

DISCRIMINATION AND HARASSMENT¹

I. Purpose

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

II. General Statement of Policy

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

III. Definitions

- A. Discrimination means –

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

¹ Sexual harassment as defined and addressed by Title IX of the U.S. Education Amendments of 1972 ("Title IX") differs from this policy and is covered in Policy 4430/9090. Any claim of discrimination or harassment will be reviewed by the Title IX Coordinator to ensure the correct WDTC policies and procedures are applied.

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

B. Harassment means –

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

This policy is not intended to operate as a code of appropriate civil conduct. Accordingly, petty slights, annoyances, and isolated incidences (unless extremely serious) may not rise to a level of harassment.

Harassment includes sexual harassment² which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature including but not limited to:

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

C. Invitee means –

Any person who is not deemed an employee or student of WDTC who uses or is on school facilities, school premises, or school vehicles or who is attending school sponsored activities and functions.

² Sexual harassment is defined differently in Policy 4430/9090. The Title IX Coordinator will determine which policy applies.

IV. Reporting Procedures

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

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

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

A. Student

If a student believes they have been harassed or discriminated against or have witnessed discrimination/harassment (as defined in this policy), the student should within twenty-five (25) calendar days report the incident(s) to the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator.

If an employee of WDTC receives an allegation or complaint of harassment or discrimination (as defined in this policy) from a student, it is the employee's obligation to immediately report the allegation or complaint to the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator. Failure to direct the student to report an allegation or complaint of discrimination or harassment to the appropriate people could result in disciplinary action.

B. Non-Employee/Invitee

A non-employee or invitee, who believes they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should within twenty-five (25) calendar days report the incident to the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator or follow the procedures in the Public Complaint Policy and Procedure (WDTC Policy 2030).

C. Employee

Employees who believe they have been harassed or discriminated against (as defined in this policy), or who have witnessed harassment or discrimination, should, within twenty-five (25) calendar days of the alleged violation, notify the VP for Institutional Effectiveness and Student Success who serves as the Title IX Coordinator or the Senior Human Resources Generalist

D. Grievance/Resolution

Students will use the Student Grievance Process in WDTC Policy 4440 Student Resolution Process and its associated procedure – 4440.Procedure.03 to resolve complaints of discrimination and/or harassment that are covered by this policy.

Employees will use Policy 9040 – Grievance and the related procedures to resolve complaints of discrimination and/or harassment that are covered by this policy.

E. Grievance or Public Complaint Withdrawal

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

F. Confidentiality

It is WDTC's intent to keep the information brought forward in a report of discrimination and/or harassment and any associated grievance/resolution, as it relates to this policy, confidential and limited to those directly involved with the complaint. WDTC encourages all parties involved in a Public Complaint or Grievance to respect the confidentiality of the matters involved. Because an individual's right to confidentiality must be balanced with WDTC's obligations to investigate complaints, cooperate with police investigations or legal proceedings, or to take appropriate disciplinary action, WDTC retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances.

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

G. Criminal Procedure

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

H. Retaliation

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

Deliberately false, malicious, or frivolous accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

I. Administrative Contacts

Title IX Coordinator
Western Dakota Technical College
800 Mickelson Drive, Office D206
Rapid City, SD 57703
(605) 718-2931

Senior Human Resources Generalist
Western Dakota Technical College
800 Mickelson Drive, Office D204
Rapid City, SD 57703
(605) 718-2407

V. Dissemination of Policy and Training

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

A. Training for Employees

All employees (full-time, part-time, temporary and seasonal) will receive a copy of this Policy during new employee orientation. WDTC also provides and coordinates, on an annual basis, training to current employees. WDTC will maintain records verifying that each employee received training and that the employee understands the Discrimination and Harassment Policy and the appropriate procedures to follow if the employee witnesses or experiences discrimination or harassment. The tutorial/training will educate employees regarding their rights and responsibilities, behaviors which constitute harassment or discrimination, and appropriate procedures to follow when they believe they have witnessed or experienced harassment or discrimination.

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

- Review of WDTC's Discrimination and Harassment Policy and appropriate procedures;

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

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

B. Policy Dissemination

1. This policy shall appear on the WDTC policy website on the policy page.
2. This policy is provided and reviewed in the new employee orientation course and referred to in the WDTC Student Handbook and Faculty Handbook.

Legal References:

Title VII of the Civil Rights Act of 1964

Age Discrimination in Employment Act of 1967

Title II of the Americans with Disabilities Act of 1990

Section 504 of the Rehabilitation Act of 1973

Title IX – Education Amendments of 1972

Title VI – Civil Rights Act of 1964

Individuals with Disabilities in Education Act

Constitution of the State of South Dakota – Art. VI

SDCL 20-12 – Municipal and County Protection of Human Rights

SDCL 20-13 – Human Rights

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