

AFFIRMATIVE ACTION  
GRIEVANCE PROCEDURE

Any person who believes him/herself or any specific class of individuals to be subjected to discrimination in employment or in any of the programs or activities of the Lidgerwood Public School District may file a complaint as follows:

1. COMPLAINT PROCEDURES

- a. An oral complaint may be informally filed with the department chairman or immediate superior of a complaining employee; OR
- b. A formal written complaint may be filed with the principal of the building in which the alleged discrimination occurred; OR
- c. A formal written complaint may be filed with the district compliance officer who has been designated as the person responsible for coordinating the efforts of Lidgerwood Public School District to comply with the Equal Opportunity Policy, including the investigation of complaints alleging noncompliance.
- d. If an oral complaint is filed as outlined above (a) or a formal written complaint is filed as outlined in (b) or (c) above, an investigation will be made by the appropriate person (department chairman, principal, or coordinator) within a 30 day period following the complaint. The appropriate person, as outlined above, will submit a written report to the complainant outlining the results of the investigation. This report will either concur with the complainant that a violation exists or will state that the complaint is deemed without merit. If it is determined by the investigation that the complaint has merit, the written response will outline ways the deficiency will be corrected.

To be considered for investigation, any such complaint must have been filed within 180 days of the alleged occurrence of discrimination. Any person lodging an informal, oral complaint reserves the right to file a formal written complaint within 60 days of filing the oral complaint. Further, a formal written complaint must be filed as outlined in (b) or (c) above, prior to the filing of an appeal as outlined below:

2. FORMAL APPEAL PROCEDURES

- a. Grievance:

When a formal written complaint has been filed and a response from the appropriate person has been received by the complainant as outlined above, and the complainant believes the rejection of the complaint or the remedies suggested are not equitable, the complainant may, within 30 days

of the filing of the original complaint, file a formal written appeal. Such appeal should be filed with the Business Manager of the School Board of the Lidgerwood Public School District or with the State Department of Public Instruction. Upon receipt of an appeal, a date shall be fixed for a hearing to be held not less than 20 days after the receipt of the appeal. Both the School Board and the complainant shall have the right to:

- 1) Be represented by counsel.
- 2) Introduce all relevant evidence on the issue.
- 3) Take direct testimony of any witness, given orally under oath or affirmation.
- 4) Question witnesses on any matter material to the proceeding for purposes of clarification of their testimony.
- 5) Have the proceeding transcribed by a court reporter, at the expense of the party requesting such transcript.

A decision shall be made at the hearing and reported in writing to all parties within thirty (30) days of the hearing. The decision of the Board shall be final.

Any employee or student of the Lidgerwood Public School District shall be entitled to submit any complaint of alleged discrimination on the basis of gender or disabling condition, directly to the Regional Office for Civil Rights of the United States Department of Human Services by sending said complaint to:

Office for Civil Rights  
Kansas City Office  
US Dept. Of Education  
Floor 2 Suite 2037  
8930 Ward Parkway  
Kansas City, Missouri 64114  
Telephone: (816) 268-0550  
TDD: (816) 823-1399  
Fax: (816) 823-1404  
e-mail: [OCR.kansascity@gov.ed](mailto:OCR.kansascity@gov.ed)

In addition to the above specified procedural rights, the provisions applicable to Title VI of the Civil Rights Act of 1964 as found at 34 CFR sections 100.6-100.11, 34 CFR Part 101, 45 CFR sections 80.6-80.11 and 45 CFR Part 81 are also made applicable to Formal Appeals under Title IX.

b. Due Process:

In the event of a complaint involving a person who needs or is believed to

need special instruction or related services because of a disability, the parent/guardian may request an impartial due process hearing. The request for a hearing must be made in writing to the School Board of the Lidgerwood Public School District. Opportunities for informal conferences under the usual appeal procedures within the district will be made available to the parent/guardian in order to resolve the conflict in an amicable manner.

- 1) Upon receipt of the request for a hearing the Board shall make a formal request to the North Dakota Office of Administrative Hearings for a list of three persons whose names appear on the state register of qualified hearing officers. The name of a person will not be included if there is a personal or professional conflict with his/her objectivity in the case.
- 2) Within five calendar days from the receipt of the list of hearing officers, the parent/guardian and/or the school district may delete one name from the list.
- 3) The school district shall designate a hearing officer for the hearing from the remaining names and immediately notify all parties of such determination.
- 4) The notification sent to the parent/guardian shall be accompanied by a written notice informing the parent/guardian of the right to request the attendance at any hearing of any personnel who may have testimony relevant to the needs, abilities, proposed programs, or status of the student, the rights of access by parents to all relevant school records and documents, and the availability of any low-cost or free legal or relevant support services in the area in which the parent/guardian resides.
- 5) The hearing shall be scheduled at a time and place that is mutually convenient to the parent/guardian and the district.
- 6) The hearing officer may meet with the parties in order to attempt to arrive at a voluntary resolution of the matters in dispute before the commencement of the hearing.
- 7) In the event that a voluntary resolution of the dispute cannot be achieved, a hearing shall be conducted in accordance with established procedures. If the primary language of the parent/guardian is other than English, or if the parent or guardian is either blind or deaf, an interpreter or reader shall be provided. All hearings shall be conducted in locations fully accessible to persons with physical disabilities.
- 8) Either party to the hearing shall have the right to be accompanied and advised by counsel and by individuals with special knowledge or

training with respect to the area of the issue at hand. If the parent/guardian retains counsel the Board will also be represented by counsel.

- 9) Either party to the hearing has the right to present evidence; confront, cross-examine, and compel witnesses; and prohibit the introduction of any evidence at the hearing which has not been disclosed to that party at least five (5) days before the hearing.
- 10) If requested by the parent/guardian, the hearing shall be open to the public. Specific individuals may also be permitted to attend the hearing at the request of the parent/guardian.
- 11) A tape recording or other verbatim record of the hearing shall be made by the district. Upon request, the parent/guardian shall have the right to obtain a copy of the record of the proceedings.
- 12) Following the close of the hearing, a decision that states concisely and explicitly the findings of fact and conclusions of law will be sent by certified mail to the parties involved. The decision of the hearing officer is final unless either party appeals the decision through the court system. As appropriate, the hearing decision will be written in English and in the primary language of the parent/guardian if other than English, and, where appropriate, will be transcribed in Braille or tape-recorded for a parent/guardian who is visually impaired or blind.
- 13) During these proceedings, the child shall remain in his/her present placement unless the parties agree otherwise. While the placement may not be changed, this does not preclude the district from using its normal procedures for dealing with a child who is endangering self or others.
- 14) If the complaint involves an application for initial admission of a child to a public school the child, with the consent of the parents, shall be placed in the public school program until the completion of all administrative and judicial proceedings.
- 15) A final decision shall be reached in the hearing and a copy of the decision will be mailed to each of the parties in the dispute no later than 45 days after the receipt of the request for the due process hearing. A hearing officer may grant specific extensions beyond the 45 days at the reasonable request of either party.

Legal Ref: 1964 Civil Rights Act, Title VI  
1964 Civil Rights Act, Title VII  
Executive Order 11246, as amended  
1972 Educational Amendments, Title IX  
45 CFR Part 86 Regulations  
1973 Rehabilitation Act, Section 503

1973 Rehabilitation Act, Section 504  
45 CFR Part 84 Regulations  
29 U.S.C. §626 (PL 101-433) Old Workers Benefit Protection Act  
22 U.S.C. §623; 29 U.S.C. §631 Age Discrimination in Employment Act  
42 U.S.C. 12101-12213 Americans With Disabilities Act  
20 U.S.C. 1413 Individuals With Disabilities Education Act  
NDCC Ch. 14-02.4 Discrimination  
NDCC Ch. 15.1-32 Special Education  
NDCC 34-01-17 Unlawful to discriminate because of age - Penalty