DEFOREST AREA SCHOOL DISTRICT

Draft - District Policies

Nondiscrimination Update for Board Approval

7 policies

October 21, 2026

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NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

01 - OVERVIEW

Special Update - Nondiscrimination - May 2026 OVERVIEW

WISCONSIN OVERVIEW AND COMMENTS

SPECIAL UPDATE - NONDISCRIMINATION REVISIONS

JULY 2026

This Nondiscrimination Revisions Special Update is being released between the Volume 35, Number 1 and Volume 35, Number 2 update packages. Largely at client request and in an attempt to streamline the complex collection of Nondiscrimination, Anti-Harassment, and related issues, several of the policies have been consolidated in order to provide a comprehensive approach to related employment issues. The definitions included are consistent with related policies (e.g., Title IX - Policy 2266), and the grievance process is designed to be consistent throughout the investigation, decision-making, and appeal stages. Adoption of Policy 1422/3122/4122 allows for the deletion/rescission of six (6) policies - Policy 1422.02/3122.02/4122.02 and Policy 1662/3362/4362.

Also included in this update are the technical corrections, correcting the address and contact information for the U.S. Department of Education, Office for Civil Rights, formerly referencing the Chicago Office (now closed) to the Washington, D.C. office. In addition, Neola has looked carefully at all polices that contain non-discrimination language, and where appropriate, aligning them to Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. Other policies, that have unique WI statute provisions, have updated nondiscrimination statements that meet WI statutory requirements.

The Special Update includes thirty (30) policies (three (3) replacement policies for adoption, six (6) policies for deletion/rescission, twenty (20) policies with technical corrections). These include:

BYLAWS AND POLICIES

Policy 1422/3122/4122 - Nondiscrimination, Equal Employment Opportunity, and Anti-Harassment (Replacement)

Policy 1422.02/3122.02/4122.02 - Nondiscrimination Based on Genetic Information of the Employee (Delete/Rescind)

Policy 1461/3161/4161 - Unrequested Leaves of Absence/Fitness for Duty (Technical Correction)

This technical correction updates the title of a policy cross-reference.

Policy 1662/3362/4362 - Anti-Harassment (Delete/Rescind)

Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity (Revised)

This technical correction corrects the address and contact information for the U.S. Department of Education, Office for Civil Rights, formerly referencing the Chicago Office (now closed) to the Denver, CO office.

Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability (Replacement)

Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities (Revised)

A revision to this policy is necessary because of June 23, 2025, the National Incident-Based Reporting System ("NIBRS") definition of fondling changed. The term officially is "criminal sexual contact". In response to USDOE's February 2025 "Dear Colleague" letter and subsequent Executive Order, it is suggested that the terms "sexual orientation and gender identity" be removed from the parenthetical definition of "sex" in the policy since all language in the Guidance documents defining “sex” under Title VII to include “sexual orientation” and/or “gender identity” was contrary to Title VII and therefore vacated. Neola recommends you discuss this issue with your local legal counsel before deciding whether to include or delete the language. Regardless of whether you elect to include the language, it is critical that you consult with your local legal counsel if a situation arises involving an allegation of discrimination or harassment based upon sexual orientation or gender identity.

Policy 2411 - School Counseling and Academic and Career Planning (Technical Correction)

This technical correction is to update the protected classifications to include religion and also to make other improvements in the language. Legal citation is also added.

Policy 2414 - Human Growth and Development (Technical Correction)

This technical correction is to incorporate the required nondiscrimination classifications specified by both Wis. Stat. 118.13, the general student nondiscrimination statute, and Wis. Stat. 118.019(2d), which contains additional protected classifications from those specified in section 118.13. Reference to the nondiscrimination law, Wis. Stat. 118.13, is also added.

Adoption of these corrections is recommended.

Policy 2421 - Career and Technical Education Program (Technical Correction)

This technical correction is to incorporate the required nondiscrimination classifications specified by both Wis. Stat. 118.13, the general student nondiscrimination statute, and Wis. Stat. 118.019(2d), which contains additional protected classifications from those specified in section 118.13. Reference to the nondiscrimination law, Wis. Stat. 118.13, is also added.

Adoption of these corrections is recommended.

Policy 5120 - Assignment Within District (Technical Correction)

This technical correction is to update the protected classifications and also to make other improvements in the language.

Policy 5516 - Student Hazing (Technical Correction)

This technical correction is to update the protected classifications and also to make other improvements in the language.

Policy 5517 - Student Anti-Harassment (Technical Correction)

This technical correction corrects the address and contact information for the U.S. Department of Education, Office for Civil Rights, formerly referencing the Chicago Office (now closed) to the Washington, D.C. office, updates the protected classifications, and makes other improvements in the language.

Policy 5517.01 - Bullying (Technical Correction)

This technical correction is to incorporate the required nondiscrimination classifications specified by both Wis. Stat. 118.13, the general student nondiscrimination statute, and Wis. Stat. 118.019(2d), which contains additional protected classifications from those specified in section 118.13. Reference to the nondiscrimination law, Wis. Stat. 118.13, is also added.

Policy 5730 - Equal Access for Nondistrict-Sponsored Student Clubs and Activities (Technical Correction)

This technical correction is to update the protected classifications and also to make other improvements in the language.

Policy 8319 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Technical Correction)

This technical correction corrects the address and contact information for the U.S. Department of Education, Office for Civil Rights, formerly referencing the Chicago Office (now closed) to the Denver, CO office.

All production-related materials and questions should be directed to the Coshocton Office at 632 Main Street, Coshocton, Ohio 43812 (phone: 800-407-5815, email: production@neola.com). Billing questions should be directed to the Stow Office at 3914 Clock Pointe Trail, Suite 103, Stow, Ohio 44224 (phone: 330-926-0514, email: accounts@neola.com).

Please do not retype Neola materials before returning them for processing. We prefer to have the original materials returned after you have marked them, indicating which changes and additions you choose to have/not have for your District. If a District decides not to adopt a policy or an administrative guideline, the District is still obligated to follow applicable Federal and State laws relating to that section.

The proposed new, revised, and replacement policies, administrative guidelines, and forms included in this update have been thoughtfully prepared and reviewed by Neola's legal counsel for statutory compliance. If you make changes or substitute in its entirety policies or other materials of your own drafting, those materials should be reviewed by your legal counsel to verify compliance. Neola does not review District-specific edits to update materials or District-specific policies for statutory compliance.

Policies that are to be deleted from the policy manual require Board action to rescind the policy.

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po1422

Vol. 35, No. 2 - Special Update - Nondiscrimination - July 2026 WI Replacement NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT

ADOPTED Jul 1, 2019 · REVISED Jul 1, 2024

~~Replacement Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination~~

1422 - **NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT**

~~[DRAFTING NOTE: Wisconsin and Federal law applicable to Wisconsin includes the concepts of gender identity and gender stereotypes/nonconformance within the definition of "sex". Whether the language is included expressly in policy or not, Districts are still required to investigate complaints alleging discriminatory treatment on the basis of gender identity and to remedy violations.]~~

The District ~~Board~~ does not discriminate on the basis of race, color, national origin, age, sex ~~(~~) (including gender status, change of sex, sexual orientation, or gender identity) ~~[END OF OPTION]~~ , pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities.

The District ~~Board~~ is committed to providing a work environment that is free from Prohibited Conduct, responding promptly and effectively when it has knowledge of conduct that reasonably may constitute Prohibited Conduct, and addressing Prohibited Conduct in its education programs or activities. This commitment applies to all District operations and this policy applies to Prohibited Conduct occurring within or as a part of the District's education programs and activities, whether on school property or at another

location during an activity sponsored by the District ~~Board~~ .

Persons who commit Prohibited Conduct are subject to the full range of disciplinary sanctions outlined in this policy.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Bullying means: any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an employee, supervisor, manager, or other member of the District staff, that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive work environment; or unreasonably interfere with the individual's work performance or participation. It may involve: (a) threats; (b) intimidation; (c) stalking; (d) cyberstalking; (e) cyberbullying; (f) physical violence; (g) theft; (h) sexual, religious, or racial harassment; (i) public humiliation; or (j) destruction of property. Bullying rises to the level of unlawful harassment when the conduct is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal and/or State civil rights laws and is severe or pervasive enough to alter the conditions of employment or create a hostile environment. Ordinary teasing, horseplay, arguments, and peer conflict do not constitute bullying for purposes of this policy.

Complainant means: an employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or a person, other than an employee, who is alleged to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in the District's education programs or activities at the time of the alleged Prohibited Conduct.

Complaint means: an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged Prohibited Conduct.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., days that the District ~~Board~~ office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Disciplinary sanctions means: consequences imposed on a respondent following a determination that the respondent engaged in Prohibited Conduct.

Education programs or activities refer to: all the District's operations including, but not limited to, in-person and online/remote educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all programs and activities operated by the District ~~Board~~ on school grounds or on other property owned or occupied by the District ~~Board~~. It also includes events and circumstances that take place off school property/grounds but over which the District asserts disciplinary authority (e.g., at off-campus activities sponsored by the District ~~Board~~).

Exculpatory evidence means: evidence that is favorable to a respondent because it helps excuse, justify, or absolve a respondent of alleged wrongdoing and tends to establish that a respondent did not engage in Prohibited Conduct.

Genetic information means: information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (i.e., family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

Harassment means: any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against an employee that (a) places the employee in reasonable fear of harm to their person or damage to their property; (b) has the effect of substantially interfering with the employee's work performance; or (c) has the effect of substantially disrupting the orderly operation of a school. Each of the following types of harassment involves unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's protected characteristic(s) and has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

1. **Age Harassment** means: harassment based on negative perceptions about older workers. It also includes harassment based on stereotypes about older workers,

even if they are not motivated by animus, such as pressuring an older employee to transfer to a job that is less technology-focused because of the perception that older workers are not well-suited to such work or encouraging an older employee to retire.

2. **Disability Harassment** means: harassment based upon a person's disability and includes harassment based upon stereotypes about individuals with disabilities in general or about an individual's particular disability. It also includes harassment based on traits or characteristics linked to an individual's disability, such as how the person speaks, looks, or moves. For example, negative comments about an individual's speech patterns, movement, physical impairments, or defects/appearances, or the like. Disability-based harassment includes: (a) harassment because an individual requests or receives reasonable accommodation; (b) harassment because an individual is regarded as having an impairment, even if the individual does not have an actual disability, or a record of disability; (c) harassment because an individual has a record of a disability, even if the individual currently does not have a disability; and (d) harassment based on the disability of an individual with whom the employee is associated. Finally, disability-based harassment may occur where conduct is directed at or pertains to a person's genetic information.

3. **National Origin/Ancestry Harassment** means: harassment due to a person's (or their ancestor's) place of origin. Such harassing conduct can include ethnic slurs or epithets, derogatory comments about individuals of a particular nationality, and use of stereotypes about a person's national origin. Additionally, it can include harassment regarding traits or characteristics linked to an individual's national origin, such as physical characteristics, ethnic or cultural characteristics or customs (e.g., surnames, attire, or diet), or linguistic characteristics (e.g., a person's manner of speaking, non-English language accent, or a lack of fluency in English).

4. **Race/Color Harassment** means: unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's race or color and has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive work environment. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

5. **Religious (Creed) Harassment** means: harassment based on a person's surname, religion (including atheism or lack of religious belief), religious traditions and practices, or religious dress/clothing, and includes making offensive comments

about the same. It also includes religious slurs or epithets, harassing conduct based on religious stereotypes, and harassment associated with a person's request for and/or receipt of religious accommodation. Religious harassment also involves explicitly or implicitly coercing an employee to engage in religious practices at work.

6. **Sexual Harassment** means (for purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; (b) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (c) such conduct has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive working environment. Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.

    1. Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

    2. Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

        1. Conduct of a sexualized nature, such as unwanted conduct expressing sexual attraction or involving sexual activity (e.g., unwelcome sexual propositions, invitations, solicitations, and flirtations; unwanted physical and/or sexual contact, including unwelcome and inappropriate touching, patting, or pinching ~~(~~) ; and obscene gestures ~~[END OF OPTION]~~ .

        2. Sexual attention or sexual coercion, such as demands or pressure for sexual favors (e.g., threats or insinuations that a person's employment, wages, or other conditions of employment may be adversely affected by not submitting to sexual advances; giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin).

        3. Rape, sexual assault, or other acts of sexual violence.

4. Discussing or displaying visual depictions of sex acts or sexual remarks (e.g., unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, texts, etc.; sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature placed in the work environment; asking or telling about sexual fantasies, sexual preferences, or sexual activities; speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history).

5. A consensual sexual relationship where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

6. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

7. Non-sexual conduct based on sex, such as sex-based epithets; sexist comments (such as remarks that women do not belong in management or that men do not belong in the nursing profession); or facially sex-neutral offensive conduct motivated by sex (such as bullying directed toward employees of one sex).

8. Harassment based on pregnancy, childbirth, or related medical condition, which may include issues pertaining to lactation, using or not using contraception, or deciding whether to have, or not to have, an abortion.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be objectively offensive (a reasonable person would find it hostile or abusive), subjectively offensive (the complainant actually perceived it as abusive), and either sufficiently severe (a single extremely serious incident) or pervasive (a pattern of behavior), such that it adversely affects, limits, or denies an individual's employment, or creates a hostile or abusive employment environment.

Inculpatory evidence means: evidence that links a respondent to alleged wrongdoing and tends to establish a respondent engaged in Prohibited Conduct (i.e., has culpability).

Military status means: a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Party means: a complainant or respondent.

Pregnancy, childbirth, or related medical conditions means:

1. "Pregnancy" and "childbirth" refer to the pregnancy or childbirth of a specific employee and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment, and the use of contraception); labor; and childbirth (including vaginal and cesarean delivery).

2. "Related medical conditions" are medical conditions relating to the pregnancy or childbirth of a specific employee, and may include termination of pregnancy, including via miscarriage, stillbirth, or abortion; ectopic pregnancy; preterm labor; pelvic prolapse; nerve injuries; cesarean or perineal wound infection; maternal cardiometabolic disease; gestational diabetes; preeclampsia; HELLP (hemolysis, elevated liver enzymes and low platelets) syndrome; hyperemesis gravidarum; anemia; endometriosis; sciatica; lumbar lordosis; carpal tunnel syndrome; chronic migraines; dehydration; hemorrhoids; nausea or vomiting; edema of the legs, ankles, feet, or fingers; high blood pressure; infection; antenatal (during pregnancy) anxiety, depression, or psychosis; postpartum depression, anxiety, or psychosis; frequent urination; incontinence; loss of balance; vision changes; varicose veins; changes in hormone levels; vaginal bleeding; menstruation; and lactation and conditions related to lactation, such as low milk supply, engorgement, plugged ducts, mastitis, or fungal infections. The preceding list of related medical conditions is not exhaustive.

Prohibited Conduct means: unlawful discrimination or harassment based on a person's Protected Class(es) or retaliation. Such misconduct involves a violation of Federal and/or State civil rights laws.

Respondent means: a person who is alleged to have engaged in Prohibited Conduct.

Retaliation means: intimidation, threats, coercion, or discrimination against any person by the District, a student, a District ~~Board~~ employee, or any other person authorized by the District ~~Board~~ to provide aid, benefit, or service under the District's education programs or activities, for the purpose of interfering with any right or privilege secured by Federal or State law, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under applicable Federal or State laws or regulations.

School District community means: students and District ~~Board~~ employees (i.e., administrators and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District ~~Board~~ .

Third Parties means: guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District ~~Board~~ , and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

Pregnancy, Childbirth, and Related Medical Conditions

The District ~~Board~~ will not discriminate against an employee based on the person's current pregnancy, potential or intent to become pregnant, past pregnancy, or medical condition related to pregnancy or childbirth, or because the person uses birth control, or has had or not had an abortion.

Additionally, the District ~~Board~~ will provide a reasonable accommodation to an employee's known limitation related to pregnancy, childbirth, or a related medical condition, unless the accommodation will cause the District undue hardship.

The District ~~Board~~ will treat pregnancy, childbirth, and related medical conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; accrual of seniority and any other benefit or service; reinstatement; and under any fringe benefit offered to employees by virtue of employment.

The District ~~Board~~ will provide reasonable break time for an employee to express breast

milk while at work for the first year after the employee's child's birth. The District ~~Board~~ will provide the employee with a space, other than a bathroom, that is clean, shielded from view, free from intrusion from coworkers and the public, and which the employee can use as needed to express breast milk. See District ~~Board~~ Policy 6700 – Fair Labor Standards Act.

Nondiscrimination Based on Employee's Genetic Information

The District ~~Board~~ prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The District ~~Board~~ also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Harassment of a person because of the individual's genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

District Compliance Officer(s)

~~- [DRAFTING NOTES:~~

1. ~~Neola suggests the Board appoint both a male and a female to serve as the District Compliance Officers. By appointing two (2) District Compliance Officers, there should always be a District Compliance Officer available to address a claim that pertains to the other District Compliance Officer. If, however, the Board appoints more than one (1) District Compliance Officer, Neola recommends that it designate one (1) of the District Compliance Officers to retain ultimate oversight over the assigned responsibilities and ensure the Board's consistent compliance with its responsibilities under applicable Federal and State laws that prohibit unlawful discrimination/harassment based on protected classes and retaliation. Alternatively, the Board could appoint a District Compliance Officer and one (1) or more persons to assist the District Compliance Officer with performance of the responsibilities identified in this policy and its accompanying administrative guidelines. Often the person(s) designated to assist a District Compliance Officer is/are called Deputy or Assistant Compliance Officer(s). If the Board elects this alternative approach, it would designate a District Compliance Officer for purposes of this policy, and then designate the other position(s) through its AG. The person(s) in the alternative support role(s) will need to be trained in the same manner as the District Compliance Officer. -~~

2. ~~The Board must list in this policy either the Name(s) or Title(s) of the District Compliance Officer(s); while the Board may list both the Name(s) and Title(s), Neola suggests that the Board only list the Title(s) in this policy (so the Board does not need to revise/amend the policy whenever there is a change in the actual person(s)~~

~~holding the designated position(s)), but list both the Name(s) and Title(s) in the requisite notices/postings (e.g., website) and publications (e.g., handbooks).~~

3. ~~Reminder: Whenever a new person begins to serve as the District Compliance Officer (or in a support role to the District Compliance Officer), the District needs to make sure the new person is appropriately trained, in a timely manner, to fulfill the responsibilities of the position to which the person is assigned.]~~

~~[END OF DRAFTING NOTES]~~

The District ~~Board~~ designates and authorizes the following individual(s) to coordinate its efforts to comply with the District's ~~Board's~~ responsibilities under Federal and State laws that prohibit discrimination, including harassment, based on Protected Classes and retaliation (also known as "Civil Rights Coordinator(s)" or "Anti-Harassment Compliance Officer(s)") (hereinafter referred to as the "District Compliance Officer(s)" or "CO(s)"):

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

[DRAFTING NOTE: The District may want to create a static (i.e., fixed) District Compliance Officer -specific email address and phone number that will not change when the person(s) and/or position(s) designated to be the CO(s) change(s) – e.g., CO4CivilRights@(insert District's domain) – which the Technology Director/Department can program to be forwarded to the actual individual(s) serving as the District Compliance Officer(s) at any given time. Likewise, the District may want to establish a static Telephone Number for the position of District Compliance Officer that can be forwarded to, and accessed by, the actual person(s) serving in the CO position(s) at any given time. These two (2) steps will help reduce the information that needs to be updated in policy, AG, and/or the requisite notices/postings and publications when changes occur to the specific person(s)/position(s) designated to serve as the CO(s).]

~~[DRAFTING NOTE: Complete the following information if the Board appoints more than one (1) District Compliance Officer.]~~

DESIGNATION OF A SECOND DISTRICT COMPLIANCE OFFICER

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

[DRAFTING NOTE: As discussed above, if the Board designates more than one (1) CO, Neola recommends that the District select the following option.]

~~The Board designates _____ [DRAFTING NOTE: Insert Name and/or Title of the District Compliance Officer who is ultimately responsible for the District's compliance with its responsibilities under Federal and State laws that prohibit discrimination/harassment based on Protected Classes and retaliation] as the individual who is ultimately responsible for oversight over the Board's compliance with applicable Federal and State laws and regulations that prohibit discrimination based on the basis of Protected Classes and retaliation. [END OF OPTION] - [ ]~~

~~[ ]~~ The District Compliance Officer may delegate specific duties to one (1) or more designees. ~~[END OF OPTION]~~

The contact information concerning the District Compliance Officer(s) will be published on the School District's website and annuall y ~~y:~~

~~-~~ in parent/student and staff handbooks.

1. ~~in the School District Annual Report to the public.~~

2. ~~on each individual school 's website.~~

~~[DRAFTING NOTE: The Board may want to select the following option when the Superintendent is not the CO. While Neola recognizes that this may not always be possible, it may be preferable to have the CO be someone other than the Superintendent because then – if the CO serves as the investigator and decisionmaker – the Superintendent can serve as the appeal decisionmaker or the facilitator for the informal resolution process.]~~

~~[ ]~~ The District Compliance Officer(s) shall report directly to the Superintendent except when the Superintendent is a party to a complaint (i.e., either the complainant or the respondent). Under such circumstances, the CO(s) shall report directly to ~~[SELECT ONE OF THE FOLLOWING] ( ) the Board President~~ the District's ~~Board's~~ Legal Counsel ~~( ) _____ [OTHER] [END OF INTERNAL OPTIONS]~~ until the matter in which the Superintendent is a party is concluded. ~~[END OF OPTION]( )~~

Questions about this policy should be directed to the District Compliance Officer(s).

The CO(s) is/are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, harassment, retaliation, or denial of equal opportunity/access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), Genetic Information Nondiscrimination Act (GINA), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. Copies of the laws and regulations listed above are available upon request from the CO(s).

The CO(s) shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute Prohibited Conduct pursuant to Federal and/or State laws that prohibit discrimination/harassment based on the basis of a Protected Class/Category and retaliation, and take steps reasonably calculated to address such barriers.

Notice of Nondiscrimination

The Superintendent shall provide notice of the District's ~~Board's~~ policy on nondiscrimination and the identity of the School District's Compliance Officer(s). Such notice will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Reports and Complaints of Prohibited Conduct and Retaliation

Employees are required to report incidents of Prohibited Conduct and/or retaliation to an administrator, supervisor, or other supervisory employees so that the District ~~Board~~ may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO as soon as reasonably practicable.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of Prohibited Conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged Prohibited Conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been subject to Prohibited Conduct are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as practicable after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to Prohibited Conduct or Retaliation. COs shall accept reports of Prohibited Conduct or Retaliation directly from any member of the School District Community or a Third Party, or receive reports that are initially filed with another District ~~Board~~ employee.

Upon receipt of a report of alleged Prohibited Conduct or Retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged Prohibited Conduct/Retaliation ~~),~~ ~~or - ( ) [OPTION 1] the CO will designate a specific individual to conduct such a process as identified in a pre-defined list of investigators. - - the Superintendent will designate a specific individual to conduct the process necessary for an informal or formal investigation. [END OF OPTION 2]~~ The CO will provide a copy of this policy to the Complainant and the Respondent upon request. ~~[END OF OPTION 1] ( ) [OPTION 2]~~

Any District ~~Board~~ employee who directly observes Prohibited Conduct/Retaliation is obligated, in accordance with this policy, to report such observations to one of the COs as soon as reasonably practicable. Additionally, any District ~~Board~~ employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should promptly notify other District ~~Board~~ employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant as soon as reasonably practicable to advise of the District's ~~Board's~~ intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure ~~(See Form 1422 F2)~~

Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to Prohibited Conduct or Retaliation may seek

resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of Prohibited Conduct/Retaliation and a process for rendering a decision regarding whether the charges are substantiated.

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").

Complaint Procedure

A Complainant who alleges Prohibited Conduct/Retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a Board member shall be referred to the ~~Board's~~ District's legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate, appoint/designate another individual to serve as CO for the complaint regarding a CO.

Due to the sensitivity surrounding complaints of Prohibited Conduct and Retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint as soon as reasonably practicable after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, as soon as reasonably practicable.

Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the

Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further Prohibited Conduct or Retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as reasonably practicable, the CO or designee will initiate an investigation by, at a minimum, confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and, upon request, provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint and the obligation to do so within a reasonable timeframe established by the CO or designee based on the circumstances.

Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.

The investigation will include:

1. interviews with the Complainant;

2. interviews with the Respondent;

3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;

4. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of the Prohibited Conduct/Retaliation as provided in District ~~Board~~ policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if Prohibited Conduct or Retaliation occurred, a preponderance of evidence standard will be used.

The CO may consult with the District's ~~Board's~~ attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent or Board President, if the matter involves the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within a reasonable timeframe after receiving the report of the CO, the Superintendent either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A summary of the Superintendent's final decision will be provided to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed as soon as reasonably practicable, taking into account the availability of necessary witness(es) or documents. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the Respondent engaged in Prohibited Conduct/Retaliation toward the Complainant, the Superintendent must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

The decision of the Superintendent shall be final .

The parties may be represented, at their own cost, at any of the above-described interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The District ~~Board~~ will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's ~~Board's~~ legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the Prohibited Conduct/Retaliation, or other appropriate action.

The District ~~Board~~ may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further Prohibited Conduct or Retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District ~~Board~~ shall vigorously enforce its prohibitions against Prohibited Conduct by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District ~~Board~~ may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District ~~Board~~ policies.

Where the District ~~Board~~ becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District ~~Board~~ and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging Prohibited Conduct/Retaliation, or participates as a witness in an investigation is prohibited. Neither the District ~~Board~~ nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of Prohibited Conduct, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

Application of the First Amendment

The District ~~Board~~ will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a respondent be found to have

committed Prohibited Conduct based on expressive conduct that is protected by the First Amendment.

Education and Training

All District Compliance Officer(s), and other persons who are responsible for implementing the District's ~~Board's~~ complaint procedures or have the authority to modify or terminate supportive measures shall receive training related to their duties under applicable Federal and State laws and this policy. ~~- [ ] The training shall be provided promptly upon hiring or a change of position that alters their duties under this policy, and annually thereafter. [END OF OPTION]~~ The training shall not rely on stereotypes involving Protected Classes.

~~Training materials will be made available for inspection upon request by members of the public. [END OF OPTION]~~
~~[ ]~~

Recordkeeping (including retention of investigatory records and materials)

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media (as defined in Policy 8315 - Information Management) created and received as part of an investigation. Records and materials associated with the implementation of this policy shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management, Policy 8320 - Personnel Records, and Policy 8330 - Student Records for the period set in the District's records retention schedule.

These records may include, but are not limited to the following:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports, allegations, complaints, and statements collected;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the District ~~Board~~ to fulfill its responsibilities;

5. narratives of, notes from, or audio, video, or digital recordings of witness statements;

6. all documentary evidence;

7. e-mails, texts, or social media posts pertaining to the investigation;

8. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

9. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

10. dated written determinations to the parties;

11. dated written descriptions of verbal notifications to the parties;

12. written documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

13. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

14. copies of the District ~~Board~~ policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the District's ~~Board's~~ expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

15. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

16. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy.

The information, documents, ESI, and electronic media (as defined in Policy 8315-Information Management) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records, medical records).

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Legal References:
111.31 et seq., Wis. Stats.
111.335(d)(2), Wis. Stats.
118.195, Wis. Stats.
118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
20 U.S.C. 1092(F)(6)(A)(v)
20 U.S.C. 1232g
20 U.S.C. Section 1681, Title IX of Education Amendment Act
20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
29 C.F.R. Part 1635
29 U.S.C. 201 et seq., The Fair Labor Standards Act (FLSA)
29 U.S.C. 218d, PUMP for Nursing Mothers Act (PUMP Act)
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 701 et seq. (in particular 794), Rehabilitation Act of 1973, as amended
34 C.F.R. Part 110 (7/27/93)
38 U.S.C. Chapter 43 4301-4335 (see in particular 4311(a) [prohibits discrimination based on military service] and 4312 [reemployment rights]), Uniformed Services Employment and Reemployment Rights Act (USERRA)
42 U.S.C. 1983
42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq., Civil Rights Act of 1964 (e.g., Title VI and Title VII), as amended by the Pregnancy Discrimination Act
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 2000gg, Pregnant Workers Fairness Act (PWFA)

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended
Fourteenth Amendment, U.S. Constitution

1422 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The District does not discriminate in the employment of administrative staff on the basis of race, color, national origin, age, sex (including gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or poli tical matters, or any other legally protected category in its programs and activities, including employment opportunities.

Notice of the District's policy on nondiscrimination and the identity of the School District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Military status refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Respondent is the individual who has been alleged to have engaged in discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and District employees (i.e., administrators, and professional and support staff), as well as District members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

District Compliance Officers

The District designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to as the "COs").

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The titles and contact information of these individuals will be published annually in the staff handbooks and on the School District's website.

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination in Employment Act of 1975, and the Genetic Information Nondiscrimination Act (GINA) to students, their parents, staff members, and the general public.

Reports and Complaints of Discrimination and Retaliation

Employees are required to report incidents of discrimination and/or retaliation to an administrator, supervisor, or other supervisory employees so that the District may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO at the employee's first opportunity, but no later than two (2) days.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex

discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation). The CO will provide a copy of this policy to the Complainant and the Respondent upon request.

Any District employee who directly observes discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant within two (2) business days to advise of the District's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure

Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to discrimination or retaliation may seek resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

~~Once the complaint process begins, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) days of the complaint being received).~~

~~The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").~~

~~Complaint Procedure~~

~~A Complainant who alleges discrimination/retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a District member shall be referred to the District's legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~

~~Due to the sensitivity surrounding complaints of discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than two (2) days.~~

~~Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.~~

~~All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.~~

~~If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.~~

~~Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should~~

consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and upon request provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint and the obligation to do so within five (5) days.

Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.

The investigation will include:

A. interviews with the Complainant;

B. interviews with the Respondent;

C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;

D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in District policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

The CO may consult with the District's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

The District reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The District also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the District or its designee.

The parties may be represented, at their own cost, at any of the above-described interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Appeal of Complaint Resolution/Disciplinary Action

Either the Complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, within five (5) business days of receipt of the notice of resolution or disciplinary decision. This appeal shall go to the Superintendent. The written appeal must state in detail the reason(s) for the appeal, explaining with specificity any alleged factual or procedural errors, any alleged issues concerning interpretation of District policy, any basis on which the disciplinary action is alleged to be improper and any new information or evidence, including an explanation why such information or evidence was not presented during the investigation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place. The Superintendent shall review the materials gathered and utilized by the investigator and the supervisor(s) in reaching their decision with regard to responsibility and disciplinary action. At their sole discretion, the Superintendent may interview the accused, the complainant, and/or any additional witnesses. Within ten (10) business days of receipt of the appeal, the Superintendent shall issue a written decision and that decision shall be final. All deadlines indicated above may be altered at the discretion of the Superintendent handling the appeal for good cause shown.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

The District may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District policies.

Where the District becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District and/or Superintendent

shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation, or participates as a witness in an investigation is prohibited. Neither the District nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the District promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District staff where appropriate. All training, as well as all information provided regarding the District's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.~~

~~Revised 11/25/19~~
~~Revised 4/23/22~~

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~~**Legal**~~
~~111.31 et seq., Wis. Stats.~~
~~111.335(d)(2), Wis. Stats.~~
~~118.195, Wis. Stats.~~
~~118.20, Wis. Stats.~~
~~Fourteenth Amendment, U.S. Constitution~~
~~20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974~~
~~20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act~~
~~29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended~~
~~38 U.S.C. 4301 et seq., Uniformed Services Employment and Reemployment Rights Act~~
~~42 U.S.C. 2000 et seq., Civil Rights Act of 1964~~
~~42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964~~
~~42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964~~
~~42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act of 1973 as amended~~
~~42 U.S.C. 6101 et seq., Age Discrimination Act of 1975~~
~~42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended~~
~~29 C.F.R. Part 1635, The GINA Regulations~~
~~34 C.F.R. Part 110, The Age Discrimination Act Regulations~~

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po2260

Special Update - Nondiscrimination - July 2026 Revised NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

ADOPTED Jul 1, 2019 · REVISED Jul 1, 2024

2260- **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

The District is committed to providing an equal educational opportunity for all students in the District.

[DRAFTING NOTE: Wisconsin and Federal law applicable to Wisconsin includes the concepts of gender identity and gender stereotypes/nonconformance within the definition of "sex". Whether the language is included expressly in policy or not, Districts are still required to investigate complaints alleging discriminatory treatment on the basis of gender identity and to remedy violations.

The District does not discriminate on the basis of sex (~~)~~ (including gender identity or gender stereotypes/nonconformance) ~~[END OF OPTION]~~ , age, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability (Protected Classes) or any other characteristic protected by Federal or State civil rights laws ~~race, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex, (including gender status, change of sex or gender identity), or physical, mental, emotional, or learning disability (Protected Classes)~~ in any of its student program and activities. This policy is intended to support and promote nondiscriminatory practices in all District and school activities, particularly in the following areas:

A. use of objective bases for admission to any school, class, program, or activity;

B. prohibition of harassment towards students and procedures for the investigation of claims (see Policy 5517 - Student Anti-Harassment);

C. use of disciplinary authority, including suspension and expulsion authority;

D. administration of gifts, bequests, scholarships and other aids, benefits, or services to students from private agencies, organizations, or persons;

E. selection of instructional and library media materials in a nondiscriminatory manner and that reflect the cultural diversity and pluralistic nature of American society;

F. design and implementation of student evaluation practices, materials, and tools, but not at the exclusion of implementing techniques to meet students' individual needs;

G. design and configuration of facilities;

H. opportunity for participation in extra-curricular and co-curricular activities provided that separate programs for male and female students may be available provided comparable activities are made available to all in terms of type, scope, and District support; and

I. the school lunch program and other school-sponsored food service programs.

The District is also committed to equal employment opportunity in its employment policies and practices as they relate to students. The District's policies pertaining to employment practices can be found in Policy 1422, Policy 3122, and Policy 4122 - Nondiscrimination, Equal Employment Opportunity, and Anti-Harassment ~~Nondiscrimination and Equal Employment Opportunity~~ .

The District will identify, evaluate, and provide a free appropriate public education to students with disabilities who are determined eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 (Section 504).

The District's educational programs include the academic and nonacademic setting. Each qualified student with a disability shall be educated with students without disabilities to the maximum extent appropriate. In the nonacademic setting, a student with a disability shall participate with students without disabilities to the maximum extent appropriate.

Notice of the District's policy on nondiscrimination and the identity of the District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Principal's Responsibilities

Each Principal shall verify that the procedures used with students and parents/guardians for selection of and participation in any part of the District's academic, co-curricular, or extra-curricular programs do not discriminate on the basis of the Protected Classes.

Superintendent's Responsibilities

In furtherance of the aforesaid goal, the Superintendent shall:

A. Curriculum Content

1. review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict those Protected Classes toward the development of human society;

2. provide that necessary programs are available for students with limited use of the English language;

B. Staff Training

develop an ongoing program of staff training and in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program;

C. Student Access

1. review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under State regulations;

2. verify that facilities are made available in a non-discriminatory fashion, in accordance with District Policy 7510 - Use of District Facilities, for non-curricular student activities that are initiated by parents/guardians or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;

3. verify that the educational programs of this District are accessible to all students;

   All programs need to be designed and scheduled so the location or nature of the facility or area will not deny an otherwise qualified student with a disability the opportunity to participate in the academic or other school programs on the same basis as students without disabilities.

4. require that service animals for students who require this type of assistance shall be permitted access to all facilities, programs, and events of the District.

D. District Support

require that like aspects of the District program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

E. Student Evaluation

verify that tests, procedures, and guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the Protected Classes.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant is the individual who alleges, or is alleged, to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Military status refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from school for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Respondent is the individual who has been alleged to have engaged in discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and District employees (i.e., administrators, and professional and support staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents/guardians), vendors doing business with, or seeking to do business with, the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

The Superintendent shall publicize the name of the compliance officer(s) who is/are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or equal access. The Compliance Officer(s) also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), is provided to students, their parents/guardians, staff members, and the general public.

The Superintendent shall attempt annually to identify children with disabilities, ages 3 - 22, who reside in the District but do not receive a public education.

In addition, the Superintendent shall establish procedures to identify students who are Limited English Proficient, including immigrant children and youth, to assess their ability to participate in District programs and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis.

Reporting Procedures

Students and District employees are required, and all other members of the District community and Third Parties are encouraged to promptly report suspected violations of this policy to an administrator, supervisor, or other District official so that the District may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District’s Compliance Officer within two (2) days.

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs, while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute discrimination based on a Protected Class, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the principal

informed of the status of the Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity investigation and provide the Principal with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. The COs shall accept reports of discrimination/retaliation directly from any member of the District community or a Third Party and reports that initially are made to another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) or designate a specific individual to conduct such a process.

The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) days of learning of the incident/conduct.

Any District employee who directly observes discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one (1) of the COs within two (2) days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO/designee must contact the Complainant if age eighteen (18) or older, or the Complainant's parents/guardians if the student is under the age of eighteen (18) within two (2) days to advise of the District's intent to investigate the alleged wrongdoing.

District Compliance Officers (hereinafter referred to as the COs)

The District designates the following individuals to serve as the

District's CO!s:

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The titles and contact information of these individuals will be published annually in the staff and student handbooks and on the School District's website.

A CO will be available during regular school/work hours to discuss concerns related to student discrimination in educational opportunities under this policy.

Investigation and Complaint Procedure

The CO shall investigate any complaints brought under this policy. Throughout the course of the process as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: a description of the alleged violation, the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further loss of educational opportunity including , but not limited to , a change of work assignment or class schedule for the Complainant, tentative enrollment in a program, or other appropriate action. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as appropriate in the investigation process, the CO will inform the Respondent, that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.

All investigations shall be commenced as soon as practicable upon receipt of a complaint and concluded as expeditiously as feasible, in consideration of the circumstances, while taking measures to complete a thorough investigation. The complaining party shall be notified in writing of receipt of the complaint within forty-five (45) days of the complaint and shall reach a determination concerning the complaint within ninety (90) days of receipt unless additional time is agreed to by the complaining party.

The investigation will include:

A. interviews with the Complainant;

B. interviews with the Respondent;

C. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

D. consideration of any documentation or other evidence presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definitions in this Policy, as well as in State and Federal law as to whether the Complainant has been denied access to educational opportunities on the basis of one of the protected classifications, based on a preponderance of evidence standard. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved.

The CO may consult with the District's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent,engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within five (5) days of receiving the report of the CO or designee, the Superintendent either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the Complainant and Respondent. The Superintendent may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The District authorizes the Superintendent to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. The decision of the Superintendent shall be final.

If the Complainant feels that the decision does not adequately address the complaint the Complainant ~~s/he~~ may appeal the decision to the State Superintendent of Public Instruction by submitting a written request , within thirty (30) calendar days of the decision, to the Wisconsin Department of Public Instruction (DPI), Pupil Nondiscrimination Program, or by contacting the DPI Pupil Nondiscrimination Program at (608) 267-9157. Any person, including the Respondent in a complaint, who is subject to disciplinary action up to and including termination as a result of a complaint may choose to file a grievance utilizing the District's grievance procedure as outlined in Policy 3340 - Grievance Procedure or Policy 4340 - Grievance Procedure.

The District reserves the right to investigate and resolve a complaint or report regardless of whether the member of the School District community or third party chooses to pursue the complaint. The District also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the District.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, Denver Office, U.S. Department of Education, Cesar E. Chavez Memorial Building, 1244 Speer Boulevard, Suite 310, Denver, CO 80204-3582, Telephone: (303) 844-5695, FAX: (303) 844-4303, E-mail: OCR.Denver@ed.gov, Web: https://www.ed.gov/about/ed-offices/ocr ~~Office for Civil Rights~~, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Additional School District Action

If the evidence suggests that any conduct at issue violates any other policies of the District ~~Board~~, is a crime, or requires mandatory reporting under the Children's Code (48.981, Wis. Stats.) ~~(Sec. 48.981, Wis. Stat.)~~ (Policy 8462 - Child Abuse and Neglect), or threats of violence (Policy 8462.01 - Threats of Violence), the CO or District Administrator shall take such additional actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.

Privacy/Confidentiality

The District will make reasonable efforts to protect the privacy of any individuals involved in the investigation process. Confidentiality cannot be guaranteed, however. Additionally, the Respondent must be provided the Complainant's identity.

During the course of an investigation, the CO or designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant including , but not limited to , counseling services, reinstatement of leave taken because of the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.

The District may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District shall vigorously enforce its prohibitions against discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action , up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District policies.

Where the District becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging harassment/retaliation , or participates as a witness in an investigation , is prohibited. Neither the District ~~Board~~ nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal

complaint, testified, assisted , or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided , or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the District promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information, provided regarding the District's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The Compliance Officer(s) is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

~~Additionally, the CO shall retain copies of any written request for an impartial due process hearing, the IHO's notices to the parties, the evidence entered in the hearing, any transcript of the hearing, and the IHO's decision.~~

The information, documents, ESI, and electronic media (as defined in Policy 8315 - Information Management) created or received as part of an investigation shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management,

Policy 8320 - Personnel Records, and Policy 8330 - Student Records for not less than three (3) years, but longer if required by the District's records retention schedule.

USDA Nondiscrimination 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, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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 responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or 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 discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint 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.

Revised 11/25/19
Revised 4/12/21
Revised 4/23/22

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Legal
118.13 Wis. Stats.
P.I. 9, Wis. Adm. Code
P.I. 41, Wis. Adm. Code
Fourteenth Amendment, U.S. Constitution
20 U.S.C. 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. 7905, Boy Scouts of America Equal Access Act
29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 2000 et seq., Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended
29 C.F.R. Part 1635, The GINA Regulations
34 C.F.R. Part 110, The Age Discrimination Act Regulations
Guidelines for Vocational Education Programs, Department of Education, Office for Civil Rights, March 21, 1979

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po2260.01

Vol. 35, No. 2 - Special Update - Nondiscrimination - July 2026 WI Replacement SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY

ADOPTED Jul 1, 2019 · REVISED Apr 23, 2022

Replacement Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination

2260.01 **- SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY**

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), the Board shall not discriminate on the basis of disability in its education programs and activities. Specifically, the Board shall not, on the basis of disability, exclude from participation in, deny the benefits of, or subject to discrimination qualified persons with disabilities in the District's programs or activities.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Individual with a disability means any person who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

Physical impairment means any physiological disorder or condition, somatic disfigurement, or anatomical loss affecting one or more listed body systems. These include neurological, musculoskeletal, special sense organs, respiratory or speech, cardiovascular, reproductive, digestive, genito-urinary, hemic/lymphatic, skin, and endocrine body systems.

Mental impairment means any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Substantially limits means the impairment substantially limits an individual's ability to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the performance of a major life activity in order to be considered substantially limiting. The term shall be construed broadly in favor of expansive coverage.

Major life activity means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Qualified Individual with a Disability

With respect to public preschool, elementary, and secondary educational services, a qualified individual with a disability means a student with a disability:

1. who is of an age during which persons without disabilities are provided educational services;

2. who is of any age during which it is mandatory under Wisconsin law to provide educational services to persons with disabilities; or

3. to whom the State is required to provide a free appropriate public education pursuant to the IDEA.

With respect to vocational education services, a qualified individual with a disability means a student with a disability who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The Board will not deny a student with disability access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

With respect to employment, a qualified individual with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position the individual holds or desires and can perform the essential functions of the job in question, with or without reasonable accommodation.

Complainant is the individual who alleges or is alleged to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent is the individual who is alleged to have engaged in discrimination/retaliation, regardless of whether the Complainant files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

District community means students, District employees (i.e., administrators and professional and support staff), and Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

Third Parties include but are not limited to guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the Board, and other individuals who come in contact with members of the District community at school-related events/activities (whether on or off District property).

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Section 504 Referrals, Evaluations, and Free Appropriate Public Education

If a District staff member suspects that a student has a physical or mental impairment that substantially limits one or more major life activities, they shall refer the student for an evaluation. Any other individuals who suspect the student has a disability, including the parents and outside providers, may submit a referral. If the District refuses to conduct an evaluation, prior written notice of the District's decision and a notice of procedural safeguards will be provided to the parents.

Evaluations shall be conducted in accordance with the procedural requirements of Section 504, including that tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions; are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient; and are administered so as to best ensure that the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure. A special education evaluation conducted in accordance with the Individuals with Disabilities Education Act (IDEA) complies with the procedural requirements of Section 504.

A Section 504 Team, comprised of a group of people knowledgeable about the student, the meaning of evaluation data, and placement options will convene to review the evaluation and determine eligibility under Section 504.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications. An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

If the 504 Team determines that the student has a physical or mental impairment that substantially limits one or more major life activities (see definitions below), the Board shall provide the student with a free appropriate public education (FAPE). For the purposes of Section 504, an appropriate education means the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met.

The regular or special education and related aids and services (including accommodations and modifications) that the student needs to receive FAPE, if any, and the student's placement will be documented in a Section 504 Plan Parents/guardians will have the opportunity and are strongly encouraged to meaningfully participate in the evaluation process and development of a Section 504 Plan.

In interpreting evaluation data and making placement determinations, the District shall draw upon, consider, and document information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The District shall also ensure that placement decisions are made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

Students with disabilities will be educated with students without disabilities to the maximum extent appropriate. Generally, the District will place a student with a disability in the general education environment unless it is demonstrated that the education of the student in the general education environment, even with the use of supplementary aids and services, cannot be achieved satisfactorily. If the District places a student in a setting other than the general education environment, it shall take into account the proximity of the alternate setting to the student's home. If the Board operates a separate class or facility that is identified as being provided for students with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without disabilities.

Nonacademic Extracurricular Activities

The District will provide non-academic extra-curricular services and activities in such a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extra-curricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to individuals with disabilities, and employment of

students. In providing or arranging for the provision of meals and recess periods and nonacademic and extracurricular services and activities, including those listed above, the District will verify that students with disabilities participate with students without disabilities in such services and activities to the maximum extent appropriate.

Reasonable Accommodations

With respect to employment, the Board will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the Board's program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Facilities

No qualified person with a disability will be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under any program or activity to which Section 504/ADA applies because the District's facilities are inaccessible to or unusable by persons with disabilities.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

District Compliance Officers (hereinafter referred to as the "COs")

The following person(s) is/are designated as the District Section 504/ADA Compliance Officer(s)/Coordinator(s):

~~[DRAFTING NOTE: Neola suggests the Board appoint two coordinators if practicable – one with expertise in student-related 504 matters (e.g., Director of Special Education and Pupil Services) and one with expertise in employment-related 504 matters (e.g., Director of Human Resources). Additionally, by appointing two (2) COs, there should always be a CO available to investigate a claim that pertains to the other CO.~~

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The name(s), title(s), and contact information of this/these individual(s) will be published annually:

1. on the School District's website.

2. in the staff and student handbooks.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. A copy of each of the Acts and regulations on which this notice is based will be made available upon request from the CO.

Internal Complaint/Grievance Procedures

In accordance with Section 504, parents and students shall be notified of their right to file an internal complaint/grievance regarding an alleged violation, misinterpretation, or misapplication of Section 504.

The Board provides for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA.

~~While students are advised to report discrimination/retaliation to administrators, supervisors, or other District officials, the Board recognizes that some students may report discrimination/retaliation to a teacher. When a teacher receives such a report, the teacher must file it with the CO as indicated above.]~~ Students and District employees are required, and all other members of the District community and Third Parties are encouraged, to promptly report incidents of discrimination and/or retaliation to an administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO within two (2) days. -

~~[DRAFTING NOTE:~~

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

A student and/or parent may initiate the internal complaint procedure when they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as having a disability or believed to have a disability pursuant to Section 504 and are not eligible under the IDEA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the OCR or requesting an impartial due process hearing.

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute discrimination based on a Protected Class, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the District community or a Third Party and reports that initially are made to another District employee. Upon receipt of a report of alleged

discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) or designate a specific individual to conduct such a process.

The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) days of learning of the incident/conduct.

Any District employee who directly observes discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO/designee must contact the Complainant if age eighteen (18) or older or the Complainant's parents/guardians if the student is under the age of eighteen (18) within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (see Form 2260.01B F2)

The CO shall investigate any complaints brought under this policy. Throughout the course of the process as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: a description of the alleged violation, the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the report by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or class schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as appropriate in the investigation process, the CO will inform any individual named by the Complainant in connection with an alleged violation of this policy, that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.

Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by, at a minimum, confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress. The investigation will include:

1. interview(s) with the Complainant;

2. interview(s) with the Respondent;

3. interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

4. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the

investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

The CO may consult with the Board's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent or Board President, if the matter involves the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within five (5) days of receiving the report of the CO or designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to the Complainant and to the Respondent. The Superintendent may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The Board authorizes the Superintendent to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. The decision of the Superintendent shall be final by the Board upon request.

If the Complainant feels that the decision does not adequately address the complaint, the Complainant may appeal the decision to the State Superintendent of Public Instruction.

The Board reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy, or in such other manner as deemed

appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the OCR or ICRC, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Additional School District Action

If the evidence suggests that any conduct at issue violates any other policies of the Board, is a crime, or requires mandatory reporting under the Children's Code (Sec. 48.981, Wis. Stat.), the CO or Superintendent shall take additional such actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. Confidentiality cannot be guaranteed, however. All Complainants proceeding through the investigation process should be advised that as a result of the investigation, allegations against individuals may become known to those individuals, including the Complainant's identity.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.

During the course of an investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any

information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.

The Board may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of any relevant code of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Impartial Due Process Hearing

Parent(s)/guardian(s) or an adult student may request an impartial due process hearing before an Impartial Hearing Officer (IHO) to challenge the District's actions regarding the identification, evaluation or educational placement of their child. The student and/or parent may but are not required to first exhaust the above internal complaint/grievance procedure before requesting an impartial due process hearing.

Requests for impartial due process hearings shall be submitted in writing to the District's Section 504 Coordinator. The request should include the name and address of the child, the name of the school where the child is attending, a description of the issue(s) to be resolved at the hearing, the facts giving rise to those issues, and a proposed resolution. The request must be submitted within two (2) years of the date on which the parent(s)/guardian(s) knew or should have known of the alleged facts/actions that form the basis for the hearing request.

Within fifteen _____ (- 15) ~~[) INSERT AMOUNT]~~ calendar days of receiving the request, the District will appoint a qualified IHO who meets the following criteria:

1. may not be an employee of the District;

2. may not have a personal or professional interest that conflicts with their objectivity in the hearing;

3. must possess knowledge of, and the ability to understand, the provisions of Section 504 and legal interpretations by federal and state courts; and

4. must possess the knowledge of and ability to conduct a hearing and write decisions in accordance with standard legal practices.

The hearing shall be held within thirty _____ (30) ~~[INSERT AMOUNT]~~ calendar days of receiving the request, unless the IHO extends the timeline for good cause or the parties mutually agree to an extension. The IHO will give the parent and/or student written notice of the hearing, which will include the issues presented and the date, time and location of the hearing.

The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard. The parent(s)/guardian(s) and student may participate in the hearing, present evidence, cross-examine witnesses, and be represented by an attorney at their own expense. The IHO shall keep a complete and accurate record of the proceedings.

The IHO shall render a decision in writing to the parties within fifteen _____ (15) ~~[INSERT AMOUNT]~~ calendar days following the conclusion of the hearing. The decision will be based solely on the evidence presented at the hearing and shall include findings of fact, conclusions of law, and appeal rights. ~~[DRAFTING NOTE: In selecting the above timelines, districts may choose to use the timelines for due process hearing complaints under the IDEA, as compliance with the procedural requirements of the IDEA means compliance with the procedural requirements of Section 504.]~~ - -

Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

OCR Complaint

At any time, if a student or parent believes that the student has been subjected to discrimination based upon disability in violation of Section 504 or the ADA, the student or parent may file a complaint with the OCR. The OCR can be reached at:

Office for Civil Rights, Denver Office
U.S. Department of Education
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: (303) 844-5695
FAX: (303) 844-4303
E-mail: OCR.Denver@ed.gov
Web: https://www.ed.gov/about/ed-offices/ocr

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the District complies with the "process" requirements of Subpart D of Section 504.

Notice

Notice of the Board's policy on nondiscrimination in education practices and the identity of the COs will be published on the District's website and posted throughout the District, and included in the District's recruitment statements or general information publications.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, made a report/formal complaint, testified, assisted or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training and information provided regarding the Board's policy and

discrimination in general will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to:

1. all written reports/allegations/complaints/statements;
2. narratives of all verbal reports, allegations, complaints, and statements collected;
3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
5. narratives of, notes from, or audio, video, or digital recordings of witness statements;
6. all documentary evidence;
7. e-mails, texts, or social media posts related to the investigation;
8. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
9. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

10. dated written determinations to the parties;

11. dated written descriptions of verbal notifications to the parties;

12. written documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt;

13. documentation of all actions, both individual and systemic, taken to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

14. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

15. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

16. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy.

Additionally, the CO shall retain copies of any written request for an impartial due process hearing, the IHO's notices to the parties, the evidence entered in the hearing, any transcript of the hearing, and the IHO's decision.

The information, documents, ESI, and electronic media (as defined in Policy 8315 - Information Management) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315 - Information Management) created or received as part of an investigation shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management, Policy 8320 - Personnel Records, Policy 8330 - Student Records for not less than three (3) years, but longer if required by the District's records retention schedule.

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Legal

29 C.F.R. Part 1630
34 C.F.R. Part 300
34 C.F.R. Part 104
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

~~2260.01 - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY~~

~~Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance solely by reason of disability. The District does not discriminate in admission or access to, participation in, treatment in its programs or activities. As such, the District's policies and practices will not discriminate against students with disabilities and the District will make its facilities, programs, and activities accessible to qualified individuals with disabilities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.~~

~~Notice of the District's policy on nondiscrimination in employment practices and the identity of the School District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.~~

~~**Free Appropriate Public Education**~~

~~The District is committed to identifying, evaluating, and providing a free appropriate public education ("FAPE") to students with disabilities within its jurisdiction who are determined eligible for special education and related services under the Individuals with Disabilities Education Act ("IDEA") or Section 504, regardless of the nature or severity of their disabilities.~~

~~If a student has a physical or mental impairment that significantly limits one or more major life activities (see Definitions below), the District shall provide the student a FAPE. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For students with disabilities who are not eligible for specially designed instruction under the IDEA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of students without disabilities are met shall be delineated, along with their placement, in a Section 504 Plan. Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan. The quality of education services provided to students with disabilities shall be equal to the quality of services provided to students without disabilities.~~

~~The District is committed to educating (or providing for the education of) each qualified student with a disability within its jurisdiction with students without disabilities to the maximum extent appropriate. Generally, the District will place a student with a disability in the general education environment unless it is demonstrated that the education of the student in the general education environment, even with the use of supplementary aids and services, cannot be achieved satisfactorily. If the District places a student in a setting other than the general education environment, it shall take into account the proximity of the alternate setting to the student's home. If the District operates a separate class or facility that is identified as being provided for students with disabilities, the facility, program, and activities and services must be comparable to the facilities, programs, and activities and services offered to students without disabilities.~~

~~The District will provide non-academic extra-curricular services and activities in such a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extra-curricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to individuals with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods and nonacademic and extracurricular services and activities, including those listed above, the District will verify that students with disabilities participate with students without disabilities in such services and activities to the maximum extent appropriate.~~

~~In accordance with Section 504, parents and students shall be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Section 504. In addition, students and their parents shall be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). Finally, students and parents shall be advised of their right to request a due process hearing before an Impartial Hearing Officer ("IHO") regarding the identification, evaluation, or educational placement of persons with disabilities, and their right to examine relevant education records.~~

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Complainant : is the individual who alleges or is alleged to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

Respondent : is the individual who is alleged to have engaged in discrimination/retaliation, regardless of whether the Complainant files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

District community : means students, District employees (i.e., administrators and professional and support staff), and Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties : include but are not limited to guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with or seeking to do business with the District, and other individuals who come in contact with members of the District community at school-related events/activities (whether on or off District property).

Day(s) : Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Individual with a disability means a person who has, has a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities.

Major Life Activities

Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, sitting, reaching, interacting with others, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, hemic, lymphatic, musculoskeletal and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

Impairment That Substantially Limits a Major Life Activity

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active.

Qualified Individual with a Disability

With respect to public preschool, elementary, and secondary educational services, a qualified individual with a disability means a student with a disability:

A. who is of an age during which persons without disabilities are provided educational services;

B. who is of any age during which it is mandatory under Wisconsin law to provide educational services to persons with disabilities; or

C. to whom the State is required to provide a free appropriate public education pursuant to the IDEA.

With respect to vocational education services, a qualified individual with a disability means a student with a disability who meets the academic and technical standards requisite to admission or participation in the vocational program or activity. The District will not deny a student with disability access to its vocational education programs or courses due to architectural and/or equipment barriers, or because the student needs related aids or services to receive an appropriate education.

With respect to employment, a qualified individual with a disability means the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position the individual holds or desires and can perform the essential functions of the job in question, with or without reasonable accommodation.

Reasonable Accommodation

With respect to employment, the District will provide a reasonable accommodation to a qualified individual who has an actual disability or who has a record of a disability, unless the accommodation would impose an undue hardship on the operation of the District's

program and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

Facilities

No qualified person with a disability will be denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under any program or activity to which Section 504/ADA applies because the District's facilities are inaccessible to or unusable by persons with disabilities.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities.

District Compliance Officers (hereinafter referred to as the "COs")

The following person(s) is/are designated as the District Section 504 Compliance Officer(s)/ADA Coordinator(s):

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The titles and contact information of these individuals will be published annually in the staff and student handbooks and on the School District's website.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. A copy of each of the Acts and regulations on which this notice is based will be made available upon request from the CO.

The District will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. (See below.) The District further will establish and

implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing, for parents of students with disabilities. Finally, students and parents will be advised of their right to request a due process hearing before an Impartial Hearing Officer (IHO) regarding the identification, evaluation or educational placement of persons with disabilities, including the right to participation by the student's parents and representation of counsel, and their right to examine relevant education records.

Reports and Complaints of Discrimination and Retaliation

Students and District employees are required, and all other members of the District community and Third Parties are encouraged, to promptly report incidents of discrimination and/or retaliation to an administrator, supervisor, or other District official so that the District may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO within two (2) days.

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

A student and/or parent may initiate the internal complaint procedure when they believe that a violation, misapplication or misinterpretation of Section 504 has occurred. Additionally, the following procedure may be used for any disagreement with respect to actions regarding the identification, evaluation, or educational program or placement of students who are identified as having a disability or believed to have a disability pursuant to Section 504 and are not eligible under the IDEA, except in the case of disciplinary actions where the provisions of the Student Code of Conduct apply. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the OCR or requesting an impartial due process hearing.

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute discrimination based on a Protected Class, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the District community or a Third Party and reports that initially are made to another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) or designate a specific individual to conduct such a process.

The CO will provide a copy of this policy to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) days of learning of the incident/conduct.

Any District employee who directly observesdiscrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO/designee must contact the Complainant if age eighteen (18) or older or the Complainant's parents/guardians if the student is under the age eighteen (18) within two (2) days to advise of the District's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure ughout the course of the process as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: a description of the alleged violation, the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the report by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or class schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action.

~~If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.~~

~~As soon as appropriate in the investigation process, the CO will inform any individual named by the Complainant in connection with an alleged violation of this policy, that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.~~

~~Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.~~

~~Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress. The investigation will include:~~

A. ~~interview(s) with the Complainant;~~

B. ~~interview(s) with the Respondent;~~

C. ~~interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations, as determined by the CO;~~

D. ~~consideration of any documentation or other information presented by the - Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.~~

~~At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in District policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.~~

~~The CO may consult with the District's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.~~

~~In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.~~

~~Absent extenuating circumstances, within five (5) days of receiving the report of the CO or designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to the Complainant and to the Respondent. The Superintendent may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The District authorizes the Superintendent to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.~~

~~If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. The decision of the Superintendent shall be final .~~

~~If the Complainant feels that the decision does not adequately address the complaint s/he may appeal the decision to the State Superintendent of Public Instruction.~~

~~The District reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The District also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy, or in such other manner as deemed appropriate by the District or its designee.~~

~~The parties may be represented, at their own cost, at any of the above-described interviews/meetings.~~

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the OCR or ICRC, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.~~

~~Additional School District Action~~

~~If the evidence suggests that any conduct at issue violates any other policies of the District, is a crime, or requires mandatory reporting under the Children's Code (Sec. 48.981, Wis. Stat.), the CO or Superintendent shall take additional such actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.~~

~~Privacy/Confidentiality~~

~~The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations. Confidentiality cannot be guaranteed, however. All Complainants proceeding through the investigation process should be advised that as a result of the investigation, allegations against individuals may become known to those individuals, including the Complainant's identity.~~

~~All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided the Complainant's identity.~~

~~During the course of an investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.~~

~~Remedial Action and Monitoring~~

~~If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.~~

~~The District may appoint an individual, who may be a Districtemployee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.~~

~~Sanctions and Disciplinary Action~~

~~The District shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.~~

~~While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of any relevant code of conduct.~~

~~When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District policies.~~

Where the District becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Impartial Due Process Hearing

A student and/or parent may request an impartial due process hearing regarding the identification, evaluation, or placement of a student with a disability. The student and/or parent may but are not required to first exhaust the above complaint procedure before requesting an impartial due process hearing. The parent of a student with a disability and a student over eighteen (18) years old (if not under guardianship) or an emancipated student has the right to: (1) examine records or documents that the school relied on in making its decision about the student; (2) request an impartial due process hearing that provides the parent and/or student with an opportunity to participate and permits representation by an attorney; and (3) have an opportunity for review of the decision made at the hearing.

A request for an impartial due process hearing should be made as soon as possible following a dispute in order to ensure that witnesses are available but no more than two years following the date of the matter in dispute. A request for an impartial due process hearing must be put in writing, identify the specific circumstances or areas of dispute that have given rise to the request for a hearing, and offer possible solutions to the dispute. The request for due process hearing must be filed with a District CO within the time limits specified above. The CO is available to assist individuals in filing a request for an impartial due process hearing.

When a request for an impartial due process hearing is received, the aggrieved party will have the opportunity to receive a hearing conducted by an IHO (i.e., by a person not employed by the District, not involved in the education or care of the child, and not having a personal or professional interest that would conflict with the IHO's objectivity in the hearing). The District will maintain a list of trained IHOs that may include IDEA/Article 7 hearing officers, attorneys, and Directors of Special Education outside the District. The District CO will appoint an IHO from that list, and the District will bear the costs of the hearing. The appointment of an IHO will be made within fifteen (15) days after the request for an impartial due process hearing is received.

A party to an impartial due process hearing has the right to:

A. be accompanied and advised by legal counsel and individuals with special knowledge or training with respect to the problems of students with disabilities at the party's own cost;

B. present evidence and confront, cross-examine and compel the attendance of witnesses;

C. a written or electronic verbatim record of the hearing; and

D. written findings of fact and conclusions of law setting forth the reasons for the decision.

The IHO shall conduct the impartial due process hearing within a reasonable period of time (i.e., not to exceed ninety (90) days from the request for a hearing, unless this time-frame is mutually waived by the parties or is determined by the IHO to be impossible to comply with due to extenuating circumstances). The IHO will give the parent and/or student written notice of the date, time and place of the hearing. Notice will be given no less than twenty-one (21) days prior to the date of the hearing, unless otherwise agreed to by the parent and/or student. The notice shall include:

A. a statement of the time, place and nature of the hearing;

B. a statement of the legal authority and jurisdiction under which the hearing is being held;

C. a reference to the particular section(s) of the statutes and rules involved;

D. a statement of the availability of relevant records for examination;

E. a short and plain statement of the matters asserted; and

F. a statement of the right to be represented by counsel.

The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and otherwise to be heard. The parent and/or student may be represented by another person of the parent or student's choice, including an attorney. The IHO shall make a full and complete record of the proceedings.

The IHO shall render a decision in writing to the parties within thirty (30) days following the conclusion of the hearing. The decision will be based solely on the testimony and demonstrative evidence presented at the hearing and include a summary of the evidence (i.e., findings of fact) and the reason for the decision (conclusions of law). The IHO's decision shall include a statement that either party may appeal the decision.

Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

OCR Complaint

At any time, if a student or parent believes that the student has been subjected to discrimination based upon disability in violation of Section 504 or the ADA, the student or parent may file a complaint with the OCR. The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Chicago Office
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: 312-730-1560
FAX: 312-730-1576
TDD: 800-877-8339
E-mail: OCR.Chicago@ed.gov
Web: http://www.ed.gov/ocr

Except in extraordinary circumstances, the OCR does not review the result of individual placement and other educational decisions, so long as the District complies with the "process" requirements of Subpart D of Section 504.

Notice

Notice of the District's policy on nondiscrimination in education practices and the identity of the COs will be published on the District's website and posted throughout the District, and included in the District's recruitment statements or general information publications.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation or participates as a witness in an investigation is prohibited. Neither the District nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, made a report/formal complaint, testified, assisted or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the District promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training and information provided regarding the District's policy and discrimination in general will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Revised 11/25/19
Revised 4/12/21

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Legal
29 C.F.R. Part 1630
34 C.F.R. Part 300
34 C.F.R. Part 104
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po2266

Special Update - Nondiscrimination - July 2026 Revised NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

ADOPTED Aug 10, 2020 · REVISED Sep 15, 2025

2266 – **NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES**

Introduction

~~**[DRAFTING NOTE: Wisconsin and Federal law applicable to Wisconsin includes the concepts of gender identity and gender stereotypes/nonconformance within the definition of "sex". Whether the language is included expressly in policy or not, Districts are still required to investigate complaints alleging discriminatory treatment on the basis of gender identity and to remedy violations.**~~

bn note: this language to discuss with Dyanna: The District ~~Board~~ does not discriminate on the basis of sex **(x)** (including gender identity or gender stereotypes/nonconformance) **[END OF OPTION]**, ~~(including sexual orientation or gender identity),~~ in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. **[DRAFTING NOTE: In the Title IX regulations, the term "admission" refers to admission to postsecondary institutions (i.e., institutions of graduate higher education, institutions of undergraduate higher education, institutions of professional education, and institutions of vocational education); thus, if a K-12 school does not operate a vocational program (e.g., a school or institution that has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study), the K-12 school does not officially need to include "admission and" in the preceding sentence (and where that phrase is used throughout this policy); Neola, however, has elected to include it because all K-12 schools "enroll" students and often the term "enroll" is viewed as synonymous with the term "admit." Since K-12 schools cannot discriminate when enrolling students into the education programs or activities that they operate, it seems appropriate to include the term "admission."]** The

District ~~Board~~ is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment. END BN Note

The District does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The District prohibits sexual harassment that occurs within its education programs and activities. When the District has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the District is committed to eliminating sexual harassment and will take appropriate action when an individual is determined responsible for violating this policy. Members of the School District community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. Third Parties who engage in sexual harassment are also subject to the disciplinary sanctions listed in this policy. The District will provide persons who have experienced Sexual Harassment ongoing supportive measures as reasonably necessary to restore or preserve access to the District's education programs and activities.

Coverage

This policy applies to sexual harassment that occurs within the District's education programs and activities and that is committed by a District employee, student, Third Party vendor or contractor, guest, or other members of the school community.

This policy does not apply to sexual harassment that occurs off school grounds, in a private setting, and outside the scope of the District's education programs and activities; such sexual misconduct/sexual activity may be prohibited by the Student Code of Conduct if committed by a student, or by District policies and administrative guidelines, applicable State and/or Federal laws, and/or the Employee Handbook if committed by a District employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in the District's education programs or activities. Sexual harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed

by a student, or by other applicable District policies and administrative guidelines, applicable State and/or Federal laws, and/or the Employee Handbook if committed by a District employee.

Complaints alleging sexual harassment and/or discrimination on the basis of sex are also covered by and subject to the investigation procedures in District Policy 5517 - Student Anti-Harassment. Complaints not covered by this policy may still be governed by and subject to the procedures in Policy 5517 - Student Anti-Harassment.

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Sexual Harassment: "Sexual Harassment" means conduct on the basis of sex that satisfies one (1) or more of the following:

A. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and the "nonforcible" sex offenses of incest and statutory rape. Sexual assault includes rape, sodomy, sexual assault with an object, criminal sexual contact ~~fondling~~, incest, and statutory rape.

B. 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 District's education program or activity; or

C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "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).

1. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.

    a. *Rape* is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

    b. *Sodomy* is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the

victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

c. *Sexual Assault with an Object* is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.

d. *Criminal Sexual Contact (f.k.a. Fondling)* is the intentional touching of the clothed or unclothed body parts, without consent, of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation; or the forced touching by the victim of the other individual's clothed or unclothed body parts, without consent of the victim, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation. ~~*Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity~~

e. *Incest* is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law

f. *Statutory Rape* is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by 948.02 or 948.09, Wis. Stats. or whose status as a student prohibits such sexual contact per 948.095, Wis. Stats.

g. *Consent* refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.

h. *Incapacitated* refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.

2. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:

    a. A current or former spouse or intimate partner of the victim;

    b. A person with whom the victim shares a child in common;

    c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;

    d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or

    e. 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 in which the crime occurred.

3. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

4. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – 1) fear for the person's safety or the safety of others; or 2) suffer substantial emotional distress.

Complainant: "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: "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 District investigate the allegation(s) of sexual harassment. At the time of filing a formal complaint with the District, a Complainant must be participating in or attempting to participate in the District's education program or activity. A "document filed

by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the District provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or a party to the formal complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Actual Knowledge: "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator, any District official who has the authority to institute corrective measures on behalf of the District or any District employee. 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 the authority to institute corrective measures on behalf of the District. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. This standard is not met when the only District official with actual knowledge is the Respondent. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

Supportive Measures: "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 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, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), referral to Employee Assistance Program, and other similar measures.

Education Program or Activity: "Education program or activity" refers to all operations of the District over which the District ~~Board~~ exercises substantial control, including in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, community engagement, and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the District. It also includes events and circumstances that take place off-school property/grounds if the District exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.

School District community: "School District community" refers to students and District employees (i.e., administrators, and professional and support staff), as well as Board

members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties: "Third Parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents/guardians), vendors doing business with or seeking to do business with the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

Inculpatory Evidence: "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.

Exculpatory Evidence: "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means a business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Eligible Student: "Eligible student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

Title IX Coordinator(s)

The District ~~Board~~ designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

Director of Student Services
608-842-6526
500 S. Cleveland Avenue, DeForest, WI 53532

Director of Human Resources
608-842-6521
500 S. Cleveland Avenue, DeForest, WI 53532

The Title IX Coordinator shall report directly to the Superintendent. Questions about this policy should be directed to the Title IX Coordinator.

The Superintendent or designee shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, District ~~Board~~ employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District ~~Board~~ of the following information:

The DeForest Area School District does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District's Title IX Coordinator(s) is/are:

Director of Student Services
608-842-6526
500 S. Cleveland Avenue,

DeForest, WI 53532

Director of Human Resources
608-842-6521
500 S. Cleveland Avenue,

DeForest, WI 53532

Any inquiries about the application of Title IX and its implementing regulations to the District may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The District has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: https://www.deforest.k12.wi.us/. The grievance process and procedures specifically address 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.

The Superintendent shall also prominently display the Title IX Coordinator's(s') contact information – including Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this policy on the District's website and in each handbook or catalog that the District makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, District employees, and all unions or professional organizations holding collective bargaining or professional agreements.

Grievance Process

The District is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The District's response to allegations of sexual harassment will treat the Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following

this grievance process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If a determination of responsibility for sexual harassment is made against the Respondent, the District will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

The Process described herein relates exclusively to complaints brought under this Policy. The District will continue to handle complaints subject to the District's other nondiscrimination and anti-harassment policies including: Policy 5517 - Student Anti-Harassment; Policy 5517.01 - Bullying; Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity; and Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.

Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including 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 Title IX Coordinator's contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s), or by mail to the office address(es), listed for the Title IX Coordinator(s).

District employees are required, and other members of the School District community and Third Parties are encouraged, to report allegations of sex discrimination or sexual harassment promptly to the/a Title IX Coordinator or to any District employee, who will, in turn, notify the/a Title IX Coordinator. Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of sexual harassment by or involving the Title IX Coordinator, the person making the report should submit it to the Superintendent, or another District employee who, in turn, will notify the Superintendent of the report. The

Superintendent shall determine who will serve in place of the Title IX Coordinator for purposes of addressing that report of sexual harassment.

The District does business with various vendors, contractors, and other Third Parties who are not students or employees of the District. Notwithstanding any rights that a given vendor, contractor, or Third Party Respondent may have under this policy, the District retains the right to limit any vendor's, contractor's, or third party's access to school grounds for any reason. The District further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or Third Party, irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a formal complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of sexual misconduct/sexual activity not involving sexual harassment will be addressed through the procedures outlined in District policies the applicable Student Code of Conduct, or the Employee Handbook.

Because the District is considered to have actual knowledge of sexual harassment or allegations of sexual harassment, if any District employee has such knowledge, and because the District must take specific actions when it has notice of sexual harassment or allegations of sexual harassment, a District employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or sexual harassment must notify the/a Title IX Coordinator within two (2) days of learning the information or receiving the report. The District employee must also comply with mandatory reporting responsibilities pursuant to Wis. Stat. 48.981 and Policy 8462 – Student Abuse and Neglect, if applicable. If the District employee's knowledge is based on another individual bringing the information to the District employee's attention and the reporting individual submitted a written complaint to the District employee, the District employee must provide the written complaint to the Title IX Coordinator.

If a District employee fails to report an incident of sexual harassment of which the District employee is aware, the District employee may be subject to disciplinary action, up to and including termination.

When a report of sexual harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days) contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) 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. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive

measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by State and/or Federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related District policies, including Policy 5120 - Assignment within District, Policy 5605 - Suspension/Expulsion of Students with Disabilities, and and Policy 5610 – Suspension and Expulsion.

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements.

For all other Respondents, including other members of the School District community and Third Parties, the District retains broad discretion to prohibit such persons from entering its school grounds and other properties at any time and for any reason, whether after receiving a report of sexual harassment or otherwise.

Formal Complaint of Sexual Harassment

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above. If a formal complaint involves allegations of sexual harassment by or involving the Title IX Coordinator, the Complainant should submit the formal complaint to the Superintendent, who will designate another person to serve in place of the Title IX Coordinator for the limited purpose of implementing the grievance process with respect to that formal complaint.

The Complainant's wishes with respect to whether a formal complaint is filed will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

When the Title IX Coordinator receives a formal complaint or signs a formal complaint, the District will follow its grievance process and procedures, as set forth herein. Specifically, the District will undertake an objective evaluation of all relevant evidence – including both

inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of sexual harassment or submitting a false formal complaint. The District will not tolerate such conduct, which is a violation of the Student Code of Conduct and the Employee Handbook.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Timeline

The District will seek to conclude the grievance process within ninety (90) calendar days of receipt of the formal complaint, followed by the appeal process which shall be processed in a timely manner.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action, except that any complaint covered by Policy 5517 - Student Anti-Harassment as well must comply with the timelines in that Policy, however, an investigation may still proceed as required under this Policy. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or an accommodation of disabilities. The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process.

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

A. Notice of the District's grievance process, including any informal resolution processes;

B. Notice of the allegations of misconduct that potentially constitutes 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:

1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;

2. 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;

3. inform the parties of any provision in the Student Code of Conduct, this policy, and/or Employee Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

The District shall investigate the allegations in a formal complaint *unless* the conduct alleged in the formal complaint:

A. would not constitute sexual harassment (as defined in this policy) even if proven;

B. did not occur in the District's education program or activity; or

C. did not occur against a person in the United States.

If one of the preceding circumstances exists, the Title IX Coordinator *shall* dismiss the formal complaint. If the Title IX Coordinator dismisses the formal complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, District policy, and/or the Employee Handbook.

The Title IX Coordinator *may* dismiss a formal complaint, or any allegations therein, if at any time during the investigation

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 the District or employed by the District; or

C. specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the Title IX Coordinator dismisses a formal complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one (1) Respondent, or by more than one (1) Complainant against one (1) or more Respondents, or by one (1) 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 (1) Complainant or more than one (1) Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

Informal Resolution Process

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a formal complaint of sexual harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a formal complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

A. the allegations;

B. 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; and

C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

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.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a District employee, or another adult member of the School District community or Third Party, sexually harassed a student.

The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent.

Investigation of a Formal Complaint of Sexual Harassment

In conducting the investigation of a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the District, not the parties.

In making the determination of responsibility, the decision-maker(s) is (are) directed to use the preponderance of the evidence standard. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

The District is not permitted to 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 party provides the District with voluntary, written consent to do so; if a student party is not an eligible student, the District must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may 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 in writing.

As part of the investigation, the parties have the right to:

A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and

B. 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;

   The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

C. District Policy 2461 – Recording of IEP Team Meetings controls whether a person is allowed to audio or video record any meeting or grievance proceeding.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator(s) and decision-maker(s) must provide a minimum of a one (1) day notice with respect to investigative interviews and other meetings.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District 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 the conclusion of the investigation.

Prior to completion of the investigative report, the Title IX Coordinator will 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 will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to the decision-maker(s) issuing a determination regarding responsibility.

Determination of Responsibility

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will 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. The decision-maker(s) must explain to the party proposing the question of any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Determination regarding responsibility: The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the preponderance of the evidence standard.

The written determination will include the following content:

A. Identification of the allegations potentially constituting sexual harassment pursuant to this policy;

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, and methods used to gather other evidence;

C. Findings of fact supporting the determination;

D. Conclusions regarding the application of the applicable 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 decision-maker(s) is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and

F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

Informal or formal disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in sexual harassment).

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5605 – Suspension/Expulsion of Students with Disabilities and Policy 5610 – Suspension and Expulsion. The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

Disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy including, but not limited to (i.e., engaging in Sexual Harassment):

A. oral or written warning;

B. written reprimands;

C. performance improvement plan;

D. required counseling;

E. required training or education;

F. demotion;

G. suspension with pay;

H. suspension without pay;

I. termination, and any other sanction authorized by any applicable Employee/Administrator Handbook.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual.

The discipline of an employee will be implemented in accordance with Federal and State law, and District policy.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District community or Third Party determined responsible for violating this policy (i.e., engaging in sexual harassment):

A. oral or written warning;

B. suspension or termination/cancellation of the District's contract with the Third Party vendor or contractor;

C. mandatory monitoring of the Third Party while on school property and/or while working/interacting with students;

D. restriction/prohibition on the Third Party's ability to be on school property; and

E. any combination of the same.

If the decision-maker(s) determines the Third Party Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including the imposition of sanctions. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately imposing a disciplinary sanction/consequence, the Superintendent will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances. If the Respondent is a member of the Board, that member of the Board shall be excluded from any determination regarding the imposition of a disciplinary sanction/consequence by the remaining Board members.

The District's resolution of a formal complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process and procedures, the Superintendent may involve local law enforcement and/or file criminal charges related to allegations of sexual harassment that involve a sexual assault.

The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appeal

Both parties have the right to file an appeal from a determination regarding responsibility or from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, on the following bases:

A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);

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(s) or Respondent(s) that affected the outcome of the matter.

The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein.

Nothing herein shall prevent the Superintendent from implementing appropriate remedies, excluding disciplinary sanctions, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The decision-maker(s) for the appeal shall determine when each party's written statement is due.

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or

modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

The determination of responsibility associated with a formal complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. No further review beyond the appeal is permitted.

Retaliation

Neither the District nor any 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, its implementing regulations, or this policy, or because the individual 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. 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, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance procedures set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

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 shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

The District will 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 the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA's regulations, and State law under Wis. Stat. § 118.12, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).

Application of the First Amendment

The District will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment.

Training

The District's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

A. the definition of sexual harassment (as that term is used in this policy);

B. the scope of the District's education program or activity;

C. how to conduct an investigation and implement the grievance, appeals, and informal resolution processes, as applicable; and

D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

Recordkeeping

As part of its response to alleged violations of this policy, the District shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District shall 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 District's education program or activity. If the District does not provide a Complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

The District shall maintain for a period of seven (7) calendar years the following records pursuant to Wis. Stat. § 19.21(6):

A. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's education program or activity;

B. Any appeal and the result therefrom;

C. Any informal resolution and the result therefrom; and

D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The Title IX Coordinator will make the training materials available upon request for inspection by members of the public.

Outside Appointments, Dual Appointments, and Delegations

The District retains the discretion to appoint suitably qualified persons who are not District employees to fulfill any function of the District under this policy including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The District also retains the discretion to appoint two (2) or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The Superintendent may delegate functions assigned to a specific District employee under this policy including, but not limited to, the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor to any suitably qualified individual, and such delegation may be rescinded by the Superintendent at any time.

Discretion in Application

The District retains the discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the District's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the District's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the District retains the discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right or as part of any other express or implied contract. Accordingly, the District retains the discretion to revise this policy at any time, and for any reason. The District may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

Revised 4/23/22
Revised 12/12/22
Revised 7/22/24
Revised 2/27/25
T.C. 9/15/25

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Legal
19.21(6), Wis. Stats.
120.13, Wis. Stats.
948.01 et. seq., Wis. Stats.
20 U.S.C. 1092(F)(6)(A)(v)
20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)
20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)
34 C.F.R. Part 106
34 U.S.C. 12291(a)(8)
34 U.S.C. 12291(a)(10)
34 U.S.C. 12291(a)(30)
42 U.S.C. 1983
42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964
42 U.S.C. 2000d et seq.
42 U.S.C. 2000e et seq.
OCR's Revised Sexual Harassment Guidance (2001)

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po3122

Vol. 35, No. 2 - Special Update - Nondiscrimination - July 2026 WI Replacement NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT

ADOPTED Jul 1, 2019 · REVISED Jul 1, 2024

Replacement Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination

3122 - **NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT**

[DRAFTING NOTE: Wisconsin and Federal law applicable to Wisconsin includes the concepts of gender identity and gender stereotypes/nonconformance within the definition of "sex". Whether the language is included expressly in policy or not, Districts are still required to investigate complaints alleging discriminatory treatment on the basis of gender identity and to remedy violations.]

The District ~~Board(~~ does not discriminate on the basis of race, color, national origin, age, sex ~~)~~ (including gender status, change of sex, sexual orientation, or gender identity) ~~- [END OF OPTION]~~ , pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities.

The District ~~Board~~ is committed to providing a work environment that is free from Prohibited Conduct, responding promptly and effectively when it has knowledge of

conduct that reasonably may constitute Prohibited Conduct, and addressing Prohibited Conduct in its education programs or activities. This commitment applies to all District operations and this policy applies to Prohibited Conduct occurring within or as a part of the District's education programs and activities, whether on school property or at another location during an activity sponsored by the District ~~Board~~ .

Persons who commit Prohibited Conduct are subject to the full range of disciplinary sanctions outlined in this policy.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Bullying means: any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an employee, supervisor, manager, or other member of the District staff, that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive work environment; or unreasonably interfere with the individual's work performance or participation. It may involve: (a) threats; (b) intimidation; (c) stalking; (d) cyberstalking; (e) cyberbullying; (f) physical violence; (g) theft; (h) sexual, religious, or racial harassment; (i) public humiliation; or (j) destruction of property. Bullying rises to the level of unlawful harassment when the conduct is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal and/or State civil rights laws and is severe or pervasive enough to alter the conditions of employment or create a hostile environment. Ordinary teasing, horseplay, arguments, and peer conflict do not constitute bullying for purposes of this policy.

Complainant means: an employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or a person, other than an employee, who is alleged to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in the District's education programs or activities at the time of the alleged Prohibited Conduct.

Complaint means: an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged Prohibited Conduct.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., days that the District ~~Board~~ office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Disciplinary sanctions means: consequences imposed on a respondent following a determination that the respondent engaged in Prohibited Conduct.

Education programs or activities refer to: all the District's operations including, but not limited to, in-person and online/remote educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all programs and activities operated by the District ~~Board~~ on school grounds or on other property owned or occupied by the District ~~Board~~. It also includes events and circumstances that take place off school property/grounds but over which the District asserts disciplinary authority (e.g., at off-campus activities sponsored by the District ~~Board~~).

Exculpatory evidence means: evidence that is favorable to a respondent because it helps excuse, justify, or absolve a respondent of alleged wrongdoing and tends to establish that a respondent did not engage in Prohibited Conduct.

Genetic information means: information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (i.e., family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

Harassment means: any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against an employee that (a) places the employee in reasonable fear of harm to their person or damage to their property; (b) has the effect of substantially interfering with the employee's work performance; or (c) has the effect of substantially disrupting the orderly operation of a school. Each of the following types of harassment involves unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's protected characteristic(s) and has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

1. **Age Harassment** means: harassment based on negative perceptions about older workers. It also includes harassment based on stereotypes about older workers, even if they are not motivated by animus, such as pressuring an older employee to transfer to a job that is less technology-focused because of the perception that older workers are not well-suited to such work or encouraging an older employee to retire.

2. **Disability Harassment** means: harassment based upon a person's disability and includes harassment based upon stereotypes about individuals with disabilities in general or about an individual's particular disability. It also includes harassment based on traits or characteristics linked to an individual's disability, such as how the person speaks, looks, or moves. For example, negative comments about an individual's speech patterns, movement, physical impairments, or defects/appearances, or the like. Disability-based harassment includes: (a) harassment because an individual requests or receives reasonable accommodation; (b) harassment because an individual is regarded as having an impairment, even if the individual does not have an actual disability, or a record of disability; (c) harassment because an individual has a record of a disability, even if the individual currently does not have a disability; and (d) harassment based on the disability of an individual with whom the employee is associated. Finally, disability-based harassment may occur where conduct is directed at or pertains to a person's genetic information.

3. **National Origin/Ancestry Harassment** means: harassment due to a person's (or their ancestor's) place of origin. Such harassing conduct can include ethnic slurs or epithets, derogatory comments about individuals of a particular nationality, and use of stereotypes about a person's national origin. Additionally, it can include harassment regarding traits or characteristics linked to an individual's national origin, such as physical characteristics, ethnic or cultural characteristics or customs (e.g., surnames, attire, or diet), or linguistic characteristics (e.g., a person's manner of speaking, non-English language accent, or a lack of fluency in English).

4. **Race/Color Harassment** means: unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's race or color and has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive work environment. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

5. **Religious (Creed) Harassment** means: harassment based on a person's surname, religion (including atheism or lack of religious belief), religious traditions and practices, or religious dress/clothing, and includes making offensive comments about the same. It also includes religious slurs or epithets, harassing conduct based on religious stereotypes, and harassment associated with a person's request for and/or receipt of religious accommodation. Religious harassment also involves explicitly or implicitly coercing an employee to engage in religious practices at work.

6. **Sexual Harassment** means (for purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; (b) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (c) such conduct has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive working environment. Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.

    1. Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

    2. Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

        1. Conduct of a sexualized nature, such as unwanted conduct expressing sexual attraction or involving sexual activity (e.g., unwelcome sexual propositions, invitations, solicitations, and flirtations; unwanted physical and/or sexual contact, including unwelcome and inappropriate touching, patting, or pinching ~~- (~~) ; and obscene gestures ~~[END OF OPTION]~~ .

        2. Sexual attention or sexual coercion, such as demands or pressure for sexual favors (e.g., threats or insinuations that a person's employment, wages, or other conditions of employment may be adversely affected by not submitting to sexual advances; giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin).

3. Rape, sexual assault, or other acts of sexual violence.

4. Discussing or displaying visual depictions of sex acts or sexual remarks (e.g., unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, texts, etc.; sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature placed in the work environment; asking or telling about sexual fantasies, sexual preferences, or sexual activities; speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history).

5. A consensual sexual relationship where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

6. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

7. Non-sexual conduct based on sex, such as sex-based epithets; sexist comments (such as remarks that women do not belong in management or that men do not belong in the nursing profession); or facially sex-neutral offensive conduct motivated by sex (such as bullying directed toward employees of one sex).

8. Harassment based on pregnancy, childbirth, or related medical condition, which may include issues pertaining to lactation, using or not using contraception, or deciding whether to have, or not to have, an abortion.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be objectively offensive (a reasonable person would find it hostile or abusive), subjectively offensive (the complainant actually perceived it as

abusive), and either sufficiently severe (a single extremely serious incident) or pervasive (a pattern of behavior), such that it adversely affects, limits, or denies an individual's employment, or creates a hostile or abusive employment environment.

Inculpatory evidence means: evidence that links a respondent to alleged wrongdoing and tends to establish a respondent engaged in Prohibited Conduct (i.e., has culpability).

Military status means: a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Party means: a complainant or respondent.

Pregnancy, childbirth, or related medical conditions means:

1. "Pregnancy" and "childbirth" refer to the pregnancy or childbirth of a specific employee and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment, and the use of contraception); labor; and childbirth (including vaginal and cesarean delivery).

2. "Related medical conditions" are medical conditions relating to the pregnancy or childbirth of a specific employee, and may include termination of pregnancy, including via miscarriage, stillbirth, or abortion; ectopic pregnancy; preterm labor; pelvic prolapse; nerve injuries; cesarean or perineal wound infection; maternal cardiometabolic disease; gestational diabetes; preeclampsia; HELLP (hemolysis, elevated liver enzymes and low platelets) syndrome; hyperemesis gravidarum; anemia; endometriosis; sciatica; lumbar lordosis; carpal tunnel syndrome; chronic migraines; dehydration; hemorrhoids; nausea or vomiting; edema of the legs, ankles, feet, or fingers; high blood pressure; infection; antenatal (during pregnancy) anxiety, depression, or psychosis; postpartum depression, anxiety, or psychosis; frequent urination; incontinence; loss of balance; vision changes; varicose veins; changes in hormone levels; vaginal bleeding; menstruation; and lactation and conditions related to lactation, such as low milk

supply, engorgement, plugged ducts, mastitis, or fungal infections. The preceding list of related medical conditions is not exhaustive.

Prohibited Conduct means: unlawful discrimination or harassment based on a person's Protected Class(es) or retaliation. Such misconduct involves a violation of Federal and/or State civil rights laws.

Respondent means: a person who is alleged to have engaged in Prohibited Conduct.

Retaliation means: intimidation, threats, coercion, or discrimination against any person by the District, a student, a District ~~Board~~ employee, or any other person authorized by the District ~~Board~~ to provide aid, benefit, or service under the District's education programs or activities, for the purpose of interfering with any right or privilege secured by Federal or State law, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under applicable Federal or State laws or regulations.

School District community means: students and District ~~Board~~ employees (i.e., administrators and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District ~~Board~~ .

Third Parties means: guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District ~~Board~~ , and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

Pregnancy, Childbirth, and Related Medical Conditions

The District ~~Board~~ will not discriminate against an employee based on the person's current pregnancy, potential or intent to become pregnant, past pregnancy, or medical condition related to pregnancy or childbirth, or because the person uses birth control, or has had or not had an abortion.

Additionally, the District ~~Board~~ will provide a reasonable accommodation to an employee's known limitation related to pregnancy, childbirth, or a related medical condition, unless the accommodation will cause the District undue hardship.

The District ~~Board~~ will treat pregnancy, childbirth, and related medical conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; accrual of seniority and any other benefit or service; reinstatement; and under any fringe benefit offered to employees by virtue of employment.

The District ~~Board~~ will provide reasonable break time for an employee to express breast milk while at work for the first year after the employee's child's birth. The District ~~Board~~ will provide the employee with a space, other than a bathroom, that is clean, shielded from view, free from intrusion from coworkers and the public, and which the employee can use as needed to express breast milk. See District ~~Board~~ Policy 6700 – Fair Labor Standards Act.

Nondiscrimination Based on Employee's Genetic Information

The District ~~Board~~ prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The District ~~Board~~ also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Harassment of a person because of the individual's genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

District Compliance Officer(s)

~~- [DRAFTING NOTES:~~

1. ~~Neola suggests the Board appoint both a male and a female to serve as the District Compliance Officers. By appointing two (2) District Compliance Officers, there should always be a District Compliance Officer available to address a claim that pertains to the other District Compliance Officer. If, however, the Board appoints~~

~~more than one (1) District Compliance Officer, Neola recommends that it designate one (1) of the District Compliance Officers to retain ultimate oversight over the assigned responsibilities and ensure the Board's consistent compliance with its responsibilities under applicable Federal and State laws that prohibit unlawful discrimination/harassment based on protected classes and retaliation. Alternatively, the Board could appoint a District Compliance Officer and one (1) or more persons to assist the District Compliance Officer with performance of the responsibilities identified in this policy and its accompanying administrative guidelines. Often the person(s) designated to assist a District Compliance Officer is/are called Deputy or Assistant Compliance Officer(s). If the Board elects this alternative approach, it would designate a District Compliance Officer for purposes of this policy, and then designate the other position(s) through its AG. The person(s) in the alternative support role(s) will need to be trained in the same manner as the District Compliance Officer.~~

2. ~~The Board must list in this policy either the Name(s) or Title(s) of the District Compliance Officer(s); while the Board may list both the Name(s) and Title(s), Neola suggests that the Board only list the Title(s) in this policy (so the Board does not need to revise/amend the policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name(s) and Title(s) in the requisite notices/postings (e.g., website) and publications (e.g., handbooks).~~

3. ~~Reminder: Whenever a new person begins to serve as the District Compliance Officer (or in a support role to the District Compliance Officer), the District needs to make sure the new person is appropriately trained, in a timely manner, to fulfill the responsibilities of the position to which the person is assigned.]~~

~~[END OF DRAFTING NOTES]~~

The District ~~Board~~ designates and authorizes the following individual(s) to coordinate its efforts to comply with the District's ~~Board's~~ responsibilities under Federal and State laws that prohibit discrimination, including harassment, based on Protected Classes and retaliation (also known as "Civil Rights Coordinator(s)" or "Anti-Harassment Compliance Officer(s)") (hereinafter referred to as the "District Compliance Officer(s)" or "CO(s)"):

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

- [DRAFTING NOTE: The District may want to create a static (i.e., fixed) District Compliance Officer -specific email address and phone number that will not change when the person(s) and/or position(s) designated to be the CO(s) change(s) – e.g., CO4CivilRights@(insert District's domain) – which the Technology Director/Department can program to be forwarded to the actual individual(s) serving as the District Compliance Officer(s) at any given time. Likewise, the District may want to establish a static Telephone Number for the position of District Compliance Officer that can be forwarded to, and accessed by, the actual person(s) serving in the CO position(s) at any given time. These two (2) steps will help reduce the information that needs to be updated in policy, AG, and/or the requisite notices/postings and publications when changes occur to the specific person(s)/position(s) designated to serve as the CO(s).]

[DRAFTING NOTE: Complete the following information if the Board appoints more than one (1) District Compliance Officer.]

DESIGNATION OF A SECOND DISTRICT COMPLIANCE OFFICER

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

[DRAFTING NOTE: As discussed above, if the Board designates more than one (1) CO, Neola recommends that the District select the following option.]

The Board designates _____ [DRAFTING NOTE: Insert Name and/or Title of the District Compliance Officer who is ultimately responsible for the District's compliance with its responsibilities under Federal and State laws that prohibit discrimination/harassment based on Protected Classes and retaliation] -as the individual who is ultimately responsible for oversight over the Board's compliance with applicable Federal and State laws and regulations that prohibit discrimination based on the basis of Protected Classes and retaliation. [END OF OPTION]
_ [ ]

The District Compliance Officer may delegate specific duties to one (1) or more designees.
[END OF OPTION] [ ]

The contact information concerning the District Compliance Officer(s) will be published on the School District's website and annually ~~:~~

in parent/student and staff handbooks.

1. ~~-~~

2. ~~in the School District Annual Report to the public.~~

~~[DRAFTING NOTE: The Board may want to select the following option when the Superintendent is not the CO. While Neola recognizes that this may not always be possible, it may be preferable to have the CO be someone other than the Superintendent because then – if the CO serves as the investigator and decisionmaker – the Superintendent can serve as the appeal decisionmaker or the facilitator for the informal resolution process.]~~

~~-~~

The District Compliance Officer(s) shall report directly to the Superintendent except when the Superintendent is a party to a complaint (i.e., either the complainant or the respondent). Under such circumstances, the CO(s) shall report directly to ~~the Board President ( )~~ the District's ~~Board's~~ Legal Counsel ~~_____~~ ~~[OTHER] [END OF INTERNAL OPTIONS]~~ until the matter in which the Superintendent is a party is concluded. **[END OF OPTION]** ~~( ) [SELECT ONE OF THE FOLLOWING] ( ) [ ]~~

Questions about this policy should be directed to the District Compliance Officer(s).

The CO(s) is/are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, harassment, retaliation, or denial of equal opportunity/access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), Genetic Information Nondiscrimination Act (GINA), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. Copies of the laws and regulations listed above are available upon request from the CO(s).

The CO(s) shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute Prohibited Conduct

pursuant to Federal and/or State laws that prohibit discrimination/harassment based on the basis of a Protected Class/Category and retaliation, and take steps reasonably calculated to address such barriers.

Notice of Nondiscrimination

The Superintendent shall provide notice of the District's ~~Board's~~ policy on nondiscrimination and the identity of the School District's Compliance Officer(s). Such notice will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Reports and Complaints of Prohibited Conduct and Retaliation

Employees are required to report incidents of Prohibited Conduct and/or retaliation to an administrator, supervisor, or other supervisory employees so that the District ~~Board~~ may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO as soon as reasonably practicable.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of Prohibited Conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged Prohibited Conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been subject to Prohibited Conduct are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under

this policy, individuals should make every effort to file a complaint as soon as practicable after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to Prohibited Conduct or Retaliation. COs shall accept reports of Prohibited Conduct or Retaliation directly from any member of the School District Community or a Third Party, or receive reports that are initially filed with another District ~~Board~~ employee.

Upon receipt of a report of alleged Prohibited Conduct or Retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged Prohibited Conduct/Retaliation) ~~; or the CO will designate a specific individual to conduct such a process as identified in a pre-defined list of investigators. [END OF OPTION 1] ( ) [OPTION 2] - the Superintendent will designate a specific individual to conduct the process necessary for an informal or formal investigation. [END OF OPTION 2]~~ The CO will provide a copy of this policy to the Complainant and the Respondent upon request. ~~( ) [OPTION 1]~~

Any District ~~Board~~ employee who directly observes Prohibited Conduct/Retaliation is obligated, in accordance with this policy, to report such observations to one of the COs as soon as reasonably practicable. Additionally, any District ~~Board~~ employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should promptly notify other District ~~Board~~ employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant as soon as reasonably practicable to advise of the District's ~~Board's~~ intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure ~~(See Form 3122 F2)~~

Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to Prohibited Conduct or Retaliation may seek resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of Prohibited Conduct/Retaliation and a process for rendering a decision regarding whether the charges are substantiated.

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").

Complaint Procedure

A Complainant who alleges Prohibited Conduct/Retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a Board member shall be referred to the District's ~~Board's~~ legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate, appoint/designate another individual to serve as CO for the complaint regarding a CO.

Due to the sensitivity surrounding complaints of Prohibited Conduct and Retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint as soon as reasonably practicable after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, as soon as reasonably practicable.

Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further Prohibited Conduct or Retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as reasonably practicable, the CO or designee will initiate an investigation by, at a minimum, confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and, upon request, provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint and the obligation to do so within a reasonable timeframe established by the CO or designee based on the circumstances.

Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.

The investigation will include:

1. interviews with the Complainant;
2. interviews with the Respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
4. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be

relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of the Prohibited Conduct/Retaliation as provided in District ~~Board~~ policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if Prohibited Conduct or Retaliation occurred, a preponderance of evidence standard will be used.

The CO may consult with the District's ~~Board's~~ attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent or Board President, if the matter involves the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within a reasonable timeframe after receiving the report of the CO, the Superintendent either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A summary of the Superintendent's final decision will be provided to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed as soon as reasonably practicable, taking into account the availability of necessary witness(es) or documents. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the Respondent engaged in Prohibited Conduct/Retaliation toward the Complainant, the Superintendent must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

The decision of the Superintendent shall be final.

In an attempt to resolve the complaint, the Board shall review the findings and may meet with the concerned parties and their representatives within a reasonable timeframe after the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) days of its decision. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of Prohibited Conduct/Retaliation regardless of whether the Complainant pursues the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The District ~~Board~~ will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's ~~Board's~~ legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave

taken due to the Prohibited Conduct/Retaliation, or other appropriate action

The District ~~Board~~ may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further Prohibited Conduct or Retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District ~~Board~~ shall vigorously enforce its prohibitions against Prohibited Conduct by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District ~~Board~~ may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District ~~Board~~ policies.

Where the District ~~Board~~ becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District ~~Board~~ and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging Prohibited Conduct/Retaliation, or participates as a witness in an investigation is prohibited. Neither the District ~~Board~~ nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of Prohibited Conduct, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy

that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

Application of the First Amendment

The District ~~Board~~ will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a respondent be found to have committed Prohibited Conduct based on expressive conduct that is protected by the First Amendment.

Education and Training

All District Compliance Officer(s), and other persons who are responsible for implementing the District's ~~Board's~~ complaint procedures or have the authority to modify or terminate supportive measures shall receive training related to their duties under applicable Federal and State laws and this policy. ~~The training shall be provided promptly upon hiring or a change of position that alters their duties under this policy, and annually thereafter. [END OF OPTION]~~ - The training shall not rely on stereotypes involving Protected Classes. ~~[ ]~~

~~Training materials will be made available for inspection upon request by members of the public. [END OF OPTION]~~
~~[ ]~~

Recordkeeping (including retention of investigatory records and materials)

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media (as defined in Policy 8315 - Information Management) created and received as part of an investigation. Records and materials associated with the implementation of this policy shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management, Policy 8320 - Personnel Records, and Policy 8330 - Student Records for the period set in the District's records retention schedule.

These records may include, but are not limited to the following:

1. all written reports/allegations/complaints/statements;

2. narratives of all verbal reports, allegations, complaints, and statements collected;

3. a narrative of all actions taken by District personnel;

4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the District ~~Board~~ to fulfill its responsibilities;

5. narratives of, notes from, or audio, video, or digital recordings of witness statements;

6. all documentary evidence;

7. e-mails, texts, or social media posts pertaining to the investigation;

8. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

9. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

10. dated written determinations to the parties;

11. dated written descriptions of verbal notifications to the parties;

12. written documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

13. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;

14. copies of the District ~~Board~~ policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the District's ~~Board's~~ expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

15. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

16. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;

The information, documents, ESI, and electronic media (as defined in Policy 8315-Information Management) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records, medical records).

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Legal References:
111.31 et seq., Wis. Stats.
111.335(d)(2), Wis. Stats.
118.195, Wis. Stats.
118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
20 U.S.C. 1092(F)(6)(A)(v)
20 U.S.C. 1232g
20 U.S.C. Section 1681, Title IX of Education Amendment Act
20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
29 C.F.R. Part 1635
29 U.S.C. 201 et seq., The Fair Labor Standards Act (FLSA)
29 U.S.C. 218d, PUMP for Nursing Mothers Act (PUMP Act)
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 701 et seq. (in particular 794), Rehabilitation Act of 1973, as amended
34 C.F.R. Part 110 (7/27/93)

38 U.S.C. Chapter 43 4301-4335 (see in particular 4311(a) [prohibits discrimination based on military service] and 4312 [reemployment rights]), Uniformed Services Employment and Reemployment Rights Act (USERRA)
42 U.S.C. 1983
42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq., Civil Rights Act of 1964 (e.g., Title VI and Title VII), as amended by the Pregnancy Discrimination Act
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 2000gg, Pregnant Workers Fairness Act (PWFA)

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended
Fourteenth Amendment, U.S. Constitution

~~3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**~~

~~The District does not discriminate in the employment of professional staff on the basis of race, color, national origin, age, sex (including gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities.~~

~~Notice of the District's policy on nondiscrimination and the identity of the School District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.~~

~~**Definitions**~~

~~Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.~~

~~**Complainant** is the individual who alleges, or is alleged, to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.~~

~~**Day(s):** Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating~~

hours, Monday – Friday, excluding State-recognized holidays).

Military status refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Respondent is the individual who has been alleged to have engaged in discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and District employees (i.e., administrators, and professional and support staff), as well as District members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

District Compliance Officers

The District designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to as the "COs").

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The titles and contact information of these individuals will be published annually in the staff handbooks and on the School District's website.

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination,

retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination in Employment Act of 1975, and the Genetic Information Nondiscrimination Act (GINA) to students, their parents, staff members, and the general public.

Reports and Complaints of Discrimination and Retaliation

Employees are required to report incidents of discrimination and/or retaliation to an administrator, supervisor, or other supervisory employees so that the District may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO at the employee's first opportunity, but no later than two (2) days.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation). The CO will provide a copy of this policy to the Complainant and the Respondent upon request.

~~Any District employee who directly observes discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant within two (2) business days to advise of the District's intent to investigate the alleged wrongdoing.~~

~~Investigation and Complaint Procedure~~

~~Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to discrimination or retaliation may seek resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.~~

~~Once the complaint process begins, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) days of the complaint being received).~~

~~The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").~~

~~Complaint Procedure~~

~~A Complainant who alleges discrimination/retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a District member shall be referred to the District's legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~

~~Due to the sensitivity surrounding complaints of discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than two (2) days.~~

~~Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.~~

~~All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.~~

~~If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.~~

~~Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.~~

~~Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.~~

~~Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and upon request provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint and the obligation to do so within five (5) days.~~

~~Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.~~

~~The investigation will include:~~

A. ~~interviews with the Complainant;~~

B. ~~interviews with the Respondent;~~

C. ~~interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;~~

D. ~~consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.~~

~~At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in District policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.~~

~~The CO may consult with the District's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.~~

~~In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.~~

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

~~The District reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The District also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the District or its designee.~~

~~The parties may be represented, at their own cost, at any of the above-described interviews/meetings.~~

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.~~

~~Appeal of Complaint Resolution/Disciplinary Action~~

Either the Complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, within five (5) business days of receipt of the notice of resolution or disciplinary decision. This appeal shall go to the Superintendent. The written appeal must state in detail the reason(s) for the appeal, explaining with specificity any alleged factual or procedural errors, any alleged issues concerning interpretation of District policy, any basis on which the disciplinary action is alleged to be improper and any new information or evidence, including an explanation why such information or evidence was not presented during the investigation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place. The Superintendent shall review the materials gathered and utilized by the investigator and the supervisor(s) in reaching their decision with regard to responsibility and disciplinary action. At their sole discretion, the Superintendent may interview the accused, the complainant, and/or any additional witnesses. Within ten (10) business days of receipt of the appeal, the Superintendent shall issue a written decision and that decision shall be final. All deadlines indicated above may be altered at the discretion of the Superintendent handling the appeal for good cause shown.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

The District may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take

action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District policies.

Where the District becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation, or participates as a witness in an investigation is prohibited. Neither the District nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the District promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District staff where appropriate. All training, as well as all information provided regarding the District's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Revised 11/25/19
Revised 4/23/22

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Legal
111.31 et seq., Wis. Stats.
111.335(d)(2), Wis. Stats.
118.195, Wis. Stats.
118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
38 U.S.C. 4301 et seq., Uniformed Services Employment and Reemployment Rights Act
42 U.S.C. 2000 et seq., Civil Rights Act of 1964
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964
42 U.S.C. 2000e et seq., Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

~~42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended~~
~~29 C.F.R. Part 1635, The GINA Regulations~~
~~34 C.F.R. Part 110, The Age Discrimination Act Regulations~~

NONDISCRIMINATION UPDATE FOR BOARD APPROVAL

po4122

Vol. 35, No. 2 - Special Update - Nondiscrimination - July 2026 WI Replacement NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT

ADOPTED Jul 1, 2019 · REVISED Jul 1, 2024

Replacement Policy - Vol. 35, No. 2 - Special Update - Nondiscrimination

4122 - **NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND ANTI-HARASSMENT**

[DRAFTING NOTE: Wisconsin and Federal law applicable to Wisconsin includes the concepts of gender identity and gender stereotypes/nonconformance within the definition of "sex". Whether the language is included expressly in policy or not, Districts are still required to investigate complaints alleging discriminatory treatment on the basis of gender identity and to remedy violations.]

The District ~~Board~~ does not discriminate on the basis of race, color, national origin, age, sex ~~(~~) (including gender status, change of sex, sexual orientation, or gender identity) ~~[END OF OPTION]~~ , pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities.

The District ~~Board~~ is committed to providing a work environment that is free from Prohibited Conduct, responding promptly and effectively when it has knowledge of

conduct that reasonably may constitute Prohibited Conduct, and addressing Prohibited Conduct in its education programs or activities. This commitment applies to all District operations and this policy applies to Prohibited Conduct occurring within or as a part of the District's education programs and activities, whether on school property or at another location during an activity sponsored by the District ~~Board~~ .

Persons who commit Prohibited Conduct are subject to the full range of disciplinary sanctions outlined in this policy.

Definitions:

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Bullying means: any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an employee, supervisor, manager, or other member of the District staff, that is sufficiently severe or pervasive to create an intimidating, hostile, or offensive work environment; or unreasonably interfere with the individual's work performance or participation. It may involve: (a) threats; (b) intimidation; (c) stalking; (d) cyberstalking; (e) cyberbullying; (f) physical violence; (g) theft; (h) sexual, religious, or racial harassment; (i) public humiliation; or (j) destruction of property. Bullying rises to the level of unlawful harassment when the conduct is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal and/or State civil rights laws and is severe or pervasive enough to alter the conditions of employment or create a hostile environment. Ordinary teasing, horseplay, arguments, and peer conflict do not constitute bullying for purposes of this policy.

Complainant means: an employee who is alleged to have been subjected to conduct that could constitute Prohibited Conduct; or a person, other than an employee, who is alleged to have been subjected to conduct that could constitute Prohibited Conduct and who was participating or attempting to participate in the District's education programs or activities at the time of the alleged Prohibited Conduct.

Complaint means: an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged Prohibited Conduct.

Day(s): Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., days that the District ~~Board~~ office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).

Disciplinary sanctions means: consequences imposed on a respondent following a determination that the respondent engaged in Prohibited Conduct.

Education programs or activities refer to: all the District's operations including, but not limited to, in-person and online/remote educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all programs and activities operated by the District ~~Board~~ on school grounds or on other property owned or occupied by the District ~~Board~~. It also includes events and circumstances that take place off school property/grounds but over which the District asserts disciplinary authority (e.g., at off-campus activities sponsored by the District ~~Board~~).

Exculpatory evidence means: evidence that is favorable to a respondent because it helps excuse, justify, or absolve a respondent of alleged wrongdoing and tends to establish that a respondent did not engage in Prohibited Conduct.

Genetic information means: information about: (a) an individual's genetic tests; (b) the genetic tests of that individual's family members; (c) the manifestation of disease or disorder in family members of the individual (i.e., family medical history); (d) an individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or (e) the genetic information of a fetus carried by an individual or a pregnant woman who is a family member of the individual and the genetic information of an embryo legally held by an individual or family member using assistive reproductive technology.

Harassment means: any threatening, insulting, or dehumanizing gesture, use of technology, or written, verbal, or physical conduct directed against an employee that (a) places the employee in reasonable fear of harm to their person or damage to their property; (b) has the effect of substantially interfering with the employee's work performance; or (c) has the effect of substantially disrupting the orderly operation of a school. Each of the following types of harassment involves unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's protected characteristic(s) and has the purpose or effect of interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.

1. **Age Harassment** means: harassment based on negative perceptions about older workers. It also includes harassment based on stereotypes about older workers, even if they are not motivated by animus, such as pressuring an older employee to transfer to a job that is less technology-focused because of the perception that older workers are not well-suited to such work or encouraging an older employee to retire.

2. **Disability Harassment** means: harassment based upon a person's disability and includes harassment based upon stereotypes about individuals with disabilities in general or about an individual's particular disability. It also includes harassment based on traits or characteristics linked to an individual's disability, such as how the person speaks, looks, or moves. For example, negative comments about an individual's speech patterns, movement, physical impairments, or defects/appearances, or the like. Disability-based harassment includes: (a) harassment because an individual requests or receives reasonable accommodation; (b) harassment because an individual is regarded as having an impairment, even if the individual does not have an actual disability, or a record of disability; (c) harassment because an individual has a record of a disability, even if the individual currently does not have a disability; and (d) harassment based on the disability of an individual with whom the employee is associated. Finally, disability-based harassment may occur where conduct is directed at or pertains to a person's genetic information.

3. **National Origin/Ancestry Harassment** means: harassment due to a person's (or their ancestor's) place of origin. Such harassing conduct can include ethnic slurs or epithets, derogatory comments about individuals of a particular nationality, and use of stereotypes about a person's national origin. Additionally, it can include harassment regarding traits or characteristics linked to an individual's national origin, such as physical characteristics, ethnic or cultural characteristics or customs (e.g., surnames, attire, or diet), or linguistic characteristics (e.g., a person's manner of speaking, non-English language accent, or a lack of fluency in English).

4. **Race/Color Harassment** means: unwelcome physical, verbal, or nonverbal conduct that is based upon an individual's race or color and has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive work environment. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

5. **Religious (Creed) Harassment** means: harassment based on a person's surname, religion (including atheism or lack of religious belief), religious traditions and practices, or religious dress/clothing, and includes making offensive comments about the same. It also includes religious slurs or epithets, harassing conduct based on religious stereotypes, and harassment associated with a person's request for and/or receipt of religious accommodation. Religious harassment also involves explicitly or implicitly coercing an employee to engage in religious practices at work.

6. **Sexual Harassment** means (for purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment; (b) submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (c) such conduct has the purpose or effect of interfering with the individual's work performance; or creating an intimidating, hostile, or offensive working environment. Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender.

    1. Sexual Harassment covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266.

    2. Prohibited acts that constitute sexual harassment under this policy may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

        1. Conduct of a sexualized nature, such as unwanted conduct expressing sexual attraction or involving sexual activity (e.g., unwelcome sexual propositions, invitations, solicitations, and flirtations; unwanted physical and/or sexual contact, including unwelcome and inappropriate touching, patting, or pinching ~~- (~~) ; and obscene gestures ~~- [END OF OPTION]~~ .

        2. Sexual attention or sexual coercion, such as demands or pressure for sexual favors (e.g., threats or insinuations that a person's employment, wages, or other conditions of employment may be adversely affected by not submitting to sexual advances; giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin).

3. Rape, sexual assault, or other acts of sexual violence.

4. Discussing or displaying visual depictions of sex acts or sexual remarks (e.g., unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, texts, etc.; sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature placed in the work environment; asking or telling about sexual fantasies, sexual preferences, or sexual activities; speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history).

5. A consensual sexual relationship where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.

6. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

7. Non-sexual conduct based on sex, such as sex-based epithets; sexist comments (such as remarks that women do not belong in management or that men do not belong in the nursing profession); or facially sex-neutral offensive conduct motivated by sex (such as bullying directed toward employees of one sex).

8. Harassment based on pregnancy, childbirth, or related medical condition, which may include issues pertaining to lactation, using or not using contraception, or deciding whether to have, or not to have, an abortion.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be objectively offensive (a reasonable person would find it hostile or abusive), subjectively offensive (the complainant actually perceived it as

abusive), and either sufficiently severe (a single extremely serious incident) or pervasive (a pattern of behavior), such that it adversely affects, limits, or denies an individual's employment, or creates a hostile or abusive employment environment.

Inculpatory evidence means: evidence that links a respondent to alleged wrongdoing and tends to establish a respondent engaged in Prohibited Conduct (i.e., has culpability).

Military status means: a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Party means: a complainant or respondent.

Pregnancy, childbirth, or related medical conditions means:

1. "Pregnancy" and "childbirth" refer to the pregnancy or childbirth of a specific employee and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment, and the use of contraception); labor; and childbirth (including vaginal and cesarean delivery).

2. "Related medical conditions" are medical conditions relating to the pregnancy or childbirth of a specific employee, and may include termination of pregnancy, including via miscarriage, stillbirth, or abortion; ectopic pregnancy; preterm labor; pelvic prolapse; nerve injuries; cesarean or perineal wound infection; maternal cardiometabolic disease; gestational diabetes; preeclampsia; HELLP (hemolysis, elevated liver enzymes and low platelets) syndrome; hyperemesis gravidarum; anemia; endometriosis; sciatica; lumbar lordosis; carpal tunnel syndrome; chronic migraines; dehydration; hemorrhoids; nausea or vomiting; edema of the legs, ankles, feet, or fingers; high blood pressure; infection; antenatal (during pregnancy) anxiety, depression, or psychosis; postpartum depression, anxiety, or psychosis; frequent urination; incontinence; loss of balance; vision changes; varicose veins; changes in hormone levels; vaginal bleeding; menstruation; and lactation and conditions related to lactation, such as low milk

supply, engorgement, plugged ducts, mastitis, or fungal infections. The preceding list of related medical conditions is not exhaustive.

Prohibited Conduct means: unlawful discrimination or harassment based on a person's Protected Class(es) or retaliation. Such misconduct involves a violation of Federal and/or State civil rights laws.

Respondent means: a person who is alleged to have engaged in Prohibited Conduct.

Retaliation means: intimidation, threats, coercion, or discrimination against any person by the District, a student, a District ~~Board~~ employee, or any other person authorized by the District ~~Board~~ to provide aid, benefit, or service under the District's education programs or activities, for the purpose of interfering with any right or privilege secured by Federal or State law, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under applicable Federal or State laws or regulations.

School District community means: students and District ~~Board~~ employees (i.e., administrators and professional and classified staff), as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District ~~Board~~ .

Third Parties means: guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District ~~Board~~ , and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

Pregnancy, Childbirth, and Related Medical Conditions

The District ~~Board~~ will not discriminate against an employee based on the person's current pregnancy, potential or intent to become pregnant, past pregnancy, or medical condition related to pregnancy or childbirth, or because the person uses birth control, or has had or not had an abortion.

Additionally, the District ~~Board~~ will provide a reasonable accommodation to an employee's known limitation related to pregnancy, childbirth, or a related medical condition, unless the accommodation will cause the District undue hardship.

The District ~~Board~~ will treat pregnancy, childbirth, and related medical conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; accrual of seniority and any other benefit or service; reinstatement; and under any fringe benefit offered to employees by virtue of employment.

The District ~~Board~~ will provide reasonable break time for an employee to express breast milk while at work for the first year after the employee's child's birth. The District ~~Board~~ will provide the employee with a space, other than a bathroom, that is clean, shielded from view, free from intrusion from coworkers and the public, and which the employee can use as needed to express breast milk. See District ~~Board~~ Policy 6700 – Fair Labor Standards Act.

Nondiscrimination Based on Employee's Genetic Information

The District ~~Board~~ prohibits discrimination on the basis of genetic information in all aspects of employment, including hiring, firing, compensation, job assignments, promotions, layoffs, training, fringe benefits, or any other terms, conditions, or privileges of employment. The District ~~Board~~ also does not limit, segregate, or classify employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of an employee as an employee, based on genetic information. Harassment of a person because of the individual's genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

District Compliance Officer(s)

~~- [DRAFTING NOTES:~~

1. ~~Neola suggests the Board appoint both a male and a female to serve as the District Compliance Officers. By appointing two (2) District Compliance Officers, there should always be a District Compliance Officer available to address a claim that pertains to the other District Compliance Officer. If, however, the Board appoints~~

~~more than one (1) District Compliance Officer, Neola recommends that it designate one (1) of the District Compliance Officers to retain ultimate oversight over the assigned responsibilities and ensure the Board's consistent compliance with its responsibilities under applicable Federal and State laws that prohibit unlawful discrimination/harassment based on protected classes and retaliation. Alternatively, the Board could appoint a District Compliance Officer and one (1) or more persons to assist the District Compliance Officer with performance of the responsibilities identified in this policy and its accompanying administrative guidelines. Often the person(s) designated to assist a District Compliance Officer is/are called Deputy or Assistant Compliance Officer(s). If the Board elects this alternative approach, it would designate a District Compliance Officer for purposes of this policy, and then designate the other position(s) through its AG. The person(s) in the alternative support role(s) will need to be trained in the same manner as the District Compliance Officer.~~

2. ~~The Board must list in this policy either the Name(s) or Title(s) of the District Compliance Officer(s); while the Board may list both the Name(s) and Title(s), Neola suggests that the Board only list the Title(s) in this policy (so the Board does not need to revise/amend the policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name(s) and Title(s) in the requisite notices/postings (e.g., website) and publications (e.g., handbooks).~~

3. ~~Reminder: Whenever a new person begins to serve as the District Compliance Officer (or in a support role to the District Compliance Officer), the District needs to make sure the new person is appropriately trained, in a timely manner, to fulfill the responsibilities of the position to which the person is assigned.]~~

~~[END OF DRAFTING NOTES]~~

The District ~~Board~~ designates and authorizes the following individual(s) to coordinate its efforts to comply with the District's ~~Board's~~ responsibilities under Federal and State laws that prohibit discrimination, including harassment, based on Protected Classes and retaliation (also known as "Civil Rights Coordinator(s)" or "Anti-Harassment Compliance Officer(s)") (hereinafter referred to as the "District Compliance Officer(s)" or "CO(s)"):

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

- [DRAFTING NOTE: The District may want to create a static (i.e., fixed) District Compliance Officer -specific email address and phone number that will not change when the person(s) and/or position(s) designated to be the CO(s) change(s) – e.g., CO4CivilRights@(insert District's domain) – which the Technology Director/Department can program to be forwarded to the actual individual(s) serving as the District Compliance Officer(s) at any given time. Likewise, the District may want to establish a static Telephone Number for the position of District Compliance Officer that can be forwarded to, and accessed by, the actual person(s) serving in the CO position(s) at any given time. These two (2) steps will help reduce the information that needs to be updated in policy, AG, and/or the requisite notices/postings and publications when changes occur to the specific person(s)/position(s) designated to serve as the CO(s).]

[DRAFTING NOTE: Complete the following information if the Board appoints more than one (1) District Compliance Officer.]

[ ] [DESIGNATION OF A SECOND DISTRICT COMPLIANCE OFFICER]

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

[DRAFTING NOTE: As discussed above, if the Board designates more than one (1) CO, Neola recommends that the District select the following option.]

The Board designates _____ [DRAFTING NOTE: Insert Name and/or Title of the District Compliance Officer who is ultimately responsible for the District's compliance with its responsibilities under Federal and State laws that prohibit discrimination/harassment based on Protected Classes and retaliation] as the individual who is ultimately responsible for oversight over the Board's compliance with applicable Federal and State laws and regulations that prohibit discrimination based on the basis of Protected Classes and retaliation. [END OF OPTION]
_ [ ]

The District Compliance Officer may delegate specific duties to one (1) or more designees.

The contact information concerning the District Compliance Officer(s) will be published on the School District's website and annually : [END OF OPTION]

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in parent/student and staff handbooks.

~~[DRAFTING NOTE: The Board may want to select the following option when the Superintendent is not the CO. While Neola recognizes that this may not always be possible, it may be preferable to have the CO be someone other than the Superintendent because then – if the CO serves as the investigator and decisionmaker – the Superintendent can serve as the appeal decisionmaker or the facilitator for the informal resolution process.]~~

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The District Compliance Officer(s) shall report directly to the Superintendent except when the Superintendent is a party to a complaint (i.e., either the complainant or the respondent). Under such circumstances, the CO(s) shall report directly to ~~- [SELECT ONE OF THE FOLLOWING] ( ) the Board President ( )~~ the District's ~~Board's~~ Legal Counsel ~~_____ [OTHER] [END OF INTERNAL OPTIONS]~~ until the matter in which the Superintendent is a party is concluded. ~~- [END OF OPTION] ( ) [ ]~~

Questions about this policy should be directed to the District Compliance Officer(s).

The CO(s) is/are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, harassment, retaliation, or denial of equal opportunity/access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), Genetic Information Nondiscrimination Act (GINA), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. Copies of the laws and regulations listed above are available upon request from the CO(s).

The CO(s) shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute Prohibited Conduct pursuant to Federal and/or State laws that prohibit discrimination/harassment based on the basis of a Protected Class/Category and retaliation, and take steps reasonably calculated to address such barriers.

Notice of Nondiscrimination

The Superintendent shall provide notice of the District's ~~Board's~~ policy on nondiscrimination and the identity of the School District's Compliance Officer(s). Such notice will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Reports and Complaints of Prohibited Conduct and Retaliation

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Employees are required to report incidents of Prohibited Conduct and/or retaliation to an administrator, supervisor, or other supervisory employees so that the Board may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO as soon as reasonably practicable.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of Prohibited Conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged Prohibited Conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been subject to Prohibited Conduct are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as practicable after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to Prohibited Conduct or Retaliation. COs shall accept reports of Prohibited Conduct or Retaliation directly from any member of the School District Community or a Third Party, or receive reports that are initially filed with another District ~~Board~~ employee.

Upon receipt of a report of alleged Prohibited Conduct or Retaliation, the CO will contact

the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged Prohibited Conduct/Retaliation), or **( ) [OPTION 1]** the CO will designate a specific individual to conduct such a process as identified in a pre-defined list of investigators. **[END OF OPTION 1] ( ) [OPTION 2]** the Superintendent will designate a specific individual to conduct the process necessary for an informal or formal investigation. **[END OF OPTION 2]** The CO will provide a copy of this policy to the Complainant and the Respondent upon request.

Any District ~~Board~~ employee who directly observes Prohibited Conduct/Retaliation is obligated, in accordance with this policy, to report such observations to one of the COs as soon as reasonably practicable. Additionally, any District ~~Board~~ employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should promptly notify other District ~~Board~~ employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant as soon as reasonably practicable to advise of the District's ~~Board's~~ intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure ~~(See Form 4122 F2)~~

Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to Prohibited Conduct or Retaliation may seek resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of Prohibited Conduct/Retaliation and a process for rendering a decision regarding whether the charges are substantiated.

The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").

Complaint Procedure

A Complainant who alleges Prohibited Conduct/Retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a Board member shall be referred to the District's ~~Board's~~ legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate, appoint/designate another individual to serve as CO for the complaint regarding a CO.

Due to the sensitivity surrounding complaints of Prohibited Conduct and Retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint as soon as reasonably practicable after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, as soon as reasonably practicable.

Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further Prohibited Conduct or Retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.

As soon as reasonably practicable, the CO or designee will initiate an investigation by, at a minimum, confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and, upon request, provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a

written response to the complaint and the obligation to do so within a reasonable timeframe established by the CO or designee based on the circumstances.

Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.

The investigation will include:

1. interviews with the Complainant;
2. interviews with the Respondent;
3. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
4. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of the Prohibited Conduct/Retaliation as provided in District ~~Board~~ policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if Prohibited Conduct or Retaliation occurred, a preponderance of evidence standard will be used.

The CO may consult with the District's ~~Board's~~ attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding

conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent or Board President, if the matter involves the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within a reasonable timeframe after receiving the report of the CO, the Superintendent either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A summary of the Superintendent's final decision will be provided to both the Complainant and the Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed as soon as reasonably practicable, taking into account the availability of necessary witness(es) or documents. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

If the Superintendent determines the Respondent engaged in Prohibited Conduct/Retaliation toward the Complainant, the Superintendent must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

The decision of the Superintendent shall be final.

In an attempt to resolve the complaint, the Board shall review the findings and may meet with the concerned parties and their representatives within a reasonable timeframe after the receipt of such an appeal. A copy of the Board's disposition of the appeal shall be sent to each concerned party within ten (10) days of its decision. The decision of the Board will be final.

The Board reserves the right to investigate and resolve a complaint or report of Prohibited Conduct/Retaliation regardless of whether the Complainant pursues the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The parties may be represented, at their own cost, at any of the above-described

interviews/meetings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Privacy/Confidentiality

The District ~~Board~~ will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's ~~Board's~~ legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the Prohibited Conduct/Retaliation, or other appropriate action.

The District ~~Board~~ may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further Prohibited Conduct or Retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District ~~Board~~ shall vigorously enforce its prohibitions against Prohibited Conduct by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District ~~Board~~ may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District ~~Board~~ policies.

Where the District ~~Board~~ becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District ~~Board~~ and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging Prohibited Conduct/Retaliation, or participates as a witness in an investigation is prohibited. Neither the District ~~Board~~ nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of Prohibited Conduct, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

Application of the First Amendment

The District ~~Board~~ will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a respondent be found to have committed Prohibited Conduct based on expressive conduct that is protected by the First Amendment.

Education and Training

All District Compliance Officer(s), and other persons who are responsible for implementing the District's ~~Board's~~ complaint procedures or have the authority to modify or terminate supportive measures shall receive training related to their duties under applicable Federal and State laws and this policy. ~~The training shall be provided promptly upon hiring or a change of position that alters their duties under this policy, and annually thereafter.~~ The training shall not rely on stereotypes involving Protected Classes.

~~Training materials will be made available for inspection upon request by members of the public.~~ ~~[END OF OPTION]~~

~~[ ]~~

Recordkeeping (including retention of investigatory records and materials)

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy must retain all information, documents, electronically stored information, and electronic media (as defined in Policy 8315 - Information Management) created and received as part of an investigation. Records and materials associated with the implementation of this policy shall be retained in accordance with Policy 8310 - Public Records, Policy 8315 - Information Management, Policy 8320 - Personnel Records, and Policy 8330 - Student Records for the period set in the District's records retention schedule.

These records may include, but are not limited to the following:

1. all written reports/allegations/complaints/statements;

2. narratives of all verbal reports, allegations, complaints, and statements collected;

3. a narrative of all actions taken by District personnel;

4. any written documentation of actions taken by District personnel or individuals contracted or appointed by the District ~~Board~~ to fulfill its responsibilities;

5. narratives of, notes from, or audio, video, or digital recordings of witness statements;

6. all documentary evidence;

7. e-mails, texts, or social media posts pertaining to the investigation;

8. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;

9. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;

10. dated written determinations to the parties;

11. dated written descriptions of verbal notifications to the parties;

12. written documentation of any supportive measures offered and/or provided to the Complainant and/or the Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

13. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any

hostile environment, and remedy its discriminatory effects;

14. copies of the District ~~Board~~ policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the District's ~~Board's~~ expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);

15. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

16. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy;

The information, documents, ESI, and electronic media (as defined in Policy 8315-Information Management) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records, medical records).

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Legal References:
111.31 et seq., Wis. Stats.
111.335(d)(2), Wis. Stats.
118.195, Wis. Stats.
118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
20 U.S.C. 1092(F)(6)(A)(v)
20 U.S.C. 1232g
20 U.S.C. Section 1681, Title IX of Education Amendment Act
20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
29 C.F.R. Part 1635
29 U.S.C. 201 et seq., The Fair Labor Standards Act (FLSA)
29 U.S.C. 218d, PUMP for Nursing Mothers Act (PUMP Act)
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 701 et seq. (in particular 794), Rehabilitation Act of 1973, as amended
34 C.F.R. Part 110 (7/27/93)
38 U.S.C. Chapter 43 4301-4335 (see in particular 4311(a) [prohibits discrimination based on military service] and 4312 [reemployment rights]), Uniformed Services Employment

and Reemployment Rights Act (USERRA)
42 U.S.C. 1983
42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq., Civil Rights Act of 1964 (e.g., Title VI and Title VII), as amended by the Pregnancy Discrimination Act
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 2000gg, Pregnant Workers Fairness Act (PWFA)

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended
Fourteenth Amendment, U.S. Constitution

~~4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**~~

~~The District does not discriminate in the employment of support staff on the basis of race, color, national origin, age, sex (including gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities.~~

~~Notice of the District's policy on nondiscrimination and the identity of the School District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.~~

~~**Definitions**~~

~~Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.~~

~~**Complainant** is the individual who alleges, or is alleged, to have been subjected to discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.~~

~~**Day(s):** Unless expressly stated otherwise, the term "day" or "days" as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State-recognized holidays).~~

Military status refers to a person's status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, and performance of duty or training by a member of Wisconsin organized militia. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Respondent is the individual who has been alleged to have engaged in discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

School District community means students and District employees (i.e., administrators, and professional and support staff), as well as District members, agents, volunteers, contractors, or other persons subject to the control and supervision of the District.

Third Parties include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

District Compliance Officers

The District designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators"; hereinafter referred to as the "COs").

Director of Student Services
500 S Cleveland Ave
DeForest, WI 53532
608-842-6526

Director of Human Resources
500 S Cleveland Ave
DeForest, WI 53532
608-842-6521

The titles and contact information of these individuals will be published annually in the staff handbooks and on the School District's website.

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as

amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination in Employment Act of 1975, and the Genetic Information Nondiscrimination Act (GINA) to students, their parents, staff members, and the general public.

Reports and Complaints of Discrimination and Retaliation

Employees are required to report incidents of discrimination and/or retaliation to an administrator, supervisor, or other supervisory employees so that the District may address the conduct. Any administrator, supervisor, or other supervisory employees who receive such a report shall file it with the CO at the employee's first opportunity, but no later than two (2) days.

Discrimination against an individual based on their sex (including gender status, sexual orientation, and gender identity) is discrimination in violation of Title VII. Specifically, discrimination on the basis of sex stereotyping/gender-nonconformity constitutes sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior. Employment actions based upon an individual's sex could be suspect and potentially impermissible.

COs are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon their gender status, sexual orientation, and gender identity.

Any questions concerning whether alleged conduct might violate this prohibition should be brought to the CO's attention promptly.

Employees who believe they have been discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the Complainant's employment. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

The COs will be available during regular school/work hours to discuss concerns related to discrimination/retaliation. COs shall accept reports of discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another District employee. Upon receipt of a report of alleged discrimination/retaliation, the CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation). The CO will provide a copy of this policy to the Complainant and the Respondent upon request.

Any District employee who directly observes discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2)

~~business days. Additionally, any District employee who observes an act of discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other District employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the Complainant within two (2) business days to advise of the District's intent to investigate the alleged wrongdoing.~~

~~Investigation and Complaint Procedure~~

~~Except for sex discrimination and/or sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, any employee who alleges to have been subjected to discrimination or retaliation may seek resolution of the complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.~~

~~Once the complaint process begins, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) days of the complaint being received).~~

~~The procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the United States Department of Education Office for Civil Rights, the Wisconsin Equal Rights Division, or the Equal Employment Opportunity Commission ("EEOC").~~

~~Complaint Procedure~~

~~A Complainant who alleges discrimination/retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) the CO; or 3) to the Superintendent or other supervisory employees. Any complaint received regarding the Superintendent or a District member shall be referred to the District's legal counsel, who shall assume the role of the CO for such complaints. Additionally, if the complaint is regarding a CO, the complaint shall be reported to the Superintendent, who shall coordinate with the other appointed/designated CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~

~~Due to the sensitivity surrounding complaints of discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, Superintendent, or other supervisory employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than two (2) days.~~

~~Throughout the course of the process, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.~~

~~All complaints must include the following information to the extent known: the identity of the Respondent; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); a list of potential witnesses; and the resolution sought by the Complainant.~~

~~If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the reported charge by signing the document.~~

~~Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the Superintendent.~~

~~Within two (2) days of receiving the complaint, the CO or designee will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.~~

~~Simultaneously, the CO will inform the Respondent that a formal complaint has been received. The Respondent will be informed about the nature of the allegations and upon request provided with a copy of any relevant policies and/or administrative guidelines, including this Policy. The Respondent must also be informed of the opportunity to submit a written response to the complaint and the obligation to do so within five (5) days.~~

~~Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.~~

~~The investigation will include:~~

A. ~~interviews with the Complainant;~~

B. ~~interviews with the Respondent;~~

C. ~~interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;~~

D. ~~consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.~~

~~At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in District policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant. The CO's recommendations must be based upon the totality of the circumstances. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.~~

~~The CO may consult with the District's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.~~

~~In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent, engage outside legal counsel to conduct the investigation consistent with this policy.~~

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.~~

~~The District reserves the right to investigate and resolve a complaint or report of discrimination/retaliation regardless of whether the Complainant pursues the complaint. The District also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the District or its designee.~~

~~The parties may be represented, at their own cost, at any of the above-described interviews/meetings.~~

~~The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.~~

~~Appeal of Complaint Resolution/Disciplinary Action~~

Either the Complainant or person accused may file an appeal of any decision concerning the resolution of the complaint. An appeal by either party must be made in writing, within five (5) business days of receipt of the notice of resolution or disciplinary decision. This appeal shall go to the Superintendent. The written appeal must state in detail the reason(s) for the appeal, explaining with specificity any alleged factual or procedural errors, any alleged issues concerning interpretation of District policy, any basis on which the disciplinary action is alleged to be improper and any new information or evidence, including an explanation why such information or evidence was not presented during the investigation.

No disciplinary or other action based on the complaint shall be taken against the alleged offender during the appeal process, although temporary, interim measures may remain in place. The Superintendent shall review the materials gathered and utilized by the investigator and the supervisor(s) in reaching their decision with regard to responsibility and disciplinary action. At their sole discretion, the Superintendent may interview the accused, the complainant, and/or any additional witnesses. Within ten (10) business days of receipt of the appeal, the Superintendent shall issue a written decision and that decision shall be final. All deadlines indicated above may be altered at the discretion of the Superintendent handling the appeal for good cause shown.

Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity.

During the course of an investigation, the CO will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that is learned or provided during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken due to the discrimination, or other appropriate action.

The District may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take

action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The District shall vigorously enforce its prohibitions against discrimination by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and any relevant codes of conduct.

When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the age and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the District may consider whether the alleged conduct nevertheless warrants discipline in accordance with other District policies.

Where the District becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the District and/or Superintendent shall be reasonably calculated to end such conduct, prevent its recurrence, and remedy its effect.

Retaliation

Retaliation against a person who makes a report or files a complaint alleging discrimination/retaliation, or participates as a witness in an investigation is prohibited. Neither the District nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Education and Training

In support of this policy, the District promotes preventative educational measures to create greater awareness of discriminatory practices. The Superintendent shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District staff where appropriate. All training, as well as all information provided regarding the District's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

The CO is responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

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Revised 4/23/22

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Legal

111.31 et seq., Wis. Stats.
111.335(d)(2), Wis. Stats.
118.195, Wis. Stats.
118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974
20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act
29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
38 U.S.C. 4301 et seq., Uniformed Services Employment and Reemployment Rights Act
42 U.S.C. 2000 et seq., Civil Rights Act of 1964
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act of 1973 as amended

~~42 U.S.C. 6101 et seq., Age Discrimination Act of 1975~~
~~42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended~~
~~29 C.F.R. Part 1635, The GINA Regulations~~
~~34 C.F.R. Part 110, The Age Discrimination Act Regulations~~