedule for the following school year.

All credits must be earned in residence, extension or workshops from a source approved by the Multi-District Center Board or the Administration and the Division of Elementary and Secondary Education. All additional hours of credit must be applicable to a higher degree or, a course related to improvement in their respective teaching field, and have been earned after the date of last lane change in order for the credits to count for lane advancement.

Any Special Education certified employee who, on or before September 1<sup>st</sup>, can demonstrate evidence of having advanced from one educational category to a higher one, will have salary adjustments to the amount allowed on the approved salary guidelines for Early Childhood or Speech. Employees shall notify Northwest Area Schools Business Manager and/or Director in writing prior to May 1<sup>st</sup> of their intention of gaining an advanced degree which will grant them a lane change in the salary schedule for the following school year.

September 2013

**4214**

Previous experience for employees of the Northwest Area Schools Multi- District (vocational education) shall be interpreted as experience in a Reimbursed Vocational Education Program and will result in One (I) Step to and including the highest step negotiated upon hiring.

Teaching experience in a related field, will result in One (I) Step for each two (2) years taught.

July 2008

**4215**

Teaching experience allowed for placement on the Multi-District salary guideline is defined as "teaching in an approved school/program or reimbursable school/program. A year of experience is defined as a regular nine month contract term.

May 2013

**4300**

All employees shall be paid on a twelve (12) month basis. Any change in this procedure shall be approved by the Multi-District/Educational Cooperative Director prior to release of employee's first salary payment. Compensation for employment that ends before a new calendar year will be paid prior to two (2) months into the succeeding calendar year.

July 2008

**4310**

All salary checks will be issued on the 20th day of each month or if the 20th falls on a Saturday, Sunday or Monday Holiday, the checks will be issued on the preceding Friday. If an employee requests salary payment to be mailed to an address other than Isabel, South Dakota, said payment will be put in the mail two days prior to issuing as stated above.

July 1999

**4311**

Any person serving as an instructor for a General Interest class shall receive compensation for such services at a rate established between the Northwest Area Schools Director and the instructor.

August 2002

**4312**

It is not the intent of the board to regularly compensate Speech Language Pathologists if they are assigned to a different school district from their previous contract, but if it is in the best interest of the Educational Cooperative to relocate a Speech Language Pathologist, the board does reserve the right to compensate said teacher if they deem it appropriate. The amount will be negotiated at the time of the request of the relocation.

August 2002

**4313**

Northwest Area Schools Educational Cooperative will pay \$250 per credit earned towards an approved Master's Program on Speech Pathology/Communication Disorders and/or Special Education or an approved Speech Language Pathology Assistant Program. Said payment will follow the Tuition Reimbursement Contract on file in the NWAS Business Office. Each class will have prior approval by the administrator. Any employee participating in a Tuition Reimbursement Contract will agree to a NWAS employment commitment upon completion of a Master's degree or a Speech Language Pathology Assistant degree for a period of four consecutive years or will pay back all educational bonuses paid out for the Master's degree or an SLPA degree within a six month period of breaking the agreement.

May 2013

**4314**

Northwest Area Schools Multi-District/Educational Cooperative will reimburse any employee "required" to travel in his or her personal vehicle to or from the work-site/conference at the current state rate as long as it has the prior approval of the multi-district/educational cooperative director. "Required" will be understood to mean authorized by the multi-district/educational cooperative director, prior to using their personal vehicle.

If an employee's privileges for driving a coop car have been revoked, NWAS will not reimburse the employee for the use of their personal vehicle.

Any exception(s) to this policy must be authorized by the multi-district/educational cooperative director or his/her designee.

Approved July 2018

**4315**

**Car Use Mileage Rate**

It is the policy of Northwest Area Schools Multi-District/Educational Cooperative to charge all programs that use Northwest Area Schools vehicles at a rate that is the average between state rate and federal rate.

**4316**

NWAS Multi-district/Ed. Coop may provide a car for business use to any employee required to travel from home to a work-site or between multiple work sites.

The coop car is to be driven within the geographical boundaries of the coop or the employee's work area. If the employee lives outside of the geographical boundaries of the coop, the director will designate a home work site for that employee, from which to initiate travel with the coop car.

Exceptions to the above policy due to hardship may be made at the discretion of the director.

## **Definitions**

Geographical boundaries - include the area within the district boundaries of member schools.

Employee's work area - includes the area in which an employee must drive to fulfill his or her duties, as certain employees serve schools and attend work-related events outside the geographical boundaries of the coop in fulfilling their normal job duties.

Hardship -consists of situations in which an employee's working conditions or work-site have changed since date of hire, or a unique situation that arises due to efforts in hiring an employee for a position which is difficult to fill.

Work site - A place which an employee is assigned to report in order to fulfill his or her job-related duties.

July 2006

### **4317**

The Northwest Area Schools Multi-District/Educational Cooperative Director may revoke the privilege of driving a coop car for disciplinary reasons. Behaviors that may result in revocation of privileges include, but are not limited to: driving a coop car after consuming alcohol or illegal drugs, smoking in a coop car, abuse or neglect of a coop car, the employee being placed on high risk insurance, or violation of conditions outlined in the vehicle use agreement each employee is required to sign annually.

August 2007

### **4318**

Northwest Area Schools Multi-District/Educational Cooperative will provide a group health insurance plan for full-time employees and will pay such portion of the premium as determined annually. Less than full-time employees see Appendix for benefits.

### **4319**

Salaried full-time employees may be covered by the school group insurance plan, which includes hospitalization, and a single employee premium will be paid by employer up to a maximum dollar amount according to current negotiations. Employees electing to obtain family coverage shall pay the difference in premium cost, said employer to deduct this amount from employee's monthly salary payment. Effective date of insurance coverage for new employees shall be the first day of the month following their first day of employment unless other arrangements are made.

Coverage may be extended upon employee-employer separation. For further information contact the office. See Appendix for further details.

August 2002

### **4321**

Certified, Multi-District classroom instructors will be paid \$140 per day for sick leave days beyond the maximum carryover days of 60.

Approved July 2018  
Revised: August 4, 2021

**4400**

Full-time hourly waged personnel are those employed 52 weeks per year/40 hours per week.

July 1996

**4410**

The hourly waged personnel work week will be Monday through Sunday.

October 1985

**4411**

The hourly waged personnel salary will be no less than the established minimum wage guidelines.

October 1985

**4412**

Any overtime for the hourly waged personnel must have prior approval by the Director.

October 1985

**4500**

#### SICK LEAVE

- A. Each full-time employee may accumulate Ten (10) days sick leave per year with two (2) days granted at the end of the first full month of employment, and one day per month for each full month thereafter to the maximum of the 10 days per year. Unused sick leave may be accumulative to a maximum of sixty (60) days for the term of employment.
- B. Any employee classified as a full-time employee but hired for less than a full contract period may accumulate sick leave on a pro-rated basis (one day per month) determined by the number of months to be worked during that contract year.
- C. A first year employee MAY be loaned up to five (5) days sick leave if needed prior to the time sick leave has been earned. Any borrowed days will be deducted from the regular 10-day annual benefit.
- D. No sick leave may be taken for less than one-half day.
- E. Sick leave may be taken for illness in the immediate family as well as for personal illness.
  - a. Immediate family will be defined as husband, wife, mother, father, children, brother, sister, parents or grandparents of the employee or of the employee's spouse.
- F. No more than five (5) days sick leave per year may be used for death in the immediate family unless PRIOR approval is obtained from the Multi-District/Cooperative Director.
- G. Employees are REQUIRED to notify their respective school AS WELL AS the central business office in Isabel of their need to take sick leave. Each employee shall file a written notification of use of sick leave with the business manager as soon as possible following the absence.
- H. Any sick leave taken over and above the amount earned shall be deducted from the employee's paycheck at the rate of 1/(number of contract days times employee's salary).
- I. The Northwest Area Schools Multi-District/Educational Cooperative Director or his authorized designee may require a physician's statement certifying disability or illness. The Multi-District/Cooperative Board may require an examination by a doctor designated by the board and the board may grant or deny sick leave on the basis of a recommendation resulting from such examination. The fees charged by a board designated doctor will be paid by the Multi-District/Cooperative. If sick leave request is found to be invalid, the employee's pay shall be deducted by the number of days taken at the rate of 1/(number of contract days times employee's salary).

Revised: August 4, 2021

**4500a**

### DISCRETIONARY LEAVE (Education Coop)

- A. Any employee classified as a full-time employee but hired for less than a full contract period may accumulate Discretionary Leave on a pro-rated basis (one day per month) determined by the number of months to be worked during that contract year.
- B. No Discretionary Leave may be taken for less than one-half day.
- C. Employees are REQUIRED to notify their respective school AS WELL AS the central business office in Isabel of their need to take Discretionary Leave. Each employee shall file a written notification of use of Discretionary Leave with the business manager as soon as possible following the absence.
- D. Any Discretionary Leave taken over and above the amount earned shall be deducted from the employee's paycheck at the rate of 1/ (number of contract days times employee's salary).
- E. Education Coop. employees follow Negotiated Agreement 2018 in regards to Discretionary Leave.

Adopted July 2018

**4510**

### PREGNANCY LEAVE

Pregnancy will be treated the same as any other medically related leave.

May 1985

**4511**

### EMERGENCY LEAVE

The Northwest Area Schools Multi-District/Educational Cooperative Director MAY grant in addition to sick leave, emergency leave of a maximum of one (1) day per year.

1. Prior approval by the Multi-District/Cooperative Director must be obtained AT LEAST 24 hours prior to taking the leave.
2. Emergency Leave is defined as leave needed by an employee due to conditions beyond their control and shall include, but not be restricted to, the following examples:
  - a) Death and funeral of a family member or a close friend.
  - b) Court Subpoena.
  - c) Request for tax audit.
  - d) Family emergency.
3. Emergency leave MAY NOT be used for recreational purposes.
4. The Multi-District/Cooperative Director may require proof of validity. If proof is invalid, the employee's pay shall be deducted by the number of days taken at the rate of 1/number of contract days times the employee's salary.

August 2002

**4512**

### PROFESSIONAL LEAVE

The Northwest Area Schools Multi-District/Educational Cooperative Director may grant leave to increase ability of an employee to meet the needs of his/her job responsibilities.

All requests for Professional Leave shall be approved by the immediate supervisor AND Director with written leave request submitted to the central business office BEFORE the leave takes place.

The Director of the Multi-District/Cooperative shall determine what expenses shall be paid by the Multi-District/Cooperative.

**4513**

In the event an employee of Northwest Area Schools Multi-District/ Educational Cooperative is called for Legal Leave, such as Jury Duty, Military Leave, or any other leave that the Multi-District/Educational Cooperative is legally obligated to grant, such employee shall be paid his / her regular salary minus compensation received for such leave. Mileage and per diem payment received for such leave shall not be classified as deductible compensation.

If the compensation exceeds the employee's regular salary, it will be at the employee's discretion as to which compensation they will receive.

November 1989

**4514**

**ANNUAL LEAVE**

All full time employees on a 12 month contract shall be allowed a minimum of one working day with pay of annual vacation leave for each full month worked to a maximum of ten (10) working days per year, not to be accumulated unless otherwise specified in contract.

All annual leave shall be taken only upon prior approval by the Director or designee. See appendix for further details. Less than full time employees see appendix as well.

May 2009

**4515**

**PERSONAL LEAVE**

- A. The Multi-District/Educational Cooperative Board shall grant to all full-time employees five (5) days of personal leave per contract year.
- B. Said leave must be approved by the Director and must be cleared with local school administration.  
See Appendix for further details.

September 2013

Associated School Boards of South Dakota	NEPN Code: GCBDE-R(1)
Nwas Policy #4516 Adopted July 2020	

## FAMILY AND MEDICAL LEAVE PROCEDURES

### REASONS

In compliance with the Family and Medical Leave Act of 1993 and under procedures developed by the Superintendent/Director, leave shall be granted to eligible employees for the following reasons:

1. For the birth and care of an employee's newborn child or for placement of a child with the employee for adoption or foster care;
2. To care for the employee's spouse, child, or parent who has a serious health condition, as defined by federal law;
3. For an employee's own serious health condition, as defined by federal law, that makes the employee unable to perform the employee's job;
4. To address a qualifying exigency (need) defined by federal regulation arising out of the active duty or call to active duty of a covered family member (spouse, son, daughter, parent or next of kin) who serves in a reserve component or as a retired member of the Regular Armed Forces or Reserve in support of a contingency operation; and
5. To care for a covered family member (spouse, son, daughter, parent or next of kin) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces that may render the family member medically unfit to perform duties of his/her office, grade, rank or rating.

### NOTICES AND DEADLINES

- Employees who may be eligible for or who request leave for any of the above reasons shall be provided an FMLA notice of eligibility and rights and responsibilities. Requests for family and medical leave should be made in writing but verbal requests may be made to the immediate supervisor or other designated administrator who shall then document the request. The District may require that a request for leave be supported by a certification for health care or military-related situations as permitted by federal law, but such requirements must be set out in the required notice.

*Deadline for Notice to be Provided:* Absent extenuating circumstances, within five (5) business days of District receipt of a request or the District being made aware of a potentially qualifying reason.

- The District shall designate an employee's leave, paid or unpaid, as FMLA-qualifying and shall provide a designation notice indicating whether the request is approved or



- if additional information is needed. Leave may be delayed if the employee does not provide proper notice (30 days advance notice for a foreseeable leave); otherwise, notice as soon as the need becomes known).

*Deadline for Notice to be Provided:* Absent extenuating circumstances, within five (5) business days of learning that an FMLA reason supports the leave.

## **ELIGIBILITY**

Employees are eligible for up to twelve (12) workweeks of family and medical leave each school year, if they have been employed by the District for twelve (12) months, have worked at least 1,250 hours during the twelve (12) months preceding the start of the leave, and otherwise qualify for family and medical leave. When family and medical leave is taken to care for a service member's recovery from a serious illness or injury sustained in the line of duty, an eligible employee may take up to twenty-six (26) workweeks of leave during a single twelve-month period.

Full-time teachers are presumed to have worked at least 1,250 hours during a school year. In determining whether returning veterans meet the minimum 1,250 hour standard, hours actually worked for the District during the twelve-month period are to be combined with hours they would have worked for the District had they not been called for military service. In situations involving both the Americans with Disabilities Act (ADA) and FMLA, the District shall apply the law affording the employee the greater benefit.

## **RESTRICTIONS**

To the extent that an employee is entitled to any paid leave, such leave shall be taken and it shall run concurrently with family and medical leave, except that the employee may request to reserve ten (10) days of sick leave. (This requirement shall not apply to employees taking workers' compensation leave.) However, when an employee's work-related injury/medical state qualifies as a serious health condition, worker's compensation leave shall run concurrently with the twelve (12) work week entitlement.

Paid leave used by the employee as required under this policy shall count, as applicable, against the twelve (12) or twenty-six (26) FMLA workweek entitlement.

Entitlement to family and medical leave for the birth and care of a newborn child or placement of a child shall expire twelve (12) months after the date of such birth or placement.

When both husband and wife are employed by the District, the combined amount of family and medical leave for reasons other than personal illness or illness of a child shall be limited to twelve (12) workweeks. In cases of personal illness or illness of a child, each spouse is entitled to twelve (12) workweeks of family and medical leave.

Exception: The limit on the combined amount of family and medical leave shall be twenty-six (26) workweeks when both an eligible husband and wife are employed by the District and are eligible for leave that involves a covered Armed Forces service member.

Depending on the date family and medical leave is to begin, instructional employees as designated by federal regulation may be required to continue on leave until the end of the school term to avoid disruption.

Unused family and medical leave shall not accumulate from year to year.

### **INTERMITTENT LEAVE / REDUCED HOURS**

Family and medical leave may be taken intermittently (when medically necessary) or on a reduced hours basis.

### **CONTINUATION OF BENEFITS**

While on family and medical leave, employees shall be entitled to all employment benefits accrued prior to the date on which the leave commenced. Health insurance for an employee on family and medical leave shall continue to be provided by the state on the same basis had the employee not taken leave. Other employment benefits and seniority shall not accrue during unpaid family and medical leave.

### **RETURN TO WORK**

As noted by the required notice of eligibility and rights and responsibilities when family and medical leave is taken due to an employee's own serious health condition, the employee shall provide fitness-for-duty certification before returning to work. This may include certification by the health care provider that the employee is able to perform essential functions specific to the job, as noted by the District in a list attached to the certification form.

Upon return to work, the employee shall be entitled to his/her same position (or an equivalent position with equivalent pay) with corresponding benefits and other terms and conditions of employment.

### **NOTICE**

The District shall notify employees of family and medical leave provisions by posting appropriate notices in conspicuous places in the Central Office and each worksite and distributing notices as required by law.

Legal References: Public Law 103-3 (Family and Medical Leave Act of 1993)  
Title 29 CFR Part 825 (Family and Medical Leave Act)

Formulated: Reviewed 2/7/2013; Revised: 7/1/2009

**Adopted by NWAS: July 2020 as Policy #4516**

**4600**

A file of personnel records shall be maintained in the NWAS Business Manager's office for each employee of the Northwest Area Schools (NWAS). A file shall be kept for all resigned or retired employees, including such essential information as shall seem appropriate to the administration as specified by state and federal laws.

**CONFIDENTIALITY**

Personnel information concerning district employees is generally confidential and may be reviewed only on a "need to know" basis under conditions which guarantee management's right of access to information necessary to make judgments and the protection of the employees of NWAS against unnecessary invasion of privacy. Some personnel information is "public record" and must be released to any person upon request.

The Director shall notify an employee and a collective bargaining representative, if any, in writing when a request is made for disclosure of the employee's personnel, medical, or similar files, if the Director reasonably believes disclosure would invade the employee's privacy. The records will be disclosed unless written objection is received from the employee or the employee's collective bargaining representative, within seven business days from the receipt by the employee or the collective bargaining representative.

Records of an employee's evaluation shall not be released without the written consent of the employee.

Files containing medical information regarding an employee will be kept separate from other personnel files.

### TYPES OF INFORMATION

It shall be the responsibility of each certificated employee to see that there is filed with the district any record of prior teaching experience. In addition, if the teacher has rendered military service, the proof of discharge from the service must be furnished. It is the obligation of the employee to see that information, which will maintain the employee's personnel file on a complete and up-to-date basis, is sent to the Director's office. The records shall contain the following information:

1. The correct name and the current address and telephone number of the employee;
2. An accurate record of the work experience of the employee;
3. Current data on education completed, including the transcripts of all academic work;
4. Proof of requirements fulfilled in order to be eligible for salary;
5. Current data on credentials;
6. Any current data requested concerning the health of the employee, or medical examinations which the employee may have undergone;
7. Records of assignment;
8. Evaluations of performance;
9. Letters of commendation, reprimand, or omission of duty;
10. Other materials mutually agreed upon between the principal and the teacher or supervisor and employee.

### USE OF PERSONNEL RECORDS

All the contents of the personnel records file, with the exception of evaluations, comments, or recommendations provided to the district on a confidential basis by universities, colleges, or persons not connected with the district, shall be available for inspection by the employee concerned. NWAS reserves the right to have a member of the Director's office staff present at the time the employee inspects his or her personnel file for the purpose of explaining and interpreting the information therein. Similarly, at the time the record is reviewed, the employee shall have the right to have present a representative of his or her own choosing, if desired.

The employee shall have the right to respond to all materials contained in the personnel file and to any materials to be placed in the file in the future. Responses shall become part of the file.

Any complaints directed towards an employee, which are placed in the personnel file, are to be promptly called to the employee's attention in writing.

## PARENTAL NOTICE

If the school district receives Title I funds, the No Child Left Behind Act requires the district to provide parents with notice that they may request information about the professional qualifications of classroom teachers. The notice to parents must include the following:

1. Whether the teacher has met state qualifications for the grade levels and subject areas taught;
2. Whether the teacher is teaching under emergency or other provisional status;
3. The baccalaureate degree of the teacher and any other graduate certification or degree held by the teacher, and the subject area(s) of the certification or degree;
4. Whether the child is provided services by paraprofessionals, and, if so, their qualifications.

If a parent requests the above-listed information, the district is required to provide the information in a timely manner. If the district has hired a teacher who is not highly qualified and the teacher has taught a child for four or more weeks, the district is required to provide the parents notice that their child has been taught by a teacher who is not highly qualified.

Legal References: SDCL 60-4-12.; P.L. 107-110, No Child Left Behind Act of 2001; The Americans with Disabilities Act

September 2013

**4700**

Prior approval by the Director is required for money collected on behalf of Northwest Area Multi-District by personnel other than the business manager. Procedures for handling such money will be set forth by the business manager and will be made available in the business office.

February 2008

**4710**

All bank accounts established or maintained by Northwest Area Multi-District personnel shall have two authorized signatures, one of which shall be the business manager of Northwest Area Schools.

February 2008

**4720**

In the event the cooperative schools would have an all staff in-service, the funding mechanism would refer to Policy 3112. If the in-service addresses targeted content areas, those participating would be billed equally.

**4730**

Under certain conditions and/or circumstances, the Northwest Area Schools Multi-District/Educational Cooperative may pay up to one-half (1/2) of an interviewee's expenses. If a contract is offered and accepted, the Multi-District/Educational Cooperative may pay up to 100% of interviewees expenses based on receipts or shortest mileage per map.

**4740**

All Northwest Area Schools buildings and vehicles shall be smoke free.

August 2002

**4750**

The completion of a student survey will be conducted by the Northwest Area Schools Director on an as needed bases or by request from the Northwest Area Schools Board.

August 2002

STUDENTS

## 5000

The following notice shall be posted in each mobile classroom and a copy given to each student at enrollment time to be endorsed by parent or guardian:

“NOTICE TO THE PARENTS OF STUDENTS ENROLLED IN THE NWS MOBILE UNIT”:

Your son/daughter is enrolled in a mobile classroom which contains texts, equipment and many other materials owned by the South Dakota Department of Vocational Education. As such, these items are classified as school property. Your son/daughter will use and be responsible for intentional damage or loss of such property. This is in accordance with South Dakota Law 13-32-5 as stated below:

13-32-5: Injury to school property as grounds for suspension or expulsion -- liability of parents for damages.

Any student who cuts, defaces, or otherwise injures any schoolhouse, apparatus, or outbuilding thereof, is liable to suspension or expulsion; and, on the complaint of the teacher to any member of the school board, the parents or guardians of such student shall be liable for all damages.

This does not mean that the student must repair or replace any piece of equipment that fails when they are using it. It means that the student is responsible for the loss of tools or texts assigned to that student. It also means that the student is responsible for any damage to the classroom or equipment that is determined to be caused by abuse or intentional damage”.

## 5100

Students of CTE programs may run a business model during their course. These businesses will not be for profit, but will be utilized to purchase materials for the sustainability of the course.

April 2011

## 5200

Any student enrolled in a Northwest Area Schools Multi-District/Educational Cooperative class cannot be suspended or dismissed unless due process has been followed as is stated in the respective local school policy.

## ADDENDUM TO POLICY MANUAL



**APPENDIX TO POLICY MANUAL**

**EMPLOYEE CLASSIFICATIONS**

- GROUP 1 All full-time employees whose workplace is outside of the schools, except director and business manager.
- GROUP 2 Employees whose workplace is in the local schools, such as speech clinicians, CTE instructors, full-time classroom aides, Early Childhood special educators and psychologists.
- GROUP 3 Director and business manager.
- GROUP 4 Less than full-time employees.
- GROUP 5 Grant Employees (Those contracts for which NWAS serves as the fiscal agent).

**Insurance Benefits**

- GROUPS 1 & 2 Full individual coverage up to the limit set by the NWAS Board as per negotiated agreement.
- GROUP 3 Full family policy paid.
- GROUP 4 Less than full-time employees receive health benefits according to their contracts.  
  
Less than full-time employees must work 24 hours or more per week to be eligible and will receive a prorated amount, as established by the director, based on percentage of hours worked compared to a 40 hour week.
- GROUP 5 May be considered within the Grant Allocation pursuant to NWAS policy.

**Employee Holidays**

- GROUP 1 Will follow the NWAS adopted calendar for their employee classification.
- GROUP 2 Will follow the local school calendars.
- GROUP 3 Will follow the NWAS adopted calendar for their employee classification.
- GROUP 4 If the employee works specified days and 24 hours or more per week, they will follow the holiday schedule listed below and will receive pay only if the holiday is on their scheduled day. A Saturday holiday will be observed on the prior Friday and a Sunday holiday will be observed on the following Monday.
- GROUP 5 May be considered within the Grant Allocation pursuant to NWAS policy.

**New Year’s Day  
 Presidents’ Day  
 Easter Monday  
 Independence Day  
 Columbus/Native American Day  
 Thanksgiving Day  
 Christmas Day**

**Martin Luther King Jr. Day  
 Good Friday  
 Memorial Day  
 Labor Day  
 Veterans’ Day  
 Thanksgiving Friday**

### **Employee Annual Leave**

GROUP 1	10 days per year
GROUP 2	No annual leave
GROUP 3	Annual leave for administration specified in individual employment contracts
GROUP 4	Must work 12 months per year and 24 hours or more per week. Annual leave for part-time employees will be prorated according to their 40-hour week. <ul style="list-style-type: none"><li>• 24 to 27 hours - 6 days</li><li>• 28 to 31 hours - 7 days</li><li>• 32 to 35 hours - 8 days</li><li>• 36 to 39 hours - 9 days</li></ul>
GROUP 5	May be considered within the Grant Allocation pursuant to NWAS policy.

### **Sick Leave**

Certified and full-time employees will receive 1 day per month of employment, up to a maximum 10 days per year, accumulated to 60 days. Sick leave for part-time employees will be prorated according to their 40-hour week.

	<ul style="list-style-type: none"><li>• 24 to 27 hours - 6 days</li><li>• 28 to 31 hours - 7 days</li><li>• 32 to 35 hours - 8 days</li><li>• 36 to 39 hours - 9 days</li></ul>
GROUP 5	May be considered within the Grant Allocation pursuant to NWAS policy.

### **Administrative Regulations for use of NWAS Vehicles**

Pursuant to Policy # 4316, an employee of Northwest Area Schools Multi-District or Educational Cooperative may be provided with the use of a coop vehicle for school business. The privilege of using a NWAS vehicle is subject to the conditions set forth in this agreement, and non-compliance with this agreement may result in revocation of such privileges, as stated in Policy # 4317

All NWAS employees assigned a coop car for school business must agree to the following conditions for the use of that vehicle:

- NWAS vehicles will be used only for school business.
- The employee shall never operate a NWAS vehicle under the influence of alcohol, illegal drugs, or other controlled substances that may impair a driver's ability to safely operate a motor vehicle.
- No smoking is allowed in NWAS vehicles.
- The employee will always operate NWAS vehicles safely and legally.
- The employee will be personally responsible for any traffic fines, court appearances, or other personal judgments or penalties incurred from his or her violation of traffic laws while operating a NWAS vehicle.
- The mileage book provided by the administrative office will be kept in the vehicle at all times.
- Mileage records will be turned in to the business office on a monthly basis.
- Registration and proof of insurance for the vehicle will be kept inside the front cover of the mileage book.
- All fuel receipts for the vehicle will be kept by the employee and turned in to the business office on a monthly basis.
- The employee is responsible for ensuring the oil is changed in the car every 3,000 miles.
- The employee will promptly report any mechanical problems or safety issues with the car to the director.
- The employee will be responsible for keeping track of any repair or maintenance receipts for the NWAS vehicle and will turn in those receipts to the business office on a monthly basis.
- The employee is expected to keep the car reasonably clean inside and out.
- The employee will not abuse a NWAS vehicle.
- NWAS vehicles are to be driven only on maintained roadways.
- The employee will be personally responsible for any costs incurred from locking keys in a NWAS vehicle.
- Federal grant recipients, sub recipients and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email when driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009.
- South Dakota Statutes concerning electronic wireless communication devices while driving (see back of sheet).

Having read the above conditions for use of a NWAS vehicle, along with all applicable policies outlined in the NWAS Policy Manual, I agree to abide by these conditions or lose the privilege of driving a NWAS vehicle.

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Signature

Date

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Driver's License Number

Date of Birth

SOUTH DAKOTA STATUTES  
CONCERNING ELECTRONIC WIRELESS COMMUNICATION DEVICES WHILE DRIVING  
Effective July 1, 2014

32-26-46. Definitions regarding electronic wireless communication devices. Terms used in §§ 32-26-47 and 32-26-48 mean:

(1) "Electronic wireless communication device," a mobile communication device that uses short-wave analog or digital radio transmissions or satellite transmissions between the device and a transmitter to permit wireless telephone communications to and from the user of the device within a specified area;

(2) "Voice operated or hands free technology," technology that allows a user to write, send, or listen to a text-based communication without the use of either hand except to activate, deactivate, or initiate a feature or function; and

(3) "Write, send, or read a text-based communication," using an electronic wireless communications device to manually communicate with any person using text-based communication including communications referred to as a text message, instant message, or electronic mail.

Source: SL 2014, ch 153, § 2.

32-26-47. Use of handheld electronic wireless communication device for text-based communication on highway prohibited--Exceptions--Violation as petty offense. No person may operate a motor vehicle on a highway while using a handheld electronic wireless communication device to write, send, or read a text-based communication. This section does not apply to a person who is using a handheld electronic wireless communication device:

(1) While the vehicle is lawfully parked;

(2) To contact any emergency public safety answering point or dispatch center;

(3) To write, read, select, or enter a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call; or

(4) When using voice operated or hands free technology.

State or local law enforcement agencies shall enforce this section as a secondary action. A violation of this section is a petty offense with a fine of one hundred dollars.

Source: SL 2014, ch 153, § 1.

32-26-48. Seizure of handheld electronic wireless communication device. No handheld electronic wireless communication device used in violation of § 32-26-47 may be seized by a law enforcement officer to establish a violation of § 32-26-47. However, a handheld electronic wireless communication device may be seized upon compliance with the search and seizure requirements in chapter 23A-35.

Source: SL 2014, ch 153, § 4.

## Administrative Rules Pursuant to Policy #4700

Any and all money collected by personnel other than the Business Manager shall be handled as follows:

1. All monies collected from any source except the CTE Vocational Programs shall be submitted upon receipt, to the Multi-District Business Office together with information describing the amount collected, from whom collected, reason for collection and/or any other pertinent information.
2. Monies collected or taken in from the CTE Vocational Programs shall be handled as follows:
  - a. The respective instructor shall be responsible for all monies collected from such activity.
  - b. The instructor shall maintain an appropriate accounting system including a ledger, which shall reflect:
    - 1) Cash Balance.
    - 2) Cash receipts.
    - 3) Merchandise sold (not including sales tax).
    - 4) Merchandise returned by customer;
    - 5) Cash paid out, to whom, for what.
    - 6) Cash on hand or adjusted cash balance.
  - c. Sales tax shall be charged on all sales unless legally exempted. Sales tax due on total sales shall be remitted to the Multi-District business office together with financial accounting of the activity. The central business office will submit sales tax reports quarterly for all sales tax collected.
3. Instructors who will be opening businesses shall prepare a written plan annually regarding the following:
  - a. Purchase of supplies
  - b. Collection of sales tax
  - c. Opening of a bank account

This plan shall be discussed with the Business Manager and shall be on file in the business office.
4. A complete financial statement shall be prepared by the respective instructor and submitted to the Multi-District Business Manager at the end of each semester. Said report will serve as an accountability document and shall contain an itemized breakdown of receipts, expenditures and cash on hand, with complete records made available for internal audit by the Business Manager at any given time if requested.

## STAFF EVALUATION

A. **PURPOSE:** Evaluation of the effectiveness of job performance is a basic if not most important function of a supervisor. Without fairly exact knowledge as to the strengths and weaknesses of existing practices, supervisory guidance cannot operate to bring about a maximum of improvement.

The staff evaluation form is so constructed as to require actual observation of those practices, behaviors, and conditions which give concrete evidence of the quality of job performance.

The judgment of supervisors and administrators as to the relative effectiveness of different employees is an outcome of the broader purposes of evaluation rather than an end in itself.

### B. **OBJECTIVES:**

1. The primary objective of this evaluation program is the improvement of instruction / work performance. It is the belief of this Multi-District/Cooperative that through this systematic evaluation by supervisory personnel, that employees will be further encouraged to evaluate themselves and the learning environment for which they are directly responsible.
2. Another objective of this evaluation program is to assist the administration in evaluating and determining direction for in-service education programs and curriculum development. We hope to be able to note areas that will need further development and emphasis to improve instruction work performance.
3. Additionally, a sound system of evaluation can assure us that we are meeting the stated aims of the program of instruction/work performance and will give more opportunities for the teachers/employees to become more familiar with the philosophy and objectives of the Multi-District/Educational Cooperative through personal conferences with the supervisory personnel.
4. A method of follow-up will be established to ascertain the achievement of goals.
5. Priorities for improvement will be established through mutual assessment to determine short and long term goals.
6. A sound system of record maintenance will be established on class visitation, follow-up, conferences, and other contacts between the appraisee and evaluator.

7. Failure of the employee to change, correct or improve according to the recommendations of an evaluation may result in replacement or dismissal.

C. SUPPORTING RECORDS:

During periods of observation, some note taking will be necessary however, all staff evaluated will be afforded a post-supervisory conference at which time content of such notes will be discussed. The entire evaluation will be gone over at this time and both parties will be given the opportunity to refute any decisions. All evaluations will be signed by both the evaluator and staff member with a duplicate copy to be given to said staff member and one to be placed in their personnel file for future reference.

Evaluation files will be retained for a period of three (3) years and will be made available for inspection by the supervisor and/or Multi-District/Cooperative Director, the staff member, and Multi-District Center Board or Cooperative Governing Board.

All certified personnel will be evaluated by the Multi-District/Educational Cooperative Director and/or the immediate supervisor according to state laws governing evaluations. Frequency of the evaluation shall comply with state requirements. Guidelines set out in state law shall serve as minimum standards regarding frequency.

Any school administrator from a participating district within the Northwest Area Schools Multi-District/Northwest Area Schools Educational Cooperative will observe Multi-District/Cooperative staff members. The results of observations will be included in the evaluation files located in the Central Administrative Offices with a copy given to the respective staff member.

July 1992