

SECTION I

SCHOOL BOARD/DISTRICT GOVERNANCE

I-A. Philosophy and Policies

HAMLIN SCHOOL PHILOSOPHY

The primary goals of the Hamlin School District are to help individuals to become the best they are capable of becoming and to provide them with experiences that will equip them to evaluate new ideas, implement desirable changes, and to stimulate learning, all of which are designed to contribute toward a happy and useful life.

Individual differences will be identified in terms of capabilities, learning styles, needs, interests, and rate of maturation. It is recognized that these differences in children are subject to change from infancy through post-adolescence. These differences are met through curriculum, teaching styles, chapter services, guidance services and special education services. Opportunities for exploring and developing skills are provided through a multi-district vocational program.

It is the responsibility of parents, teachers, students and administrators to encourage an understanding, cooperative attitude between the school and the home, recognizing the importance of the home as an influence upon the student and the value to the school of parent/student input. It is the school's responsibility to encourage channels of communication among students, teachers, administrators, parents and other members of the community.

We must encourage in students a desire for continuous learning and self improvement throughout their lifetime by helping them to recognize both their limitations and their potential, recognizing their obligation to American citizenship and the responsibilities that go with it and to develop their abilities so that they may gain confidence and self respect in order to live successfully in a changing society.

I-B. POLICY OF NON-DISCRIMINATION

The Hamlin School District #28-3 shall not discriminate on the basis of sex, race, color, national origin, creed, religion, marital status, status with regard to public assistance, age or disability, in its educational programs, activities or employment practices. The District shall abide by all federal and state laws and regulations.

I-C. DRUG FREE WORKPLACE

In accordance with Federal workplace requirements it will be the goal of the Hamlin School District to maintain a drug free workplace. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Hamlin School District Attendance Centers.

All employees will abide by the terms of the drug-free workplace and they shall, if convicted of any criminal drug statute for a violation occurring in the workplace, report such conviction to the superintendent within five (5) days.

Within thirty (30) days, any employee so convicted may be subject to termination or may be required to participate satisfactorily in a drug abuse assistance or

rehabilitation program approved by a Federal, State, local health, law enforcement or other appropriate agency.

The District shall provide a drug-free awareness program consisting of the following:

1. Provide knowledge about the dangers of drug abuse in the workplace.
2. Provide knowledge about the District's policy regarding a drug-free workplace.
3. Provide knowledge of drug counseling, rehabilitation and employee assistance programs.
4. Provide knowledge about penalties which may be imposed upon employees for drug abuse violations occurring in the workplace.

I-D. DISCRIMINATION and HARASSMENT POLICY

The Hamlin School District's policy is that discrimination and harassment is illegal, unacceptable and should not be tolerated. No employee or student of the school district may discriminate or harass based upon or related to race, color, national origin, sex, religion, marital status, disability, age or any other unlawful basis that (1) has the purpose or effect of creating an intimidating, hostile, or offensive school environment, (2) has the purpose or effect of substantially or unreasonably interfering with a student's school performance, or (3) otherwise adversely affects a student's school opportunities. Any employee or student will be subject to disciplinary action including possible termination for violation of this policy.

RESPONSIBILITY School district officers, employees and students are responsible for maintaining a working and learning environment free from discrimination and harassment. Careful scrutiny will be undertaken of all allegations of discrimination and harassment. False allegations that are malicious or ill-founded may constitute libel or slander.

COMPLAINTS: Students should report such incidents to any staff member who will then forward it on to the appropriate coordinator or administrator. All reported incidents will be thoroughly investigated and subject to disciplinary action. Any employee who believes that he or she has been the subject of discrimination or harassment should report this incident immediately to his/her immediate supervisor. If the immediate supervisor is involved in the activity, the violation should be reported to the supervisor's immediate supervisor. Confidentiality consistent with due process will be maintained. If an employee or student files a written complaint because of dissatisfaction with the handling of the complaint, he or she may utilize any applicable grievance procedure.

Students who believe that they have been the subject of unlawful discrimination or harassment due to their sex or sexual related can directly contact the Title IX Coordinator or an administrator. Policies relating to sexual discrimination or harassment are specifically under Title IX and sexual harassment.

Students who believe that they have been the subject of unlawful discrimination or harassment due to their disability can directly contact the 504 Coordinator or an administrator.

NON-RETALIATION I-4 Retaliation for making or filing a discrimination or harassment complaint is absolutely prohibited. All witnesses to any alleged discrimination or harassment are assured of non-retaliation. Retaliation for

making or filing a complaint or providing information in connection with a discrimination or harassment complaint will result in discipline, including possible termination.

LEGAL REFERENCE South Dakota Executive Order 81-08 Federal-Title IX (1972 Education Amendments)

I-E.SEXUAL HARASSMENT POLICY

I. Policy Statement

The Hamlin School District does not discriminate on the basis of sex in any education program or activity that it operates, including admission and employment. The Hamlin School 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 Hamlin School 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 Hamlin School District or students from other schools who are at a Hamlin School 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 Hamlin School 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 Hamlin School 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: Superintendent
Office Address: PO Box 298, 44577 188th St. Hayti, SD 57241
Email Address: jim.hulscher@k12.sd.us
Telephone Number: (605) 783-3631

The Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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:
 - 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.
- 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the Hamlin School 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 Hamlin School 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 Hamlin School District have actual knowledge of sexual harassment in a district educational program or activity against another person in the United States, the Hamlin School District shall respond promptly in a manner that is not deliberately indifferent (i.e., if the Hamlin School 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 Hamlin School 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 Hamlin School District from removing a respondent from the district's education program or activity on an emergency basis, provided that the Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District's education program or activity. (34 CFR § 106.45(b)(1)(i))
- D. The Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School

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:
1. 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))
 2. include a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities; (34 CFR § 106.45(b)(1)(v))
 3. include the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the Hamlin School District may implement following any determination of responsibility; (34 CFR § 106.45(b)(1)(vi))

4. state that for all formal complaints of sexual harassment filed against students and employees, the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard. (34 CFR § 106.45(b) (1) (vii))
 5. include the procedures and permissible bases for the complainant and respondent to appeal; (34 CFR § 106.45(b) (1) (viii))
 6. describe the range of supportive measures available to complainants and respondents; (34 CFR § 1045(b) (1) (ix)) and
 7. not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. (34 CFR § 106.45(b) (1) (x))
- K. If, in the course of an investigation, 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District; or specific circumstances prevent the Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School

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 Hamlin School 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 Hamlin School 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))

SEXUAL HARASSMENT - Regulation

SECTION 1 - Policy Statement

The Hamlin School 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 Hamlin School District or students from other schools who are at a Hamlin School 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 Hamlin School 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 Hamlin School District have actual knowledge of sexual harassment in a Hamlin School District educational program or activity against another person in the United States, the Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District to provide the supportive measures.

C. Informal Resolution:

1. The Hamlin School 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 Hamlin School 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 Hamlin School District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
2. The Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District must dismiss the formal complaint with regard to that does not preclude action under another provision

of the Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to provision D.1., the Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District to the complainant; and
 - f. the Hamlin School District's procedures and permissible bases for the complainant and respondent to appeal.
- 10. The Hamlin School 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 Hamlin School 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 Hamlin School 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 Hamlin School District; or specific circumstances prevent the Hamlin School 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 Hamlin School 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.

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.

TITLE IX 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

SEXUAL HARASSMENT COMPLAINT APPEAL TO THE SUPERINTENDENT

I/We Appeal the Principal’s Step 1 decision for the following reason(s): [With specificity, Complainant should state how or why the Complainant believes the Principal’s decision is wrong]:

ATTACH A COPY OF THE SEXUAL HARASSMENT REPORT AND THE PRINCIPAL’S DECISION.

Date	Complainant
Date Received	Superintendent

SEXUAL HARASSMENT
COMPLAINT APPEAL TO THE SCHOOL BOARD

I/We Appeal the Superintendent's Step 2 decision for the following reason(s): [With specificity, Complainant should state how or why the Complainant believes the Superintendent's decision is wrong]:

ATTACH A COPY OF THE SEXUAL HARASSMENT REPORT, PRINCIPAL'S DECISION, APPEAL TO THE SUPERINTENDENT (Exhibit ACAA -E(2)), EMPLOYEE'S STEP 2 WRITTEN RESPONSE, AND SUPERINTENDENT'S DECISION.

Date Complainant

Date Received

I-F. CHAIN OF COMMAND

The Superintendent of Schools is in charge of all buildings owned and operated by the Hamlin School District. In the absence of the Superintendent, the following chain of command and authority will be followed:

First, the High School Principal shall be consulted. In his or her absence, the Elementary School Principal, any assistant Principal, then the Business Official, then the Athletic Director.

The purpose of the chain of command is to identify the person in charge in case of an emergency and in the absence of normal supervisors.

I-G. CITIZEN CONCERNS

The School Board of Hamlin School District No. 28-3 welcomes constructive criticism of the schools through whatever medium when it is motivated by a sincere desire to improve the quality of the educational program.

The Board places trust in its employees and desires to support their actions in such a manner that employees are freed from unnecessary, spiteful or negative criticism and complaints.

The Board also recognizes their obligation to identify responsible and valid criticism and channel it to productive uses. The Board understands that people have a right to question their public officials and to level criticism whenever they see fit. Criticism is vital to the democratic process. The educational system as does any other social institution, needs and is nourished by constant criticism and evaluation. Criticism of the schools, even when ill-informed and/or ill-advised, is an expression of free speech. No aspect of education can properly be hidden or put beyond the range of examination or disagreement.

If the concern or suggestion pertains to a student related classroom activity, citizens are directed to first contact the teacher, or the building principal if unable to reach the teacher. Matters involving building procedures, auxiliary programs, or activity programs should be directed to the person directly responsible for the activity supervisor.

In the event that the citizen is not satisfied with the action of the teacher, supervisor, or principal, the superintendent shall be contacted next regarding the concern. An opportunity for the citizen to be heard by the school board is then available to the person if he/she so desires.

Board members when contacted by the public about problems are requested to use the above procedure unless circumstances dictate that the concern be directed to the superintendent. The superintendent will then process the complaint using the above described process. (9/17/93)

I-H. POLITICAL POLICY

The official policy of the Hamlin School District #28-3 has continually been and continues to be that it will comply with all provisions of the HATCH ACT and that any use of federal grants by the school or any recipient of federal

grants to the school will be in accordance with the HATCH ACT and no recipient of federal grants through the school will make any political use in violation of the HATCH ACT of such funds.

I-I MILEAGE POLICY

It is the Hamlin School District's policy that when a job requires travel, a school vehicle will be provided. If not available, upon prior approval by the District Superintendent or Building Principal, mileage will be paid at the approved rate.

I-J CAPITALIZATION POLICY

Let it be resolved that the Board of Education for the Hamlin School District 28-3, for the purpose of accounting for capital assets, hereby approves and adopts the following capitalization policy.

Capital assets will include land; buildings, machinery and equipment, and all other tangible assets that are used in operations and that have initial useful lives extending beyond one year. Infrastructure assets are long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years than most capital assets. Infrastructure assets will not be capitalized along with other capital assets.

The accounting treatment over capital assets will depend on whether the assets are used in governmental fund operations or proprietary fund operations and whether they are reported in the government-wide or fund financial statements.

All capital assets will be valued at the historical cost or estimated historical cost if actual historical cost is not available. Donated capital assets will be valued at their estimated fair value on the date donated.

Interest costs incurred during construction of capital assets will not be capitalized along with other capital asset costs.

Depreciation of all exhaustible fixed assets will be recorded as an allocated expense on the (GASB 34) Government-Wide Statement of Activities, with net capital assets reflected in the statement of Net Assets. Land, an inexhaustible capital asset will not be depreciated. Capitalization thresholds (the dollar values above which asset acquisitions are added to the capital asset accounts), depreciation methods, and estimated useful lives of capital assets reported in the government-wide statements and proprietary funds will be as follows:

Estimated	Capitalization	Depreciation	
	<u>Threshold</u>	<u>Method</u>	<u>Useful Life</u>
Land	\$ 0	-----	-----
Buildings	\$50,000.00	Straight-Line	33-50 years
Improvements Other than Buildings	\$15,000.00	Straight-Line	10-25 years
Infrastructure	\$15,000.00	Straight-Line	5-25 years
Machinery & Equipment	\$ 5,000.00	Straight-Line	5-12 years

Adopted 7-14-03 Revised 3-8-04

I-K. SCHOOL BOARD MEETING PROCEDURES:

VISITORS

Welcome to this meeting of your elected school board. We are pleased that you have chosen to attend and trust that you will feel free to take part in the operation of your school.

The School Board is a policy-making body, and to that end has caused to have written and has adopted a set of procedural policies. These policies are the rules and regulations of the school district and are at all times available for public inspection.

Board governance and operations follow the suggested procedures of the Associated School Boards of South Dakota Handbook (ASBSD) and South Dakota Codified Law (SDCL). These are available in the Hamlin Administration Office. Following is information which may help you better understand our process and assist you in taking an active part in the meeting.

AGENDA

The superintendent is required to prepare an agenda. Only the Superintendent or School Board President may place an item on the agenda. Any citizen, group of citizens, or organizations may request the School Board President or superintendent to consider a specific agenda item. Upon receiving such request, the person, group or organization will be notified whether or not the request has been granted. The request must be received by noon of the 1st Monday of the month.

On Thursday, prior to the regular meeting, an agenda is prepared. This agenda is placed on the main entrance doors for your convenience in following board actions.

PUBLIC PARTICIPATION

All meetings of the Board, except executive sessions, are open to the public. The public is invited to attend the meetings and will be given limited time to voice opinions or speak during Public Comment. It is the policy of this Board to take all actions openly and to conduct all deliberations leading to the resolution of a problem in public, except as authorized by statute.

The Board recognizes its responsibility to conduct the business of the district in an orderly and efficient manner and will therefore, require reasonable controls to regulate public presentations to the Board.

A citizen wishing to speak to the Board during Public Comment shall first be recognized by the President. After recognition, the speaker should proceed with his/her comments as briefly as the subject permits. The item may be placed on a future agenda by action of the superintendent or School Board President.

The president is responsible for the orderly conduct of the meeting and shall rule on such matters as the time to be allowed for Public Comment, the appropriateness of the subject being presented, and the suitability of the time for such a presentation.

The Board as a whole shall have the final decision in determining the appropriateness of all such rulings.

ORDER OF BUSINESS

1. Call to order
2. Record members present and absent/Establishment of a quorum
3. Pledge of Allegiance
4. Approve or amend agenda
5. Hamlin Highlight
6. Public Comment
7. Approval of minutes
8. Financial reports
9. Consideration of claims
10. Other Business for Board Action
11. Special Reports
12. Adjourn

*The board will not discuss new items without adequate time for investigation, but thanks citizens for their interest and all matters will be taken under advisement and, if necessary, placed on the agenda for the next meeting.
(Updated July 2024)

I-L. DUTIES AND RESPONSIBILITIES OF THE SCHOOL BOARD AND ITS OFFICERS

I. SCHOOL BOARD

- A. The School Board shall act as the general agent of the state in carrying out the will of the people of its district in the matter of public education. It shall be responsible for carrying out certain mandatory laws and shall consider, accept, or reject the provisions of the permissive law. It shall delegate authority to the superintendent and his/her staff but it is responsible to the people for the results produced.
- B. It shall select and elect a superintendent of schools and support him/her in the discharge of his/her duties.
- C. It may accept, modify, or reject the recommendations of the superintendent and may call for new recommendations.
- D. It shall elect, promote, dismiss, and resign all employees considering the recommendation of the superintendent.
- E. It shall make salary schedules, custodial working agreements, transportation contracts, insurance contracts and any other contracts and agreements involving school business upon the recommendation of the superintendent.
- F. It shall approve materials of instruction, school philosophy, and changes in the curriculum upon recommendation of the superintendent.

- G. It shall adopt a tentative budget and final budget upon the recommendation of the superintendent and business official.
- H. It shall designate depository for school funds.
- I. It shall plan in advance capital outlay and maintenance expenditures, including building alterations and additions, new equipment, improvement of grounds, repair and replacement of buildings and equipment.
- J. It shall provide for the enforcement and administrations of all school laws, local, state, and federal.
- K. It shall study, anticipate and recognize the educational program in the district and of new ideas, trends, and advances being made in education elsewhere.
- L. It shall evaluate the educational program and the work of the superintendent and his/her staff.
- M. It shall approve all disbursements upon the recommendation of the business official and the superintendent.
- N. It shall approve the annual financial report of the business official.
- O. It shall provide finances for efficient management of the schools including the adoption of the amount of the tax levy.
- P. It shall, at least thirty days before the date of the annual school election, determine the number of voting precincts, the polling places, judges, and set special canvassing place and time.
- Q. It shall perform such other functions and duties as required by law.
- R. It shall hear communications, written or oral, from citizens or organizations on matters of administration and policy.
- S. It shall provide for the admission to the schools of the district of non-resident pupils and those above school age, and the rates of tuition for such pupils shall be the approved state rate.

II. CHAIRMAN

- A. He/she shall preside at all meetings of the Board and of the districts.
- B. He/she shall countersign all orders upon the treasurer for claims approved by the Board.
- C. He/she shall sign all contracts or agreements approved by the Board.

- D. He/she shall represent the district in all actions.
- E. He/she shall appoint all special committees and shall serve as ex-officio member on all committees.
- F. He/she shall advise the superintendent concerning important school business for which there is no policy or precedent to follow and which requires a decision before the next regular board meeting. He/she may canvass the opinion of all Board members or call a special board meeting on his/her own initiative or at the request of the superintendent. All emergency decisions shall be presented to the board at its next regular meeting for final actions. In the absence of the chairman, the vice-chairman shall serve in his/her capacity.

I-M. POLICIES PERTAINING TO THE SUPERINTENDENT

I. ATTENDANCE AT PROFESSIONAL MEETINGS

Attendance at professional and other meetings, conferences, or conventions, within the state, shall be considered as an obligation as well as a necessity on the part of the superintendent in his/her administrative capacity. Provisions for expense for such attendance shall be included in the budget.

II. TERM OF OFFICE

The superintendent has a continuing contract as other members of the faculty. Accordingly, such contract is in effect until terminated by a majority vote of the entire Board or by resignation of the superintendent.

III. QUALIFICATIONS

Minimum qualification for the position of superintendent shall be a master's degree with majors in educational administration and supervision. His/her qualification by training and experience shall be both on the elementary and secondary levels. He/she shall have demonstrated qualities of leadership, executive ability, personality, and character consistent with the position and should set a high standard in the field of public relations.

IV. PROCEDURES IN EMPLOYMENT OF A NEW SUPERINTENDENT

In the employment of a new superintendent, the Board will avail itself of the resources at its command which will provide a list of approved candidates, such as placement bureaus of the state, colleges, and universities. Following a screening of applicants, the board shall invite a certain number of applicants for personal interviews.

V. TRAVEL ALLOWANCE

Travel by the superintendent shall follow the rates set by the State of South Dakota.

SUPERINTENDENT

I. HIS/HER DUTIES AND RESPONSIBILITIES

- A. He/she shall be ex-officio member of the School Board and shall attend all regular meetings of the Board except when his/her election is under consideration.
- B. He/she is the executive officer of the School Board and shall be responsible to it for the execution of its policies and the observance of its rules.
- C. He/she shall be responsible for developing a comprehensive program of education for the community. Every effort should be made to use the talent on the school staff, student body and the community in the development of the program.
- D. He/she may delegate responsibility, but he/she is responsible to the Board of Education for the results produced.
- E. He/she shall provide educational leadership for the board, staff members, community and state.
- F. He/she shall represent the Board in dealing with the staff.
- G. He/she shall, with the help and recommendation of the principal, make all personnel recommendations for the Board's consideration, including employment, promotion, dismissal, and assignments.
- H. He/she shall have the authority to grant requests to excuse employees from work according to his/her best judgment.
- I. He/she shall recommend to the Board any changes in salary schedules of employees, custodial working agreements, transportation contracts, insurance contracts, and any other contracts or agreements involving school business, and he/she shall execute all contracts and agreements.
- J. He/she shall, with the principal's recommendations, recommend to the Board courses of study and important changes in the curriculum of the board.
- K. He/she shall recommend materials of instruction, textbooks, equipment and facilities for fulfilling the objectives of the school curriculum.
- L. He/she shall develop a school philosophy.
- M. He/she shall observe the work of all employees as frequently as possible and shall guide, direct, and evaluate their work.
- N. He/she shall hold meetings to formulate plans, and to instruct and lead staff members including principals, supervisors, teachers, custodians, bus drivers and other employees.
- O. He/she shall keep necessary school records: local, county,

state, and federal reports: reports by the teachers and other employees.

- P. He/she may suspend from school any student in accordance with South Dakota Codified Laws and Department of Education regulations. A student may be immediately removed from school if, in the judgment of the Superintendent, the student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, and in that event notice and hearing procedures shall follow as soon as practicable.
- Q. He/she shall have authority to make expenditures within the approved tentative and final budgets and must sign all requisitions authorizing the expenditures of school funds.
- R. He/she shall prepare a monthly superintendent's report containing pertinent information about all school affairs; recommendations for the Board's consideration; financial report; and the agenda for the meeting. All recommendations of the superintendent shall be properly marked so that they can be quickly identified.
- S. He/she shall audit all claims and approve all bills and submit to the business official for his/her consideration.
- T. He/she shall recommend to the Board: building alternations, additions, new equipment, and the improvement of grounds, and shall be responsible for supervising and administering capital outlay improvements.
- U. He/she shall arrange such office hours as may be necessary for the successful administration of the schools and convenience of the public.
- V. He/she shall seek the advice and decision for the chairman concerning important school business for which there is no policy of precedent to follow and which required a decision before the next regular board meeting. He/she may ask the chairman to pass the opinion of the Board members or call a special meeting. In the absence of the chairman, he/she shall consult with the vice-chairman. However, the superintendent should bring school board matters to the attention of the entire Board at a regular meeting whenever possible.
- W. He/she shall delegate emergency administrative duties and responsibilities to an executive committee in his/her absence. This committee shall be appointed by him/her.
- X. He/she shall administer and execute all local, state, and federal school laws.
- Y. He/she shall keep himself/herself and the Board informed concerning educational progress by visiting other school districts, circulating questionnaires, attending educational matters, workshops, conventions, short courses, and by reading educational books, pamphlets, and magazines.

- Z. He/she shall plan, coordinate, and lead a broad and continuous public relations program for the school system.
- AA. He/she shall be directly responsible for all phases of the improvement, evaluation supervision, and coordination of instruction in the entire school system.
- BB. He/she shall approve the extracurricular activity program.

I-N. SELECTED CRITERIA FOR CHIEF ADMINISTRATOR EVALUATION

SUPERINTENDENT

I. MANAGEMENT TECHNIQUES

A. ADMINISTRATORS BOARD POLICY

1. Recognizes the need for policy oriented decisions for consistency.
2. Involves Board and staff in the process of policy development.
3. Demonstrates a thorough knowledge of board policy.
4. Applies school policy reasonably and uniformly.
5. Views policy as a means rather than an end; accommodates exceptions necessary to accomplish school purposes efficiently.
6. Demonstrates a personal commitment to school policy.
7. Communicates policy expectations to staff to ensure knowledge of policies.

B. Assumes leadership in the implementation of the district's goals and philosophy of education.

1. Demonstrates an ability to convey district goals and philosophy.
2. Effectively gives and receives input to and from staff and community on philosophy and goals of the district.
3. Generates confidence through leadership and quality decisions based on the philosophy and goals of the district.

C. Takes an active role in the development of salary for all personnel.

1. Participates in the preparation, monitoring, and implementation of salary/compensation for all personnel based on prior Board approval.
2. Secures adequate financial resources and support to fund salary commitments of the district.
3. Seeks input from and communicates with staff when making salary recommendations and decisions.

D. Inspires others to highest professional standards.

1. Possesses the professional credentials appropriate for the position.
2. Demonstrates the job-related skills for the position.
3. Actively pursues staff development activities for job improvement.
4. Has the ability to inspire and challenge others to reach professional goals.

E. Organizes a planned program of staff evaluation and development.

1. Demonstrates commitment to the importance of evaluation.
2. Is fair and corrective in staff development.
3. Is available to counsel and assist staff.
4. Provides staff development opportunities to support the evaluation process.

- F. Supervises operations, insisting on competent and efficient performance.
 - 1. Provides help and assistance for those supervised.
 - 2. Demonstrates desired behavior to those supervised.
 - 3. Has the ability to diagnose the concerns and problems of those supervised.
 - 4. Has the ability to prescribe resolutions for the problems of those supervised.
 - 5. Has the ability to communicate expectations to those supervised.

- G. Determines that funds are spent wisely and that adequate control and accounting procedures are maintained.
 - 1. Provides effective direction and monitoring of fiscal accounting procedures as prescribed by the School Board and the state.
 - 2. Effectively administers the school budget.
 - 3. Actively participates in the development of policy and procedures for sound fiscal management.

- H. Evaluates financial status and makes recommendations for necessary funding.
 - 1. Monitors financial well-being of district on regular basis.
 - 2. Communicates district financial status to School Board, staff, and community as necessary.
 - 3. Determines and recommends reasonable funding needs to the Board.
 - 4. Actively works to improve school district funding on the local, state, and national level.

- I. Plans and reports on the present and future needs of the total school program.
 - 1. Demonstrates the ability to anticipate the issues, problems and needs of the school, present and future.
 - 2. Develops short-term and long-range goals to meet district needs.
 - 3. Communicates status of school program to the Board and community.

- J. Keeps informed about the instructional program.
 - 1. Evaluates and monitors instructional program throughout the year.
 - 2. Provides curriculum direction and leadership.
 - 3. Insures coordination of the instructional program district-wide.

II. STAFF RELATIONS

- A. Participates with staff, Board, and community in studying and developing the curriculum improvement process, implementation, and evaluation.
 - 1. Have committees been established for the purposes stated?
 - 2. Are there agendas or minutes for meetings?
 - 3. Are there reports to the Board about the committee

meetings?

- B. Provides procedures in curriculum work that utilize the abilities and talents of the community.
 - 1. How were the committees selected?
 - 2. What information is given to the committees?
 - 3. Is adequate time allotted for committees to complete their task?

- C. Meets and confers with staff to promote understanding of the interest and will of the board.
 - 1. How often are meetings scheduled with the staff?
 - 2. Is there understanding of the interest and will of the board?
 - 3. Are there informational memos to the staff?

- D. Develops and executes sound personnel procedures and practices.
 - 1. What personnel procedures are being considered for change?
 - 2. Are appropriate situational leadership techniques utilized when dealing with personnel?
 - 3. Is there understanding among staff of the direction in which the chief administrator is leading?

- E. Insists on performance of duties and treats all personnel without favoritism or discrimination.
 - 1. Are decisions made on each individual case?
 - 2. Is school policy followed?
 - 3. Is positive reinforcement given to personnel?

- F. Delegates authority to staff member appropriate to the position each holds.
 - 1. Has authority been given to staff members?
 - 2. Are decisions suggested?
 - 3. Is there a reporting system for decisions rendered?

- G. Encourages participation of appropriate staff members and groups in policy planning, procedures, interpretation and recommendations.
 - 1. Are groups included in policy development?
 - 2. What procedures are used to gain involvement?
 - 3. Are listening skills evident?

- H. Evaluates or provides for procedure to evaluate the performance of staff members, giving commendation for good work as well as constructive suggestions for improvement.
 - 1. Is there an evaluation policy?
 - 2. Do the evaluations provide for increased productivity?
 - 3. Are there evidences of commendation?

III. BOARD RELATIONSHIPS

- A. Keeps the board informed on issues, needs and operation of the school system.
 - 1. Is there information on agenda items?
 - 2. Is there back-up information in difficult issues?

3. Does the chief administrator's explanation present unbiased information on both (or all) sides of issues?
 4. Does the chief administrator encourage members' attendance at workshops, conventions, etc. to improve their information?
 5. Does the chief administrator suggest resources in a constant effort to help board members be informed and knowledgeable, not only about their own district, but about education in general?
- B. Offers professional advice to the board on items requiring board action, making recommendations based on thorough analysis. Uses legal counsel when appropriate.
1. Does the chief administrator make available appropriate staff to speak/discuss a particular interest/concern or is he/she unwilling to take that risk, preferring that all positions/stands on issues come to the Board through him/her?
 2. Is it apparent that the chief administrator remains abreast of current literature, research, etc., on the field of education? (i.e. read)
 3. Does the chief administrator take advantage of opportunities to take part in workshops, conventions, etc.? (i.e., travel, personal encounters)
 4. Does the chief administrator make effort to communicate in plain English, rather than education-ese, not only with board members, but in the community, to make sure his/her "professional advice: is readily understandable to all involved?
 5. Does the chief administrator preserve the attorney's intent when providing his/her counsel?
- C. Bases any position upon principle and philosophy. Makes every effort to convey those beliefs to the board. If the board's position is otherwise, the chief administrator supports the board's position.
1. Are the chief administrator's positions based on recent research and data?
 2. Does the chief administrator make educationally sound recommendations to the board?
 3. Is the chief administrator sensitive to the board's need to be accountable to the taxpayers?
 4. Does the chief administrator recognize that public education is a partnership?
- D. Makes recommendations for employment, promotion, and/or dismissal of personnel, and accepts responsibility for the recommendations. If the recommendation is not accepted by the board, the chief administrator willingly seeks another qualified person to recommend.
1. Does the chief administrator fully appreciate that data and facts are more important for dismissal than for hiring?
 2. Does the chief administrator have available supporting data with regard to hiring?
 3. Does the chief administrator make every effort to bring into the system the best possible candidates?

- E. Goes directly to the board when an honest, objective difference of opinion exists between the superintendent and any or all members of the board, in an earnest effort to resolve such difference.
1. Does the chief administrator directly communicate problems with the board?
 2. Does the chief administrator try to deal effectively and fairly with uncompromising differences between board members and/or between majority/minority of the board?
 3. Is the chief administrator able to rise above personality differences or even conflicts between himself/herself and some board members?
 4. Is the chief administrator able to handle appropriately an "overstepping" of the bounds of the working relationship? (i.e. administering vs. governing)
 5. Would the chief administrator be able/willing to risk calling in an outside resource person to help with conflict resolution, rather than just letting it go on?

IV. COMMUNITY/PUBLIC RELATIONS

- A. Supports board policy and actions.
1. Advocates board decisions, even when his/her advice was contrary to adopted policy and actions.
 2. Refrains from sharing his/her opposing views outside the board meeting.
 3. Strives to be constructive in supporting board leadership.
- B. Earns respect and support of the community in the management of school operations.
1. Publicizes school policies and procedures in a positive manner.
 2. Demonstrates fairness and equity in dealings with students, teachers, and members of the public.
 3. Refrains from giving special privileges to any person or group.
 4. Endeavors to provide the best educational system with available resources.
 5. Provides leadership in articulating the needs of the school system to the public.
- C. Solicits opinions from divergent groups and individuals and responds respectfully to identified problems.
1. Maintains an open-door policy, free from recrimination.
 2. Refrains from categorizing people and their opinions.
 3. Makes an honest effort to document and address areas of concern.
 4. Develops plans of assistance to alleviate identified problems.
- D. Develops and maintains cooperative relationships with the news media.
1. Provides news media with regular and complete updates on school events.

2. Encourages student/media cooperation.
 3. Is prompt and regular with media contacts.
- E. Participates in community life and activities.
1. Is known as a contributing member in the community.
 2. Makes an effort to know family members of students through community activities.
- F. Establishes credibility as a community leader in public education.
1. Provides leadership in public education.
 2. Is available as a resource person for local groups.
 3. Facilitates educational opportunities for all age levels.
- G. Works cooperatively with public and private agencies.
1. Makes an effort to integrate school activities with the community calendar.
 2. Encourages joint decisions with public and private agencies when making school decisions that affect them.

V. PERSONAL QUALITIES

- A. Defends principal and conviction in the face of pressure and partisan influence.
1. Displays strong character in beliefs and defends what is right.
 2. Demonstrates the ability to cope with pressure and influence in dealing with difficult situations.
 3. Deals with people in straightforward, professional manner.
- B. Seeks and accepts constructive criticism.
1. Utilizes available resources to improve performance.
 2. Accepts constructive criticism and suggestions for improvement without becoming defensive.
 3. Seeks continuously to improve professional performance.
- C. Demonstrates the ability to work well with individuals and groups.
1. Meets regularly with public groups and individuals to share information and receive input.
 2. Responds to the concerns of the public.
 3. Demonstrates genuine concern and caring for individuals.
 4. Establishes effective interaction with community agencies, including the School Board, faculty, support staff, business and service groups.
- D. Serves as a model for wellness in appearance, personal habits, and behavior.
1. Dresses and behaves in a manner appropriate for the position.
 2. Demonstrates a manner that conveys personal responsibility and high expectations of self, colleagues, and students.

3. Is an effective model for those with whom he/she works.
4. Has achieved a balance between self-confidence and humility.

E. Speaks and writes effectively.

1. Has the ability to listen, understand and appreciate.
2. Is effective in both oral and written expression.
3. Is sensitive to the need for good communication.
4. Has an appreciation for both formal and informal communication channels.
5. Demonstrates the ability to receive and send messages appropriate for the issue and the situation.

F. Maintains composure when faced with unexpected or disturbing turn of events.

1. Displays the ability to cope with difficult situations.
2. Meets crisis situations in a straightforward and professional manner and resists the temptation to ignore significant school problems.
3. Is receptive to the suggestions of others, regardless of their place in the organization, when faced with difficult reactions.
4. Is fair-minded and consistent in his/her positions and reactions.

G. Enjoys an appropriate sense of humor.

1. Is open, friendly, and empathetic.
2. Has a mature sense of humor.
3. Is consistently positive and pleasant.

VI. PROFESSIONAL GROWTH, LEADERSHIP, AND CONDUCT

A. Continues professional development through reading, coursework, conference attendance, professional committee work, and interaction with educators from other districts.

1. Is involved in reading, coursework and conference attendance.
2. Is available for professional committees.
3. Attends area administrators' meetings.

B. Develops, uses and evaluates effective approaches to improve job performance.

1. Has a professional development plan.
2. Communicates areas for improvement.
3. Recognizes researched, effective improvement plans.

C. Behaves in a manner expected of the community's educational leader.

1. Is involved in community activities.
2. Recognizes the limits of the code of ethics.
3. Speaks positively of the code of ethics.

One copy of this form shall be kept on file for every evaluation period. The job description of the educator should be considered during the evaluation process. Comments discussing the reasons for the rating shall be given in writing.

SUPERINTENDENT EVALUATION

1. Strengths and Key accomplishments
2. Area(s) that need improvements
3. Goals for the Year:
4. Comments:

Superintendent: _____ Signature: _____ Date: _____

Board President: _____ Signature: _____ Date: _____

AMENDED MAY 11, 2020

I-O. ENERGY CONSERVATION POLICY

All Vehicles owned and operated by the Hamlin School District shall be subject to reduced speed limits in order to conserve energy.

District vehicles traveling on roadways will be required to travel 5 MPH (Miles Per Hour) below the posted speed limit unless the posted speed limit is 60 MPH or less.

Legal References:

Adopted: 8/11/08

Revised:

I-P. PROCUREMENT CARD POLICY

The Superintendent and Business Manager are authorized to obtain Procurement Cards in the School District's name for the purpose of purchasing items and services that are School related.

The total line of credit shall not exceed \$75,000. The Superintendent and Business Manager are authorized to administer the Procurement Cards usage by the administration and staff. Procurement Cards are to be used for the following:

- 1.) Travel Costs-airline tickets, registration fees, vehicle rental, airport parking, and lodging (meals are not to be purchased with procurement cards).
- 2.) Purchase of materials, supplies, or non-capital asset technology equipment when the Business Manager or Superintendent provides prior authorization.
- 3.) On-line/internet purchases, registration, or professional membership dues renewal where a credit card is required and the purchase is authorized by the Business Manager or Superintendent.
- 4.) Payment of normal or reoccurring monthly invoices as determined by the Business Manager or Superintendent (Business Office Use Only).
- 5.) Emergency purchases for School related items when there isn't sufficient time to follow regular purchase procedures.

Individuals making purchases as outlined above are required to submit itemized invoices and other such itemized documentation as the Business Office will require prior to the Procurement Card bill being paid to allow for proper expense coding.

The Hamlin School Board and Superintendent and Business Manager have the authority to revoke use of any Procurement Card to an employee or administrator if use becomes other than for which it was originally intended. If the Board or Administrators revokes the use of an employee's Procurement Card privilege, the Superintendent or Business Manger will notify that employee in writing within 2 business days.

Adopted 11/11/13

Hamlin School District Food Service Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD- 3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) Mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410;
- (2) Fax: (202) 690-7442; or
- (3) Email: program.intake@usda.gov.

The Hamlin School District is an equal opportunity provider.

Adopted 1/8/18

FEDERAL GRANTS
MANUAL

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Introduction

This manual sets forth the policies and procedures used by Hamlin School District (the District) to administer federal funds. The manual contains the internal controls and grant management standards used by the District to ensure that all federal funds are lawfully expended. It describes in detail the District's financial management system, including cash management procedures, procurement policies; inventory management protocols; procedures for determining the allowability of expenditures; time and effort reporting; record retention; and monitoring responsibilities. New employees of the District, as well as incumbent employees, are expected to review this manual to gain familiarity and understanding of the District's rules and practices.

I. Financial Management System

The District maintains a proper financial management system in order to receive both direct and state-administered grants and to expend funds associated with a grant award. Certain fiscal controls and procedures must be in place to ensure that all financial management system requirements are met. Failure to meet a requirement may result in return of funds or termination of the award.

A. Financial Management Standards

The standards for financial management systems are found at 2 C.F.R. § 200.302. The required standards include:

Identification

The District must identify, in its accounts, all federal awards received and expended and the federal programs under which they were received. Federal program and award identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of the federal agency, and, if applicable, name of the pass-through entity.

Financial Reporting

Accurate, current, and complete disclosure of the financial results of each federal award or programs must be made in accordance with the financial reporting requirements set forth in the Education Department General Administrative Regulations (EDGAR).

Accounting Records

The District must maintain records that adequately identify the source and application of funds provided for federally assisted activities. These records must contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

Internal Controls

Effective control and accountability must be maintained for all funds, real and personal property, and other assets. The District must adequately safeguard all such property and must assure that it is used solely for authorized purposes. "Internal controls" are tools to help program and financial managers achieve results and safeguard the integrity of their program. Internal controls should be designed to provide reasonable assurance that the following objectives are achieved:

- A. Effectiveness and efficiency of operations;
- B. Adequate safeguarding of property;
- C. Assurance property and money is spent in accordance with grant program and to further the Selected objectives; and
- D. Compliance with applicable laws and regulations.

Budget Control

Actual expenditures or outlays must be compared with budgeted amounts for each federal award.

Cash Management

The District must maintain written procedures to implement the cash management requirements found in EDGAR.

Please see page 11 for these written cash management procedures.

Allowable Costs

The District must maintain written procedures for determining allowability of costs in accordance with EDGAR.

Please see page 8 for these written allowability procedures.

B. Overview of the Financial Management/Accounting System

The District uses multiple programs to track, view, and approve requests for reimbursement of federal funding. Specifically, the District uses Software Unlimited Inc. (SUI) to track federal funding, as well as paper files to manage documentation related to federal programs. Near the beginning of each month, District staff run a report through SUI for all district funds paid out for the previous month. The report breaks costs down by specific federal program and identifies the costs by assigned function codes and/or curriculum. District staff review the report for accuracy before submitting claims to the State's grants management system (GMS). GMS will not allow reimbursement claims beyond what is in the District's approved budget. The software systems utilized by the District include all appropriate documentation related to claims for reimbursement, including time distribution records, approved school budgets, and all applicable procurement documentation.

The District's business office works with the federal program directors to maintain accurate information for budgeting and reporting purposes. All costs and claims are reviewed and approved before submitting to the State for pass through grants or to G-5 for direct federal grants.

C. Budgeting

The Planning Phase: Meetings and Discussions

Before Receiving the Grant Award Notice (GAN): Budget planning for the district will be an integral part of program planning so that the annual operating budget may effectively express and implement all programs and activities of the school system. Budget planning will be a year-round process involving broad participation by administrators, supervisors, teachers, other personnel throughout the school system, citizens and citizen groups. The Board of Education will adopt by October 1 of each year guidelines to govern the budget development for the following year. School principals will follow guidelines for creating the budget for their individual school. Budgets are based on a review of the prior year's budget, followed by consideration for any changes that may be required. All budget items are aligned with District goals and the goals of its federal programs. Schools will base budget changes on a comprehensive needs assessment, completed every 3-5 years.

Reviewing and Approving the Budget: School leaders meet with the District's Business Official to review budgets and priorities for the coming year. If there are any changes from the prior year's budget, schools must provide justification for the changes.

The approved budget will be available in the business office and on SUI. All processing of revenue and expenditures will take place in the business office.

The annual system-wide budget for the entire District determines the level of services to be offered within each instructional and support service area. The budget proposal will be organized and presented in accordance with the format required to comply with the laws of the State of South Dakota and the regulations of the Auditor General. The portion of the District budget dealing with federal pass-through grants is estimated in the preliminary budget, pending final allocations by the State. Once final allocations are received from the State, those allocations are incorporated in the district budget or the final budget is amended subject to final approval by the State. The Board of Education provides preliminary approval of the full budget by the end of May, with final approval scheduled for October.

Amending the Budget

If the District needs to make an amendment to the State-approved budget, it will submit the proposed changes through State's GMS system, along with the justification for the change. This is in accordance with State rules and policies.

Budget Control

The District monitors its financial performance by comparing and analyzing actual results with budgeted results. Requests for reimbursement from schools are not approved if they are not within the approved budget. When claims are submitted each month, District staff will run a report through Skyward detailing amounts claimed. These reports are reviewed against school budgets as well as the District's State-approved budget. Similarly, State policies do not allow the District to submit claims beyond amounts approved in the District budget.

D. Accounting Records

All records related to federal costs are maintained in SUI and paper files. District and school employees must log in to the system with their own unique password. Only those employees with the proper login credentials are authorized to

alter or modify specific documents. Records are maintained in accordance with 2 C.F.R. § 200.333 and the District takes appropriate steps to ensure that personally identifiable information is protected, and that only authorized officials have access to student records.

The Business Official designated by the Board to be responsible for receiving and properly accounting for all funds of the district. The Uniform Financial Accounting System for South Dakota School Districts will be used to record receipts and disbursements of the district. The Business Official will report all financial information to the state as required. The Board will receive monthly financial reports from the Business Official that will include a statement of operating receipts and expenditures, and balance on hand in the several funds, a budget position report, and any other financial information that should be brought to the Board's attention

E. Spending Grant Funds

Allowability Checklist

When determining how the District will spend its grant funds, District personnel will review the proposed cost to determine whether it is an allowable use of federal grant funds before obligating and spending those funds on the proposed good or service. When performing an allowability analysis, personnel can refer to the following checklist. As a practical matter, this manual cannot contain guidance on the allowability of specific examples. However, please see Appendix A for the allowability of common expenditures.

o Is the proposed cost allowable under the relevant program?

As a practical matter, personnel must first consider whether the proposed cost is consistent with the underlying needs of the program. For example, program funds must benefit the appropriate population of students for which they are allocated. This means that, for instance, funds allocated under the Individuals with Disabilities Education Act governing the instruction of students with disabilities must generally be spent on providing services to students with disabilities and, except in rare circumstances, cannot be used to benefit non-disabled students.

Further, under certain federal programs, recipients may use federal funds only to supplement the amount of funds available from nonfederal sources for the education of students participating in the program. The recipients cannot use federal funds to supplant nonfederal funds that would otherwise have been used for the expenditure in question.

District personnel must be aware of these rules and consider whether the purchase supplements, rather than supplants, nonfederal funds.

o Is the proposed cost consistent with an approved program plan and budget?

If the proposed cost is allowable under the relevant program, the District personnel must then check the relevant program plan and budget. Expenditures must be aligned with approved budgeted items. Any changes or variations from the state-approved budget and grant application need prior approval from the District and state.

o Is the proposed cost consistent with the cost principles?

All costs supported by federal education funds must meet the standards outlined in 2 CFR Part 200, Subpart E, which are provided in the bulleted list below. All District personnel with purchasing authority must consider the following factors when making an allowability determination.

o Be Necessary and Reasonable for the performance of the federal award. District staff must consider these elements when determining the reasonableness of a cost. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices.

When determining reasonableness of a cost, consideration must be given to:

o Whether the cost is a type generally recognized as ordinary and necessary for the operation of the District or the proper and efficient performance of the federal award.

o The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state and other laws and regulations; and terms and conditions of the federal award.

o Market prices for comparable goods or services for the geographic area.

o Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the District, its employees, its students, the public at large, and the federal government.

o Whether the district significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost. 2 C.F.R. §200.404.

While 2 C.F.R. §200.404 does not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, necessary is determined based on the needs of the program.

Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in

determining whether a cost is necessary is whether the district can demonstrate that the cost addresses an existing need, and can prove it. This decision should be supported by data if at all possible.

When determining whether a cost is necessary, consideration may be given to:

- o Whether the cost is needed for the proper and efficient performance of the grant program.
- o Whether the cost is identified in the approved budget or application.
- o Whether there is an educational benefit associated with the cost.
- o Whether the cost aligns with identified needs based on results and findings from a needs assessment.
- o Whether the cost addresses program goals and objectives and is based on program data.
- o Allocable to the federal award. A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received. This means that the federal grant program derived a benefit in proportion to the funds charged to the program. 2 C.F.R. §200.405. For example, if 50% of a teacher's salary is paid with grant funds, then that teacher must spend at least 50% of his or her time on the grant program.

o Consistent with policies and procedures that apply uniformly to both federally financed and other activities of the District. The cost must be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the District. 2 CFR § 200.403(c). This means that the District cannot generally subject federal funds to different rules than it applies to nonfederal funds. Any federal cost must be consistent with rules that apply uniformly to federal and nonfederal grants. The cost must also be consistent with any local or state law. District personnel must follow this manual and all other internal policies and procedures in making a purchase with federal funds.

o Conform to any limitations or exclusions set forth as cost principles in Part 200 or in the terms and conditions of the federal award. District personnel must be aware of any special conditions placed on the federal award. These special conditions will be enumerated on the grant award notification.

o Consistent treatment. A cost cannot be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned as an indirect cost under another award.

o Adequately documented. All expenditures must be properly documented in accordance with District rules regarding recordkeeping and retention.

o Be determined in accordance with general accepted accounting principles (GAAP), unless provided otherwise in Part 200.

o Not included as a match or cost-share, unless the specific federal program authorizes federal costs to be treated as such. Some federal program statutes require the non-federal entity to contribute a certain amount of non-federal resources to be eligible for the federal program.

o Be the net of all applicable credits. The term "applicable credits" refers to those receipts or reduction of expenditures that operate to offset or reduce expense items allocable to the federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the state relate to the federal award, they shall be credited to the federal award, either as a cost reduction or a cash refund, as appropriate. 2 C.F.R. §200.406.

o Is the proposed cost allowable under the selected items of cost?

If the proposed cost is consistent with program rules, budget, and federal cost principles, the District personnel must then ensure that the cost is listed as an allowable selected item of cost in the federal rules (2 C.F.R. §§ 200.420-200.475).

These cost items are listed in the chart below along with the citation where it is discussed whether the item is allowable. Please do not assume that an item is allowable because it is specifically listed in the regulation, as it may be unallowable despite its inclusion in the selected items of cost section. The expenditure may be unallowable for a number of reasons. Again, it may be unallowable because of program rules or because it does not meet all of the cost principles, such as being unreasonable as it is considered too expensive. If an item is unallowable for any of these reasons, federal funds cannot be used to purchase it.

District personnel responsible for spending federal grant funds and for determining allowability must be familiar with the Part 200 selected items of cost section. District staff must check costs against the selected items of cost requirements to ensure the cost is allowable.

The selected item of cost addressed in Part 200 includes the following (in alphabetical order):

Item of Cost	Citation of Allowability Rule
Advertising and public relations costs	2 CFR § 200.421
Advisory councils	2 CFR § 200.422
Alcoholic beverages	2 CFR § 200.423
Alumni/ae activities	2 CFR § 200.424
Audit services	2 CFR § 200.425
Bad debts	2 CFR § 200.426
Bonding costs	2 CFR § 200.427
Collection of improper payments	2 CFR § 200.428
Commencement and convocation costs	2 CFR § 200.429
Compensation – personal services	2 CFR § 200.430
Compensation – fringe benefits	2 CFR § 200.431
Conferences	2 CFR § 200.432
Contingency provisions	2 CFR § 200.433
Contributions and donations	2 CFR § 200.434
Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements	2 CFR § 200.435
Depreciation	2 CFR § 200.436
Employee health and welfare costs	2 CFR § 200.437
Entertainment costs	2 CFR § 200.438
Equipment and other capital expenditures	2 CFR § 200.439
Exchange rates	2 CFR § 200.440
Fines, penalties, damages and other settlements	2 CFR § 200.441
Fund raising and investment management costs	2 CFR § 200.442
Gains and losses on disposition of depreciable assets	2 CFR § 200.443
General costs of government	2 CFR § 200.444
Goods and services for personal use	2 CFR § 200.445
Idle facilities and idle capacity	2 CFR § 200.446
Insurance and indemnification	2 CFR § 200.447
Intellectual property	2 CFR § 200.448
Interest	2 CFR § 200.449
Lobbying	2 CFR § 200.450
Losses on other awards or contracts	2 CFR § 200.451
Maintenance and repair costs	2 CFR § 200.452
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454
Organization costs	2 CFR § 200.455
Participant support costs	2 CFR § 200.456
Plant and security costs	2 CFR § 200.457
Pre-award costs	2 CFR § 200.458
Professional services costs	2 CFR § 200.459
Proposal costs	2 CFR § 200.460
Publication and printing costs	2 CFR § 200.461
Rearrangement and reconversion costs	2 CFR § 200.462
Recruiting costs	2 CFR § 200.463
Relocation costs of employees	2 CFR § 200.464
Rental costs of real property and equipment	2 CFR § 200.465
Scholarships and student aid costs	2 CFR § 200.466
Selling and marketing costs	2 CFR § 200.467
Specialized service facilities	2 CFR § 200.468
Student activity costs	2 CFR § 200.469
Taxes (including Value Added Tax)	2 CFR § 200.470
Termination costs	2 CFR § 200.471
Training and education costs	2 CFR § 200.472
Transportation costs	2 CFR § 200.473

Travel costs
Trustees

2 CFR § 200.474
2 CFR § 200.475

Please see Appendix A for an FAQ on the allowability of common costs.

Travel

Travel costs are one of the more common costs charged to federal programs. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the District in its regular operations as the result of its written travel policy. In addition, if these costs are charged directly to the federal award, documentation must be maintained that justifies that (1) participation of the individual is necessary to the federal award; and (2) the costs are reasonable and consistent with the District's established policy. 2 C.F.R. §200.474(b).

EXPENSE REIMBURSEMENTS

Personnel and officials who incur expenses in carrying out their authorized duties will be reimbursed by the District upon submission of a properly filled out and approved voucher and such supporting receipts as required by the Business Official.

Such expenses may be approved and incurred in line with budgetary allocations for the specific type of expense. Authorized reimbursed expenses are approved through the Claims Report and Imprest Claims Report at regularly scheduled meetings of the Board of Education.

Mileage is reimbursed at a rate authorized by the Board of Education.

Direct and Indirect Costs

While developing and reviewing the grant budget, District personnel should keep in mind the difference between direct costs and indirect costs.

Determining Whether a Cost is Direct or Indirect: Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. 2 C.F.R. § 200.413(a). Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. 2 C.F.R. § 200.56. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs. 2 C.F.R. § 200.413(a).

Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of federal awards. Typical costs charged directly to a federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the federal award. 2 C.F.R. § 200.413(b). The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- o Administrative or clerical services are integral to a project or activity;
- o Individuals involved can be specifically identified with the project or activity;
- o Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- o The costs are not also recovered as indirect costs. 2 C.F.R. § 200.413(c).

Indirect Cost Rate: Under 34 C.F.R. § 75.561 and 34 C.F.R. § 76.561, a state educational agency may approve an indirect cost rate for longer than one year. Accordingly, the State Department of Education determines the indirect cost rate based upon the State Annual Report. The rate is fixed for up to five years.

Applying the Indirect Cost Rate: Once the District has an approved indirect cost rate, the percentage is multiplied against the actual direct costs (excluding distorting items such as equipment, contracts in excess of \$25,000, pass-through funds, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award. 34 C.F.R. § 75.564;

34 C.F.R. § 76.569. Once the District applies the approved rate, the funds that may be claimed for indirect costs have no federal accountability and may be used as if they were non-federal funds. For Direct Grants, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions. 34 C.F.R. § 75.564.

Where a federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap must include all direct administrative charges as well as any recovered indirect charges.

F. Federal Cash Management Policy/Procedures

The District will comply with applicable methods and procedures for payment that minimizes the time elapsing between the transfer of funds and disbursement by the District, in accordance with the Cash Management Improvement Act at 31 CFR Part 205. Generally, the District receives payment from the South Dakota Department of Education on a reimbursement basis. 2 CFR § 200.305. However, if the District receives an advance in federal grant funds, the District will remit interest earned on the advanced payment quarterly to the federal agency. The District may retain interest amounts up to \$500 per year for administrative expenses. 2 CFR § 200.305(b)(9).

According to guidance from the U.S. Department of Education (ED), when calculating the interest earned on ED grant funds, regardless of the date of obligation, interest is calculated from the date that the federal funds are drawn down from the G5 system until the date on which those funds are disbursed by the LEA.

Interest would not accrue if the LEA uses nonfederal funds to pay the vendor and/or employees prior to the funds being drawn down from the G5 system, commonly known as a reimbursement.

Payment Methods

Reimbursements: The District will initially charge federal grant expenditures to nonfederal funds. All reimbursements are based on actual disbursements, not on obligations. Reimbursement claims are submitted through the State’s GMS online system. The District ensures all claims are allowable and conform with the approved budget. GMS does not allow the District to submit a claim for more than what is approved in the District’s budget.

The State will process reimbursement requests within a timely manner, though certain cost reimbursement may be expedited if necessary.

Consistent with state and federal requirements, the District will maintain source documentation supporting the federal expenditures (invoices, time sheets, payroll stubs, etc.) and will make such documentation available for the State to review upon request.

Reimbursements of actual expenditures do not require interest calculations. All claims for payment from school funds will be processed by the business office. Payment will be authorized by the Board against invoices properly supported by approved purchase orders, with properly submitted vouchers, or in accordance with salaries and salary schedules approved by the Board.

The Building Principals and Director of Federal Programs are responsible for assuring that budget allocations are observed and that total expenditures in a function do not exceed the amount allocated in the budget. Any budgets that exceed the allocated amount will be immediately reported to The Assistant Superintendent of Fiscal and Support Services.

G. Timely Obligation of Funds

When Obligations are Made

Obligations are orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-federal entity during the same or a future period. 34 C.F.R. § 200.71

The following table illustrates when funds are determined to be obligated under federal regulations:

If the obligation is for:

The obligation is made:

Acquisition of property

On the date which the District makes a binding written commitment to acquire the property

Personal services by an employee of the District

When the services are performed

Personal services by a contractor who is not an employee of the District

On the date which the District makes a binding written commitment to obtain the services

Public utility services

When the District receives the services

Travel

When the travel is take

Rental of property

When the District uses the property

A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E-Cost Principles.

On the first day of the project period

34 C.F.R. § 75.707; 34 C.F.R. § 76.707.

Period of Performance of Federal Funds

All obligations must occur on or between the beginning and ending dates of the grant project. 2

C.F.R. § 200.309. This period of time is known as the period of performance. 2 C.F.R. § 200.77. The period of performance is dictated by statute and will be indicated in the grant award notification (GAN). Further, certain grants have specific requirements for carryover funds that must be adhered to.

State-Administered Grants: As a general rule, state-administered federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many federal education grants, the period of availability is

27 months. Federal education grant funds are typically awarded on July 1 of each year. While the District will always plan to spend all current grant funds within the year the grant was appropriated for, the period of obligation for any grant that is covered by the “Tydings Amendment” is 27 months, extending from July 1 of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum period includes a 15-month period of initial availability, plus a 12-month period for carryover. 34 C.F.R. § 76.709. For example, funds awarded on July 1, 2020 would remain available for obligation through September 30, 2022.

Direct Grants: In general, the period of availability for funds authorized under direct grants is identified in the GAN.

For both state-administered and direct grants, regardless of the period of availability, the District must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period unless an extension is authorized. 2 C.F.R. § 200.343(b). Any funds not obligated within the period of availability or liquidated within the appropriate timeframe are said to lapse and must be returned to the awarding agency. 2 C.F.R. § 200.343(d).

Consequently, the District closely monitors grant spending throughout the grant cycle.

Carryover

State-Administered Grants: As described above, the Tydings Amendment extends the period of availability for applicable state-administered program funds. Essentially, it permits recipients to “carryover” any funds left over at the end of the initial 15-month period into the next year. These leftover funds are typically referred to as carryover funds and continue to be available for obligation for an additional 12 months. 34 C.F.R. § 76.709. Accordingly, the District may have multiple years of grant funds available under the same program at the same time.

Any waiver requests for carryover limits will follow State-mandated procedures.

Direct Grants: Grantees receiving direct grants are not covered by the 12-month Tydings period. However, under 2 C.F.R. § 200.308, direct grantees enjoy unique authority to expand the period of availability of federal funds. The District is authorized to extend a direct grant automatically for one 12-month period. Prior approval is not required in these circumstances; however, in order to obtain this extension, the District must provide written notice to the federal awarding agency at least 10 calendar days before the end of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

The District will seek prior approval from the federal agency when the extension will not be contrary to federal statute, regulation or grant conditions and:

- o The terms and conditions of the federal award prohibit the extension;
- o The extension requires additional federal funds; or
- o The extension involves any change in the approved objectives or scope of the project. 2 C.F.R. § 200.308(d)(2).

H. Program Income

Definition

Program income means gross income earned by a grant recipient that is directly generated by a supported activity or earned as a result of the federal award during the grant’s period of performance. 2 C.F.R. § 200.80.

Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. 2 C.F.R. § 200.80. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by a recipient are not program income unless the revenues are specifically identified in the federal award or federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment, or supplies are not program income. 2 C.F.R. § 200.307.

Use of Program Income

The default method for the use of program income for the District is the deduction method. 2 C.F.R. § 200.307(e). Under the deduction method, program income is deducted from total allowable costs to determine the net allowable costs. Program income will only be used for current costs unless the District is otherwise directed by the federal awarding agency or pass-through entity. 2 C.F.R. § 200.307(e)(1). The LEA may also request prior approval from the federal awarding agency to use the addition method. Under the addition method, program income may be added to the federal award by the federal agency and the non-federal entity. The program income must then be used for the purposes and under the conditions of the federal award. 2 C.F.R. § 200.307(e)(2).

While the deduction method is the default method, the District always refers to the GAN prior to determining the appropriate use of program income.

II. Procurement System

The District maintains the following purchasing procedures.

A. Responsibility for Purchasing

The District shall abide by all statutory requirements and State regulations that pertain to the purchasing of supplies, equipment or services. The acquisition of supplies, equipment and services will be centralized in the business office under the supervision of the business manager. The business manager bears the responsibility for the quality and quantity of all purchases. The prime guidelines governing this responsibility are that all purchases fall within the framework of budgetary and statutory limitations, and that they be consistent with the approved educational goals and programs of the district.

Purchases are initiated by school personnel. The school will select the preferred vendor from the list of qualified vendors maintained by District staff. All orders must include the name and address of the supplier as well as the purchase price. If the exact price is unavailable, an estimate of the cost should be given. If any person orders materials other than through the established process, they will be responsible for payment of the materials. Purchases that are not within the approved school budget must be approved by the District, and will include an amendment to the school budget. School officials will initiate a requisition through the District business office.

B. Purchase Methods

The type of purchase procedures required depends on the cost of the item(s) being purchased.

Purchases up to \$3,500 (Micro-Purchases)

Micro-purchase means a purchase of supplies or services, the aggregate amount of which does not exceed \$3,500. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

Micro-purchases may be awarded without soliciting competitive quotations if the District considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all micro-purchases. Please see page 8 for written procedures on how to determine whether a price is reasonable.

To the extent practicable, the District distributes micro-purchases equitably among qualified suppliers. The District's business office will be responsible for determining if micro-purchases are equitably distributed based on the number of micro-purchase contracts awarded and the type of good or service procured. When school officials initiate the requisition process, they will select a vendor from a pre-populated list on Skyward.

Purchases between \$3,500 and \$25,000 (Small Purchase Procedures)

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$25,000. If small purchase procedures are used, price or rate quotations are obtained from an adequate number of qualified sources. School administrators are responsible for soliciting quotes prior to submitting a requisition, but the District's business office will be required to ensure that all small purchases receive quotations from no less than two qualified vendors.

Purchases Over \$25,000

Sealed Bids (Formal Advertising): For purchases over \$25,000, bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material

terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions apply:

- o A complete, adequate, and realistic specification or purchase description is available;
- o Two or more responsible bidders are willing and able to compete effectively for the business; and
- o The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- o Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publicly advertised;
- o Bids will be advertised and printed in the official newspaper of the District at least twice, the first publication at least ten business days prior to the opening of bids. The advertisement will state the time and place the bids will be opened;
- o The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- o Bids will also include any dispute procedures available to vendors.
- o All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- o The sealed bids will be publicly opened and read at the time and place stated in the advertisement;
- o Any bid may be withdrawn or modified before the time of opening as specified in the advertisement;
- o A firm fixed price contract award must be made in writing to the lowest responsive and responsible bidder;
- o Unless all bids presented are rejected, the lowest responsible bid, in all cases must be accepted;
- o No more than 30 days will elapse between opening of bids and acceptance of the lowest responsible bidder or rejection of all bids.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

Contract/Price Analysis: The District performs a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. 2 C.F.R. § 200.323(a).

A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the business office must come to an independent estimate prior to receiving bids or proposals. 2 C.F.R. § 200.323(a). The District will review similar prior procurements, as well as procurements conducted by similar local education agencies for similar goods or services, to the extent practicable.

When performing a cost analysis, the business office negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. 2 C.F.R. § 200.323(b).

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- o The item is available only from a single source;
- o If such an instance arises, the District will maintain appropriate documentation regarding the availability of the good or service in question;
- o The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- o In this particular circumstance, the Board must approve sole-sourcing a contract.

- o The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a separate written request from the District; or
- o After solicitation of a number of sources, competition is determined inadequate;
- o The District will maintain documentation showing attempts to solicit bids or quotes from other qualified vendors. A cost or price analysis will be performed for noncompetitive proposals when the price exceeds \$25,000.

C. Purchase Cards

The District allows for school personnel to use purchase cards on certain items. All purchases made with these purchase cards must be approved by the business office. Any purchases disallowed must be paid for with non-federal school funds, or the personal funds of the purchasing staff member.

D. Full and Open Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 C.F.R § 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- o Placing unreasonable requirements on firms in order for them to qualify to do business;
- o Requiring unnecessary experience and excessive bonding;
- o Noncompetitive pricing practices between firms or between affiliated companies;
- o Noncompetitive contracts to consultants that are on retainer contracts;
- o Organizational conflicts of interest;
- o Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- o Any arbitrary action in the procurement process.

EDGAR further requires the following to ensure adequate competition.

Geographical Preferences Prohibited

The District must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Prequalified Lists

The District must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the District must not preclude potential bidders from qualifying during the solicitation period. The District must review this list and remove any vendors that no longer qualify due to poor past performance, or other factors affecting vendor quality.

Solicitation Language

The District must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R §

200.319(c).

E. Federal Procurement System Standards

Avoiding Acquisition of Unnecessary or Duplicative Items

The District must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. Please see page 8 for written procedures on determining allowability.

Use of Intergovernmental Agreements

To foster greater economy and efficiency, the District enters into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Use of Federal Excess and Surplus Property

The District considers the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Debarment and Suspension

The District awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The District may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts of \$25,000 or more, the District verifies that the vendor with whom the District intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II(1) and 2 C.F.R. §§ 180.220 and 180.300.

The Purchasing Specialist checks the excluded parties list on Sam.gov for any new vendor or any contract or bid of \$25,000 or more.

Maintenance of Procurement Records

The District must maintain records sufficient to detail the history of all procurements, in accordance with the record retention guidelines set forth by the State of South Dakota. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

The District has adopted the State of South Dakota Record Retention Guidelines as their record policies. The guidelines are available on the District website.

Time and Materials Contracts

The District may use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of: the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the District must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlements of Issues Arising Out of Procurements

The District alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the District of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Dispute

The District maintains the following protest procedures to handle and resolve disputes relating to procurements:

- o The District provides to all bidders who have submitted a bid in response to a District request for proposals, a notice when the bid tabulation is posted on the district website.
- o If upon receipt of notice of bid tabulation posting, the bidder desires additional information regarding the decision, the bidder may contact the District's Assistant Superintendent of Fiscal and Support Services for an informal discussion.
- o If still dissatisfied with the decision, the bidder shall within 10 calendar days of receipt of the notice of bid tabulation posting notify the Business Official in writing of his or her intent to protest the award decision. This notification must include the reason why the bidder believed he or she should have been awarded the bid.
- o The Business Official shall review the case and, if necessary, refer the protest to the Board of Education.
- o If the protest is referred to the Board of Education, the Board will make a decision on the written appeal. All decisions by the Board are final.

The District's protest procedures are included within all requests for proposals.

F. Conflict of Interest Requirements

Standards of Conduct

In accordance with 2 C.F.R. §200.18(c)(1), the District maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her business or romantic partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Where an employee perceives a conflict exists or is unsure as to whether or not a conflict of interest exists, the employee should discuss the matter with and receive permission from his/her supervisor and the Business Official.

The District defines "immediate family" to include a father, mother, sister, brother, spouse, son, daughter, or daughter-, son-, sister-, or brother-in-law.

The officers, employees, and agents of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. Any employee receiving a gift from a vendor, contractor, or supplier with an estimated value in excess of \$50 shall report such gift to the Assistant Superintendent of Fiscal and Support Services.

Disciplinary Actions

Any violation of the District's conflict of interest policy will result in a conference review by appropriate District officials who will determine the required disciplinary action up to and including termination. Violations are also subject to prosecution by the States Attorney.

Mandatory Disclosure

Upon discovery of any potential conflict, the District will disclose in writing the potential conflict to the federal awarding agency, or the State, in accordance with applicable federal awarding agency policy.

G. Contract Administration

The District maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. For information on the receipt of property purchased with federal funds please see the Inventory Receipt Procedure section in Property Management Systems.

Once a school submits a requisition and a vendor is selected, the District issues a purchase order to the vendor. In the case of goods, supplies, or other materials, the vendor will make delivery to the District warehouse. The warehouse will review the delivered materials to ensure the correct quantity and quality of materials are delivered in accordance with the terms of the purchase order. The District will only pay for the materials received. If there are any discrepancies between what was called for in the purchase order and what the vendor delivered to the warehouse, the District will contact the vendor to rectify the discrepancy. Final payment is never submitted without confirmation of adequate delivery. For a contract for services, the claim for payment must include an attestation by the service provider that the required services were provided.

Invoices for payment are handled by the business office. Invoices are compared to the purchase order and warehouse receiving record. Once delivery is confirmed as appropriate under the purchase order, the District will issue payment to the vendor.

III. Property Management Systems

To ensure compliance with statute and provide a reasonable measure of control whereby district assets are properly safeguarded, an inventory control system shall be implemented with the following guidelines:

A. Property Classifications and Responsibility

Assets will consist of five classifications as follows:

1. Land: a capital asset account which reflects the acquisition value of land and land rights owned by a school district. If land is purchased, this account includes the purchase price and costs such as legal fees, filling and excavation costs, and other associated improvement costs which are incurred to put the land in condition for its intended use. If land is acquired by gift, the account reflects its appraised value at time of acquisition.
2. Buildings: a capital asset account which reflects the acquisition value of permanent structures owned by the school district. If buildings are purchased or constructed, this account includes the purchase or contract price of all permanent buildings and fixtures attached to and forming a permanent part of such buildings. If buildings are acquired by gift, the account reflects their appraised value at time of acquisition.
3. Improvements other than buildings: a capital asset account which reflects the acquisition value of permanent improvements, other than buildings, which add value to land. The Improvements Other than Buildings also include Infrastructure assets which are tangible property that is normally both stationary in nature and can be preserved for significantly greater number of years than other types of tangible property. Examples of such improvements are fences, retaining walls, sidewalks, pavements, gutters, tunnels, roads and bridges. If the improvements are purchased or constructed, this account contains the purchase or contract price. If improvements are obtained by gift, it reflects the appraised value at time of acquisition.
4. Construction in progress: the cost of construction work undertaken but not yet completed.
5. Equipment. For the purpose of inventory policy, the definition of equipment as presented in the South Dakota School Accounting Manual will be used.

A. Equipment is a material unit which meets the following conditions:

1. Retains its original shape and appearance with use.
2. Is nonexpendable, that is, if the article is damaged or some of its parts are lost or worn, it is usually more feasible to repair it rather than replace it with an entirely new unit.
3. Represents an investment of money which makes it advisable to capitalize the item.
4. Does not lose its identity through incorporation into a different or more complex unit or substance.

B. While the above may be used as a guideline in determining whether an item is equipment, all tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000 is considered equipment. New items will be recorded at cost; however, for items already on inventory estimated current value will be used.

Proper asset accounting dictates stewardship for a particular group of assets be assigned to an individual. The first four classifications will be accounted for by Business Official. Individuals responsible for equipment & supplies are as follows:

- o Schools - Respective Principal
- o Warehouse - Manager of Student Transportation/Warehouse
- o Custodian & Maintenance - Buildings and Grounds Manager
- o Cafeteria - Student Nutrition Manager

A sixth category of property is supplies. Supplies means all tangible personal property not meeting the definition of equipment. Supplies would include computing devices if the acquisition cost is less than \$5,000.

B. Inventory Receipt Procedure

All property purchased by the District is received at the main office, regardless of its ultimate destination. Upon receipt of any item, office personnel inspect the property to make sure it is in good condition. If the item is a supply purchased with federal funds, the staff has discretion to tag the item.

Once the item is tagged, the Business Official enters the tag number, and the receipt date and time into the excel document labeled Federal Grant Inventory.

The grants accountant enters the following information into the Grant Assets Inventory Record:

- o Brief description;
- o Classification code;
- o Serial number, if applicable;
- o The location (such as building), use and condition of the property;
- o Acquisition date and cost;
- o Funding source (including the Federal Award ID Number);
 - The percentage of federal participation in the project costs for the federal award under which the property was acquired.

C. Maintenance

In accordance with 2 C.F.R.313(d)(4), the District maintains adequate maintenance procedures to ensure that property is kept in good condition. The District's maintenance procedures for damaged or malfunctioning property vary depending on the nature of the item. If the item is a computing device, the responsible personnel must contact the District's Office of the Director of Information and Technology. If the item is a non-computing device piece of equipment, the responsible personnel must submit a work order for maintenance. In the event an item cannot be fixed, the District follows its disposal policies below.

D. Physical Inventory

South Dakota Codified Law 5-24-1 requires that an inventory be taken annually of all personal property of the district with an acquisition value as stated in SD Administration Rule 10:02:01:01. (\$5,000.00 as of January 2000). For all non-equipment items listed on the District's inventory, such as computing devices, the District will ensure that a physical inventory is completed at least once every two years.

Principals are responsible for performing the annual inventory in their school. The inventory typically starts in April and concludes by the end of the school year. In the event that an item has been lost, stolen, or sold or otherwise disposed, the principal will indicate this on the physical inventory spreadsheet. The spreadsheet is then provided to the Office of Business Official, which will update the District's property records.

E. Lost or Stolen Items

The District maintains a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of the property. Students may not remove any computing device from school premises. District employees may remove a computing device which has been assigned to the employee from District premises. However, the use of the District's computing devices, e-mail system, and internet access is limited to District-related purposes. (See District Policy "Employee Use of District Technology" District Code: IIBGA). For computing devices and other valuable items not assigned to a specific employee, the District requires individuals to sign-in and sign-out in order to use the device.

All employees of the District are responsible for the proper accounting of all property used by them either in the course of regular instruction of classes or in any other situation where the District is responsible or where any activity is conducted in the name of the District. Employees are responsible for reporting damage, loss or theft of any type of equipment or computing device to the building principal. The principal shall report to the administrator of buildings and grounds, who has been delegated responsibility for matters relative to the care and safeguarding of all school property. If appropriate, the responsible individual shall contact the appropriate police department to conduct an investigation into any damage, loss or theft of any equipment or computing device. The police report and any documentation resulting from the investigation are maintained.

If the property is not recovered, the responsible personnel must complete a Transfer/Loss/Disposal form (TLD). If a TLD form is not used at the time an equipment item leaves the building, it will be necessary for the principal to complete the form at the time of the next annual inventory when a shortage is determined.

F. Use of Equipment

Equipment must be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the federal award, and the District will not encumber the property without prior approval of the federal awarding agency and the pass-through entity.

During the time equipment is used on the project or program for which it was acquired, the equipment will also be made available for use on other projects or programs currently or previously supported by the federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment. Second preference is given to programs or projects under federal awards from other federal awarding agencies. Use for non-federally funded programs or projects is also permissible.

G. Disposal of Surplus Property

District personnel use the following procedures to identify and dispose of surplus property:

1. Property to be declared surplus is identified by building staff and added to a building surplus property list.
2. The building administrator or designee will assemble 3 staff members, all of whom reside in the Hamlin School District boundaries to assign a value to the property being submitted as surplus if valued over \$550..
3. The staff member will submit a declaration of surplus property list to the Business Official as needed for the Hamlin School Board of Education to approve.

If the item has a current FMV of \$5,000 or less, it may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency. If the item has a current FMV of more than \$5,000, the federal awarding agency is entitled to the federal share of the current market value or sales proceeds.

When considering an inter-governmental transfer of equipment that is no longer needed for the original program or project, the District will make the equipment available in the following order of priority: (1) activities under a federal award from the federal awarding agency which funded the original program or project; then (2) activities under federal awards from other federal awarding agencies.

IV. Time and Effort Policies

A. Time and Effort Standards

Federal grants management rules require all employees who are paid in full or in part with federal funds to keep specific documents to demonstrate the amount of time they spent on grant activities. This includes an employee whose salary is paid with state or local funds but is used to meet a required "match" in a federal program. These documents, known as time and effort records, are maintained in order to charge the costs of personnel compensation to federal grants.

Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- o Be supported by a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;
- o Be incorporated into official records;
- o Reasonably reflect total activity for which the employee is compensated, not exceeding 100% of compensated activities;
- o Encompass both federally assisted and all other activities compensated by the District on an integrated basis;
- o Comply with the established accounting policies and practices of the District and
- o Support the distribution of the employee's salary or wages among specific activities or costs objective

B. Time and Effort Documentation

District Employees that are working on a single federal program cost objective are required to complete a Semi-Annual Certification shown as DDA-E4. Semi-Annual Certifications must be completed at least every six months.

A cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products,

jobs, capital projects, etc. A cost objective may be a major function of the non-federal entity, a particular service or project, a federal award, or an indirect cost activity.

U.S. Department of Education guidance has stated that it is possible to work on a single cost objective even if an employee works on more than one federal award or on a federal award and a non-federal award. The key to determining whether an employee is working on a single cost objective is whether the employee's salary and wages can be supported in full from each of the federal awards on which the employee is working, or from the federal award alone if the employee's salary is also paid with non-federal funds.

District Employees that are working on multiple federal program cost objectives are required to complete the Personnel Activity Report (PAR) shown as DDA-E3. Unless the work performed by the employee meets the circumstances described by the U.S. Department of Education guidance, multiple cost objectives means more than one federal award; a federal award and non-federal award; specific earmarking (set-asides) or matching requirements within on federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

C. Schoolwide Programs

An employee working solely on a schoolwide program can complete a semi-annual certification, while an employee working on the schoolwide program and another activity (such as a state program or another non-Title I federal program) must complete a PAR.

On the final day of each reporting period, the administrator generates and sends the appropriate certification to each employee funded with federal funds or whose salary is used to meet a matching requirement. The certification's distribution of time is pre-populated based on the employee's contract. It is the responsibility of the employee to review the certification to ensure that the distribution of time is accurate. If any corrections are required, the employee will note the correct distribution of time on the certification. Once the employee has reviewed the certification and made any necessary corrections, the employee signs the certification and provides it to a supervisor with firsthand knowledge of the activity performed by the employee for the supervisor's review and signature. The supervisor then provides the signed certification to the program secretary, who maintains it in the appropriate file.

D. Reconciliation and Closeout Procedures

It is critical for payroll charges to match the actual distribution of time recorded on the certification documents. Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to federal awards, but may be used for interim accounting purposes provided that the system for establishing the estimates produces reasonable approximations of the activity actually performed.

As monthly claims are submitted by the business office for reimbursement, expenses are reconciled to federal award budget by the accounting manager or grants accountant in the business office.

E. Employee Exits

If an employee leaves the District before the completion of the reporting period, the employee signs the certification at his or her exit interview. In the event that an employee does not sign the certification, a supervisor with firsthand knowledge of the employee's activity reviews and signs the certification.

V. Record Keeping

A. Record Retention

The District maintains all records that fully show (1) the amount of funds under the grant or subgrant; (2) how the subgrantee uses those funds; (3) the total cost of each project; (4) the share of the total cost of each project provided from other sources; (5) other records to facilitate an effective audit; and (6) other records to show compliance with federal program requirements. 34

C.F.R. §§ 76.730-.731 and §§ 75.730-.731. The District also maintains records of significant project experiences and results. 34 C.F.R. § 75.732. These records and accounts must be retained and made available for programmatic or financial audit.

The U.S. Department of Education is authorized to recover any federal funds misspent within 5 years before the receipt of a program determination letter. 34 C.F.R. § 81.31(c). Consequently, the District retain records for a minimum of five (5) years from the date on which the final Financial Status Report is submitted, unless otherwise notified in writing to extend the retention period by the awarding agency, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs. However, if any litigation, claim, or audit is started before the expiration of the record retention period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. 2 C.F.R. § 200.333.

B. Collection and Transmission of Records

All records are maintained in hard copy. The District takes all reasonable precautions to protect personally identifiable information, in accordance with State law.

C. Access to Records

The District provides the awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives the right of access to any documents, papers, or other records of the District which are pertinent to the federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the District's personnel for the purpose of interview and discussion related to such documents.

D. Privacy

The District follows State law and guidelines regarding personnel information and takes all reasonable precautions to protect personally identifiable information. The District also ensure that all education records containing personally identifiable information is protected from unauthorized disclosures per federal law at 34 C.F.R. Part 99.

VI. Audit and Monitoring

The District will ensure full cooperation on all audits and monitoring visits by the State and federal awarding agencies, as well as the mandatory annual single audit. The District will ensure that all audit or monitoring findings are followed up with corrective actions, in accordance with State and federal requirements.

APPENDIX A

Frequently Asked Allowability Questions

A. May we use Federal funds to award incentives to students (i.e., pizza parties to award attendance)?

Federal funds used to award incentives to students are generally unallowable. The District will only reimburse schools for such costs in limited circumstances. First, the District may reimburse schools if student incentives are approved by an authorizing statute. In such cases, the school must still demonstrate that the costs were necessary (i.e. for a valid programmatic purpose such as academic performance or attendance) and reasonable.

Second, where such costs are not approved by an authorizing statute, the District will only reimburse a school where the incentives are for a valid programmatic purpose and of nominal value. To determine whether a cost is of nominal value, the District looks at the entire cost of the incentive. For example, a \$10 gift card may be of nominal value, but not where a \$10 gift card is awarded to 50 students.

B. May we use Title I, Part A and Title VI Federal funds under the Elementary and Secondary Education Act to transport eligible students to school?

A school may not use Title I, Part A and Title VI funds to transport students to school as it is unlikely that the U.S. Department of Education would consider these funds to be necessary for the administration of the grants. Further, the use of Title VI funds to provide transportation raises supplement, not supplant concerns.

C. May Perkins IV funds be used to support student transportation to, and lodging and meals at, technical skill competitions as part of national career and technical student organization (CTSO) conventions?

The U.S. Department of Education has stated that Perkins funds may not be used to support such costs, except in certain limited circumstances as described in the last paragraph of this answer. The Department's long-standing interpretation regarding the types of CTSO costs that may be paid from federal grant funds is that Perkins funds used for the support of CTSOs may not be used for lodging, feeding, conveying, or furnishing transportation to conventions or other forms of social assemblage. See 34 CFR 403.71(c)(3), originally implementing Perkins II.

Perkins funds may be used for these types of direct assistance if the costs are (1) related to a CTSO that is an integral part of the curriculum, and (2) part of a larger program to serve special populations or nontraditional students, as discussed below. See Appendix A— Analysis of Comments and Changes at 57 FR 36825-36826 (August 14, 1992). For example, in these limited circumstances as discussed further below, an eligible recipient could use Perkins IV funds for transportation to, and lodging and meals at, a technical skills competition at a national CTSO convention for students who are members of special populations.

D. For Staff that complete a PAR monthly, do they need to sign a PAR for June and July even though they are not working those months, since they get paid 12 months a year. There would be pay for them coming out of Title I or IDEA, etc during the summer, but there aren't any working days.

Employees do not need to keep PARs for months when they did not work. However, if they did any work at all, they will need to keep a PAR.

Even though they are being paid in a month they are not working, PARs are not required. The annual allocation among the various funding sources would be based on the period that the employee was working and maintaining time and effort records. This would be done by distributing charges over the period when the employee is not working in the same proportion as were allocated throughout the period that the employee was working based on actual time and effort records that were already completed. (Steven Spillan, Brustein & Manasevit, PLLC)

E. Can we make a purchase of multi-year (3 to 5 yr) licenses of a professional learning program out of Title IIA and make payment in full now and charge the entire amount to the current year grant. We can not find any guidance regarding multi-year purchases from Title II.

It all really comes down to whether or not the up front in-full payment is optional or not. In many cases with purchases like this, the contract actually goes for a year or other initial period, with options to renew for later periods. If that is how this contract is set up, then you would have to wait until this renewal periods to pay the additional amounts, since those costs would not obligate until the renewal kicked in.

If, however, the contract requires you to pay up front for a 3 year period, you might have some leeway. 2 CFR 200.318(d) specifically says, "where appropriate, an analysis will be made or lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach." If the vendor is offering a discount of some other perks

that make it more beneficial to pay it all up front, then it would be allowable as long as you have the proper internal controls in place to ensure that the software is used in accordance with the contract for the entire period. Otherwise, it would be considered poor management to pay up front for a multi-year contract. (Steven Spillan, Brustein & Manasevit, PLLC)

F. In Title IIA we have carryover of equitable services money from last year. The state DOE has advised us to allocate the carryover to the specific private schools that did not spend all their budget last year. We can do that except for one school, which chose not to participate at all this year. What do we do with their carryover? Do we allocate to the other private schools based upon this year's percentages? Or last years percentages? Some other method? (In reality, that school did not participate at all last year, even though they said they would. That really would have changed the PP allocation to both public and private.) The state said they don't know what we are supposed to do with that. Any guidance you can give on this?

In regards to equitable services, there is some guidance on this. However, before we get to that, I want to be clear on a few points. First, you are not technically allocating any funds to private schools. The proportionate share is allocated for you to provide services to these schools, as opposed to simply providing those schools with the funding. Second, ESSA generally only allows carryover of the proportionate share if there are "extenuating circumstances." However, assuming the State has determined such circumstances exist, there is some federal guidance.

In 2009, ED published equitable services guidance that talked about this. Although this was published under NCLB, the recent ESSA guidance on equitable services seems to indicate that this 2009 guidance is mostly still applicable. Under that guidance, ED said, in general, if an LEA provided equitable services for private school students in and given year, any carryover funds for services to private school students would be considered additional funds for that program for public and private school students in the subsequent year. Those funds then would be used, along with any other carryover funds, for both public and private schools students on an equitable basis. This situation might occur, for example, if private school students and teachers did not fully participate in the ESEA program (e.g., private school

teachers opted out of a proposed professional development activity), even though an equitable program was planned and offered for those students and teachers.

Based on this guidance, the portion of funds slated for the school that is choosing not to participate would go back into your general Title IIA pot, which would then be divided between private and public based on the new proportionate share calculation. (Steven Spillan, Brustein & Manasevit, PLLC)

ADOPTED 8/8/22