

**PROHIBITION ON AIDING SEXUAL ABUSE****Definitions**

For the purpose of this policy:

- *Assisting* means to recommend, facilitate, aid, ease, expedite, promote, encourage, advance, stimulate, or accelerate.
- *Sexual misconduct* may include, but is not limited to the following:
  - a. Insults, disparaging remarks/names, and/or sarcasm, used to force compliance with a school employee's, contractor's, or agents' requirements or expectations.
  - b. Any conduct that would amount to sexual harassment, discrimination, or retaliation under Title IX of federal education amendments.
  - c. Any activity that may lead to a sexual relationship such as dating, sending intimate correspondence, and/or engaging in sexualized dialogue.
  - d. Any sexual relationship between a school employee, contractor, or agent and a current student, regardless of their age, or a former student under the age of 18.
  - e. Any conduct by a school employee, contractor, or agent that would constitute a sexual offense, sexual act, or sexual contact involving a minor or a student as defined in state law.
- *School property* is defined in NDCC 15.1-19-10(6)(b) as all land within the perimeter of the school site and all school buildings, structures, facilities, and school vehicles, whether owned or leased by a school Unit, and the site of any school-sponsored event or activity.

**Prohibited Action**

The Unit prohibits any employee, contractor, or agent from assisting a school employee, contractor, or agent in obtaining a new job if the individual or the Unit knows or has probable cause to believe that the employee, contractor, or agent has engaged in sexual misconduct with a student or minor in violation of the law.

For the purposes of this policy, it shall not be deemed assisting in obtaining a new job to participate in routine procedures regarding the transmission of administrative or personnel files in accordance with law or to confirm dates of employment.

This prohibition does not apply under certain conditions specified by the Every Student Succeeds Act (ESSA) such as:

1. The information has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct, and any other authorities as required by federal, state, or local law; and
  - a. The matter has been officially closed or the unit officials have been notified by the prosecutor or police after an investigation that there is insufficient information to establish probable cause;
  - b. The individual has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or

- c. The case remains open and there have been no charges filed against, or indictment of, the individual within four years of the date on which the information was reported to a law enforcement agency.

### **Reporting and Investigation**

If an individual has reason to believe that an employee may have violated this policy, they are required to report the alleged violation to a building administrator or the Director as soon as possible. All reported prohibited behavior shall be investigated by the Director.

If the Director or Business Manager is believed to have violated this policy, the alleged violation shall be reported to the Board President who is responsible for conducting the investigation and making a recommendation based on the outcome of the investigation to the Board for determination and final action. The Board President may retain an attorney or consultant to assist with the investigation process.

### **Violation**

If disciplinary action is deemed warranted at the completion of the investigation, the Unit shall take appropriate action up to and including termination of employment in accordance with law and/or reporting such activity to appropriate state licensing and law enforcement officials.

### **Retaliation and Providing False Information Prohibited**

The Unit prohibits retaliation for an individual's participation in an investigation and/or initiation of a report under this policy, including instances when an allegation is not substantiated. The Unit also prohibits knowingly filing a false report and/or knowingly making false statements during an investigation. Staff who violates these prohibitions are subject to appropriate disciplinary action.

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Complementing NDSBA Templates (may contain items not adopted by the Board)

- ACCA, Sexual Offenders on School Property
- BA, School Board Ethics
- DBAA, Recruitment, Hiring, & Background Checks for New Classified Personnel
- DBAC, Recruiting & Hiring Teachers
- DE, Staff Code of Conduct
- DEBD, Staff-Student Relations (Non-Fraternization Policy)

**End of East Central Special Education Unit Policy ABCE.....Adopted: 12-21-22**

**First Reading 11-23-22**

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