

School District of Manawa
Bylaws & Policies

3112 - BOARD-STAFF COMMUNICATIONS

The Board of Education has a legitimate interest in maintaining order by directing that employee communications to the School Board move initially through the School District of Manawa Organizational System as found in the employee handbook. Employees are expected to follow the established organizational system. The basic lines of communication are outlined as follows:

- A. It is expected that the District Administrator communicate personnel concerns to the Board of Education in a timely fashion.

Garcetti v. Ceballos, 547 U.S. 410 (2006)

Samuelson v. LaPorte Comm. Sch. Dist., 526 F.3d 1046 (7th Cir. 2008)

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School District of Manawa
Bylaws & Policies

4112 - BOARD-STAFF COMMUNICATIONS

The Board of Education has a legitimate interest in maintaining order by channeling employee communications to the School Board through the School District of Manawa Organizational System as found in the employee handbook. Employees are expected to follow the established organizational system. The basic lines of communication are as follows:

- A. **Staff Communications to the Board**

All communications from staff members related to the performance of their job duties or responsibilities to the Board or its committees shall be submitted first through the District Administrator. This procedure is not intended to deny any staff member the right to appeal to the Board on important matters through established procedures.

B. Board Communications to Staff

All official communications, policies, and directives of the Board of staff interest and concern to the staff will be communicated through the District Administrator, who shall also keep staff members fully informed of the Board's issues, concerns, and actions.

C. Social Interaction

Both staff and Board members share a keen interest in the schools and in education generally, and it is to be expected that when they meet they will informally discuss such matters as educational trends, issues, and innovations, and general activities of the District. However, since individual Board members have no special authority except when they are convened at a legal meeting of the Board or vested with special authority by Board action, discussions between staff and Board members related to the performance of job duties or responsibilities are inappropriate violations of the communication protocol.

- D. It is expected that the District Administrator communicate personnel concerns to the Board of Education in a timely fashion.

Garcetti v. Ceballos, 547 U.S. 410 (2006)

Samuelson v. LaPorte Comm. Sch. Dist., 526 F.3d 1046 (7th Cir. 2008)

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CREATING A SUPPORT STAFF POSITION

The Board of Education recognizes the need to establish positions that, when filled by competent and qualified support staff, will assist the District in achieving the education goals set by the Board. The District employs only U.S. citizens and others lawfully authorized to work in the United States.

The District Administrator shall verify all new employees' and substitutes' right to work in the United States according to the Federal Immigration Reform and Control Act of 1986.

The Board shall, upon the advice of the District Administrator, creating a new support position or of increasing the number of support staff in an existing position.

The Board delegates the right to fix and prescribe the duties of support staff to the District Administrator.

Immigration Reform and Control Act of 1986
8 U.S.C. 1324a

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EMPLOYMENT OF SUPPORT STAFF

The Board of Education recognizes that it is vital to the successful operation of the District that positions created by the Board be filled with qualified and competent support staff.

All employees other than the District Administrator or Professional Staff Members (Policy 0100 – Definitions) are considered Classified or Support Employees.

The Board shall approve the employment and fix the compensation for each support staff member employed by this District.

Such approval shall be given only to those candidates for employment recommended by the District Administrator.

When any recommended candidate has been rejected by the Board, the District Administrator shall make a substitute recommendation.

All applications for employment shall be referred to the District Office.

Relatives of Board members may be employed by the Board, provided the Board member does not participate in any way in the discussion or vote on any matter related to said employment.

Relatives of staff members may be employed by the Board, provided the staff member being employed is not placed in a position in which s/he would be supervised directly by the relative staff member.

Any support staff member's intentional misstatement of fact material to his/her qualifications for employment or the determination of salary shall be considered by this Board to constitute grounds for dismissal.

The employment of support staff members prior to approval by the Board is authorized when their employment is required to maintain continuity in District operations. Employment shall be recommended to the Board at the next regular meeting.

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When appropriate, no candidate for employment as a support staff member shall receive recommendation for such employment without having proffered visual evidence of proper certification, when appropriate, or that application for such certification is in process. There must also be verification that a satisfactory background check has been conducted in compliance with District procedures to include local, state, and federal sources of information.

The District Administrator shall prepare procedures for the recruitment and selection of all support staff that include reporting newly hired employees to the Wisconsin Department of Workforce Development.

REQUIREMENTS FOR TITLE I PARAPROFESSIONALS

All paraprofessionals hired for a Title I supported program must have a secondary school diploma or its recognized equivalent and one of the following:

- A. Completed two (2) years study at an institution of higher education;
or
- B. Obtained at least an associates degree; or
- C. Met a rigorous standard of quality and demonstrate through formal State or local academic assessment:
 1. knowledge of and the ability to assist in instructing, reading, writing and mathematics; or
 2. knowledge of and the ability to assist in instructing, reading readiness, writing readiness and mathematics readiness, as appropriate.

Existing paraprofessionals – All current paraprofessionals working for a Title I supported program must:

- A. Have a secondary school diploma or its recognized equivalent;
- B. Meet the requirements for newly hired paraprofessionals as described above.

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Exceptions – These requirements do not apply to a paraprofessional:

- A. Who is proficient in English and a second language and serves as a translator primarily to enhance the participation of children in Title I programs; or
- B. Whose duties consist solely of conducting parental involvement activities.

Paraprofessional duties – Paraprofessionals working for a Title I supported program may be assigned to:

- A. provide one-on-one tutoring for eligible students during times when the teacher would not otherwise be instructing the student;
- B. assist with classroom management, such as organizing instructional and other materials;
- C. provide assistance in a computer laboratory;
- D. provide support in a library or media center;
- E. conduct parental involvement activities;
- F. act as a translator;
- G. provide instructional services to students, if working under the direct supervision of a teacher;
- H. perform limited duties beyond classroom instruction.

20 U.S.C. 6319

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JOB DESCRIPTIONS

The Board of Education recognizes that it is essential for District and employee accountability for each staff member to be fully aware of the duties and responsibilities of his/her position. Job descriptions document and describe the essential functions for support staff positions and thereby promote organizational effectiveness and efficiency. Therefore, the District Administrator shall maintain a current comprehensive, and coordinated set of job descriptions for support staff positions.

All job descriptions will be approved by the District Administrator and will be maintained in the District Office.

As long as the provisions of the job descriptions are not inconsistent with Board policies, or with Federal/State law, they will be considered to be an extension of the policy manual and binding upon all employees.

Each job description shall contain the following provision:

“The employee shall remain free of any alcohol or illegal substance in the workplace in compliance with Policy 4122 throughout his/her employment in the District.”

Employees will be evaluated, at least in part, against their job descriptions.

Following the revision of a job description, support staff members who hold the positions for which the essential functions are described in that revised job description shall be provided access to the updated version and the opportunity to discuss the revisions therein with their immediate supervisor.

In addition, the District Administrator shall prepare administrative guidelines necessary for the proper implementation of this policy.

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EMPLOYMENT OF SUBSTITUTES

The Board of Education recognizes its responsibility to procure the services of substitute support staff in order to prevent the interruption of the operation of the schools.

The names of potential substitute personnel and the positions in which they may substitute shall be maintained by the District Office.

Relatives of Board members may be employed by the Board, provided a member of the Board does not participate in any way in the discussion or vote on the employment when conflict of interest is involved.

Relatives of staff members may be employed by the Board, provided the staff member being employed is not placed in a position in which s/he is supervised directly by the relative staff member.

The employment of substitute support staff prior to approval by the Board is authorized when their employment is required to maintain continuity of services in the District.

Retroactive employment shall be recommended to the Board at the next meeting.

Substitutes will receive in June a letter of reasonable assurance of continued employment.

118.19, Wis. Stats.
P.I. 3.03(8), Wis. Adm. Code

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JOB SHARING

The Board of Education recognizes the value to the District to obtain the services of quality support staff members who may not be available on a full-time basis but wish to offer their knowledge and skills part-time through a job-sharing process.

Half-time positions may be approved in which two (2) currently employed staff members will be allowed to share one (1) full-time position.

The District will consider job-share requests only if the cost (including benefits) of employing two (2) staff members on a half-time basis does not exceed the cost of employing one full-time staff member.

Entry into the program shall be voluntary. Assignment openings shall be available to support staff who jointly submit a written proposal to share a position. Application does not mean automatic approval.

The District Administrator may consider job sharing arrangements that s/he determines to be educationally consistent with the philosophy and objectives of the District.

The following reasons may be invoked by the support staff:

- A. health reasons that are substantiated by a physician;
- B. child rearing for a specified length of time;
- C. continuance of education; or
- D. any other reason with the discretion of the District Administrator.

In order to avoid any inconsistency, misunderstanding, or disagreement, job sharing arrangements shall be made in accordance with established guidelines.

The Board authorizes the District Administrator to create a job-sharing program, provided it does not adversely affect the District or any of its current staff members.

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CRIMINAL HISTORY RECORD CHECK

To adequately safeguard students and staff members, the Board of Education requires an inquiry into the background of each applicant whom the District Administrator recommends for employment on the District's support staff.

Such an inquiry shall also be made for substitutes who may be employed by the District and for volunteers assisting District staff.

The criminal history screening that is completed on potential staff members and for volunteers assisting District staff, in compliance with State and Federal law shall not allow for the discrimination on the basis of Protected Classes as identified in Policy 4122 – Nondiscrimination and Equal Employment Opportunity.

The District Administrator shall establish the necessary procedures for obtaining any criminal history on the applicant.

All information and records obtained from such inquiries are to be considered confidential and shall not be released or disseminated to those not directly involved in evaluating the applicant's qualifications.

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DRUG-FREE WORKPLACE

The Board of Education believes that quality education is not possible in an environment affected by drugs. It will seek, therefore, to establish and maintain an educational setting that is free from illegal drugs.

Consistent with the Drug-Free Workplace Act, the Board prohibits the manufacture, possession, use, distribution, or dispensing of any controlled substance, including alcohol, by any member of the District's support staff at any time while on District property or while involved in any District-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action in accordance with District guidelines.

The District Administrator shall establish whatever programs and procedures are necessary to meet the Federal certification requirements and shall provide these to staff.

P.L. 101-126
Drug-Free Workplace Act of 1988, 41 U.S.C. 701 et seq.
20 U.S.C. 3224A

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NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE

The Board of Education 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 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 his/her genetic information is also prohibited. Likewise, retaliation against an applicant or employee for engaging in protected activity is prohibited.

In accordance with the Genetic Information Nondiscrimination Act (GINA), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with this Act, employees are directed not to provide any genetic information, including the individual's family medical history, in response to necessary requests for medical information, with the exception that family medical history may be acquired as part of the certification process for FMLA leave, when an employee is asking for leave to care for an immediate family member with a serious health condition. Applicants for employment are directed not to provide any genetic information, including the individual's family medical history, in response to requests for medical information as part of the District's application process.

The District recognizes that genetic information may be acquired through commercially and publicly available documents like newspapers, books, magazines, periodicals, television shows or the Internet. The District prohibits, however, its employees from searching such sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information.

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"Genetic information," as defined by GINA, 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.

If the District either legally and/or inadvertently receives genetic information about an employee or applicant for employment from the employee, applicant for employment or a medical provider it shall be treated as a confidential medical record in accordance with law.

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The District Administrator shall appoint a compliance officer who shall be responsible for overseeing the District's compliance with Federal regulations and promptly dealing with any inquiries or complaints. S/He shall also verify that proper notice of nondiscrimination for Title II of the Genetic Information Nondiscrimination Act of 2008 is provided to staff members, and that all District requests for health-related information (e.g., to support an employee's request for reasonable accommodation under the ADA or a request for sick leave) is accompanied by a written warning that directs the employee or health care provider not to collect or provide genetic information. The warning shall read as follows:

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II, including the Board of Education, from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by law. To comply with this law, do not provide any genetic information when responding to this request for medical information (unless the request pertains to a request for FMLA leave for purposes of caring for an immediate family member with a serious health condition). "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic test, the fact that an individual or an individual's family member sought or received genetic services or participated in clinical research that includes genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

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The District offers health services, including a wellness program. Participation in the services/program is voluntary. Genetic information (such as family medical history) may be obtained as part of an individual's participation in the service/program. If that occurs, individual genetic information may be provided to the individual receiving the services and to his/her health services providers, but only genetic information in aggregate form will be provided to the Board.

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
29 C.F.R. Part 1635

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NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

The Board of Education does not discriminate in the employment of support staff on the basis of the Protected Classes of race, color, national origin, age, sex (including transgender 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.), national origin, 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 during non-working hours or to participate in any communication with the employer about religious matters or political matters, or any other characteristic protected by law in its employment practices.

District Compliance Officers

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

Carmen O'Brien
Director of Curriculum & Assessment
800 Beech Street
Manawa, WI 54949

Daniel Wolfgram
HS/Jr. HS Principal
800 Beech Street
Manawa, WI 54949

920-596-5840

920-596-5310

cobrien@manawa.k12.wi.uw

dewolfgram@manawa.k12.wi.us

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

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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 for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, 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 Unlawful Discrimination and Retaliation

Employees are expected to promptly report incidents of unlawful discrimination and/or retaliation to an administrator, supervisor, or other supervisory employee so that the Board may address the conduct. Any administrator, supervisor, or other Supervisory employee who receives such a complaint shall file it with the CO at his/her first opportunity, but no later than two (2) business days.

Employees who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the complaining individual'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 unlawful discrimination/retaliation. COs shall accept complaints of unlawful discrimination/retaliation directly from any member of the School District community (District employees, students, parent(s), and members of the Board), resident of the District, or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint, either directly or through a school building administrator, a CO will begin an investigation, or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to any person who files a complaint. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

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Any Board employee who directly observes unlawful discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one (1) of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful 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 Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO must contact the employee within two (2) business days to advise him/her of the Board's intent to investigate the alleged wrongdoing.

Investigation and Complaint Procedure (See Form 4122 F2)

Any employee who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The complaint procedures involve an investigation of the individual's claims 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) business 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 unlawful 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

An individual who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "Complainant"), may file a complaint, either orally or in writing, with a Principal, the CO, District Administrator, or other supervisory employee. Any complaint received regarding the District Administrator or a Board member shall be referred to the 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 District Administrator, who shall assume the role of CO for such complaints.

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Due to the sensitivity surrounding complaints of unlawful discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, District Administrator, or other supervisory employee, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO within two (2) business days.

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

All complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in, the discriminatory/retaliatory conduct; a detailed description of the facts upon which the complaint is based; 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 person who allegedly engaged in the misconduct. In making such a determination, the CO should consult the Complainant to assess his/her position to the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he deems appropriate in consultation with the District Administrator.

Within two (2) business days of receiving the complaint, the CO will initiate an investigation to determine whether the Complainant has been subjected to unlawful discrimination/retaliation.

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Simultaneously, the CO will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"), that a complaint has been received. The Respondent will be informed about the nature of the allegations and 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 within five (5) business days.

Although certain cases may require additional time, the CO will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. 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;
- 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.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the District Administrator that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Complainant has been subjected to unlawful discrimination/retaliation. 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 legal counsel before finalizing the report to the District Administrator.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO, the District Administrator must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the District Administrator's final decision will be delivered to both the Complainant and the Respondent.

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

If the District Administrator determines the Complainant was subjected to unlawful discrimination/retaliation, s/he 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, effective, and tailored to the specific situation.

A Complainant or Respondent who is dissatisfied with the final decision of the District Administrator may appeal through a signed written statement to the Board within five (5) business days of his/her receipt of the District Administrator's final decision. In an attempt to resolve the complaint, the Board shall review the findings and may meet with the concerned parties and their representatives within twenty (20) business days of 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) business 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 unlawful discrimination/retaliation regardless of whether the employee alleging the misconduct 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.

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.

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Privacy/Confidentiality

The School 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 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. All Complainants will be advised that their identities may become known to the Respondent(s) through the investigation process.

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 s/he learns and/or provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained in accordance with the School Board's records retention policy.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against unlawful 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. All disciplinary action will be taken in accordance with applicable State law. When imposing discipline, the District Administrator shall consider the totality of the circumstances involved in the matter. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

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

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Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination/retaliation, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised their rights, aided or encouraged any other person in the exercise of any right granted or protected by those laws.

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The District Administrator 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 support staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general.

111.31 et seq., 111.335(d)(2), 118.195, 118.20, Wis. Stats.
Fourteenth Amendment, U.S. Constitution
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
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
34 C.F.R. Part 110 (7/27/93)
42 U.S.C. 2000e et seq., Civil Rights Act of 1964
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
29 C.F.R. Part 1635

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SECTION 504/ADA

PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board of Education prohibits discrimination against any employee or applicant based upon his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability, or otherwise discriminate against qualified individuals with disabilities in regard to job application procedures, the hiring, advancement or discharge of employees, employee compensation, job training, or other terms, conditions and privileges of employment. The Board further will not limit, segregate or classify applicants or employees in any way that adversely affects their opportunities or status because of disability. Additionally, the Board will not participate in any contractual or other relationships that have the effect of subjecting qualified individuals with disabilities who are applicants or employees to discrimination on the basis of disability.

"An 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 are functions such as caring for oneself, 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.

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.

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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 (defined as devices that magnify, enhance, or otherwise augment a visual image, but not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aid(s) and cochlear implant(s) or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or “auxiliary aides or services,” learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

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

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

Compliance Officers

The Board designates the following individuals to serve as the District's 504 COs/ADA Coordinators (hereinafter referred to as the "COs").

Carmen O'Brien
Director of Curriculum & Assessment
800 Beech Street
Manawa, WI 54949

Daniel Wolfgram
HS/Jr. HS Principal
800 Beech Street
Manawa, WI 54949

920-596-5840

920-596-5310

cobrien@manawa.k12.wi.us

dewolfgram@manawa.k12.wi.us

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

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The District COs are responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the Americans with Disabilities Act, as amended ("ADA"). A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the District COs.

The District COs will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. (See Complaint Procedure below.)

Training

The District COs will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative guidelines and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

Facilities

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

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.

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Notice

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

Complaint Procedures

If a person believes that s/he has been discriminated against on the basis of his/her disability, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504"), employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation or misapplication of Section 504. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a CO within the time limits specified below. The District's CO is available to assist individuals in filing a complaint.

Internal Complaint Procedure

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the CO.

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- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the CO. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the CO of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the CO for good cause.
- C. The CO will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The CO will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the District Administrator. The CO shall maintain the District's files and records relating to the complaint.
- D. The District Administrator will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.

The District Administrator will render his/her decision within ten (10) work days of the hearing.

- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.

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- F. 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 or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO 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 and effective, and tailored to the specific situation.

OCR Complaint

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). The OCR can be reached at:

U.S. Department of Education
Office for Civil Rights
Citigroup Center
500 W. Madison Street
Suite 1475
Chicago, IL 60661
(312) 730-1560
FAX: (312) 730-1576
TDD: (877) 521-2172
E-mail: OCR.Chicago@ed.gov

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Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, 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.

29 C.F.R. Part 1630

29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended

34 C.F.R. Part 104

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

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SUPPORT STAFF EMPLOYMENT

Support staff employed in less than year-round positions shall be issued a letter of reasonable assurance of continued employment by July 1st for the subsequent year or term when such employment is anticipated.

108.04 (17)(d), Wis. Stats.

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ASSIGNMENT AND TRANSFER

The Board of Education believes that the careful placement of support staff within the District is vital to the utilization of qualified and competent support staff for the successful functioning of the District.

Responsibility for the assignment and transfer of support staff members shall be vested in the District Administrator.

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REDUCTION IN STAFF

It is the responsibility of the Board of Education to provide the staff necessary for the implementation of the educational program of the District and the operation of the schools and to do so efficiently and economically.

The Board reserves the right to abolish positions in the District and to reduce the staff whenever decreased enrollment of students, return to duty of regular staff members after leaves of absence, suspension of schools, territorial changes affecting the District, or other circumstances warrant.

The District Administrator shall develop administrative guideline for the reduction of staff based on the best interests of the District and consistent with any applicable law.

Once the District Administrator has identified positions to be eliminated, s/he shall determine the appropriate employees for reduction according to the following considerations:

- A. qualifications of the employees being considered for reduction
- B. performance of employees, based on performance evaluations
- C. input from direct supervisors
- D. length of service to the District

No employee whose position has been eliminated shall have any right to be contacted by the District in the event that a vacancy opens in the future for which the laid off employee may be qualified. In addition, no such employee is entitled to a future position or is provided any preference over other applicants. Any employee whose position was eliminated under this policy may file a grievance under Policy 4340. Staff whose employment ended with the District due to a reduction in force, shall not be prevented from applying for future positions with the District.

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VACANCIES

It shall be the policy of the Board of Education to employ the person best suited to perform the duties of a particular District vacancy at any level.

Vacancies will be posted externally and internally simultaneously with no preference given to current employees. The best candidate, as determined by the administration, will be selected for approval by the Board of Education.

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STAFF DISCIPLINE

The Board of Education retains the right and the responsibility to oversee all District personnel. When the discipline of a staff member becomes necessary such action shall be consistent with the requirements of any applicable Board policy, and State and Federal law. The District Administrator may issue discipline, short of termination, when she/he deems appropriate, however, student performance on examinations, however, may not form the basis for staff discipline.

Investigation of Possible Criminal Activity

The District may be required to investigate potential wrongdoings on the part of its employees. Such investigations may require that the employee answer questions relating to the activity. Employees may be required to answer such questions, consistent with any applicable law. Failure to cooperate in an investigation may result in discipline, up to and including termination of the employee. In cases where this possible wrongdoing may involve criminal activity, the District shall inform the employee that answers to questions relating to the employee's conduct may be used by the District for determining appropriate discipline, but will not be provided to law enforcement officials in the course of their independent criminal investigation, unless otherwise required by law. Employees must also be informed that refusal to answer questions may be considered in determining discipline.

Staff may be disciplined for violations of Board policy or for other failure to meet the expectations and obligations of their position. No staff member may be subject to arbitrary or capricious disciplinary action.

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The District Administrator may issue discipline to staff members when she/he deems appropriate. The level of discipline may range from oral reprimands to suspension or termination. The level of discipline shall be consistent with the seriousness of the offense as determined by the District Administrator.

All instances of staff discipline are subject to the employee grievance procedure, set forth in Policy 4340.

Franklin v. City of Evanston, 384 F.3d 838 (7th Cir. 2004)
Garrity v. New Jersey, 385 U.S. 493 (1967)

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TERMINATION AND RESIGNATION

TERMINATION

Employment may be terminated upon a majority vote of the Board of Education.

RESIGNATION

A support staff member may resign by filing a written resignation with the District Administrator.

A resignation, once accepted, may not then be rescinded.

The District Administrator may act for the Board in the acceptance of a resignation.

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PHYSICAL EXAMINATION

The Board of Education requires all candidates for positions in which the employee will come in contact with children or prepare food, as a condition of employment, to submit to an examination, including a test for tuberculosis, in order to determine the physical capacity to perform assigned duties. Such examinations shall be done in accordance with 118.25 Wis. Stats. and the District Administrator's guidelines.

The Board shall also require the candidate to submit to a test for controlled substances the results of which must indicate there is no evidence of non-prescribed drug use. Such examinations shall be done in accordance with the District Administrator's guidelines.

Employees will be required to execute a release that complies with the requirements of the Health Insurance Portability and Accountability Act in order to allow the report of the medical examination to be released to the Board/District Administrator and to allow the District Administrator or his/her designee to speak to the health care provider who conducted the medical examination in order to get clarification (see Form 4160 F2).

Reports of all such examinations or evaluations shall be delivered to the District Administrator, who shall protect their confidentiality. Reports will be discussed with the employee or candidate. In compliance with the Genetic Information Nondiscrimination Act (GINA) and Board Policy 4122.02, the successful candidate who is required to submit to a medical examination, as well as the medical health care provider that is designated by the Board to conduct the examination, are directed not to collect genetic information or provide any genetic information, including the candidate's family medical history, in the report of the medical examination.

Employees will be notified of the results of the medical examination upon receipt. Any and all reports of such examination will be maintained in a separate confidential personnel file in accordance with the Americans with Disabilities Act, as amended ("ADA") and the Genetic Information Nondiscrimination Act (GINA).

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In the event of a report of a condition that could influence job performance, the District Administrator shall base a nonemployment recommendation to the Board upon a conference with the examining physician and substantiation that the condition is directly correlated to defined job responsibilities and reasonable accommodation will not allow the employee or prospective employee to adequately fulfill those responsibilities. Freedom from tuberculosis in a communicable form is a condition of employment.

The Board shall assume any fees for required examinations.

118.25, Wis. Stats.

121.52(b), Wis. Stats.

29 C.F.R., Part 1630

29 C.F.R. Part 1635

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

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY

It is the policy of the Board of Education to protect the students and employees of this District from the effects of contagious diseases and other circumstances that render support staff members unable to perform their duties.

The Board authorizes the District Administrator to place a support staff member on sick leave or suspend a support staff member for physical or mental disability to perform assigned duties in conformance with the law and consistent with any applicable terms of a collective bargaining agreement.

The District Administrator shall require that the support staff member submit to an appropriate examination by a healthcare provider designated by the Board and compensated by the District.

The staff member will be required to execute a release that complies with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) in order to allow the report of the medical examination to be released to the Board/District Administrator and to allow the District Administrator to speak to the health care provider who conducted the medical examination in order to get clarification. Refusal to submit to an appropriate examination or to execute the HIPAA release will be grounds for disciplinary action, up to and including termination.

As required by Federal law and regulation and Board Policy 4122.02, the District Administrator shall direct the provider designated by the Board to conduct the examination not to collect genetic information or provide any genetic information, including the individual's family medical history, in the report of the medical examination.

Pursuant to State law and in accordance with the Americans with Disabilities Act, as amended (ADA) and the Genetic Information Nondiscrimination Act (GINA), the results of any such examination shall be treated as a confidential medical record and will be exempt from release, except as provided by law. If the District inadvertently receives genetic information about an individual who is required to submit to an appropriate examination from the medical provider, it shall be treated as a confidential medical record as required by the ADA.

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If, as a result of his/her such examination, the support staff member is found to be unfit to perform assigned duties, the support staff member shall be placed on leave with such compensation to which s/he is entitled until proof of recovery, satisfactory to the District Administrator, is furnished.

Should a support staff member refuse to submit to an examination following the exhaustion of proper appeals, the District Administrator shall consider the certification of charges for reasons of insubordination.

The District Administrator may designate any period of leave under this policy as qualifying leave under State and/or Federal FMLA leave entitlement consistent with Policy 4430.01 as provided by law.

111.32 et seq. the Wisconsin Fair Employment Act

29 C.F.R. Part 1630

29 C.F.R. Part 1635

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

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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EMPLOYEE ASSISTANCE PROGRAM (EAP)

The Board of education believes that assisting employees in the identification and resolution of a broad range of employee personal concerns that may affect job satisfaction and/or productivity is in the best interest of the District.

Counseling for a variety of issues such as depression, anger management, stress, domestic violence, marital issues, family issues, anxiety, alcohol dependence and drug dependence, as well as health and disease prevention education, is available through the District's Employee Assistance Program.

Early recognition, counseling, and treatment are important for successful rehabilitation, return to productive work, and reduced personal, family, and social disruption.

The District encourages the earliest possible counseling, diagnosis and treatment and supports sound treatment efforts. Whenever feasible, the District will assist staff members in overcoming issues impacting staff. However, the decision to seek counseling diagnosis and accept treatment is primarily the individual staff member's responsibility. Any costs associated with treatment in excess of those costs covered by the staff member's medical insurance plan shall be borne by the individual.

Staff members may request assistance from the Business Manager. Assistance will be provided on a confidential basis, and each staff member will be referred to the appropriate treatment and counseling services.

The District will assist a staff member to the extent feasible through the Employee Assistance Program.

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SUBSTANCE ABUSE

The Board of Education recognizes alcoholism and drug abuse as treatable illnesses. When such illnesses impair the performance of support staff members, the Board recognizes the responsibility to assist in a manner recommended by appropriate specialists in the treatment of those illnesses.

A support staff member having an illness or other problem relating to the use of alcohol or other drugs will receive the same careful consideration and offer of assistance that is presently extended to support staff members having any other illness.

The responsibility to correct unsatisfactory job performance or behavior resulting from a suspected alcohol or drug problem rests with the support staff member. Failure to do so will result in appropriate corrective or disciplinary action as determined by the Board. The Board will assist an employee with an alcohol or drug problem in developing reasonable accommodations so that the employee may perform his/her work, consistent with State and Federal law. Existence of a substance abuse problem does not excuse misconduct in employment or violation of Board policy.

No support staff member will have his/her job security or promotion opportunities jeopardized by his/her request for counseling or referral assistance.

Support staff members who suspect they may have an alcohol or other drug abuse problem are encouraged to seek counseling and information on a confidential basis by contacting resources available for such service.

This policy shall be administered in accordance with the Americans with Disabilities Act of 1990 and applicable State laws.

Americans with Disabilities Act of 1990
Wis. Stat. 111.34

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SUPPORT STAFF ETHICS

An effective educational program requires the services of employees of integrity, high ideals, and human understanding. To maintain and promote these essentials, the Board of Education expects all staff members to maintain high standards in their working relationships and in the performance of their duties to:

- A. recognize basic dignities of all individuals with whom they interact in the performance of duties;
- B. represent accurately their qualifications;
- C. exercise due care to protect the mental and physical safety of students, colleagues, and subordinates;
- D. seek and apply the knowledge and skills appropriate to assigned responsibilities;
- E. keep in confidence legally confidential information;
- F. ensure that their actions or those of another on their behalf, are not made with specific intent of advancing, private economic interests;
- G. refuse accepting anything of value offered by another for the purpose of influencing judgment;
- H. refrain from using position or public property, or permitting another person to use an employee's position or public property for partisan political or religious purposes. This ethics policy will in no way limit constitutionally or legally protected rights as a citizen.

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WHISTLEBLOWER PROTECTION

The Board of Education expects all its employees to be honest and ethical in their conduct, and to comply with applicable State and Federal law, Board policies and administrative procedures. Pursuant to State law, the Board expects employees to report to their immediate supervisors any violation or suspected violation of any Federal, State or local law, policy, or regulation committed by any employee, or agent of an agency or independent contractor which is doing business with the Board, which creates and presents a substantial or specific danger to the public's health, safety, or welfare. Additionally, pursuant to State law, instructional staff members are expected to report any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, suspected or actual Medicaid fraud or abuse, or gross neglect of duty committed by an employee or agent of an agency or independent contractor which is doing business with the Board.

It is the responsibility of an employee who is aware of conduct on the part of any Board member or employee that possibly violates Federal or State law, or Board policy, to call this conduct to the attention of his/her immediate supervisor. If the employee's immediate supervisor is not responsive or is the employee whose behavior is in question, the employee should report the alleged misconduct to the District Administrator.

After such a report is made, the immediate supervisor will ask that the report be put in writing.

Any employee making such a report shall be protected from discipline, retaliation, or reprisal for making such report as long as the employee made such a report based on a reasonable and good faith belief that the report is accurate and not based on the employees intent to harm, harass, intimidate, retaliate against another individual.

Employees are subject to disciplinary action, up to and including termination, for purposely, knowingly, or recklessly making a false report under this policy. Conversely, employees are subject to disciplinary action, up to and including termination, if they are aware of a violation of Federal, State, or local law that the Board has the authority to correct and they do not make a report confirmed in writing to their immediate supervisor.

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If the alleged misconduct that is reported involves a Board member, the employee shall report to the District Administrator who is authorized to engage the Board's legal counsel to manage an investigation concerning the matter. If the report concerns the District Administrator the employee shall make the report to the Board President, who is authorized to engage the Board's legal counsel to manage the investigation.

Upon receipt of a report made by an instructional staff member pursuant to this policy, an investigation shall be commenced as soon as possible and shall be handled expeditiously.

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STUDENT SUPERVISION AND WELFARE

Support staff members may be confronted with situations that, if handled incorrectly, could result in liability to the District, personal liability to the staff member, and/or harm to the welfare of the student(s). It is the intent of the Board of Education to direct the preparation of guidelines that will minimize that possibility.

It is the responsibility of the District Administrator to prepare administrative guidelines to ensure the maintenance of the following standards:

- A. Each support staff member shall report immediately to the principal any accident or safety hazard s/he detects.
- B. Each support staff member shall immediately report to the principal knowledge of threats of violence by students.
- C. A support staff member shall not send students on any personal errands.
- D. A support staff member shall not associate with students at any time in a manner which gives the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as tobacco, alcohol, or drugs.

This provision should not be construed as precluding a support staff member from associating with students in private for legitimate or proper reasons or to interfere with familial relationships that may exist between staff and students.

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- E. If a student comes to a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, the staff member may help the student make contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's problem. Under no circumstances should a staff member attempt, unless properly licensed and authorized to do so, to provide professional counseling, assessment, diagnostics, or treatment of the student's problem or behavior. This is not to be confused with the encouraged student/teaching mentoring relationships.
- F. A support staff member shall not transport students in a private vehicle without the approval of the District Office. .
- G. A student shall not be required to perform work or services that may be detrimental to his/her health.
- H. Staff members are discouraged from engaging students in personal social media and online networking media.
- I. Staff members are expressly prohibited from posting any personal video or comment pertaining to any student on social networking media or similar forums.

A support staff member, or a person who works or volunteers with children, who is found to have had sexual contact with a student, including a student age sixteen (16) or older, shall be referred to the proper authorities and be subject to discipline up to and including discharge.

This policy should not be construed as affecting any obligation on the part of staff to report suspected child abuse under Wis. Stats. 48.981 and policy 8462.

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Most information concerning a child in school, is a confidential student record under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse (see Policy 8330).

48.981, 948, 948.095 Wis. Stats.

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USE OF TOBACCO BY SUPPORT STAFF

The Board of Education is committed to providing students, staff, and visitors with a tobacco and smoke-free environment. The negative health effects of tobacco use for both users and non-users, particularly in connection with second hand smoke, are well-established. Further, providing a non-smoking tobacco-free environment is consistent with the responsibilities of teachers and staff to be positive role models for our students. The Board also recognizes, however, the right of individuals under State law to use lawful products, including tobacco, during non-working hours off District premises.

For purposes of this policy, "use of tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco, including cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, any other matter or substances that contain tobacco, in addition to papers used to roll cigarettes and/or the smoking of electronic, "vapor," or other substitute forms of cigarettes, clove cigarettes and any other lighted smoking devices for burning tobacco or any other substance. Accordingly, the Board prohibits the use of tobacco in any form on District premises, in District vehicles, within any indoor facility owned or leased or contracted for by the District, and used to provide education or library services to children, and at all District-sponsored events.

111.321, Wis. Stats.
120.12(20), Wis. Stats.
20 U.S.C. 6081 et seq.
20 U.S.C. 7182

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SUPPORT STAFF DRESS AND GROOMING

The Board of Education believes that support staff members are an important and integral part of the District. Also, since the support staff is highly-visible staff to the students, the professional staff, and the public, the Board believes the support staff should at all times be well dressed and groomed. Support staff members who understand and adheres to this belief enlarge the importance of their task, present an image of dignity, and encourage respect.

The Board retains the authority to specify the following dress and grooming guidelines for support staff. When assigned to District duty, all support staff members shall follow the guidelines as identified in the Employee Handbook.

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WEAPONS

The Board of Education prohibits support staff members from possessing, storing, making, or using a weapon in any setting that is under the control and supervision of the District for the purpose of school activities approved and authorized by the District including, but not limited to, property leased, owned, or contracted for by the District, a school-sponsored event, or in a District vehicle.

Concealed Carry Permit Holders

Nothing in this policy prohibits an employee with a properly issued permit to carry a concealed weapon from exercising his/her rights consistent with Wisconsin's concealed carry law and the State and Federal gun free school zones laws. However, a staff member who is the holder of a concealed carry permit license issued or recognized by the State of Wisconsin may not, by virtue of Wis. Stat. 948.605(2)(b)1r, possess a concealed weapon anywhere in or on school grounds, including parking areas.

A staff member who is a concealed carry permit licensee may not carry a concealed weapon or otherwise store a weapon or ammunition in his or her personal vehicle while transporting students for school sponsored events or school-related purposes in his or her own vehicle. This does not apply to the transportation of students related by blood or marriage to the staff member if only such students are being transported.

Definition of "Weapon"

For this policy, the term "weapon" means any object which, in the manner in which it is used, is intended to be used, or is represented, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons. Weapons include, but are not limited to firearms (including, but not limited to, firearms as defined in 18 U.S.C. 921(a)(3)), guns of any type, including air and gas-powered guns (whether loaded or unloaded), knives, (subject to the exceptions below) razors, with unguarded blades, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

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Exceptions to this policy include:

- A. weapons under the control of law enforcement personnel while on duty, or off duty if there is an appropriate agreement between the District and the employer of the law enforcement personnel;
- B. items approved by the Board as part of a class or individual presentation under adult supervision, including but not limited to hunters' education course, if used for the purpose of and in the manner approved Working firearms, except those protected at all times by a cable or trigger lock, and live ammunition shall never be approved;
- C. theatrical props used in appropriate settings; and
- D. starter pistols used in appropriate sporting events.

The District Administrator may refer a staff member who violates this policy to law enforcement officials. The staff member may also be subject to disciplinary action, up to and including termination, as permitted by applicable Board policy and the terms of any applicable collective bargaining agreement.

Any staff member who has reason to believe that a person has or will violate this policy shall report to the school Principal or their supervisor immediately. Failure to report such information may subject the staff member to disciplinary action, up to and including termination.

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This policy shall be published and distributed to staff members annually. Publication is not a precondition to enforcement of this policy.

120.13(1), Wis. Stats.
175.60, Wis. Stats.
943.13, Wis. Stats.
948.605, Wis. Stats.
18 U.S.C. 921(a)(3)
18 U.S.C. 922
20 U.S.C. 7151

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EVALUATION OF SUPPORT STAFF

The Board of Education recognizes the importance of implementing a program of support staff member evaluations for the purpose of promoting individual job performance and improving services to students.

The goals of the Board's evaluation plan for support staff are:

- A. to improve and reinforce the skills, attitudes, and abilities that enable a support staff member to be effective in achieving assigned job goals;
- B. to identify and remediate weaknesses that prevent a support staff member from achieving the goals of assigned duties.

The District Administrator shall prepare administrative guidelines for the conduct of support staff member evaluations.

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CONFLICT OF INTEREST

The maintenance of high standards of honesty, integrity, impartiality, and professional conduct by School District employees is essential to ensure the proper performance of school business as well as to earn and keep public confidence in the School District.

Employees are expected to perform their duties in a manner free from conflict of interest consistent with 19.59, Wis. Stats.

No employee shall engage in or have financial interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his/her duties and responsibilities in the school system.

Employees shall not engage in business, private practice of their profession, the rendering of services, or the sale of goods of any type where advantage is taken of any professional relationship they may have with any student, client, or parents of such students or clients in the course of their employment with the School District.

Violation of this Board policy by a District employee will result in disciplinary action being taken against the District employee, up to and including termination of employment.

Employees shall not make use of materials, equipment, or facilities of the School District in private practice. Examples would be the use of facilities before, during, or after regular business hours for service to private practice clients, or the checking out of items from an instructional materials center for private practice.

Should exceptions to this policy be necessary in order to provide mandatory services to students or clients of the School District, all such exceptions will be made known to the employee's supervisor and will be disclosed to the District Administrator **before** entering into any private relationship.

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OUTSIDE ACTIVITIES OF SUPPORT STAFF

The Board of Education directs the District Administrator to promulgate the following guidelines so that employees may avoid situations in which their personal interests, activities, and associations may conflict with the interests of the District. If such situations threaten an employee's effectiveness within the School System, the Board reserves the right to evaluate the impact of such interest, activity, or association upon an employee's responsibilities.

- A. Employees should not give work time to an outside interest, activity, or association without valid reason to be excused from assigned duties.
- B. Employees shall not use school property or school time to solicit or accept customers for private enterprises without written administrative permission.
- C. Employees shall not engage in business transactions on behalf of private enterprises in which s/he may profit by virtue of his/her official position or authority or benefit financially from confidential information which the employee has obtained or may obtain by reason of his/her position or authority.
- D. Employees shall not campaign on school property on behalf of any political issue or candidate for local, State, or National office.
- E. Employees should avoid conduct and associations outside the school which, if known, could have an adverse or harmful effect upon the school community.
- F. Employees should refrain from expressions that would disrupt harmony among their co-workers or interfere with the maintenance of discipline by school officials.

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PERSONAL PROPERTY OF STAFF MEMBERS

Employees may bring personal property, including personal communication devices, to school either for reasons associated with professional responsibilities or for use during off-duty time (see Policy 7540.02). The owner of the personal property bears all responsibility and assumes all risk for loss, damage, or misuse of said personal property while it is on Board of Education property.

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FREEDOM OF SPEECH IN NONINSTRUCTIONAL SETTINGS

The Board of Education acknowledges the right of its support staff members, as citizens in a democratic society, to speak out on issues of public concern. When those issues are related to the District, however, including matters related to the performance of their job duties or responsibilities, the support staff member's expression must be balanced against the interests of this District.

The following guidelines are adopted by the Board to help clarify and, therefore, avoid situations in which the support staff member's expression could conflict with the District's interests. In such situations, s/he should:

- A. state clearly that his/her expression represents personal views and not necessarily those of the School District;
- B. refrain from expressions that would disrupt harmony among co-workers or interfere with the maintenance of discipline by school officials;
- C. not make threats or abusive or personally defamatory comments about co-workers, administrators, or officials of the District;
- D. refrain from making public expressions which s/he knows to be false or are made without regard for truth or accuracy.

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GRIEVANCE PROCEDURE

It is the policy of the District to treat all employees equitably and fairly in matters affecting their employment. Each employee of the District shall be provided an opportunity to understand and resolve certain matters affecting employment that the employee believes to be unjust. This section shall apply to all regular full-time, part-time, limited, temporary, and seasonal employees.

This procedure is available in the case of any employee's disagreement with discipline or termination of employment, as well as any matter relating to workplace safety.

A grievance shall mean a dispute concerning an employee's discipline or termination of employment, or a dispute concerning workplace conditions that affect workplace safety. Only one subject matter shall be covered in any one grievance. A written grievance shall contain:

- A. the name and position of the grievant;
- B. a clear and concise statement of the grievant;
- C. the issue involved;
- D. the relief sought;
- E. the date the incident or violation took place;
- F. the specific section of the Policy Manual alleged to have been violated;
- G. the signature of the grievant and the date.

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All employee grievances must be filed by the aggrieved employee(s). The grievance must be filed within five (5) working days after the employee knew or should have known of the cause of such grievance. The following procedures shall be followed:

A. Principal or Immediate Supervisor:

Any employee that believes s/he has a matter subject to the grievance procedure shall present the grievance to his/her Principal or Immediate Supervisor. If applicable, the employee shall perform the assigned task and grieve later. The Principal or Immediate Supervisor shall, within five (5) working days, inform the employee in writing of his/her decision.

B. District Administrator:

In the event the Principal's or Immediate Supervisor's decision does not resolve the problem, the employee may, within five (5) working days of the date the Principal's or Immediate Supervisor's written decision is issued, present his/her grievance in writing to the District Administrator. This grievance shall fully state the details of the problem and suggest a remedy. The District Administrator shall, within five (5) working days of receipt of the grievance, meet and discuss the grievance with the employee and then reply in writing within ten (10) working days. This step does not apply to any grievance related to action by the Board of Education that directly affects the grievant.

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C. Hearing Before an Impartial Hearing Officer:

In the event the matter is not resolved to the employee's satisfaction by the District Administrator, the employee may, within five (5) working days of the date of the written decision of the District Administrator, request in writing that the matter be referred for a hearing before an impartial hearing officer. The Board of Education shall appoint a hearing officer for the purpose of conducting the hearing. If the District Administrator denies the grievance based on whether the grievance is timely or relates to a covered matter (i.e. workplace safety, discipline or termination), the matter shall be referred to the Board for determination of whether the grievance may proceed. If the Board determined that the grievance may proceed, it will then be referred to the Impartial Hearing Officer. The Board may appoint a hearing officer or panel of potential hearing officers from which to select an officer for this purpose either on an ad hoc basis or by resolution adopted for a school year and delegate to the District Administrator the responsibility to arrange for such hearing with one of the selected officers. Each grievance shall be heard by a single hearing officer and such hearings shall be private. The employee and the District may present witnesses, and each side may select one individual to attend the hearing as a representative.

Any employee representative selected shall be at no expense to the District.

The Hearing Officer may only consider the matter presented to him/her in the initial grievance filed by the employee. The decision will apply exclusively to the employee presenting the grievance. The Impartial Hearing Officer shall have authority to run the hearing, including administering oaths, admitting evidence into the record, providing for transcription, etc. The Officer may not modify any board policy and may not issue decisions on matters not presented to the Administrator in the initial grievance. Any costs incurred by the impartial hearing officer shall be paid by the District

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D. Board of Education:

In the event that either party is dissatisfied with the hearing officer's decision, that party may within ten (10) working days, present the grievance in writing to the Board, who shall consider the matter within thirty (30) working days after its receipt, unless postponed by mutual agreement. The Board shall revise the decision of the impartial hearing officer and may either issue a decision or determine that additional evidence or testimony is necessary and provide for a hearing for that purpose. The Board's decision shall be by majority vote, which shall be final.

This procedure constitutes the exclusive process for the redress of employee grievances for the subject matter referred to herein. However, nothing in this grievance procedure shall prevent any employee from addressing concerns regarding matters not subject to the grievance procedure with administration and employees are encouraged to do so. Matters not subject to the grievance procedure that are raised by employees shall be considered by administration which has final authority, subject to any applicable Board policy or directive, to resolve the matter.

Time limits contained in this grievance procedure outlined above may be extended by mutual consent of the parties. If any applicable time limit for advancing the grievance to the next step in the process is not met, the grievance shall be deemed resolved. Each employee shall be afforded any opportunity to be represented at each step of the grievance procedure by a representative of the employee's choice and at no expense to the District.

For purposes of this grievance procedure, the following definitions shall apply:

- A. "Workplace safety" means those conditions related to physical health and safety of employees enforceable under Federal or State law, or District rule related to: safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risks.

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- B. “Termination” does not include voluntary resignation or retirement, nor does it include reduction in force under Policy 4131.
- C. “Employee discipline” refers to unpaid suspensions written reprimands, or demotion, but excludes performance conferences/evaluations, staff assignments, improvement plans, or oral counseling or reprimand unless a written record of the reprimand is placed in the employee’s file.

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THREATENING BEHAVIOR TOWARD SUPPORT STAFF MEMBERS

The Board of Education believes that a staff member should be able to work in an environment free of threatening speech or actions.

Threatening behavior consisting of any words or deeds that intimidate a staff member or cause anxiety concerning his/her physical and/or psychological well-being is strictly forbidden. Any student, parent, visitor, staff member, or agent of this Board who is found to have threatened a member of the staff will be subject to discipline and reported to the appropriate law enforcement authorities.

The District Administrator shall implement guidelines whereby students and employees understand this policy and appropriate procedures are established for prompt and effective action on any reported incidents.

Chapter 947, Wis. Stats.

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EMPLOYEE ANTI-HARASSMENT

Prohibited Harassment

The Board of Education is committed to a work environment that is free of harassment of any form. The Board will not tolerate any form of harassment and will take all necessary and appropriate action to eliminate it. Any member of the School District community who violates this policy will be subject to disciplinary action, up to and including termination of employment. Additionally, appropriate action will be taken to stop and otherwise deal with any third party who engages in harassment against our employees.

The Board will vigorously enforce its prohibition against harassment based on race, color, national origin, age, sex (including transgender 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.), national origin, 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 characteristic protected by law in its employment practices (hereinafter referred to as "Protected Characteristics"), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board prohibits harassment that affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment. Harassment may occur employee-to-employee, employee-to-student, male-to-female, female-to-male, male-to-male, or female-to-female.

The Board will investigate all allegations of harassment and in those cases where harassment is substantiated, the School Board will take immediate steps calculated to end the harassment, prevent its reoccurrence, and, if applicable, remedy its effects. Individuals who are found to have engaged in harassment will be subject to appropriate disciplinary action.

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For purposes of this policy, "School District community" means individuals subject to the control and supervision of the Board including, but not limited to, students, teachers, staff, volunteers, and Board members, agents, contractors, or other persons.

For purposes of this policy, "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 School District property).

Definitions

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a school employee on the basis of the employee's Protected Characteristics that:

- A. places a school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. is sufficiently severe, pervasive, and persistent so as to create a hostile working environment which materially alters the employee's working conditions from the perspective of a reasonable person similarly situated;
- C. has the effect of substantially disrupting the orderly operation of a school or any other aspect of the District's operations.

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Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, “sexual harassment” is defined as unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitutes sexual harassment when:

- A. a supervisory employee engages in harassing behavior towards a subordinate employee, regardless of whether such conduct creates a hostile work environment;
- B. acquiescence in or submission to such conduct is an explicit or implicit term or condition of employment;
- C. an individual's acquiescence in, submission to, or rejection of such conduct becomes the basis for employment decisions affecting that individual;
- D. such conduct is sufficiently severe, pervasive, and persistent such that it has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment;
- E. consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism results in an adverse employment action for another employee or otherwise creates a hostile work environment;
- F. inappropriate boundary invasions by a District employee or other adult member of the District into a student's personal space and personal life.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

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

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. physical and/or sexual assault;
- C. threats or insinuations that a person's employment, wages, promotion, assignments, or other conditions of employment may be adversely affected by not submitting to sexual advances;
- D. 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, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, text messages, or social media postings;
- E. sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;
- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;

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- I. consensual sexual relationships 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; and
- J. verbal, nonverbal or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

Sexual relationships between staff members, where one staff member has supervisory responsibilities over the other, are discouraged as a matter of Board policy. Such relationships have an inherent possibility of being construed as sexual harassment because the consensual aspect of the relationship may be the result of implicit or explicit duress caused by uncertainty regarding the consequences of non-compliance.

Romantic or sexual relationships between District staff (teachers, aides, administrators, coaches or other school authorities) and a student is expressly prohibited. Any school staff member who engages in sexual conduct with a student may also be guilty of a crime and any information regarding such instances will be reported to law enforcement authorities.

Boundary Invasions

Boundary invasions may be appropriate or inappropriate. Appropriate boundary invasions make medical or educational sense. For example, a teacher or aide assisting a kindergartner after a toileting accident or a coach touching a student during wrestling or football can be appropriate. However other behaviors might be going too far, are inappropriate and may be signs of sexual grooming. Inappropriate boundary invasions may include, but are not limited to the following:

- A. hugging, kissing, or other physical contact with a student
- B. telling sexual jokes to students

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- C. engaging in talk containing sexual innuendo or banter with students
- D. talking about sexual topics that are not related to curriculum
- E. showing pornography to a student
- F. taking an undue interest in a student (i.e. having a "special friend" or a "special relationship")
- G. initiating or extending contact with students beyond the school day for personal purposes
- H. using e-mail, text-messaging or websites to discuss personal topics or interests with students
- I. giving students rides in the staff member's personal vehicle or taking students on personal outings without administrative approval
- J. invading a student's privacy (e.g. walking in on the student in the bathroom, locker-room, asking about bra sizes or previous sexual experiences)
- K. going to a student's home for non-educational purposes
- L. inviting students to the staff member's home without proper chaperones (i.e. another staff member or parent of student)
- M. giving gifts or money to a student for no legitimate educational purpose
- N. accepting gifts or money from a student for no legitimate educational purpose
- O. being overly "touchy" with students
- P. favoring certain students by inviting them to come to the classroom at non-class times
- Q. getting a student out of class to visit with the staff member

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- R. providing advice to or counseling a student regarding a personal problem (i.e. problems related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc.), unless properly licensed and authorized to do so
- S. talking to a student about problems that would normally be discussed with adults (i.e. marital issues)
- T. being alone with a student behind closed doors without a legitimate educational purpose
- U. telling a student "secrets" and having "secrets" with a student
- V. other similar activities or behavior:

Inappropriate boundary invasions are prohibited and must be reported promptly to one of the District Compliance Officers, as designated in this policy, the Building Principal or the District Administrator.

Religious (Creed) Harassment

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

National Origin Harassment

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

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Age Harassment

Prohibited age based harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's age, being over age forty (40), and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment.

Race/Color Harassment

Prohibited race/color based harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race and/or color and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment.

Disability Harassment

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability, perceived disability, or record of disability, and when the conduct has the purpose or effect of interfering with the individual's work performance; or of creating an intimidating, hostile, or offensive working environment. Such harassment may occur where conduct is directed at the characteristics of a person's current or past disabling condition or a perceived condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

Reports and Complaints of Harassing Conduct

Members of the School District community and third parties, which includes all staff, are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District official who receives such a complaint shall file it with the District's Compliance Officer at his/her first opportunity.

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Members of the School District community or third parties who believe they have been harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment unless the complaining individual makes the complaint maliciously or with knowledge that it is false.

Reporting procedures are as follows:

- A. Any employee who believes s/he has been the victim of harassment prohibited under this policy is encouraged to report the alleged harassment to the appropriate school official as identified in D below.
- B. Teachers, administrators, and other school officials who have knowledge of or receive notice that an employee has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to the appropriate school official as defined in D below.
- C. Any other person with knowledge or belief that an employee has or may have been the victim of harassment prohibited by this policy shall be encouraged to immediately report the alleged acts to an appropriate school official as identified in D below.
- D. Appropriate school officials are as follows:
 1. Any complaint under this policy shall be reported to the District's Compliance Officer unless the complaint is regarding the Compliance Officer. In such cases, the complaints shall be reported to the District Administrator, who shall assume the role of the District Compliance Officer for such complaints.
 2. Any complaint under this policy regarding the District Administrator or Board Member that is received by the District Compliance Officer shall be referred to the School Board's legal counsel, who shall assume the role of the District Compliance Officer for such complaints.

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- E. The reporting party or complainant shall be encouraged to use a report form available from the Principal of each building or available from the District office, but oral reports shall be considered complaints as well. Use of formal reporting forms shall not be mandated. However, all oral complaints shall be reduced to writing. Further, nothing in this policy shall prevent any person from reporting harassment directly to the District Administrator.
- F. To provide individuals with options for reporting harassment to an individual of the gender with which they feel most comfortable, the District shall designate both a male and a female District Compliance Officer.

District Compliance Officers

The Board designates the following individuals to serve as the District's "Compliance Officers" (hereinafter referred to as the "COs").

Carmen O'Brien
Director of Curriculum & Assessment
800 Beech Street
Manawa, WI 54949

Daniel Wolfgram
HS/Jr. HS Principal
800 Beech Street
Manawa, WI 54949

920-596-5840

920-596-5310

cobrien@manawa.k12.wi.uw

dewolfgram@manawa.k12.wi.us

The names, titles, and contact information of these individuals will be published annually in the parent and staff handbooks and on the School District's web site.

A CO will be available during regular school/work hours to discuss concerns related to harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct.

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The COs are assigned to accept complaints of harassment directly from any member of the School District community or a visitor to the District, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a CO will begin either an investigation or the CO will designate a specific individual to conduct such a process. The CO will prepare recommendations or will oversee the preparation of such recommendations. All members of the School District community should report incidents of harassment that are reported to them to the CO within two (2) business days of learning of the incident.

Investigation and Complaint Procedure

Any employee or other member of the School District community or visitor to the District who believes that s/he has been subjected to harassment or has witnessed harassment of another may seek resolution of his/her complaint through the procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of harassment was substantiated are set forth below.

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

Complaint Procedure

An individual who believes s/he has been subjected to harassment hereinafter referred to as the "complainant", may file a complaint, either orally or in writing with a teacher, Principal, CO, District Administrator, or other supervisory employee. As noted above, any complaint received regarding the District Administrator or a Board member shall be referred to the 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 District Administrator, who shall assume the role of CO for such complaints.

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Due to the sensitivity surrounding complaints of harassment, timelines are flexible for initiating the compliant process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a Principal, District Administrator, or other Supervisory employee, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process as described herein, the CO should keep the parties informed of the status of the investigation and the decision making process.

All written complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be actively engaging in, harassment; a detailed description of the facts upon which the complaint is based; and a list of potential witnesses.

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 harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the CO should consult the Complainant to assess his/her position to the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he deem appropriate in consultation with the District Administrator. No temporary arrangements shall be disciplinary to either the complainant or respondent.

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Within two (2) business days of receiving a complaint, the CO will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received.

Simultaneously, the CO will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "Respondent"), that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of this policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Within five (5) business days of receiving the complaint, the CO will initiate a formal investigation to determine whether the complainant has been subject to offensive conduct/harassment.

Although certain cases may require additional time, the CO will attempt to complete an investigation into the allegations of harassment within fifteen (15) calendar days of receiving the formal complaint. 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;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the District Administrator that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of harassment as provided in this policy and State and Federal law as to whether the complainant has been subject to harassment. The COs 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 School Board Attorney before finalizing the report to the District Administrator.

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Absent extenuating circumstances, within five (5) business days of receiving the report of the CO, the District Administrator must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the District Administrator's final decision will be delivered to both the complainant and the respondent.

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

The decision of the District Administrator shall be final. If the investigation results in disciplinary action, the employee subject to discipline is entitled to file a grievance pursuant to Board Policy 4340. Nothing in this policy shall be construed to prevent an employee from bringing a complaint before the Equal Employment Opportunity Commission or the Wisconsin Equal Rights Division.

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

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.

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Privacy/Confidentiality

The School District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and all the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligation in an investigation of harassment. The School District will respect the privacy of the complainant, the respondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process should be advised that their identities may be disclosed to the respondent.

During the course of an investigation, the CO will determine whether confidentiality during the investigation process is necessary to protect the interests and reputations of those involved and/or to protect the integrity of the investigation and if so shall 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 a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the CO in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the State or Federal law will be maintained in a manner consistent with the law.

Sanctions and Monitoring

The Board shall vigorously enforce its prohibitions against harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. 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. All disciplinary action will be taken in accordance with applicable law. When imposing discipline, the District Administrator shall consider the totality of the circumstances. In those cases where harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

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All sanctions imposed by the Board and/or District Administrator shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Allegations Constituting Criminal Conduct

If the CO has reason to believe that the complainant has been the victim of criminal conduct, such knowledge should be reported to local law enforcement. After such report has been made, the District Administrator shall be advised that local law enforcement was notified.

If the complainant has been the victim of criminal conduct and the accused is the District Administrator, such knowledge should be reported by the CO to local law enforcement. After such report has been made, the Board President shall be advised that local law enforcement was notified.

Any reports made to local law enforcement shall not terminate the COs obligation and responsibility to continue to investigate a complaint of harassment. While the COs may work cooperatively with outside agencies to conduct concurrent investigations, the harassment investigation shall not be stopped due to the involvement of outside agencies without good cause after consultation with the District Administrator.

Reprisal

Submission of a good faith complaint or report of harassment will not affect the complainant's or reporter's work status or work environment. However, the Board also recognizes that false or fraudulent claims of harassment or false or fraudulent information about such claims may be filed. The Board reserves the right to discipline any person filing a false or fraudulent claim of harassment or false or fraudulent information about such a claim.

The District will discipline or take appropriate action against any member of the School District community who retaliates against any person who reports an incident of harassment prohibited by this policy or participates in a proceeding, investigation, or hearing relating to such harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

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Miscellaneous

The District shall conspicuously post a notice including this policy against harassment in each school in a place accessible to the School District community and members of the public. This notice shall also include the name, mailing address, and telephone number of the COs, the name, mailing address, and telephone number of the State agency responsible for investigating allegations of discrimination in employment, and the mailing address and telephone number of the United States Equal Opportunity Employment Commission.

A link to this policy and any related administrative guidelines shall appear in the employee handbook and a copy shall be made available upon request of employees and other interested parties.

Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of harassment. The District Administrator 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 at such times as the Board in consultation with the District Administrator determines is necessary or appropriate.

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The Board will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as practicable, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery, disclosure, or other legal obligations.

Wis. Stats. 111.31, 118.195, 118.20
20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act)
20 U.S.C. 1681 et seq.
20 U.S.C. 1681 et seq., Title IX
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
29 U.S.C. 794, Rehabilitation Act of 1973
29 C.F.R. Part 1635
29 U.S.C. 6101, The Age Discrimination Act of 1975
42 U.S.C. 2000d et seq.
42 U.S.C. 2000e et seq.
42 U.S.C. 1983
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

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PRIVACY PROTECTIONS OF SELF-FUNDED GROUP HEALTH PLANS

The Board of Education provides coverage to eligible employees under self-funded group health plans. The Board has established the following self-funded group health plans:

- A. Medical Plan
- B. Prescription Drug Plan
- C. Dental Plan
- D. Vision Plan

The Board acknowledges that these group health plans are required to comply with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. Certain health information maintained by these group health plans is afforded significant protection by this Federal law.

The Board hereby appoints the Business Manager to serve as the Privacy Official of the group health plans. The Board delegates authority to the Privacy Official to develop and implement the internal policies and procedures for the group health plan(s) relating to the use and disclosure of Protected Health Information, as defined by HIPAA. In the event that the HIPAA Privacy Rule is subsequently amended, the Privacy Official is authorized to make necessary amendments to the internal policies and procedures.

The Board also acknowledges that the HIPAA Security Rule requires the group health plans to implement various security measures with respect to electronic protected health information. The Board hereby appoints the Business Manager to serve as the Security Official of the group health plans.

The Board delegates authority to the Security Official to develop and implement internal policies and procedures for the group health plan(s) relating to the security of electronic protected health information, if applicable. In the event that the HIPAA Security Rule is subsequently amended, the Security Official is authorized to make necessary amendments to the internal policies and procedures.

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The Privacy Official shall develop administrative guidelines necessary to implement this policy.

The Board further delegates authority to the Privacy Official and/or the Security Official to undertake such other actions as provided by the administrative procedures in effect from time to time. The Privacy Official and/or Security Official shall report his or her progress to the Board upon request. The Board reserves the right to revoke any or all delegations set forth in this policy at any time for any reason.

Since the Department of Health and Human Services (HHS) has the authority to impose civil monetary penalties (CMP) for violations of the HIPAA Privacy Rule and the HIPAA Security Rule, the Board agrees to indemnify and hold harmless the Privacy Official and the Security Official for any CMP imposed upon the Privacy Official and the Security Official in connection with the performance of his/her duties for the group health plans. Notwithstanding the foregoing language, the Board shall not indemnify the Privacy Official and/or the Security Official in the event the CMP was imposed as the result of intentional misconduct or gross negligence by the Privacy Official and/or Security Official.

The Board reserves the right to revoke any or all delegations set forth in this policy at any time for any reason.

20 U.S.C. 1232g

29 C.F.R. Part 1635

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

45 C.F.R. 160.102(a), 164.530(a), 164.530(i), 164.308(a)(2)

42 U.S.C. 1320d-5(a)(1)

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GROUP HEALTH PLANS

The Board of Education shall have discretion to establish and maintain group health plans for the benefit of eligible employees. These group health plans may provide health benefits through insurance or otherwise as permitted by law.

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BENEFITS

It is the Board of Education's policy to provide a competitive and comprehensive package of employee benefits to its employees to effectively attract and retain high quality employees.

The Board retains final authority to establish, modify, rescind, add, or in any way affect employee benefits.

The Board shall determine annually, in conjunction with the budget process, the anticipated shared cost of all employee benefits, specifying both employee and employer share of applicable premiums through Board action.

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FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")

Introduction

In accordance with Federal and State law, the Board of Education will provide family and medical leave to support staff. The Board's Family and Medical Leave Act policy is intended to conform to and comply with, but not exceed, the requirements of the Federal Family and Medical Leave Act of 1993 ("FMLA") and the Wisconsin Family and Medical Leave Act ("WFMLA"). To the extent that this policy is ambiguous or conflicts with the FMLA or the WFMLA, the FMLA and the WFMLA will govern.

Family and medical leave taken under this policy may be covered by Federal law, State law, or both. When leave taken by a staff member under this policy is governed by both Federal and State law, the more generous provision will control in the event of a conflict. However, when leaves are governed by State or Federal law, but not both, the applicable law will control under this policy. In this regard, you should note that certain leaves may be covered by both State and Federal law for only a portion of the leave. To the extent permitted by law, leave under the FMLA, leave under the WFMLA and leave granted under the Board's other policies will run concurrently (at the same time).

Eligibility Requirements

To be eligible for leave under the FMLA, the employee must have been employed by the Board for at least twelve (12) months in the past seven (7) years and must have worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the requested leave. All full-time instructional staff members are deemed to meet the 1,250 hour requirement.

To be eligible for leave under the WFMLA, the employee must have been employed for more than fifty-two (52) consecutive weeks and have worked or been paid for at least 1,000 hours in the preceding fifty-two (52) weeks. The kind and amount of leave available to the employee under this policy, as well as the employee's rights during leave, depend upon whether professional staff satisfy the above requirements.

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Qualifying Reasons for Leave

The Board provides family and medical leave for eligible staff members under the following circumstances:

- A. for the birth of the eligible staff member's child and to care for a newborn child
- B. for placement with the eligible staff member of a child for adoption or foster care
- C. to care for an eligible staff member's spouse, child or parent with a "serious health condition"

The term "child" generally includes a legal ward or a biological, adopted foster or stepchild. For leaves governed exclusively by the FMLA, the term also includes a son or daughter for whom you have assumed the day-to-day obligations of a parent. A child must be either under eighteen (18) years of age or unable to care for himself/herself due to a physical or mental disability or, for leave under State law only, unable to care for himself/herself due to a serious health condition.

"Parent" includes a staff member's spouse's legal guardian only if you are requesting leave under the WFMLA.

"Spouse" includes a qualified domestic partner for leaves governed by the WFMLA. Domestic partnerships must be registered with the county of residence and proof of such registration may be requested prior to approval of leave. Unregistered domestic partners must demonstrate that they are 1) both over age eighteen (18); 2) not in a domestic partnership or marriage with another individual; 3) they share a common residence; 4) they are not related in any way that would prohibit marriage under Wisconsin law; 5) they consider each other to be immediate family members and agree to be responsible for the other's living expense.

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- D. because of a serious health condition that makes the eligible staff member unable to perform the essential functions of his/her position
- E. because of a qualifying exigency resulting from active military service by the employee's spouse, son, daughter, or parent in covered active duty or call to covered active duty in the United States Armed Forces including the National Guard and Reserves

Qualifying exigencies, as defined by Federal regulations, include: 1) short-notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; (maximum fifteen (15) calendar days); 7) post-deployment activities; 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; and 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.

- F. to care for a service member who is the employee's parent, spouse, child or next of kin who, while on active military duty, sustains a serious injury or illness or aggravation of a pre-existing illness or injury while in the line of duty, while on covered active duty in the United States Armed Forces, including the National Guard and Reserves, which renders the service member medically unfit to perform the member's office, grade, rank, or rating

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Covered active duty means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of the treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of 50% or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers. Leave is available for up to twenty-six (26) weeks in a twelve (12) month period. This type of leave is available for serious injury or illness which results in:

1. inpatient medical treatment, recuperation or therapy;
2. outpatient services at a military treatment facility or assignment to a unit established for the purpose of providing command and control of service members receiving outpatient medical services; or
3. assignment to the temporary disability retired list.

The maximum twenty-six (26) weeks of Federal leave to care for a service member includes, and is not in addition to, all other FMLA leave. In other words, employees may not take more than a total of twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for any qualifying reasons under the FMLA. For instance, if an employee takes the maximum twelve (12) weeks of Federal FMLA leave for his/her own serious health condition, the employee may then only take fourteen (14) weeks of FMLA leave within that same twelve (12) month period to care for a military family member injured in the line of duty.

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The District Administrator will determine whether an employee's request for leave qualifies under one (1) of the above categories.

Amount of Leave Available

Under the FMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to a total of twelve (12) work weeks of leave in a calendar year for any of the reasons stated above, with the exception of leave to care for an injured service member, which is provided as described in (F) above.

Under the WFMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to ten (10) work weeks of leave in a calendar year as follows:

- A. a total of six (6) weeks of leave for the birth of his/her natural child and/or the placement of a child with the staff member for, or as a precondition to, adoption;
- B. a total of two (2) weeks of leave to care for a covered family member with a serious health condition; and
- C. a total of two (2) weeks of leave due to the staff member's serious health condition.

Board policy calls for concurrent Federal/State leave coverage whenever a staff member is eligible for leave under both the FMLA and WFMLA to the extent available under the law. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

Definitions of Serious Health Conditions

In conjunction with the certification provided by a healthcare provider, the Board reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling a staff member to family or medical leave under State or Federal law.

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In general, a “serious health condition” under this policy means an illness, injury, impairment, or physical or mental condition that involves one (1) of the following:

A. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital or other care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

B. Absence Plus Treatment

A period of incapacity of more than three (3) consecutive calendar days* (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

1. treatment two (2) or more times by a healthcare provider, a nurse, physician’s assistant or physical therapist under a healthcare provider’s supervision, order or referral as appropriate within thirty (30) days of the first date of incapacity; or
2. treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the healthcare provider and occurs within seven (7) days of the first day of incapacity.

*Under the WFMLA, leave may also be available for a “serious health condition” of less than three (3) consecutive days in duration.

C. Pregnancy

Any period of incapacity due to pregnancy, or for prenatal care.

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D. Chronic Conditions Requiring Treatment

A chronic condition which:

1. requires periodic visits of at least two (2) times per year for treatment by a healthcare provider, or by a nurse or physician's assistant under a healthcare provider's supervision;
2. continues over an extended period of time (including recurring episodes of a single underlying condition); and
3. may cause episodic rather than continuing periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. You or your family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease). The continued existence of such a chronic condition is subject to certification no more than once every six (6) months.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, including: cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy); or kidney disease (dialysis).

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Required Staff Member Notice

The staff member must provide the District Administrator with notice in a reasonable and practicable manner before leave taken under this policy is to begin, if the need for leave is foreseeable (e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for your own serious health condition or that of a family member). When requesting partial or intermittent leave in connection with childbirth or adoption, the staff member must provide at least as much notice as required for taking other non-emergency or non-medical leave, as well as a definite schedule for the leave. Where advance notice is not practical due to uncertainty as to the time leave will be required to begin, a change in circumstances or medical emergency, notice must be given as soon as practical. Leave will be accounted for in increments no greater than the smallest increment used for other similar leaves, but in no event greater than one (1) hour increments. Leave entitlement will not be reduced by more than the amount of leave actually taken.

Employees must provide an explanation as to why proper advance notice was not provided in such cases and may be required to verify the explanation. Notice that was not provided in a timely manner or/and without reasonable explanation may result in the denial of the leave request.

The staff member must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a FMLA leave request form to the District Administrator (forms available from the U.S. Department of Labor).

When planning medical treatment, the staff member should consult with his/her supervisor and make a reasonable effort to schedule the leave so as not to disrupt unduly the District's operations, after approval of the staff member's healthcare provider. The staff member is ordinarily expected to consult with his/her supervisor in order to work out a treatment schedule that best suits his/her needs, as well as the District's.

If a staff member must take more leave than originally anticipated, s/he must notify the District Administrator within two (2) business days of learning of the circumstances necessitating the extension.

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Certification By Healthcare Provider

If a staff member requests leave due to his/her own serious health condition or the serious health condition of his/her spouse, child or parent, the Board requires that the leave request be supported by certification issued and signed by the healthcare provider for the individual with a serious health condition. For service member leave, any certification permitted under 29 C.F.R. 825.310 shall be allowed. The Board reserves the right to certify all information permitted by law.

The staff member must provide the fully completed certification to the District Administrator within fifteen (15) calendar days of the date that the certification is provided to the staff member, unless it is not practicable to do so despite the staff member's diligent, good faith efforts. If it is not practicable to return the certification within fifteen (15) calendar days, it must be returned to the District Administrator as soon as practicable.

If the staff member fails to submit the certification, the leave or continuation of leave may be delayed until the certification is submitted. Further, any absence prior to the date the certification is furnished may be considered unauthorized. A staff member who is absent without authorization may be disciplined, up to and including termination.

The District Administrator will give a staff member a reasonable opportunity to cure any deficiency in a certification, but not fewer than seven (7) calendar days. It is the responsibility of the staff member or family member with a serious health condition to use a healthcare provider who will complete and furnish an accurate certification in a timely manner.

A member of the administration, other than the staff member's direct supervisor, may contact the healthcare or to clarify illegible answers and to authenticate the Certification. If the certification is incomplete or otherwise unclear, the administrator must request that the employee obtain updated or completed information from the health care provider and return it directly to the administrator.

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If the District Administrator doubts the validity of a Certification, the District Administrator may require, at the Board's expense, that the staff member obtain a second opinion from a Board-designated provider, not regularly employed by the Board. If the opinions of the staff member's and the Board's healthcare providers differ, a third, final and binding opinion may be obtained. The staff member must cooperate in obtaining a second or third opinion including facilitating the transfer of pertinent records to the subsequent healthcare providers.

The District Administrator may request re-certifications on a periodic basis as permitted by law.

Designation of Leave

In all circumstances, it is the responsibility of the District Administrator to designate leave, whether paid or unpaid, as FMLA leave and to give the staff member notice of the designation and his/her rights and responsibilities under this policy.

The District Administrator will give the staff member the Notice on each occasion that s/he notifies his/her supervisor of the need for leave that may be FMLA-qualifying, including, but not limited to, when the staff member requests another type of leave for an FMLA-qualifying reason. In the case of intermittent or reduced schedule leave, only one notice will be provided unless the circumstances regarding the leave have changed.

Absent extenuating circumstances, the District Administrator will provide to the employee a "Designation Notice" stating whether a request for leave has been approved or denied within five (5) business days. At a minimum, the staff member will be verbally notified whether leave is being designated as FMLA leave within five (5) business days of the date the staff member provides information to the District Administrator sufficient to enable him/her to determine that the leave is being taken for an FMLA-qualifying reason.

The District Administrator will confirm the verbal notice with the written notice as soon as feasible, but no later than the first payday following the verbal notice (unless the payday is less than one (1) week after the verbal notice, in which case the notice must be no later than the subsequent payday).

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Manner In Which Leave Can Be Taken

Leave available under this policy may be taken in full and, under certain circumstances, may also be taken intermittently or on a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. Reduced schedule leave is leave that reduces the usual number of working hours per day or week. The staff member must consult with his/her supervisor and make a reasonable effort to schedule intermittent or reduced schedule leave so it does not unduly disrupt the District's operations.

Intermittent or reduced schedule leave due to a serious health condition must be medically necessary. Medically necessary means that there must be a medical need for the leave and the leave can be best accommodated through an intermittent or reduced leave schedule, as certified by the healthcare provider in the Certification.

When leave is governed only by the FMLA, the District Administrator may offer a staff member a temporary transfer to another position for which s/he is qualified with equivalent pay and benefits that better accommodates the intermittent or reduced schedule leave when the need for leave is foreseeable based on planned medical treatment or the staff member takes such leave for the birth of a child or for placement of a child for adoption or foster care. The staff member may reject this offer in which case there will be no adverse effect on the leave or entitlement to return to the same or similar position following leave. Any time spent by the staff member in an alternative position will not count against the employee's FMLA leave entitlement.

Coordinating Leaves - Substitution

Generally, leave taken under this policy is unpaid. However, for leave governed exclusively by the FMLA, the staff member must use the following leaves provided by the Board, if available:

- A. vacation or personal leave, if available, for any family or medical leave;
- B. accrued paid family leave (i.e., paid leave covering the particular circumstances for which the staff member is seeking leave), if available, for birth, adoption, or to care for a seriously ill family member; and

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- C. accrued paid medical or sick leave, if available, to care for a seriously ill family member, or for the staff member's own serious health condition.

A staff member may not substitute paid leave for unpaid FMLA leave taken under this policy in any situation where the Board would not normally provide such paid leave.

For leaves governed by the WFMLA, a staff member may substitute paid or unpaid leave, which s/he have earned and accrued, for leave taken under this policy, if available. The Board reserves the right to deny substitution as permitted by law.

Any paid leave substituted for unpaid FMLA leave or WFMLA leave will decrease, in whole or in part, the staff member's FMLA and/or WFMLA leave entitlement.

Continuation of Benefits

A staff member will remain eligible for group health insurance benefits under the Board's group health plan during leave taken under this policy under the same conditions as coverage would have been provided if the staff member had been actively employed during the entire leave. However, the staff member has the option of choosing not to retain such coverage during family or medical leave.

During leave taken under this policy, the Board will continue to pay any portion of group health insurance premiums for coverage that it was responsible for paying immediately prior to the leave as required by law. The staff member will be responsible for paying his/her portion of health insurance premiums regardless of whether his/her family and medical leave is paid or unpaid. It is the staff member's responsibility to make arrangements with the District Administrator for making premium payments for group health insurance during leaves.

To the extent permitted by law, the Board reserves the right to require the staff member to place up to eight (8) weeks of health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty (30) days late.

The staff member's entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the Board's policy regarding provision of such benefits when a staff member is on other types of leave.

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If a staff member fails to return to work or fails to remain at work for a period provided under the law, the District may recover its portion of the premiums paid for medical benefit coverage during the leave, unless the reason for the staff member's failure to return to work is due to the continuation of the serious health condition or the onset of a new serious health condition.

Accrual of Benefits

The use of leave under this policy will not result in the loss of any employment benefit that accrued prior to the start of the staff member's leave. A staff member will not continue to accrue or any employment benefit during leave taken under this policy, except that such benefit shall accrue if the staff member elects to use other leaves provided by the Board, and if such benefits would normally accrue during such leave.

Employment Restoration

A staff member will generally be reinstated to the same position s/he held when leave began or a position with equivalent pay, benefits, and other terms and conditions of employment, if such position remains available, and the staff member possesses the ability to perform the essential functions of the job satisfactorily, with or without any accommodation that may be required by the Americans With Disabilities Act of 1990. The staff member, however, has no greater right to reinstatement or benefits than if s/he had been actively employed during the leave. Furthermore, if the staff member gives unequivocal notice of intent not to return to work, s/he is not entitled to be reinstated.

A staff member who exceeds his/her FMLA/WFMLA leave, but remains off work under a non-FMLA/WFMLA leave policy, is not entitled to reinstatement to the same or a similar position under the FMLA/WFMLA; however, the staff member may be eligible to be reinstated under the non-FMLA/WFMLA leave policy.

A staff member who is able to return to work prior to the expiration of leave must notify his/her supervisor immediately. Upon such notice, the District Administrator will promptly reinstate the staff member to active employment, provided s/he has the present skill and ability to perform the essential functions of his/her job satisfactorily with or without accommodation. However, the reinstatement need not occur until the third business day following the staff member's notification of his/her ability to return to work.

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Fitness For Duty Certification

If leave is due to the staff member's serious health condition, s/he must present certification to return to work to his/her supervisor upon returning to work. The staff member's principal attending physician must complete the certification. The certification must indicate that the staff member has been released to return to work. It must also specify any physical or other limitation on the staff member's ability to perform regular or other duties and the duration of the limitations. No certification will be required when the staff member returns from intermittent leave, except as otherwise permitted or required by the Americans With Disabilities Act of 1990.

The certification will be limited to the particular health condition that caused the staff member's need for leave, except as otherwise permitted by the Americans With Disabilities Act of 1990. If the staff member is an "individual with a disability" within the meaning of the ADA, any fitness-for-duty physical examination or inquiry by the District will be job related and consistent with business necessity.

Reinstatement may be delayed until the staff member submits the certification. Under such circumstances, if the staff member does not promptly provide a certification or qualify for another leave of absence, s/he may be disciplined, up to and including termination.

With the staff member's permission, the Board's healthcare provider may contact the staff member's healthcare provider to clarify and authenticate the certification, but no additional information may be requested or required, and the staff member's return to work may not be delayed while the contact is being made. No second or third fitness for duty certification may be required.

Confidentiality

All medical information relating to leave, whether written or verbal, shall be kept confidential to the maximum extent possible. All medical documents including, but not limited to, medical certifications and return-to-work statements must be maintained in confidential, secure files separate from personnel files.

No Discrimination

Leave under this policy will not be used as a negative factor in employment actions, such as hiring, promotions, disciplinary actions or under attendance policies.

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Miscellaneous

The District Administrator may designate another administrator to perform his/her duties under this policy.

A staff member who fraudulently obtains leave under this policy is not protected by this policy's job restoration or maintenance of health benefits provisions.

The District Administrator shall see that the policy is posted properly.

The District Administrator shall provide a copy of the policy upon the request of a staff member.

29 U.S.C. 2601 et seq.

29 C.F.R. Part 825

103.10, Wis. Stats.

Wis. Admin. Department of Workforce Development (DWD) 225

National Defense Authorization Act of 2010

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NURSING MOTHERS

As required by the Fair Labor Standards Act (FLSA) it shall be the policy of the Board to support the decision of support staff members to breastfeed their infants by providing unpaid breaks for lactating employees to express breast milk for infants on District premises.

The building administrator shall designate a private area, other than a restroom, where an employee can express breast milk. The designated area shall be a space where intrusion from coworkers, students, and the public can be prevented, and one where an employee who is using this area can be shielded from view.

Prior to returning to work from maternity leave, the employee shall notify her supervisor of her intent to continue breastfeeding her infant(s), and of her need to express milk during work hours. It shall be the responsibility of the employee to keep her supervisor informed of her needs in this regard throughout the period of lactation.

The employee can express milk during regularly scheduled unpaid break periods. The building administrator or employee's supervisor shall make accommodation in the event that the time of regular breaks needs to be adjusted or, in the event that additional and/or longer unpaid breaks are needed. In the event that the number and duration of the unpaid breaks requires modification to the employee's work schedule, the building administrator or the employee's supervisor shall work with the employee to determine the necessary modifications.

29 U.S.C. 207 (Section 4207)

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LEAVES OF ABSENCE

Any support staff member may request a discretionary voluntary leave of absence from the Board.

All requests for unpaid leaves of absence by support staff members shall be presented to the Board of Education for approval and shall state the reason for the leave and the expected duration of the leave. This policy governs leaves in addition to leave under Policy 4430.01 (FMLA); however, any leave under this policy that is also qualifying leave under Policy 4430.01 will be designated as such and count towards the employee's leave entitlement. Approved leave under this policy shall state the conditions applicable to the employee's return to work. Nothing in this policy shall serve as a guarantee of any job protection for leave beyond otherwise protected leave.

Any support staff member granted a leave of absence shall be considered to have terminated all work with the District until completion of the leave. Exceptions may be made by the District Administrator in cases where the best interests of the District might be served.

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EMPLOYEE LEAVES

The Board of Education recognizes that there may be instances in which employees cannot report to work and in certain circumstances it is appropriate to provide compensation or job protection during those absences. The leave provided for in this policy is provided in conjunction with other Board leave policies, including Policy 4430.01 (FMLA) and Policy 4430 (extended leave).

A. Military Leave

Staff members will be afforded protected leave from employment to perform their obligations to the United States Armed Forces, whether for reserve duty or a call to active duty, and potential deployment. Leave shall be provided in accordance with the law.

B. Leave for Jury Duty

Staff members who are called to perform their civic responsibility as a potential jurors, shall be excused without penalty for any days or portion of days on which the staff member is required to report. Staff members shall inform their immediate supervisor when they are called for jury duty or a court appearance. Staff members who miss work due to jury duty must provide verification from the court that they attended on that date.

Staff members will receive full pay, and are required to designate the school as payee on the check received from the court or pay the amount shown on their jury duty record slip less travel allowance within fifteen (15) days of return from jury duty.

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While on jury duty, staff members are required to report daily their schedule for the following day, and must report to work when excused for a day or more.

Staff members must submit to the Business Manager a court record of the number of days served.

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JOB-RELATED EXPENSES

The Board of Education may provide for the payment of the actual and necessary expenses, including traveling expenses, of any support staff member of the District incurred in the course of performing services for the District, whether within or outside the District, under the direction of the Board and in accordance with the District Administrator's administrative guidelines.

The District Administrator shall prepare administrative guidelines to implement this policy.

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UNAUTHORIZED WORK STOPPAGE

The Board of Education is obligated and committed to provide certain basic services to students residing in the School District under its jurisdiction and as contracted. Therefore, if the schools are open and students are in attendance, those basic services will be provided.

Support staff members who fail to perform their normal duties when so required as part of a concerted unauthorized work stoppage will be subject to loss of pay and fringe benefits, including paid insurance coverage, as well as disciplinary measures in accordance with the laws of the State.

110.70(4)(l), Wis. Stats.