

ACA-R

REGULATION

SEXUAL HARASSMENT

(Sexual/General Harassment/Complaint Procedure)

A. Compliance Officer

The Human Resources Director shall be the compliance officer or her/his designee, shall be the compliance officer for any claim of harassment and/or sexual harassment. The complaint process for unlawful Discrimination on the basis of race, color, national origin, pregnancy, sex (including, but not limited to, sexual orientation, gender identity or expression), disability, or age is addressed under Nondiscrimination/Equal Opportunity in sections AC and AC-R. For examples of harassment and sexual harassment, see policy ACA. Any person who feels harassed or to have been the victim of harassment by anyone *at* the District or who knows of such harassment against another person should file a complaint with the Human Resources Director:

Human Resources Director
Kayenta Unified School District
PO Box 337
Kayenta, AZ 86033
T: (928) 697-3251
F: (928) 697-2160

If the Human Resources Director is the one alleged to have unlawfully harassed, the complaint shall be filed through the Superintendent, who shall designate an officer to conduct the investigation as set forth herein.

School Superintendent
Kayenta Unified School District
PO Box 337
Kayenta, AZ 86033
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8. Complaint Procedure Overview

1. The District shall investigate each complaint which sets forth a factual basis which may constitute harassment. The District shall take appropriate remedial action, if necessary, pending the investigation. If the District finds that a violator(s) of PoHcy has occurred, the District shall take appropriate action as set forth herein. If possible, problems and/or complaints may be resolved in an informal manner. If the complaint

involves an employee and if the District finds a confirmed violation of policy, the District may also take appropriate adverse or disciplinary action, up to and including, termination, in accordance with applicable District discipline policies. If the person alleged to have violated policy is a student, the District may impose discipline in accordance with Policies JK, JKD and JKE.

2. The Human Resources Director, or Superintendent's designee, acting as the compliance officer for the District, shall receive the complaint and shall investigate the complaint filed pursuant to this policy as soon as is reasonable and in accordance with the time deadline set forth herein. In investigating the complaint, the compliance officer shall maintain confidentiality to the extent allowable by policy and procedure. The compliance officer shall also investigate any incidences of alleged violations of this policy that may be raised by the Governing Board, even if no complaint has been filed with the District.

3. This complaint procedure may be used by anyone wishing to file a complaint alleging harassment under Policy ACA, including sexual harassment by anyone at the Kayenta Unified School District. This includes students, parents, teachers, staff, administrators and any other employees of the District.

4. Non-Retaliation: District Policy ACA and the regulations thereto, as well as both state and federal laws, prohibit any form of retaliation or adverse action taken against anyone who has filed a complaint or who cooperates in the investigation of the complaint. Any and all claims of retaliation or adverse action shall also be treated and investigated in accordance with Policy ACA and its regulations.

C. Complaint Process

1. Complaints must be submitted to the compliance officer as soon as is possible after the occurrence, but no later than sixty (60) days after the person filing the complaint knew or should have known about the alleged action that forms the basis of the harassment.

2. Where possible, the complaint should be in writing and contain information about the alleged harassment, including, but not limited to the name, address and phone number of the complainant, the date or dates of the incident(s) and a description of the nature of the problem(s), as well as contain the relief or remedy sought. A Complaint Form is attached hereto as ACA-E to assist in the filing of the written complaint.

3. Alternative means of filing the complaint, such as personal interviews or tape recording of the complaint, will be available for persons with disabilities, upon request to the compliance officer.

4. The compliance officer, no later than five (5) working days after receiving the complaint, shall meet with the complainant to determine whether all information has been specifically set forth in the Complaint Form and to determine any and all witnesses or other interested parties that may have information pertaining to the complaint. If the complaint requires immediate intervention or action, the compliance officer will also work with the complainant and the appropriate School District personnel to ensure appropriate intervention or action is taken as may be necessary, pending the investigation. Remedial action may include but is not limited to: changing work site, counseling, granting leave, changing classrooms, and using monitors. The District may consult with the complainant in devising appropriate remedial remedies.

5. The compliance officer will maintain the files and records for the District relating to the complaint and the investigation, and said files, records, statements and findings will be

kept confidential, to the extent allowable.

6. No later than five (5) working days after reviewing the complaint with the complainant, the compliance officer will meet with the individual charged with harassment and inform him/her that a complaint has been filed against him/her and will orally provide the general information surrounding the complaint and request that the person alleged to have violated the anti-harassment policy respond in writing to the allegations. Additionally, the compliance officer will request that the person against whom the complaint was filed provide any documents, exhibits or names of witnesses and/or interested parties that the compliance officer should interview.

7. It is expected that within ten (10) working days after meeting with the person against whom the complaint was filed, the compliance officer will have met individually with or obtained individual written statements from the named witnesses or interested parties. If necessary, the compliance officer will do a follow-up interview with either or both the complainant and the individual accused of harassment.

8. After the compliance officer has done a thorough investigation of the complaint, the compliance officer shall, within five (5) working days of completing all interviews, make a written finding of facts and will make a determination as to whether by a preponderance of evidence it has been shown that Policy ACA has been violated. The compliance officer will also make a recommendation as to the appropriate resolution or remedy for the matter. Appropriate action may be remedial measures including but not limited to counseling, training, apologies, changing classrooms, administering leave, or changing worksite. Appropriate action may also be disciplinary measures including but not limited to reprimands, suspensions, and possible termination according to policies and procedures.

9. The written findings of fact and recommendation will be immediately provided to the Superintendent.

10. After the compliance officer has prepared the written findings of fact and recommendations for the District, the compliance officer will meet with the complaining party. The written findings of fact and recommendation will be kept confidential to the extent required by law and policy. However the compliance officer shall provide written overall findings and recommendations that shall be provided to the parties. Additionally, a personal meeting will be held with the complainant wherein the compliance officer shall review his/her written overall findings and recommendations. The compliance officer shall provide a written report on the meeting to the Superintendent within five (5) working days of the meeting. The written report shall include a review of the overall discussion with the complainant and the complainant's input with regard to the findings of fact and recommendations. The Superintendent shall thereafter, review the findings of fact and recommendations and the input from the complainant and shall take appropriate action.

11. If the complainant is not satisfied with the compliance officer's overall findings and/or recommendations, the complainant may appeal the compliance officer's overall findings and recommendations by filing a written appeal to the Superintendent within five (5) working days of the meeting with the compliance officer. The complainant shall specifically set forth the reasons for the appeal and citing the reasons for his/her disagreement with the compliance officer's findings and recommendations. The Superintendent will review this appeal "on the record." "On the record" includes a review of the appeal, the compliance officer's investigation including the overall written findings of facts and recommendation and notes, documents, evidence, witness statements, etc. of the compliance officer. The Superintendent shall stay taking any action on the compliance officer's findings and recommendations until the appeal has been reviewed

and has been concluded. If necessary, the Superintendent will supplement "the record" by conducting his/her own interviews or request for follow up statements from witnesses and/or interested parties.

i 2. After the Superintendent has completed his/her review of the appeal, the Superintendent shall make a decision to either, uphold the compliance officer's recommendations; modify the compliance officer's recommendations; or the Superintendent may appoint an independent investigator to conduct a new investigation of the matter.

13. The decision on the appeal by the Superintendent shall be final.

14. If the Superintendent is the subject of this investigation, then the complainant may appeal the compliance officer's findings of fact and recommendations directly to the Governing Board by filing a written appeal within five (5) days of his/her meeting with the compliance officer, to the President of the Governing Board. For this appeal, service on the President of the Governing Board is met by filing the written appeal with the Executive Secretary of the Governing Board. The Governing Board, at a duly called Board Meeting, may review the appeal and decide it "on the record" or the Board may appoint an independent hearing officer to review the appeal "on the record." The independent hearing officer may supplement the compliance officer's investigation and review of the record by conducting his/her own interviews or request follow up statements from witnesses and/or interested parties. After reviewing this information, the independent hearing officer shall prepare a written report to the Governing Board and recommend whether to uphold the compliance officer's recommendations and/or modify the compliance officer's recommendations. The decision of the Governing Board on this appeal shall be final.

15. Regardless of whether a criminal investigation is occurring, the District will continue with its own investigation until the District's own investigation procedure is complete.

D. If the above time deadlines are not fulfilled by the compliance officer or Superintendent, the complaining party may request, in writing, that the issue be brought directly before the Governing Board. The Governing Board shall review the record of the investigation and may either refer it back to the compliance officer or Superintendent with a directive to timely complete the matter or, if necessary, the Board may appoint an independent hearing officer to investigate and provide a written findings of fact and recommendations to the Governing Board. The Governing Board shall review the independent investigator's findings and recommendations and the Board shall make a final decision. There will be no appeal from the Governing Board's decision.

E. When necessary, the District will make appropriate arrangements, by and through the compliance officer to ensure that disabled persons are provided accommodations, as may be necessary, in order to participate fully in this complaint process. Such arrangements may include, but are not limited to, providing necessary assistance to the complainant in the filing of the complaint and filling out of the Complaint Form and to the complainant and others involved in the complaint process including, but not limited to, providing interpreters for the deaf, providing taped materials for the blind, assuring a barrier-free location for the investigation and providing other reasonable accommodations as may be necessary for full access and participation in this complaint and investigation process.

F. Anyone who knowingly files or threatens to file a false complaint, as outlined in this regulation, will be in violation of Policy ACA, and subject to appropriate disciplinary action, which may include warning, censure, suspension, or dismissal.