

WHISTLEBLOWER PROTECTIONS POLICY: PROHIBITION AGAINST RETALIATION

Protections: Employees

The East Central Special Education Unit prohibits and will not tolerate any form of reprisal, retaliation, or discrimination (including, but not limited to: discharge, discipline, threats, or penalizing compensation, work conditions, location, or privileges of employment) against any employee because s/he:

1. In good faith, made or intends to make a report that the East Central Board, employee, or an entity/person with whom the Unit has a business relationship has violated federal, state, or local law/administrative rules or unit policy through practice, policy, act, or omission;
2. Participates in a East Central Special Education Unit-related investigation, hearing, or inquiry; or
3. Refused to carry out a directive that the employee believes is a violation of state or federal law, rule, or regulation or poses a substantial or specific danger to public health and safety provided the employee has an objective basis for that belief and informs the employer that the directive is being refused for that reason.

Protections: False Claims Act (FCA)

The Unit shall comply with the FCA and prohibits any unit employee, contractor, or other unit agent from knowingly submitting or causing the submission of a false or fraudulent claim to the federal government in the unit's name. The Unit will not tolerate any form of reprisal, retaliation, or discrimination (including, but not limited to: discharge, discipline, threats, or penalizing compensation, work conditions, location, or privileges of employment) against any employee, contractor, district agent, student, community member, or the complainant's immediate family members because s/he filed a complaint in good faith under FCA against the Unit and/or any of its negotiated agreement employees, contractors, or agents.

Protections: Students & Community Members

The Unit will not tolerate any form of reprisal, retaliation, or discrimination against a student and/or community member because s/he, in good faith, filed a complaint against the Unit (or a unit employee, contractor, or agent) under unit policy or when authorized by law. Furthermore, the Unit will not tolerate any form of reprisal, retaliation, or discrimination against a student and/or community member because s/he participates in a unit-related investigation, hearing, or inquiry.

Grievance Procedure

Anyone covered by the above protections who reasonably believes that this policy has been violated by a unit employee, contractor, or other authorized unit agent may file a grievance in accordance with the unit's applicable complaint or grievance policy. In the absence of policy, or if policy is not applicable given the nature of the grievance, the individual should report to the Director who shall investigate. If a grievance under this policy concerns the Director Business Manager, or a unit Board member, the complainant

should report to the Board President or Board Vice President (if the report concerns the Board President) who shall investigate.

Grievances not otherwise covered by deadlines in the applicable unit policy must be reported within 180 calendar days unless state or federal law specifies otherwise.¹ Failure to timely present the grievance shall be deemed a waiver of the grievance. Investigations of grievances filed under this policy shall be completed within 60 days unless the investigator documents in writing reasonable cause for extending this investigation deadline. Upon completion of the investigation, the investigator shall issue his/her findings to the complainant in a written report.

Complainants may also report grievances under this policy to the state agency with jurisdiction over the subject of the grievance (e.g., ND Department of Labor or ND Department of Public Instruction), the appropriate federal agency², and/or, if applicable, law enforcement.

If necessary, the Director or the Board President/Vice President may take reasonable steps to protect the complainant from retaliation during and/or after the investigation. Reports of suspected employee impropriety under this policy shall be treated as confidential to the extent permitted by state law on administrative investigations of unit personnel. All individuals involved in an investigation shall be advised to keep information about the investigation confidential and should be advised of the protections contained in this policy.

Policy Violation Consequences

Any employee, unit contractor, unit agent, or student who is found to have engaged in any of the prohibitions contained in this policy may be subject to disciplinary action including, but not limited to, dismissal or expulsion in accordance with applicable policy and law.

Prohibition of False Claims

The Unit may take appropriate disciplinary action against a unit employee, contractor, and/or other unit agent and/or may take legal action against anyone who knowingly files a false claim of reprisal, retaliation, or discrimination under this policy.

Notice of Policy

Each employee, contractor, volunteer, unit Board member, and student should receive a copy of this policy and should sign a statement verifying his/her receipt and understanding of this policy.

Complementing NDSBA Templates (may contain items not adopted by the Board)

¹ FCA has a three-year statute of limitations.

² State and federal agencies may have reporting deadlines in place after which the grievance may be denied.

**RECOMMENDED
COGNIA (AdvancED)**

Descriptor Code: ACF

- DE, Staff Code of Conduct

End of East Central Special Education Unit Policy ACF..... Adopted: 4.19.22

1st Reading 3.14.22

2nd Reading 4.19.22