

Discrimination and Harassment

I. Purpose

Western Dakota Tech is committed to providing an environment free from harassment and other forms of discrimination for students, school employees, non-employees, and its invitees.

II. General Statement of Policy

- A. Western Dakota Tech (“WDT”) will not tolerate racism, discrimination, harassment, exploitation or victimization of students, school employees, non-employees or any person who is an invitee of WDT for any reason, including but not limited to race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, status as a veteran, or any other status protected under applicable federal, state or local law.
- B. WDT includes school facilities, school premises, school vehicles and non-school vehicles used to transport students, employees, non-employees and invitees to school sponsored activities/functions, and any other area where WDT has control of the premises.
- C. Discrimination or harassment by board of education members, employees, non-employees, invitees, students, vendors and others doing business with WDT are prohibited. Individuals whose behavior violates this policy may be subject to disciplinary actions.
- D. This policy in no way conflicts with people’s freedom of speech or other constitutionally protected rights.

III. Definitions

A. Discrimination means

Discrimination is defined as conduct including words, gestures, and other actions which disadvantages a person (or group) based upon the person’s or group’s race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, status as a veteran, or any other status protected under applicable federal, state or local law.

Personality differences or conflicts, general mistreatment not based on the above protected categories, or a response to poor performance are usually employee relations issues, not discrimination matters.

B. Harassment means

Harassment is defined as a pattern of unwelcome conduct which is severe or pervasive enough to create a hostile working or learning environment, which continues after the harasser knew or was informed that the conduct was unwelcome, and which is based upon the person's or group's race, color, ethnic background, national origin, pregnancy, marital status, religion, creed, age, sex, citizenship, political affiliation, mental and/or physical challenge, disability, sexual orientation, genetic information, gender identity, status as a veteran, or any other status protected under applicable federal, state or local law.

Petty slights, annoyances, and isolated incidences (unless extremely serious) may not rise to a level of harassment.

Harassment includes sexual harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical ~~conduct~~ harassment of a sexual nature including but not limited to:

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;
- b) Submission or rejection of such conduct by an individual is used as the basis for employment decisions or academic performance; or
- c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

C. Invitee means

Any person who is not deemed an employee or student of WDT who uses or is on school facilities, school premises, school vehicles and non-school vehicles used to transport students, employees, non-employees and invitees to school sponsored activities/functions and any other area where WDT has control of the premises. .

IV. Reporting Procedures

WDT has adopted procedures which provide for prompt and equitable resolution of matters protected by this policy.

All students, employees, non-employees and invitees have a responsibility to maintain a positive learning, work, and school environment by reporting all incidents or suspected incidents of discrimination and/or harassment involving themselves or others.

False, malicious or frivolous complaints of discrimination or harassment may result in disciplinary action.

A. Student

If a student believes they have been harassed or discriminated against or have witnessed discrimination/harassment (as defined in this policy), the student should immediately report the incident(s) to a student success coach, instructor, or an administrator (Refer to Student Handbook).

If an employee of WDT receives an allegation or complaint of harassment or discrimination from a student, it is the employee’s obligation to immediately report the complaint to the Student Success Director/Registrar or the Human Resources Manager. Failure to direct the student to report an allegation or complaint of discrimination or harassment to the appropriate people could result in disciplinary action.

B. Non-Employee/Invitee

A non-employee or invitee, who believes they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should follow the procedures in the Public Complaint Policy and Procedure (WDT Policy 5005).

C. Employee

Employees who believe they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should, within ~~five (5)~~thirty (30) working days of the alleged violation, notify the WDT Human Resources Manager, their supervisor, an administrator or an ombudsperson.

Human Resources Manager
800 Mickelson Drive
Rapid City, SD 57703
Phone: 718-2402

After notification to the Human Resources Manager, employees making a claim of harassment or discrimination must ~~proceed to then~~ follow the “Grievance Procedure” as provided in the Grievance Policy 2014.

D. Grievance or Public Complaint Withdrawal

Individuals may withdraw their Grievance or Public Complaint in writing at any time. However, WDT reserves the right to proceed with an investigation and resolution of the complaint in order to effectively determine whether discrimination or harassment has occurred.

E. Confidentiality

It is WDT’s intent to keep the information brought forward in a Public Complaint or Grievance, as it relates to this policy, confidential and limited to those directly involved with the complaint. It is WDT’s expectation that all parties involved in a

Public Complaint or Grievance will respect the confidentiality of the matters involved. Because an individual's right to confidentiality must be balanced with WDT's obligations to investigate complaints, cooperate with police investigations or legal proceedings, or to take appropriate disciplinary action, WDT retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by South Dakota law.

F. Criminal Procedure

Nothing in the Discrimination and Harassment Policy prevents any person from filing a formal criminal complaint with a state or federal agency. If it is determined that criminal charges may result or are pending, WDT, when legally allowed, may elect but is not required to cease its investigation. WDT will comply when necessary with a state or federal investigation.

G. Retaliation

WDT prohibits retaliation against any person because that person has asserted, or has assisted another person asserting a discrimination or harassment complaint with WDT or with any state or federal agency, or because that person has testified or participated in any manner in an investigation, proceeding or hearing concerning a complaint of discrimination or harassment. Retaliation is a violation of federal and state law, and may lead to disciplinary action by WDT against the offender.

Retaliation based on complaints which are false, malicious or frivolous ~~are~~is not protected under this policy.

V. Dissemination of Policy and Training

WDT has the responsibility of educating its employees on its Discrimination and Harassment Policy and appropriate procedures. See "Reporting Procedures."

A. Training for Employees

All employees (full-time, part-time, temporary and seasonal) will receive a copy of this Policy during new employee orientation. WDT also provides and coordinates, on an annual basis, training to current employees. WDT will maintain records verifying that each employee received training and that the employee understands the Discrimination and Harassment Policy and the appropriate procedures to follow if the employee witnesses or experiences discrimination or harassment. The

tutorial/training will educate employees regarding their rights and responsibilities, behaviors which constitute harassment or discrimination, and appropriate procedures to follow when they believe they have witnessed or experienced harassment or discrimination.

The annual training may include, but is not limited to the following:

- Review of WDT's Discrimination and Harassment Policy and appropriate procedures;
- Provide definitions of all types of discrimination and harassment and an overview of relevant state and federal laws, including the rights of individuals and groups of individuals;
- Identify discrimination/harassing behaviors covered by this policy;
- Identify appropriate prevention techniques; and
- Train in positive, appropriate communication alternatives to discrimination/harassment.

If the employee does not understand the Policy, it is the obligation of the employee to request that additional training be offered.

B. Policy Dissemination

This Policy is given to all new hires and reviewed in new employee orientation. It will also be published annually in the Student Handbook, Faculty Handbook, and on WDT's website.

Legal References:

Title VII of the Civil Rights Act of 1964
Age Discrimination in Employment Act of 1967
Title II of the Americans with Disabilities Act of 1990
Section 504 of the Rehabilitation Act of 1973
Title IX – Education Amendments of 1972
Title VI – Civil Rights Act of 1964
Individuals with Disabilities in Education Act
Constitution of the State of South Dakota – Art. VI
SDCL 20-12 – Municipal and County Protection of Human Rights
SDCL 20-13 – Human Rights