

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AA - SCHOOL DISTRICT LEGAL STATUS

The United States Constitution leaves to the individual states responsibility for public education.

In South Dakota, the legislature is charged by the Constitution “to establish and maintain a general and uniform system of public schools” which is open to all children and free from sectarian control.

The State Board of Education is responsible for the adoption of all policies for the government of the Division of Elementary and Secondary Education, and for the adoption and implementation of regulations for supervising the elementary and secondary schools.

School districts exist for the purpose of operating a school or schools to provide the people of each local community adequate opportunity to avail themselves of a free public elementary and secondary education program.

This school district shall constitute a school corporation under the name of Oldham-Ramona School District, No. 39-5 of Lake County, South Dakota.

LEGAL REFS.: United States Constitution, Tenth Amendment
 Constitution of the State of South Dakota, Art. VII, sec. I,
 Art. XXIII; Art., XXVI, sec. 18
 SDCL 3-6-2
 13-5-1, 13-5-2; 13-5-14 to 13-5-29
 13-6-1 et seq.

ADOPTED: 10-2012
AMENDED:
REVIEWED:

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ABAA - PARENT INVOLVEMENT

Parental involvement is the participation of parents in every facet of education and development of children from birth to adulthood, recognizing that parents are the primary influence in their children's lives. Federal programs including Title I recognize that parent involvement takes many forms, including parents' shared responsibilities in decisions about their children's education, health and well-being, as well as parents' participation in organizations that reflect the community's collaborative aspirations for all children.

District Goals

The goal of the Oldham-Ramona School District is to ensure that educational success of all students by having high expectations, a commitment to excellence and a comprehensive parental involvement program, confirming the belief that parental involvement increases student achievement and self-esteem and that the difference between a good school and a great school is the involvement of its parents.

- A. It is the policy of the Oldham-Ramona School District to involve parents in the joint development of the District Parental Involvement policy by:
 - 1. Holding an annual parent meeting in which all parents are informed of the school's participation in the Title I program, the requirements and their right to be involved.
 - 2. Making it possible for all parents to be involved by holding meetings that accommodate working parents as well as those parents whose dominate language in not English.
 - 3. Involving parents in the decision making process for the Title I program.
 - 4. Providing training sessions for parents on the curriculum used and the forms of academic assessment used to measure students' progress.
 - 5. Involving parents in the reviewing and revising of the District's parental involvement policy.
 - 6. Having an annual parent meeting to discuss, review, plan for and make suggestions to the Title I program.
 - 7. Ensuring that all parents understand policies, rules, parent compacts, notices etc. by having them printed in both English and Spanish as well as conducting meeting in the language the parents can understand.
 - 8. Providing the parents information regarding the "No Child Left Behind Act".
 - 9. Every effort will be made to ensure that all special populations are involved.
- B. Coordination and integration of parental involvement strategies with Head Start, Even Start and Birth to Three and area preschools.
- C. The expectations of parental involvement are:
 - 1. Increased student achievement due to school-parent-student compacts.
 - 2. Increased student achievement due to parent training.
 - 3. Increased parental input due to annual meeting.
 - 4. Increased awareness of school policies and activities due to parent meetings and the annual meeting for Title I parents.
 - 5. Increased school to home communications due to teacher training.

D. Evaluation

There will be an annual evaluation of the content and effectiveness of the Title I Parental Involvement program, and the parents will be asked for their input. The evaluation will include an assessment of how much parental involvement is increasing and what barriers to parental participation still need to be overcome. The school district will revise its Parental Involvement policy on the basis of this annual review.

LEGAL REFS.: Improving America's Schools Act of 1994, 34 CFR Parts 200, 201, 203, 204, and 212
 Final Regulations

ADOPTED: 10-2012
REVIEWED: 08-2013
REVIEWED: 08-2014
REVIEWED: 07-2015
REVIEWED: 07-2016

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ABAA-R PARENT INVOLVEMENT GUIDELINES TITLE I

The Board believes that activities to increase parental involvement are a vital part of the Title I program. Parents will have an opportunity to design, implement, evaluate and suggest changes to improve the program.

The guidelines are as follows:

1. Parental Notification. Parents of Title I students will be notified within two weeks of a child's selection for the program, and for what academic skills and instructional objectives the student has been selected.
2. Parental In-services. Specific materials and suggestions will be provided parents to assist in the education of their children at home. Suggestions for promoting educational activities at home will also be provided.
3. Student Program Report. Parents will be provided with student program reports at the end of each reporting period. If necessary, periodic written reports will be mailed to parents.
4. Parent-Teacher Conferences. Regular scheduled conferences will be held each year to keep parents informed on the progress of their child. Other conferences may be held on request of the parent or teacher.
5. Parent Visitation. Parents are permitted to observe classes at any time, after checking at the building administrative office.
6. Parent Advisory Committees. Parent Advisory Committees may be established at the elementary school to review the overall program and to suggest changes.
7. Meeting. At least one public meeting will be held annually where administrators, staff members, parents of participants, parent advisory committees and other interested parents may be present. Agenda items at this meeting will include:
 - a. Information concerning the views of parents and students about educational needs of Title I students and the priorities of student needs;
 - b. Review Title I applications and make recommendations for improving program activities for ensuing projects;
 - c. Review annual funding allocations and carry-over funds;
 - d. Represent and express ideas and opinions of the parents and students of each school attendance area;
 - e. Assist the school district in the dissemination of Title I information to parents and the general public through the local media and a school newsletter; and
 - f. Emphasis on supplemental instructional activities appropriate for achieving program goals and objectives.

8. In-service for Teachers. Materials and information will be provided to teachers and other instructional staff involved in the program to assist them to work more effectively with the parents of participating students.
9. Announcements. All parents and students are invited by newsletter or through the local media to the annual meetings or other scheduled meetings. Information will be disseminated at these meetings advising involvement requirements. Reasonable support for parental activities will be handled in a timely manner.
10. Policy Dissemination. Policies, regulations, and other Title I information will be made available to parents at each of the scheduled meetings and at parents' request at anytime during the school year. Parents will be given an opportunity to be involved in the policy development process.

LEGAL REFS.: Public Law 100-297, April 28, 1988
 34 CFR Part 75 et al, May 19, 1989
 Title I Program in Local Educational Agencies; Final Regulations

ADOPTED: 10-2012
REVIEWED: 08-2013
REVIEWED: 08-2014
REVIEWED: 07-2015
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AC EQUAL OPPORTUNITY/NON-DISCRIMINATION

The Oldham-Ramona School District believes that a valuable element of education is the development of respect for all individuals and seeks to provide equal access/equal opportunity for students, employees and the public to District programs and activities.

In an effort to provide a safe, respectful educational environment, the District prohibits discrimination in its policies, employment practices and programs on the basis of race, color, creed, religion, age, gender, sexual orientation, disability, national origin, marital status or ancestry. The District prohibits acts of discrimination toward any individual(s) while on District property or at District sponsored activities.

The District shall not discriminate in the opportunities for students on the basis of parental status, marital status, or pregnancy, nor shall such students be excluded from any program or activity, including and class or any extra-curricular activity.

Violations of this policy may result in discipline up to and including expulsion for students, up to and including termination for employees and suspension from attending school activities for citizens.

Inquiries concerning Title VI and Title IX may be referred to: Superintendent of Schools, Oldham-Ramona School District, 220 W. 2nd Street., Ramona, SD 57054.

LEGAL REFS.: Title VI, Civil Rights Act of 1964
Title VII, Civil Rights Act of 1962, as amended by the
Equal Employment Opportunity Act of 1972
Executive Order 11246, as amended by E.O. 11275
Equal Pay Act, as amended by the Education Amendments of 1972
Title IX, Education Amendments of 1972
Rehabilitation Act of 1973
Age Discrimination Act of 1975

ADOPTED: 11-1987
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REVIEWED: 07-2015

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ACAA SEXUAL HARASSMENT

I. Policy Statement

The District does not discriminate on the basis of sex in any education program or activity that it operates, including admission and employment. The District 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 the District may be referred to the District's Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both. *(34 CFR § 106(b)(1))*

The District 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 District or students from other schools who are at a District activity, and sexual harassment of school employees, school volunteers, parents, guests, visitors and vendors of the District 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.

The District'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 Board has designated the following District 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: Michael Fischer, Superintendent

Office Address: 2020 W. 2nd Street

Email Address: mike.fischer@k12.sd.us

Telephone Number: (605) 482-8244

The District 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 the District, 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

The District shall notify persons entitled to the notification under Section I. above that the District 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 the District may be referred to the District's Title IX Coordinator, to the U.S. Assistant Secretary of Education, or both.

The District 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

The District 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. The District shall provide to persons entitled to a notification under Section I above notice of the District'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 the District 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 the District's Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the District, 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 the District.
- 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:
 - 1.
 - 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 Board, and who has the authority to make a determination on the complaint as to responsibility of the respondent. (ASBSD sample definition)
- 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 the District 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 the District 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 the District. 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 the District.
- 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 the District) 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 nondisciplinary, 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 the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District'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 District property or while a District 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. District'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 the District have actual knowledge of sexual harassment in a District educational program or activity against another person in the United States, the District shall respond promptly in a manner that is not deliberately indifferent (i.e., if the District'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, the District 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 the District from removing a respondent from the District's education program or activity on an emergency basis, provided that the District 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 the District 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. The District 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. The District 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 the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District:
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. District'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, the District'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 the District 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 the District'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

the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

- C. The District 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 the District's education program or activity. *(34 CFR § 106.45(b)(1)(i))*
- D. The District 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, the District:
 - 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 the District 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), the District 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 the District 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,

the District 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 the District 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 the District'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. The District's grievance procedure as set forth in ACAA-R(1), Sexual Harassment – Regulations, shall:
- K. including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if District offers informal resolution processes; *(34 CFR § 106.45(b)(1)(vi))*

- L. 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))*
- M. include the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the District may implement following any determination of responsibility; *(34 CFR § 106.45(b)(1)(vi))*
- N. 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))*
- O. include the procedures and permissible bases for the complainant and respondent to appeal; *(34 CFR § 106.45(b)(1)(viii))*
- P. describe the range of supportive measures available to complainants and respondents; *(34 CFR § 1045(b)(1)(ix))* and
- Q. 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, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision B in this section, the District 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, the District 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 Superintendent is appealed to the Board, or unless the Superintendent recommends the long term suspension or expulsion of a student, or the suspension without pay or termination of employment of an employee. *(34 CFR § 106.45(b)(6)(ii))*
- Q. The Superintendent may make a recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled (ARSD 24:07:01:01). The Superintendent 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 the District be terminated. Should either recommendation be given by the Superintendent, 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 Board the Superintendent'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

The District 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. The District 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 the District’s education program or activity, or did not occur against a person in the United States, then the District 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 the District’s code of conduct. *(34 CFR § 106.45(b)(3)(i))*
- B. The District 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 the District; or specific circumstances prevent the District 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, the District 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. The District 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., the District 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, the District 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 the District 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 the District'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. The District 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. The District 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 the District to provide the supportive measures. *(34 CFR § 106.30(a))*

LEGAL REFS.: SD Executive Order 81-08 Federal Title IX (1972 Education Amendments)

ADOPTED: 04-1995
REVIEWED: 10-2012
AMENDED: 03-2021

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

ACAA-E(1) SEXUAL HARASSMENT COMPLAINT REPORT FORM

SEXUAL HARASSMENT COMPLAINT REPORT FORM

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

APPROVED: 03-2021

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

ACAA-E COMPLAINT OF SEXUAL HARASSMENT

Complaint #: _____
Student, parent, or staff person making the complaint of harassment:
Name: _____ Date of report: _____
Address: _____ Phone: (____) _____
Student/staff member being harassed: _____

When and where did this incident happen?
Date: _____ Time: _____ Place: _____

Who was involved? (List names)

What happened? (Include as many details as possible – attach additional pages if needed)

Were there any witnesses to the incident, or are there students/staff who may have information about this incident?
 Yes No If yes, list names:

What did you do or say to respond to the harassment?

Make a list of previous attempts to stop the harassment (if any)

Do you think there will be more of this activity? Yes No If yes, when and where will it probably happen?

Has anyone contacted law enforcement about this incident? Yes No

Your relationship to the victim: _____

Signature of Complainant: _____

Signature of Witness: _____ Date: _____

Witness Name (please print): _____ Witness Address: _____

Oldham-Ramona School District #39-5

Policies and Regulations **Code: A – Foundations & Basic Commitments**

ACAA-R(1) SEXUAL HARASSMENT - REGULATIONS

SECTION 1 - Policy Statement

The District 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 District or students from other schools who are at a District activity, and sexual harassment of school employees, school volunteers, parents, guests, visitors and vendors of the District 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.

The District'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.

Students who violate the policy prohibiting sexual harassment shall be subject to appropriate disciplinary action, up to and including expulsion. 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 - Complaint Report Form was completed by a teacher, guidance counselor or administrator, the teacher, guidance counselor or administrator shall forward the complaint or Sexual Harassment - Complaint Report Form to the Title IX Coordinator.

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

SECTION 4 - Retaliation Prohibited

- A. Neither the District 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 the District 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 the District from removing a respondent from the District's education program or activity on an emergency basis, provided that the District 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 the District 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. The District 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. The District 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 the District to provide the supportive measures.

C. Informal Resolution:

1. The District 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 the District'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 the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. The District 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 the District's education program or activity.
3. The District 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. The District 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 the District's education program or activity, or did not occur against a person in the United States, then the District must dismiss the formal complaint with regard to that does not preclude action under another provision of the District'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, the District:
 - 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 the District 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, the District 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, the District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision D.1., the District 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, the District 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. The District 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 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 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 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 shall not conduct an adversarial hearing unless the Board conducts a hearing following an appeal of the Superintendent's decision to the Board, or following the Superintendent's recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled 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 the District 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, on following an appeal of the decision-maker's determination, the Superintendent may make a recommendation to the Board that a student determined to have sexually harassed another person be suspended long-term or expelled (ARSD 24:07:01:01). The Superintendent 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 the District be terminated. Should either recommendation be given by the Superintendent, a formal adversarial hearing shall be held before the Board.
7. Disciplinary sanctions. Following any determination of responsibility the District may implement disciplinary sanctions and remedies that include, but are not limited to:
 - a. if a student:
 - i. loss of privileges;
 - ii. detention;
 - iii. in-school suspension;
 - iv. long-term suspension;
 - v. expulsion.
 - b. 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.
 - c. if a guest or vendor
 - i. restrict access to school property;
 - ii. deny access to school property.
8. The decision-maker must issue a written determination regarding responsibility. To reach this determination, the decision-maker 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 the District'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 the District 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 the District to the complainant; and
- f. the District's procedures and permissible bases for the complainant and respondent to appeal.

10. The District 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 Superintendent'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 Superintendent. The following procedure shall be used to address an appeal of the decision-maker's determination to the Superintendent:
 - a. If a party is not satisfied with the decision-maker's determination, or if the decision-maker's determination does not without good cause render a written decision within fourteen (14) calendar days of the expiration of time frame set forth in E.8., that party may appeal to the Superintendent by filing form ACAA-E(2), Sexual Harassment - Complaint Appeal to the Superintendent. The appeal must be filed within ten (10) calendar days of receipt of the decision-maker's written decision, or ten (10) days of the deadline for the decision-maker's written decision, whichever comes first. The appealing party must attach the decision-maker's written determination.
 - b. Within fourteen (14) calendar days from the date the appeal was filed, the Superintendent shall render a decision in writing. All parties shall receive copies of the decision. The Superintendent shall uphold, reverse, modify the decision-maker's decision, or the Superintendent may refer the matter back to the decision-maker for further investigation and supplemental decision which decision may restate, modify or reverse the decision-maker's initial decision. A supplemental decision by the decision-maker after a referral back to the decision-maker may be appealed to the Superintendent.
 4. Appeal to the School Board. If a party is not satisfied with the Superintendent's decision, or if the Superintendent 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 Superintendent's written decision, or ten (10) days of the deadline for the Superintendent'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 written decision, the appeal to the Superintendent, and the Superintendent's written decision or notice of the Superintendent's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the Superintendent'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 the school district 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 Superintendent 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 Superintendent'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 Superintendent;
 - 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 Superintendent shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the Superintendent questions. The hearing officer and board members may also ask questions of the Superintendent;
 - 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 Superintendent. 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 Superintendent 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 Superintendent, 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 Superintendent'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 Superintendent 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) suspend or expel a student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities; (2) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (3) 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. The District 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. The District 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 the District; or specific circumstances prevent the District 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, the District 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.

APPROVED: 03-2021

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AC-R AMERICANS WITH DISABILITIES ACT and SECTION 504 of the REHABILITATION ACT of 1973

Access to Accommodations

Community members, students and employees with disabilities may contact the building principal or site administrator to obtain reasonable accommodations needed to participate in District programs or activities. Accommodations may include alternatives to visual, aural and oral communication, or the delivery of programs or services in accessible locations.

Persons needing individual accommodations are requested to notify the building principal or site administrator at least 72 hours before the event. If the building principal or site administrator is unable to address the request, concerns should be referred to the designated ADA or 504 contact at 220 W. 2nd Street, Oldham-Ramona, SD 57054.

The District will initiate an annual notice of intent to offer accommodations to parents and employees. All long-range facility plans will assess accessibility and usability for individuals with disabilities.

Definitions:

Otherwise qualified individual with a disability: This term means a person who would qualify for a particular benefit or program in all respects except for the fact that he or she is “disabled” under Section 504/ADA, which means a person who:

1. has a physical or mental impairment that substantially limits one or more major life activities,
2. has a record of having an impairment that substantially limits one or more major life activities, or
3. is regarded as having an impairment that substantially limits one or more major life activities.

Section 504/ADA excludes some physical and/or mental impairments from qualifying a person as disabled. Some examples include some personality disorders and conditions caused by current use of illegal drugs.

Major life activities: This term means life functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Record of impairment: This term means having a history of, or being classified as, having a mental or physical impairment that substantially limits one or more major life activities.

Regarding as having an impairment: This term refers to persons who do not have any substantial limitations on any major life activities but are nevertheless perceived or treated as if they had such limitations.

Substantial Limits: Unable to perform a major life activity that the average person in the general population can perform or significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity.

Reasonable Accommodation: Educationally and fiscally appropriate modifications or adjustments to ensure participation by qualified individuals with a disability receive the same benefits and opportunities as non-disabled individuals that will not fundamentally alter the nature of the service, program or activity or result in undue financial or administrative burden for the District.

Informal Hearing: An opportunity for the grievant to meet with the School Board in executive session with or without outside representation to present his/her case.

Procedural Safeguards: Students

Qualified students who, because of a disability, need or are believed to need reasonable accommodations and/or services as addressed under policy, may be referred to a building Student Assistance Team (SAT) by a teacher, other certified school employee, parent/guardian or other concerned adult for evaluation to determine eligibility under Section 504/ADA. The procedures outlined in the Oldham-Ramona Section 504 Handbook will be used by the Student Assistance Team to determine eligibility.

The parents or guardians of each qualified student with a disability shall be notified in writing by the building principal concerning District decisions on the identification, evaluation, or educational placement of the student made under this policy and procedure.

Grievance Procedure

Parents and guardians shall have the right to file a grievance without fear of reprisal if they believe there has been a violation of Section 504/ADA. Any such grievance must be filed in writing within thirty (30) working days after the alleged violation occurred. The grievant must fully state the facts of the alleged violation and the remedy that is being sought.

STEP ONE: The grievance should be submitted to the building principal who will investigate the circumstances of the alleged violation. The superintendent will provide a written report of his/her findings of facts and conclusions within ten (10) working days to the grievant. The building principal will also keep a copy of the report and grievance.

STEP TWO: If the grievance has not been resolved in STEP ONE to the satisfaction of the grievant, he/she may appeal to the Superintendent within five (5) working days of receipt of the building principal's response. The Superintendent will conduct an informal hearing to review the alleged violation. The Superintendent will affirm, reverse, or modify the report issued by the building principal within fifteen (15) working days of receipt of the appeal.

STEP THREE: If the grievance has not been resolved in STEP TWO to the satisfaction of the grievant, he/she may appeal to the School Board within five (5) working days of receipt of the Superintendent's response. The School Board will schedule an informal hearing within thirty (30) working days to review the alleged violation. The involved parties will be notified in writing of the date and time of the scheduled hearing. The School Board will affirm, reverse, or modify the response of the Superintendent to the building principal's report within fifteen (15) working days of the informal hearing.

Procedural Safeguards: Others

Grievance Procedure

Qualified individuals with a disability shall have the right to file a grievance without fear of reprisal if they believe here has been a violation of the Americans with Disabilities Act. Any such grievance must be filed in writing thirty (30) working days after the alleged violation occurred. The grievant must fully state the facts of the alleged violation and the remedy that is being sought.

STEP ONE: The grievance should be submitted to the building principal, who will investigate the circumstances of the alleged violation. The building principal will provide a written report of his/her findings of fact and conclusions within ten (10) working days to the grievant and to the Superintendent.

STEP TWO: If the grievance has not been resolved to the satisfaction of the grievant, he/she may appeal to the Superintendent within five (5) working days of receipt of the building principal's report. The appeal process may or may not include a conference with the parties involved. The Superintendent will review the report of findings of the building principal and affirm, reverse, or modify the report of the building principal, within fifteen (15) work days.

STEP THREE: If the grievance has not been resolved in STEP TWO to the satisfaction of the grievant, he/she may appeal to the School Board within five (5) working days of receipt of the Superintendent's response. The School Board will schedule an informal hearing within thirty (30) working days to review the alleged violation. The involved parties will be notified in writing of the date and time of the scheduled informal hearing. The School Board will affirm, reverse, or modify the response of the Superintendent. The School Board will respond in writing to the grievant within fifteen (15) working day of the informal hearing.

Nothing in this grievance procedure forecloses qualified individuals with a disability from seeking redress for their concerns through other legal avenues, such as the Office of Civil Rights, the Equal Employment Opportunity Commission or the South Dakota Division of Human Rights.

LEGAL REFS.: Section 504 of the Rehabilitation Act of 1973 with amendments
 Americans with Disabilities Act of 2008 with amendments

ADOPTED: 11-1987
AMENDED: 10-2008
REVIEWED: 10-2012
REVIEWED: 07-2015

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AD PHILOSOPHY OF EDUCATION

The Board of Education believes that the school district should be so organized that it's direction is toward the common needs of all children, but must also consider the unique differences and needs of the individual.

The Board believes:

- In developing the language arts, mathematics and science skills needed for a technological world.
- The uniqueness of all students must be respected and valued.
- Students must be active participants in a variety of learning experiences.
- Students learn more effectively when the material is shown to be relevant to their lives.
- Self-esteem and self-respect are necessary to have successful learning.
- Students must acquire skills and knowledge necessary to be able to contribute to society.
- Students need a variety of role models to influence life-long learning.
- The community is an active participant in the learning process.
- Teachers help develop and maintain a stimulating, secure environment that allows mutual respect, independence and success.
- Successful teaching is taking place when students are learning.
- Teachers are facilitators of learning who address varied learning styles and needs of each individual.
- Teachers are role models of lifelong learning.
- Teachers engage in and encourage open communication with students.
- Teachers are competent in a variety of teaching strategies, techniques and effective classroom management skills.
- Parents are a child's primary educator and that the school cannot replace the family's role in educating the child.
- Schools will provide a secure and stimulating environment based on mutual respect.
- Schools have a responsibility to enhance the development of self-motivation.
- Schools are obligated to provide the best quality education possible for each student to reach his/her potential.
- The curriculum and the extra-curricular activities address the needs of all students.
- Schools, community, and families work cooperatively to meet the educational needs of the students.
- Community has input into educational and financial decisions.

LEGAL REFS.:

ADOPTED: 12-1999

AMENDED: 10-2012

REVIEWED:

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AE STUDENT WELLNESS

Preamble

Whereas, children need access to healthful foods and opportunities to be physically active in order to grow, learn, and thrive;

Whereas, good health fosters student attendance and education;

Whereas, obesity rates have doubled in children and tripled in adolescents over the last two decades, and physical inactivity and excessive calorie intake are the predominant causes of obesity;

Whereas, heart disease, cancer, stroke, and diabetes are responsible for two-thirds of deaths in the United States, and major risk factors for those diseases, including unhealthy eating habits, physical inactivity, and obesity, often are established in childhood;

Whereas, 33% of high school students do not participate in sufficient vigorous physical activity and 72% of high school students do not attend daily physical education classes;

Whereas, only 2% of children 2 to 19 years) eat a healthy diet consistent with the five main recommendations from the Food Guide Pyramid;

Whereas, nationally, the items most commonly sold from school vending machines, school stores, and snack bars include low-nutrition foods and beverages, such as soda, sports drinks, imitation fruit juices, chips, candy, cookies, and snack cakes;

Whereas, community participation is essential to the development and implementation of successful school wellness policies:

Thus, the Oldham-Ramona School District is committed to providing school environments that promote and protect children's health, well-being, and ability to learn by supporting healthy eating and physical activity. Therefore, it is the policy of the Oldham-Ramona School District that:

- The school district will engage students, parents, teachers, food service professionals, health professionals, and other interested community members in developing, implementing, monitoring, and reviewing district-wide nutrition and physical activity policies.
- All students in grades K-12 will have opportunities, support, and encouragement to be physically active on a regular basis.
- Foods and beverages sold or served at school should try to meet the nutrition recommendations of the *U.S. Dietary Guidelines for Americans*.
- Qualified child nutrition professionals will provide student with access to a variety of affordable, nutritious, and appealing foods that meet the health and nutrition needs of students; will accommodate the religious,

ethnic, and cultural diversity of the student body in meal planning; and will provide clean, safe, and pleasant settings and adequate time for students to eat.

- To the maximum extent practicable, all schools in our district will participate in available federal school meal programs such as the School Breakfast Program, and the National School Lunch Program.
- Schools will provide nutrition education and physical education to foster lifelong habits of healthy eating and physical activity, and will establish linkages between health education and school meal programs, and with related community services.

School Health Councils. The school district and/or individual schools within the district will create, strengthen, or work with existing school health councils to develop, implement monitor, review, and, as necessary, revise school nutrition and physical activity policies. The councils also will serve as resources to school sites for implementing those policies. (A school health council consists of a group of individuals representing the school and community, and should include parents, students, representatives of the school food authority, members of the school board, school administrators, teachers, health professionals, and members of the public.)

Nutritional Quality of Foods and Beverages Sold and Served on Campus

School Meals. Meals served through the National School Lunch and Breakfast Programs should:

- Be appealing and attractive to children;
- Be served in clean and pleasant settings;
- Meet, at a minimum, nutrition requirements established by local, state, and federal statutes and regulations;
- Offer a variety of fruits and vegetables;
- Serve only low-fat (1%, 2%) and fat-free milk, and nutritionally-equivalent non-dairy alternatives (to be defined by USDA); and
- When possible ensure that a portion of the served grains are whole grain.

The district should engage students and parents, through taste-tests of new entrees and surveys, in selecting foods sold through the school meal programs in order to identify new, healthful, and appealing food choices. In addition, school should share information about the nutritional content of meals with parents and students. Such information could be made available on menus, a website, on cafeteria menu boards, placards, or other point-of-purchase materials.

Breakfast. To ensure that all children have the opportunity to eat breakfast, either at home or at school, in order to meet their nutritional needs and enhance their ability to learn:

- Schools will, to the extent possible, operate the School Breakfast Program.
- Schools will, to the extent possible, arrange bus schedules and utilize methods to serve school breakfasts that encourage participation.
- Schools that serve breakfast to students will notify parents and students of the availability of the School Breakfast Program.
- Schools will encourage parents to provide a health breakfast for their children through newsletter articles, take-home materials, or other means.

Free and Reduced-priced Meals. Schools will make every effort to eliminate any social stigma attached to, and prevent the overt identification of, students who are eligible for free and reduced-price school meals. Toward this end, schools may utilize electronic identification and payment systems, promote the availability of school meals to all students; and/or use nontraditional methods for serving school meals.

Meal Times and Scheduling

- Schools should provide students with at least 10 minutes to eat after sitting down for breakfast and 20 minutes after sitting down for lunch;

- School should schedule meal periods at appropriate times, e.g., lunch should be scheduled between 11 a.m. and 1 p.m.;
- Schools should not schedule tutoring, club, or organizational meetings or activities during mealtimes, unless students may eat during such activities;
- Schools will try to schedule lunch periods to follow recess periods (in elementary schools) if possible;
- Schools will provide student access to hand washing or hand sanitizing before they eat meals or snacks; and
- Schools should take reasonable steps to accommodate the tooth-brushing regimens of student with special oral health needs (e.g., orthodontia and high tooth decay risk).

Qualifications of School Food Service Staff. Qualified nutrition professionals will administer the school meal programs. As part of the school district's responsibility to operate a food service program, we will provide continuing professional development for all nutrition professionals in schools. Staff development programs should include appropriate certificate and/or training programs for child nutrition directors, school nutrition managers, and cafeteria workers, according to their levels of responsibility.

Sharing of Foods and Beverages. Schools should discourage students from sharing their food or beverage items with one another during meal or snack times, given concerns about allergies and other restrictions on some children's diets.

Foods and Beverages Sold Individually (i.e., foods sold outside of reimbursable school meals, such as through vending machines, cafeteria a la carte [snack] lines, fundraisers, school stores, etc.)

Elementary Schools. The school will approve food and beverage sales to students in elementary schools. Given young children's limited skills, food in elementary schools should be sold as balance meals. If available, foods and beverages sold individually should be limited to low-fat and non-fat milk, fruits, and non-fried vegetables.

Middle/Junior High and High Schools. In middle/junior high and high schools, foods and beverages sold individually outside the reimbursable school meal programs (including those sold through a la carte [snack] lines, vending machines, student stores, or fundraising activities) during the school day, or through programs for students after the school day, should try to meet the following nutrition and portion size standards:

- Beverages
 - Allowed: water or seltzer water without caloric sweeteners; fruit and vegetable juices and fruit-based drinks that contain at least 50% fruit juice; unflavored or flavored low-fat or fat-free fluid milk and nutritionally-equivalent nondairy beverages (to be defined by USDA);
 - Minimize the following beverage offerings: soft drinks containing caloric sweeteners; sports drinks; iced teas; fruit-based drinks that contain less than 50% real fruit juice or that contain additional caloric sweeteners; beverages containing caffeine, excluding low-fat or fat-free chocolate milk (which contains trivial amounts of caffeine).
- Foods
 - A food item sold individually, should try to meet the following:
 - Will have no more than 35% of its calories from fat (excluding nuts, seeds, peanut butter, and other nut butters) and 10% of its calories from saturated and trans fat combined;
 - Will have no more than 35% of its *weight* from added sugar;
 - Will contain no more than 230 mg of sodium per serving for chips, cereals, crackers, French fries, baked goods, and other snack items; will contain no more than 480 mg of sodium per serving for pastas, meats, and soups; and will contain no more than 600 mg sodium for pizza, sandwiches, and main dishes;
 - A choice of at least two fruits and/or non-fried vegetables could be offered for sale at any location on the school site where foods are sold. Such items could include, but are not limited to, fresh fruits and vegetables; 100% fruit or vegetable juice fruit-based drinks that are at least 50% fruit juice and that do not contain additional caloric sweeteners; cooked,

dried, or canned fruits (canned in fruit juice or light syrup), and cooked, dried, or canned vegetables (that meet the above fat and sodium guidelines).

- Recommended Portion Sizes
 - Try to limit portion sizes of foods and beverages sold individually to those listed below:
 - One and one-quarter ounces for chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruit, or jerky;
 - One ounces for cookies;
 - Two ounces for cereal bars, granola bars, pastries, muffins, doughnuts, bagels, and other bakery items;
 - Four fluid ounces for frozen desserts, including, but not limited to, low-fat or fat-free ice cream;
 - Eight ounces for non-frozen yogurt; and
 - The portion size of a la carte entrees and side dishes, including potatoes, will not be greater than the size of comparable portions offered as part of school meals. Fruits and non-fried vegetables are exempt from portion-size limits.

Fundraising Activities. To support children's health and school nutrition-education efforts, it is recommended that school fundraising activities use only foods that meet the above nutrition and portion size standards for foods and beverages sold individually. Schools should encourage fundraising activities that promote good health.

Snacks. Snacks served during the school day or in after-school care or enrichment programs will attempt to make a positive contribution to children's diets and health, with an emphasis on serving fruits and vegetables as the primary snacks and water as the primary beverage. Schools will assess if and when to offer snacks based on timing of school meals, children's nutritional needs, children's ages, and other considerations.

- If eligible, schools that provide snacks through after-school programs will pursue receiving reimbursements through the National School Lunch Program.

Rewards. Schools will try not to use foods or beverages, especially those that do not meet the nutrition standards for foods and beverages sold individually (above), as rewards for academic performance or good behavior, and will not withhold food or beverages (including food served through school meals) as a punishment.

Celebrations. Schools should try to limit celebrations that involve food during the school day to no more than one party per class per month. Each party should try to include no more than one food or beverage that does not meet nutrition standards for foods and beverages sold individually (above).

School-sponsored Events (such as, but not limited to, athletic events, dances, or performances). Foods and beverages offered or sold at school-sponsored events outside the school day should try to meet the nutrition standards for meals or for foods and beverages sold individually (above).

Nutrition and Physical Activity Promotion and Food Marketing

Nutrition Education and Promotion. Oldham-Ramona School District aims to teach, encourage, and support healthy eating by students. Schools should provide nutrition education and engage in nutrition promotion that:

- Is offered as a part of a sequential, comprehensive, standards-based program designed to provide students with the knowledge and skills necessary to promote and protect their health;
- Is part of not only health education classes, but also classroom instruction in subjects such as math, science, language arts, social sciences, and elective subjects;
- Includes enjoyable, developmentally-appropriate, culturally-relevant, participatory activities, such as contests, promotion, taste testing, farm visits and school gardens;
- Promotes fruits, vegetables, whole grain products, low-fat and fat-free dairy products, healthy food preparation methods, and health-enhancing nutrition practices;
- Emphasizes caloric balance between food intake and energy expenditure (physical activity/exercise);
- Links with school meal programs, other school foods, and nutrition-related community services;
- Teachers media literacy with an emphasis on food marketing; and

- Includes training for teachers and other staff.

Integrating Physical Activity into the Classroom Setting. For students to receive the nationally-recommended amount of daily physical activity (i.e., at least 60 minutes per day) and for students to fully embrace regular physical activity as a personal behavior, students need opportunities for physical activity beyond physical education class. Toward that end:

- Classroom health education will complement physical education by reinforcing the knowledge and self-management skills needed to maintain a physical-active lifestyle and to reduce time spent on sedentary activities, such as watching television;
- Opportunities for physical activity will try to be incorporated into other subject lessons.

Communications with Parents. The district/school will support parents' efforts to provide a healthy diet and daily physical activity for their children. The district/school will send home nutrition information and post nutrition tips on school websites. Schools should encourage parents to pack healthy lunches and snacks and to refrain from including beverages and foods that do not meet the above nutrition standards for individual foods and beverages.

The district/school will provide information about physical education and other school-based physical activity opportunities before, during, and after the school day; and support parents' efforts to provide their children with opportunities to be physically active outside of school.

Food Marketing in Schools. School-based marketing will be consistent with nutrition education and health promotion. As such, school will attempt to limit food and beverage marketing to the promotion of foods and beverages that meet the nutrition standards for meals or for foods and beverages sold individually (above). School-based marketing of brands promoting predominately low-nutrition foods and beverages should be discouraged. The promotion of healthy foods, including fruits, vegetables, whole grains, and low-fat dairy products is encouraged.

Marketing activities that promote healthful behaviors (and are therefore allowable) include: vending machine covers promoting water; pricing structures that promote healthy options in a la carte lines or vending machines; and sales of fruit for fundraisers.

Staff Wellness. Oldham-Ramona School District highly values the health and well-being of every staff member and will try to plan/implement activities and policies that support personal efforts by staff to maintain a healthy lifestyle. The district should establish and maintain a staff wellness committee composed of a least one staff member, school health council member, local hospital representative, dietitian or other health professional, recreation program representative, union representative, and employee benefits specialist. (The staff wellness committee could be a subcommittee of the school health council.) The committee should develop, promote, and oversee a multifaceted plan to promote staff health and wellness. The plan should be based on input solicited from school staff and should outline ways to encourage healthy eating, physical activity, and other elements of a healthy lifestyle among school staff. The staff wellness committee should distribute its plan to the school health council annually.

Physical Activity Opportunities and Physical Education

Daily Physical Education (P.E.) K-12. All physical education will be taught by a certified physical education teacher. Student involvement in other activities involving physical activity (e.g., interscholastic or intramural sports) should not be substituted for meeting the physical education requirement. Students should spend at least 50 percent of physical education class time participating in moderate to vigorous physical activity.

Daily Recess. All elementary school students will have at least 20 minutes a day of supervised recess, preferably outdoors, during which schools should encourage moderate to vigorous physical activity verbally and through the provision of space and equipment.

Schools should discourage extended periods (i.e., periods of two or more hours) of inactivity. When activities, such as mandatory school-wide testing, make it necessary for students to remain indoors for long periods of time, schools should give students periodic breaks during which they are encouraged to stand and be moderately active.

Physical Activity Opportunities Before and After School. When possible, elementary, middle, and high schools will offer extracurricular physical activity programs, such as physical activity clubs, or open gyms. All high schools, and middle schools as appropriate, will offer interscholastic sports programs. Schools will offer a range of activities that meet the needs, interests, and abilities of all students, including boys, girls, students with disabilities, and students with special health-care needs.

After-school child care and enrichment programs will provide and encourage – verbally and through the provision of space, equipment, and activities – daily periods of moderate to vigorous physical activity for all participants.

Students will be encouraged to walk with family and friends during off school hours.

Physical Activity and Punishment. Teachers and other school and community personnel will not use physical activity (e.g., running laps, pushups) or withhold opportunities for physical activity (e.g., recess, physical education) as punishment.

Safe Routes to School. When appropriate, the district should work together with local public works, public safety, and/or police departments to make it safer and easier for students to walk and bike to school. The school district should explore the availability of federal “safe routes to school” funds, administered by the state department of transportation, to finance such improvements.

Use of School Facilities Outside of School Hours. School spaces and facilities should be available to students, staff, and community members before, during, and after the school day, on weekends, and during school vacations. These spaces and facilities also should be available to community agencies and organizations offering physical activity and nutrition programs. School policies concerning safety will apply at all times.

Monitoring and Policy Review

Monitoring. The superintendent or designee will ensure compliance with established district-wide nutrition and physical activity wellness policies. In each school, the principal or designee will ensure compliance with those policies in his/her school and will report on the school’s compliance to the school district superintendent or designee.

School food service staff, at the school or district level, will ensure compliance with nutrition policies within school food service areas and will report on this matter to the superintendent (or if done at the school level, to the school principal). In addition, the school district will report on the most recent USDA School Meals Initiative (SMI) review findings and any resulting changes. If the district has not received a SMI review from the state agency within the past five years the district will request from the state agency that a SMI review be scheduled as soon as possible.

Policy Review. Review should be repeated yearly to help review policy compliance, assess progress, and determine areas in need of improvement. As part of that review, the school district will review our nutrition and physical activity policies; provision of an environment that supports healthy eating and physical activity; and nutrition and physical education policies and program elements. The district, and individual schools within the district, will, as necessary, revise the wellness policies and develop work plans to facilitate their implementation.

LEGAL REFS.: 42 USC Chapter 13 (School Lunch Program)
 42 USC Chapter 13A (Child Nutrition)
 7 CFR 210.1 – 210.31 (National School Lunch Program)
 7 CFR 220.1 – 220.21 (School Breakfast Program)

ADOPTED: 01-2007
AMENDED: 05-2015
AMENDED: 11-2019

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AFF COMPLAINT POLICY FOR FEDERAL PROGRAMS

A parent, student, employee, or district stakeholder who has a complaint regarding the use of federal NCLB funds and is unable to solve the issue, may address the complaint in writing to the Oldham-Ramona School District's superintendent.

Disputes addressing the enrollment, transportation (including inter-district disputes), and other barriers to the education of children and youth experiencing homelessness are also addressed under this procedure. Parents, guardians, and unaccompanied youth may initiate the dispute resolution process at the district's central office. The parent or guardian or unaccompanied youth shall be provided with a written explanation of the school's decision including the right of the parent, guardian, or youth to appeal the decision. Students should be provided with all services for which they are eligible while disputes are resolved.

- The superintendent will investigate, within one week, the circumstances of the complaint and render a decision, within two weeks, after receipt of the complaint.
- The superintendent will notify the complainant of the decision in writing.
- The complainant will be allowed one week to react to the decision before it becomes final.
- The complainant will either accept or disagree with the decision and will provide such acknowledgment in writing, addressed to the district superintendent.
- If the issue is not resolved with the superintendent, the complaint will be forwarded to the Dell Rapids Board of Education for further review. The parent or guardian or unaccompanied youth shall be provided with written explanation of the district's decision including the rights of the parent, guardian, or youth to appeal the decision.
- Unresolved complaints may be forwarded by the stakeholder to the South Dakota Department of Education for review. (Consult SD Department of Education Complaint Procedure)

LEGAL REFS.:

ADOPTED: 07-2008
REVIEWED:: 10-2012
REVIEWED: 08-2013
REVIEWED: 08-2014
REVIEWED: 07-2015
REVIEWED: 07-2016

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AH CONFLICT DISCLOSURE AND AUTHORIZATION

SDCL 3-23-6 states

“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 in an amount greater than five thousand dollar 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 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, is 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 participation 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 matter 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 REFS.:

SD Constitution, Article 8, §17

SDCL: 1-27

SDCL: 13-20-2.1

SDCL 13-43-1

SDCL: 3-23-6

SDCL: 3-23-7

SDCL: 3-23-8

SDCL: 3-23-9

SDCL: 6-1-1

SDCL: 6-1-2

SDCL: 6-1-17

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AMENDED: 06-2017

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REVIEWED:

Oldham-Ramona School District #39-5

Policies and Regulations Code: A – Foundations & Basic Commitments

AH-E(1) REQUEST FOR SCHOOL BOARD WAIVER

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

Adopted: 09-2016
Revised: 06/2017
Reviewed:

Oldham-Ramona School District #39-5

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AH-E(2) 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 _____

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: 09-2016
Revised: 06-2017
Reviewed: