



Book Administrative Guideline Manual  
 Section For Review - Administrative Guidelines - Vol. 30, No. 2 +  
 Title Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY  
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~~1422—NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY~~

~~This administrative guideline is established to assist in the proper implementation of Policy 1422 and Policy 1422.02.~~

~~Policy 1422 states:~~

~~The Board does not discriminate in the employment of administrative 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, or 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 programs and activities, including employment practices and opportunities.~~

~~The District's Compliance Officers identified in Policy 1422 shall handle inquiries regarding the Board's nondiscrimination policies and address any complaint of discrimination.~~

~~**Disability Discrimination And Reasonable Accommodation**~~

~~It is the policy of the Board that the District shall not discriminate on the basis of disability and shall provide reasonable accommodations to disabled individuals as required by State and Federal law.~~

~~In analyzing the District's duties and responsibilities under State and Federal law, it is important to note that the requirements of the Wisconsin Fair Employment Act and the Americans With Disabilities Act differ. The following chart summarizes and compares the major provisions of these two (2) laws and some of the important differences.~~

<del>Issue</del>	<del>ADA</del>	<del>WFEA</del>
<del>Coverage</del>	<del>The ADA applies to employers with fifteen (15) or more employees</del>	<del>The WFEA covers any entity (with certain exceptions), including the State, engaged in any activity, enterprise, or business employing at least one (1) individual.</del>
<del>Definition of Disability</del>	<del>Physical or mental impairment that substantially limits one (1) or more of the major life activities of an individual, or being regarded as having such an impairment, or a records of having such an impairment.</del>	<del>Real or perceived impairment that: (a) makes (or is perceived to make) achievement unusually difficult or (b) limits (or is perceived to limit) the capacity to work.</del>

~~For purposes of defining disability, "impairment" means a deterioration, a~~

lessening, or damage to a normal bodily function or bodily condition."

Major Life Activities

EEOC regulations define "major life activities" as functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Makes achievement unusually difficult.—The limitations on an individual's ability to achieve and capacity to work must be beyond normal limitations that might render a person unable to make certain achievements or perform every possible job.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

The inquiry concerning the effect of an impairment is not about "mere difficulty," but about "unusual difficulty."

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.

Limits the Ability to Work—Refers to the ability to perform the particular job in question.

Asymptomatic Conditions

Asymptomatic HIV/AIDS is a disability where it substantially limits the major life activity of reproduction.

Diseases such as HIV/AIDS may be disabilities under the WFEA even if in remission or the person is not otherwise actively suffering from the effects of the disease.

Exclusions From Coverage

A person who is not a "qualified individual with a disability" is not covered by the ADA. A person who is currently engaging in the illegal use of drugs is not a "qualified individual." Homosexuality and bi-sexuality are not impairments, and therefore not disabilities. Other conditions that are specifically excluded from ADA coverage include:

It is not discrimination where the disability is reasonably related to the individual's ability to adequately undertake the job-related responsibilities of that individual's employment, membership, or licensure.

Transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders.—Compulsive gambling, kleptomania, or pyromania.—Psychoactive substance use disorders resulting from the current illegal use of drugs.

Reasonable Accommodation

The employer must demonstrate that accommodation would impose "undue hardship" on operation of business.

Employer has the burden of proving that an accommodation would pose a "hardship" on the employer's program, enterprise, or business.

It is inappropriate to conclude as a matter of law that any particular kind of action is not required as an accommodation. An accommodation may be "reasonable" and still

pose a "hardship" to the employer.

**Essential Functions**

The fundamental job duties of the employment position which the disabled individual holds or desires, but not the marginal functions of the position. WFEA uses the term essential function.

A job function may be essential for the following reasons:

- The reason the position exists is to perform that function
  - There are a limited number of employees available among whom the performance of that job function can be distributed
  - The function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the job
- Evidence of whether a particular function is essential includes:
- The employer's judgment as to which functions are essential advertising or interviewing applicants for the job
  - The amount of time spent on the job performing the function
  - The consequences of not requiring the incumbent to perform the functions
  - The terms of the collective bargaining agreement
  - The work experience of past incumbents in the job
  - The current work experience of incumbents in similar jobs

**Direct Threat**

The employer has the burden of showing that the employee presents a "direct threat" (significant risk) to the health or safety of others that cannot be eliminated by reasonable accommodation.

To evaluate whether an employee can "adequately undertake the job-related responsibilities" of a particular job, the present and future safety of the individual, of the individual's co-workers and, if applicable, of the general public may be considered.

**Medical Exams And Inquiries**

The ADA specifically prohibits pre-employment disability-related inquiries.

There is no specific prohibition in the WFEA relating to pre-employment disability-related inquiries.

**Sex-Based Discrimination**

Discrimination against a transgender individual because that person is transgender is discrimination based on sex and therefore a violation of Title VII prohibited by Board policy. Specifically, discrimination against transgender individuals on the basis of sex stereotyping/gender nonconformity will be investigated as sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior.

Additionally, employment actions based upon an individual's sexual orientation are prohibited under Board policy. Administrators are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon his/her transgender identity or sexual orientation.

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

**Military Status**

For purposes of this policy/administrative guideline, "military status" refers to a person's status in the uniformed services which includes the performance of duty, on a voluntary or involuntary basis, in a uniformed service including active duty, active duty for

~~training, initial active duty for training, inactive duty for training, full time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.~~

~~**Investigation and Complaint Procedure (See Form 1422 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 in Policy 1422—Nondiscrimination and Equal Employment Opportunity. The complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.~~

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
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#### 1623 - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board prohibits discrimination against any employee or applicant based on his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability against qualified individuals with disabilities in every aspect of employment. Specifically, the Board does not discriminate on the basis of disability against a qualified individual in regard to:

- A. recruitment, advertising, and job application procedures;
- B. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- C. rates of pay or any other form of compensation and changes in compensation;
- D. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- E. leaves of absence, sick leave, or any other leave;
- F. fringe benefits available by virtue of employment, whether or not administered by the District Board;
- G. selection and financial support for training, including: apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- H. activities sponsored by the Board, including social and recreational programs; and
- I. any other term, condition, or privilege of employment.

The District Board will provide a reasonable accommodation to a qualified applicant and employee who has an actual disability or who has a record of a disability that is needed for the employee/applicant to perform the essential functions of the position, unless the accommodation would impose an undue hardship on the operation of the District's programs and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

An individual with a disability is anyone who:

- A. has a physical or mental impairment that substantially limits one or more major life activities ("actual disability");
- B. has a record of having (i.e., has a history of, or has been misclassified as having) a physical or mental impairment that substantially limits one or more major life activities; or

- C. is regarded as having a physical or mental impairment that substantially limits one or more major life activities (i.e., has a physical or mental impairment that does not substantially limit major life activities but is treated by the District as constituting such a limitation, or has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or has none of the physical or mental impairments recognized by Section 504 but is treated as having such an impairment).

Major life activities include, but are not limited to, 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.

Physical or mental impairment means:

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

1. neurological;
2. musculoskeletal;
3. special sense organs;
4. respiratory, including speech organs;
5. cardiovascular;
6. reproductive;
7. digestive;
8. genitourinary;
9. hemic and lymphatic;
10. skin;
11. immune;
12. circulatory;
13. endocrine;

- B. any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

While the determination of whether an impairment substantially limits a major life activity is an individualized one that is case specific, given the inherent nature of the following impairments, as a ~~practical~~~~factual~~ matter, they ~~almost~~~~will~~~~virtually~~ always ~~will~~ be found to impose a substantial limitation, at a minimum, on the major life activity indicated: deafness substantially limits hearing; blindness substantially limits seeing; an intellectual disability substantially limits brain function; partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially ~~limit~~~~limits~~ musculoskeletal function; autism substantially limits brain function; cancer substantially limits normal cell growth; cerebral palsy substantially limits brain function; diabetes substantially limits endocrine function; epilepsy substantially limits neurological function; Human Immunodeficiency Virus (HIV) infection substantially limits immune functions; multiple sclerosis substantially limits neurological function; muscular dystrophy substantially limits neurological function; and major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia substantially ~~limit~~~~limits~~ brain function.

Physical or mental impairments that are episodic in nature or in remission may constitute a disability for the purposes of Section 504/ADA if the impairment would substantially limit a major life activity when active, such as asthma, allergies, or cancer.

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 aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services", learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

Individual with a disability does not include the following (i.e., Section 504 and/or the ADA specifically excludes):

- A. individuals who ~~are currently~~ are engaging in the ~~illegal~~ use of illegal drugs, when the District acts on the basis of such use;
- B. with respect to employment, any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others;
- C. with respect to employment, an individual who ~~has a currently~~ has a contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the ~~currently~~ contagious disease or infection, is unable to perform the duties of the job;
- D. an individual on the basis of homosexuality or bisexuality; and
- E. an individual on the basis of:
  1. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders;
  2. compulsive gambling, kleptomania, or pyromania; or
  3. psychoactive substance use disorders resulting from current use of illegal ~~use of~~ drugs.

Individual with a disability includes an individual who:

- A. has ~~successfully~~ completed a supervised drug rehabilitation program successfully and is no longer engaging in the illegal use of drugs, or ~~has otherwise~~ has been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- C. is erroneously regarded as engaging in the use of illegal ~~use of~~ drugs, but is not engaging in such use.

Under Wisconsin law, an "individual with a disability" means an individual who has a real or perceived physical or mental impairment "which makes achievement unusually difficult or limits the capacity to work." This definition has generally been interpreted as a broader definition than that which exists under Federal law discussed above.

### **Public Notice**

Pursuant to policy, the identity of the District's Compliance Officers (COs) will be published on the District's website and posted throughout the District and included in all recruitment statements or general information publications.

Recruitment materials, job announcements and all other materials/publications published by the Board must contain the following statement:

~~That~~ the Board does not discriminate against individuals with disabilities ~~disabled persons~~ in employment or the provision of services.

~~The~~This requirement regarding recruitment materials may be met by including an insert in existing publications or revising and reprinting publications.

### **Equal Employment Opportunity Statement**

The \_\_\_\_\_ School District Board does not discriminate on the basis of race, color, sex (including ~~transgender~~ status, change of sex, sexual orientation, or gender identity), religion, age, pregnancy, disability, 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.

The Board ~~will~~ also will include a notice of reasonable accommodation requirements on District employment application forms and post notices that employee reasonable accommodation Request Forms may be obtained from the District's Section 504/ADA Coordinator(s) (hereinafter referred to as the Compliance Officer(s) or CO(s)). ~~(who also serves as its ADA Coordinator) (hereinafter referred to as the "CO")~~.

### **Decision-Making Process for Determining/Identifying Reasonable Accommodations and Undue Hardship**

In determining the appropriate accommodation in the employment situation, the District will take into account two (2) factors:

- A. the specific abilities and functional limitations of the particular applicant or employee with a disability; and
- B. the specific functional requirements of the particular job.

A reasonable accommodation is "any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities." Many times a reasonable accommodation will be obvious and made without difficulty and at little or no cost. The CO will first inquire of the individual with the disability as to any possible suggestions s/he may have for a simple change or adjustment that will serve as an effective accommodation. The District recognizes that employees with disabilities can be useful sources of the information on what type of accommodation they need, where to obtain information on appropriate accommodations, and where to purchase accommodations.

If, however, the identification of a reasonable accommodation proves difficult, the District will utilize an informal, interactive process whereby it and the individual will work together to identify the appropriate accommodation. The interactive process will include any and/or all of the following steps, as ~~may be~~ appropriate:

- A. Examination of the particular job involved and determination of its purpose and essential functions. The District will conduct an individual assessment of the particular job at issue in order to analyze the actual job duties ("essential functions") and determine the true purpose or object of the job. Preferably, a written job description already will be in place that lists the essential functions of the job.
- B. ~~The District will~~ ~~The District will then~~ consult with the individual with a disability to find out the individual's ~~his/her~~ specific physical or mental abilities and limitations as they relate to the essential job functions. This will help the parties ~~to~~ identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
- C. In consultation with the individual, the District will identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- D. If the parties ~~are still~~ are not able to identify an appropriate accommodation, the District will seek technical assistance.
- E. If there are several effective accommodations that would provide an equal employment opportunity, the District will select the accommodation that best serves the needs of the individual and the District. While the District will give the individual with a disability's preference first consideration, the District may choose among effective accommodations and select the accommodation that is less expensive or easier to provide. The District may consider the cost, efficiency and availability of the alternative accommodations in selecting an effective accommodation. The District does not have the obligation to provide the "best" accommodation possible, so long as it provides an accommodation that is sufficient to meet the job-related needs of the individual being accommodated.

The District will not provide an accommodation without first checking with the employee since the employee may not need or want an accommodation, or the unrequested accommodation may not meet the employee's functional limitations. The District will respect an individual with a disability's right not to accept an accommodation if the individual/s/he has not requested it and does not feel one is necessary. However, if this results in the individual failing to perform essential functions, the individual/s/he may be considered unqualified and ~~may~~ either may be refused employment or discharged.

The District may decline to provide desired accommodations if it determines such accommodations will result in an undue hardship. An undue hardship entails a significant difficulty or expense in, or resulting from, the provision of the accommodation.



Such hardship is not limited to financial difficulty but rather encompasses any accommodation that would be unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the program. If the cost of an accommodation would impose an undue hardship, the District will give the individual with the disability the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation. Further, the District will not consider employee morale or the attitudes of others when determining undue hardship.

Decisions not to provide a reasonable accommodation will be in writing and accompanied by an explanation of the decision ~~not to act~~.

Reasonable accommodations may include:

- A. making facilities used by employees readily accessible to and usable by individuals with disabilities;
- B. job restructuring, part-time or modified work schedule, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions;
- C. making modifications to existing leave policies and providing leave when needed for a disability, even where an employer does not offer leave to other employees;
- D. reassignment to a new job because the disability prevents the employee from performing one (1) or more essential functions of the current job, even with a reasonable accommodation, or because any accommodation in the current job would result in undue hardship. If reassignment is required, the Board will place the employee in a vacant position for which s/he is qualified, without requiring the employee to compete with other applicants for open positions, except reassignment does not include promotion, and generally does not involve placing an employee in a vacant position when another employee is entitled to the position under a uniformly-applied seniority system, if any.

Factors to be considered when determining whether an accommodation would impose an undue hardship on the operation of the District's program or activity include:

- A. the overall size of the District's program or activity with respect to number of employees, number and type of facilities, and size of budget;
- B. the type of the District's operation, including the composition and structure of the District's workforce; and
- C. the nature and cost of the accommodation needed.

Accommodation obligations under the Wisconsin Fair Employment Act may be broader than that required under the ADA, as Wisconsin does not employ the "essential functions of the job" analysis as is used under Federal law.

### **Employment Criteria**

The District will not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the Board, is shown to be job-related for the position in question and consistent with business necessity.

The District will select and administer tests concerning employment so that when administered to an applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

### **Pre-employment Inquiries**

Except as authorized by law, the District will not conduct a pre-employment medical examination or make pre-employment inquiry of an applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability. The District will, however, make pre-employment inquiry into an applicant's ability to perform job-related functions; this includes requesting the applicant to describe or demonstrate how the applicants/he would perform the functions.

The District may give a physical agility test at any point in the application or employment process, since such tests are not medical exams. When the District decides to give such a test it must give the test to all similarly situated applicants or employees regardless of disability.

Some examples of alternative test formats and reasonable accommodations are:

- A. allowing people with certain learning or dexterity disabilities to take extra time on a test;
- B. assuring the test site is accessible to a person with a mobility impairment;
- C. allowing a person with a mental disability who cannot perform well with distractions to take a test in a separate room, if a group test setting is not relevant to the job; and
- D. providing Braille, large print, a reader or a computer for people with vision impairments.

If the District conditions an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, the District will:

- A. subject all entering employees in the same job classification to such an examination regardless of disability; and
- B. use the results of the examination ~~will be used~~ only as authorized by law.

The successful candidate who is required to submit to a medical examination, as well as the medical provider that is designated by the District to conduct the examination, will be directed not to collect or provide any genetic information, including the candidate's medical history, in the report of the medical examination.

Information obtained as to the medical condition of the applicant, including any inadvertently provided genetic information, will be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

- A. supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities and ~~regarding~~ necessary accommodations;
- B. first aid and safety personnel may be informed when ~~where~~ appropriate, if the condition might require emergency treatment; and
- C. government officials investigating compliance with Section 504, the ADA and/or the Genetic Information Nondiscrimination Act ("GINA") shall be provided relevant information upon request.

## Interviews

All of the topics labeled off-limits with respect to job applications ~~are~~ likewise are prohibited as subjects of inquiry during job interviews. The District, however, may ask questions that relate to an applicant's ability to perform job-related functions so long as they do it does not phrase the questions in terms of disability. The interviewer may ask about an applicant's ability to perform both essential and marginal job functions. In addition, the interviewer may describe or demonstrate job function(s) and inquire whether the applicant can perform that function(s) with or without reasonable accommodation. Along the same lines, the interviewer may ask the applicant to describe or demonstrate how, with or without reasonable accommodation, the applicants/he will perform the job-related functions. Any questions concerning the need for reasonable accommodation ~~should~~ always should be linked with performance of a specific job function. The interviewer never should ~~never~~ ask an open-ended question such as, "Will you need a reasonable accommodation?"

Interviews should thus concentrate on how applicants will complete tasks that are essential functions, rather than on eliciting information about the applicant's physical or mental condition. Similarly, the District may inquire as to an applicant's ability to perform a job effectively and safely.

According to the EEOC, the following are examples of questions that cannot be asked on a job application or during an interview:

- A. Have you ever had or been treated for any of the following conditions or diseases?
- B. Please list any conditions or diseases for which you have been treated in the past three (3) years.
- C. Have you ever been hospitalized? If so, for what condition?
- D. Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?

- E. Have you ever been treated for any mental condition?
- F. Is there any health-related reason you may not be able to perform the job for which you are applying?
- G. Have you had a major illness in the last five (5) years?
- H. How many days were you absent from work because of illness last year?
- I. Do you have any physical defects that preclude you from performing certain kinds of work? If yes, describe such defects and specific work limitations?
- J. Do you have any disabilities or impairments that may affect your performance in the position for which you are applying?
- K. Are you taking prescribed drugs?
- L. Have you ever been treated for drug addiction or alcoholism?
- M. Have you ever filed for workers' compensation insurance?

Interviewers should not ask a Reference question about an applicant that they could not ask the applicant directly himself/herself (i.e., previous employers cannot be asked about a former employee's disabilities, illness or workers' compensation history/claims).

The following are pre-employment questions that can be asked:

- A. Can you meet the requirements of our attendance policy?
- B. Can you perform the tasks of this position with or without an accommodation?
- C. Describe or demonstrate how you would perform this function, with or without an accommodation? (Such a question can be asked of applicants who have a known disability that might prevent them from performing a job function. If the disability would not interfere with a job function, however, the person could only be asked to demonstrate job performance only if all other candidates must do so.)

If an applicant indicates the applicant s/he has performed a particular function with an accommodation, the potential employer may inquire about it.

### **Investigation and Complaint Procedure**

Any employee or applicant who believes that s/he has been subjected to unlawful discrimination, retaliation, or denied reasonable accommodation may seek resolution of his/her complaint through the procedures described in Policy 1623 - Section 504/ADA Prohibition Against Disability Discrimination In Employment. The complaint procedure involves an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

### **Privacy/Confidentiality**

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the 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 Board's records retention policy.

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#### 2240 - **CONTROVERSIAL ISSUES IN THE CLASSROOM**

A teacher may express his/her own personal opinion as long as the teacher makes it clear that it is a personal opinion and does not try to persuade student to his/her way of thinking when discussing a controversial issue, as defined in Policy 2240, in the classroom.

The following guidelines are designed to assist teachers in the instruction of controversial issues in the classroom:

- A. When a controversial issue is not part of a course of study, its use in the classroom must be approved by the principal.
- B. ( ) Differing viewpoints regarding a controversial issue should be respectfully explored so that students are engaged in a balanced discussion that is focused on developing critical thinking skills.
- C. Before introducing a controversial issue, teachers should consider:
  - 1. the chronological and emotional maturity of the students;
  - 2. the appropriateness and timeliness of the issue as it relates to the course and the students;
  - 3. the extent to which they can successfully handle the issue from a personal standpoint;
  - 4. the amount of time needed and available to examine the issue fairly.
- D. The teacher should encourage student views on issues as long as the expression of those views is not derogatory, malicious, or abusive toward other student views or toward a particular group.
- E. Teachers should help students use a critical thinking process such as the following to examine different sides of an issue:

For each stated position:

- 1. What is the person (group) saying?
- 2. What evidence is there that what is being said is true?
- 3. What is said that would lead you to think the position is valid?
- 4. What are the strengths and weaknesses of this position?
- 5. What do you think would happen if this point of view was accepted and was put into practice?

For reaching conclusions:

1. On balance, what do you think is the most reasoned statement? the most valid position?
2. What is there in the statements that supports your conclusion? What other things, beside what is being said, leads you to your conclusion?

(See also Policy 3310 – Freedom of Speech in Noninstructional Settings)

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### **2260—NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

This administrative guideline is established to assist in the proper implementation of Policy 2260. The District will follow the complaint procedures under Section 118.13, Wisconsin Statutes, unless the complaint relates to the provisions of a free appropriate public education (FAPE) under Part 104 of Section 504.

That policy states:

The Board of Education does not discriminate on the basis of Protected Classes of race; color; religion; national origin; sex (including transgender status, change of sex or gender identity); ancestry; creed; pregnancy; marital status; parental status; sexual orientation; or physical, mental, emotional, or learning disability, or any other characteristic protected by Federal or State law in its programs, or activities. (Collectively "Protected Classes") in its educational programs or activities.

The Board also does not discriminate on the basis of Protected Classes in its employment policies and practices as they relate to students, and does not tolerate harassment of any kind.

Equal educational opportunities shall be available to all students, without regard to the Protected Classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

The District's Compliance Officers shall handle inquiries regarding the Board's nondiscrimination policies and address any complaint of discrimination.

The District will identify, evaluate and provide a free appropriate public education to students with disabilities (i.e., students who have a physical or mental impairment that substantially limits one or more major life activities).

#### **GENDER-BASED HARASSMENT**

The United States Department of Education, Office for Civil Rights ("OCR") considers gender based harassment to be a form of sex discrimination. In 2010, OCR stated:

Title IX prohibits harassment of both male and female students regardless of the sex of the harasser—i.e., even if the harasser and target are members of the same sex. It also prohibits gender based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex stereotyping. Thus, it can be sex discrimination if students are harassed either for exhibiting what is perceived as a stereotypical characteristic of their sex, or failing to conform to stereotypical notions of masculinity and femininity. Title IX also prohibits sexual harassment and gender based harassment of all students, regardless of the actual or perceived sexual orientation or gender identity of the harasser or target.

Although Title IX does not prohibit discrimination based solely on sexual orientation, Title IX does protect all students, including lesbian, gay, bisexual, and transgender (LGBT) students, from sex discrimination. When students are subjected to harassment on the basis of their LGBT status, they may also be subjected to forms of sex discrimination prohibited under Title IX. The fact that the harassment includes anti-LGBT comments or is partly based on the target's actual or perceived sexual orientation does not relieve a school of its obligation under Title IX to investigate and remedy overlapping sexual harassment or gender based harassment.

Courts have endorsed this interpretation of Title IX.

Administrators and professional staff are directed to thoroughly investigate any allegations of gender based harassment.

Any questions concerning whether alleged conduct might involve gender based harassment/sex discrimination should be promptly brought to the District Administrator's attention.

## **FACILITIES**

~~The educational program of this District shall be accessible to all students. All programs need to be designed and scheduled so the location or nature of the facility or area will not deny an otherwise qualified student with a disability the opportunity to participate in the academic or other school program on the same basis as a nondisabled student.~~

~~Service animals for students who require this type of assistance shall be permitted access to all facilities, programs, and all events of the District. (See Policy 8390 -- Animals on District Property and AG 8390 -- Use of Service Animals.)~~

## **PROGRAM**

~~The educational program includes the academic and nonacademic setting. Each qualified, disabled student shall be educated with nondisabled students to the maximum extent appropriate. In the nonacademic setting, the disabled student shall participate with the nondisabled students to the maximum extent appropriate.~~

~~Each principal shall verify that the procedures used with students and parents for selection of and participation in any part of the District's academic, co-curricular, or extra-curricular program do not discriminate on the basis of the Protected Classes (See AG 2411 -- Guidance and Counseling).~~

## **Reporting Procedures**

~~Students, parents and all other members of the School District community are encouraged to promptly report suspected violations of this policy to a teacher or administrator. Any teacher or administrator who receives such a complaint shall file it with the District's Compliance Officer at his/her first opportunity and the Complaint Procedure detailed in Policy 2260 -- Nondiscrimination and Access to Equal Educational Opportunity shall be followed.~~

## **School District**

### **Due Process Procedures Under Section 504**

~~The due process hearing is an administrative hearing held to resolve disagreements between the parent or guardian and the District. The District is required to establish and implement procedural safeguards that include notice, an opportunity for parents to review relevant records, an impartial hearing with opportunity for parents to review relevant records, an impartial hearing with opportunity for participation by the student's parent or guardian, representation by counsel and a review procedure. The parent or guardian has the right to request a due process hearing regarding the District's proposal to or refusal to identify, evaluate, educationally place, or deliver services in any aspect to a student pursuant to the Section 504 regulations. In addition, the District may request a due process hearing to obtain parental consent of an initial evaluation, prove that the District's evaluation was appropriate, and secure parental consent for initial special educational placement. Finally, the District is required to request a due process hearing when a parent or guardian refuses to provide written consent for a re-evaluation and to move a student to an interim alternative educational setting for up to forty five (45) days for behavior believed to be dangerous to the student or to others.~~

### **Requesting a Due Process Hearing**

- A. ~~If a parent or guardian requests a due process hearing, the request will be forwarded to the Curriculum Director who chairs the Pupil Service Committee.~~
- B. ~~The Director will acknowledge the request in writing within five (5) school days and request the parent to complete a written request, if not already provided, which includes the following information:~~
  1. ~~name of the parties requesting the hearing~~
  2. ~~relationship to the child~~
  3. ~~address of parties requesting the hearing~~
  4. ~~name of the child~~
  5. ~~address of the child~~
  6. ~~school district of the child's residence~~
  7. ~~school district where child is attending~~
  8. ~~description of the nature of the problem the child is experiencing related to the action proposed, including facts relating to the problem and the specific reasons for requesting a hearing~~



9. ~~description of the proposed resolution of the problem (to the extent known and available to the parent(s))~~

- C. ~~The Director will forward the information provided by the parent or guardian to a neutral third party hearing officer knowledgeable in the Section 504 regulations and request that the hearing officer schedule a pre-hearing conference within five (5) school days of the request for purposes of scheduling a due process hearing.~~
- D. ~~The hearing officer will comply with the due process procedures under Federal law (IDEA where Section 504 is silent), and utilize the due process procedures set forth under Chapter 115, Wisconsin Statutes.~~

☞ ~~Neola 2014~~

Last Modified by Steve LaVallee on July 25, 2021



Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY, INCLUDING PROCEDURES FOR THE IDENTIFICATION, EVALUATION, AND PLACEMENT OF STUDENTS SUSPECTED OF HAVING A DISABILITY, AND THE RIGHT TO FAPE
Code	ag2260.01A
Status	
Adopted	April 23, 2018

**2260.01A - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY, INCLUDING PROCEDURES FOR THE IDENTIFICATION, EVALUATION AND PLACEMENT OF STUDENTS SUSPECTED OF HAVING A DISABILITY, AND THE RIGHT TO FAPE**

The District Administrator establishes these administrative guidelines for the identification, evaluation, and educational programming and placement of students with disabilities who qualify under Section 504/ADA. These guidelines, along with AG 2260.01B, further fulfill the Board's directive to adopt a system of procedural safeguards that includes the right to have a due process hearing.

Section 504 of the Rehabilitation Act of 1973 and its implementing regulations ("Section 504") prohibit discrimination against qualified persons with a disability in any program or activity receiving Federal financial assistance. No discrimination against any qualified person with a disability will be knowingly permitted in any of the programs, activities, and/or practices in the District.

Building principals shall serve as Building Section 504/ADA Compliance Officers (hereinafter referred to as the "Building CO").

A person with a disability is anyone who:

- A. has a physical or mental impairment that substantially limits one (1) or more major life activities;
- B. has a record of (i.e., has a history of, or has been misclassified as having) a physical or mental impairment that substantially limits one (1) or more major life activities; or
- C. is regarded as having a physical or mental impairment that substantially limits one (1) or more major life activities (i.e., has a physical or mental impairment that does not substantially limit major life activities but is treated by the District as constituting such a limitation, or has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or has none of the physical or mental impairments recognized by Section 504 but is treated as having such an impairment).

Major life activities include, but are not limited to, 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.

Physical or mental impairment means:

A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one (1) or more of the following body systems:

1. neurological;
2. musculoskeletal;
3. special sense organs;
4. respiratory, including speech organs;
5. cardiovascular;
6. reproductive;
7. digestive;
8. genito-urinary;
9. hemic and lymphatic;
10. skin;
11. endocrine;

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

Physical or mental impairments that are episodic in nature or in remission may constitute a disability for the purposes of Section 504/ADA if the impairment would substantially limit a major life activity when active, such as asthma, allergies, or cancer.

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

Individual with a disability does not include the following (i.e., Section 504 specifically **excludes**):

- A. individuals who ~~are currently~~ are engaging in the ~~illegal~~ use of illegal drugs, when the District acts on the basis of such use
- B. an individual on the basis of homosexuality or bisexuality
- C. an individual on the basis of:
  1. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders;
  2. compulsive gambling, kleptomania, or pyromania; or
  3. psychoactive substance use disorders resulting from current ~~illegal~~ use of illegal drugs.

Individual with a disability includes an individual who:

- A. has ~~successfully~~ completed a supervised drug rehabilitation program successfully and is no longer engaging in the illegal use of drugs, or ~~has~~ otherwise has been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- C. is erroneously regarded as engaging in the ~~illegal~~ use of illegal drugs, but is not engaging in such use.

Notwithstanding the preceding, for purposes of programs and activities, providing educational services, the District may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the ~~illegal~~-use of illegal drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities.

The District will not discriminate against otherwise qualified students with disabilities (i.e., students who otherwise meet eligibility criteria – e.g., age – for participation in the educational program and/or activities) in the provision of its educational programs and activities. The District further will provide a free appropriate public education (FAPE) to qualified students with disabilities (i.e., students who have a physical or mental impairment that substantially limits one (1) or more major life activities). Said education shall entail the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of ~~non-disabled~~-students without disabilities are met. This includes providing academic and non-academic services to students with disabilities in the same setting as their ~~non-disabled~~-peers without disabilities to the maximum extent appropriate. In addition to its provision of educational services, the Board will not discriminate against otherwise qualified students with disabilities in its provision of non-educational academic and extra-curricular services and activities such as counseling services, ~~physical-recreational~~-athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students, and will provide students with disabilities an equal opportunity to participate in such services and activities. Qualified students with disabilities will be afforded accommodations/modifications/interventions to the District's non-academic and extra-curricular services and activities, unless such accommodations/modifications/interventions would impose an undue financial burden, or service or activity. A determination that a particular accommodation/modification/intervention would constitute an undue burden must be made by the District Administrator after considering all resources available for use in the funding and operation of the service or activity, and ~~must be~~-accompanied by a written statement of the reasons for reaching that conclusion. In the event the District Administrator determines that an undue burden would result, the District will take any other action that would not result in such burden but would still allow, to the maximum extent possible, individuals with disabilities to receive the benefits of the District's non-academic and extra-curricular services and activities on an equal basis as individuals without disabilities.

If a parent disagrees with a determination made by the District's professional staff concerning the identification, evaluation, or placement of a student with a disability, the parent may request a hearing before an impartial hearing officer that is not employed by the District (see AG 2260.01B).

Alternatively, the parent may file an internal complaint. (See Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability). A parent does not need to first exhaust the internal complaint process in order to file a request for a due process hearing. In fact, a due process hearing may be requested at any time and the parent does not waive that right if the parents/he first opts to try to resolve the his/her dispute through the internal complaint process. (see Policy 2260.01).

### **Procedures Applicable to Section 504 Referrals/Evaluations/Plans**

Annually, the District will undertake efforts designed to identify and locate every qualified person with a disability residing in the District who is not receiving a public education, and notify the person and their parents of the District's duties and responsibilities under Section 504.

#### **Referral**

Referrals may be made by anyone (e.g., parents, teachers, or other knowledgeable professionals). Referrals shall be made on the Suspected Disability Referral form (Form 2260.01A F4) and submitted to the Building CO. Referrals may be made at any time. Parents may request a referral form by contacting the Building CO or a District CO.

Generally, a staff member should refer a student for an evaluation under Section 504 if the staff member/s/he suspects that the student ~~not only~~ has a mental or physical impairment ~~but also suspects an impairment~~ which substantially limits one (1) or more major life activities. Examples:

- A. A teacher knows only that a student has asthma, without any other information. Refer? No.
- B. A teacher knows that a student has asthma and has an inhaler that is kept in the nurse's office that the student occasionally uses, without any other information. Refer? No.
- C. A teacher knows that a student has asthma, uses an inhaler in school, is frequently absent for asthma-related illnesses, and is having trouble in gym. Refer? Yes.

#### **Assessment/Evaluation**

Upon receipt of a Suspected Disability Referral Form, the Building CO will notify the appropriate 504 Case Manager who will collect all relevant information on the student (e.g., medical reports, grade cards/report cards, school history, disciplinary action, etc.) to assist in documenting whether the student has a physical and/or mental impairment that substantially limits one (1) or more major life activities.

The 504 Case Manager should contact school staff who perform assessments and have them review existing pertinent information and determine whether additional assessments are needed. If an evaluation is needed, written parental consent shall be obtained within thirty (30) calendar days of the referral for an evaluation. ~~And a~~ copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3) shall be sent to the parents upon the referral and before obtaining written parental consent for the evaluation.

The evaluation must be sufficient to accurately and completely assess the nature and extent of the disability, and the recommended services and/or accommodations. Evaluations that are more limited than a full special education evaluation may be adequate in some circumstances. The evaluation or review of assessment information should include consideration of any behaviors that interfere with the otherwise qualified student's regular participation in the educational program and/or activities.

If the District does not suspect that a student has a mental or physical impairment that substantially limits one (1) or more major life activities and therefore determines not to evaluate, it will notify the parents of that decision through the issuance of a prior written notice (Form 2260.01A F18) and provide them with a copy of the Notice of Section 504/ADA Procedural Information and Rights.

Before any action is taken with respect to Section 504 accommodations for a student with a disability, an evaluation shall be conducted or assessment information reviewed to determine if the student has a disability~~is disabled~~ under Section 504.

Parents will be afforded the opportunity to meaningfully participate and provide input in the evaluation process. The assessment information may include, but will not be limited to, medical reports that document a physical/mental impairment, aptitude and achievement test scores, teacher observations, recommendations, and other data, including information on social or cultural background and adaptive behavior. The information obtained from all such sources shall be documented and carefully considered. Additionally, if an evaluation is conducted, the Building CO, in conjunction with the designated 504 Case Manager is responsible for verifying that:

- A. tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
- B. tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; and
- C. tests are selected and administered so that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

## Re-Evaluations

Reevaluations are not required at specific intervals; however, assessments will be updated so that eligibility and accommodation planning is based on information that accurately defines the student's disability and reflects the student's current strengths and needs. At least every three (3) years appropriate school staff should determine whether updated evaluations are needed. A re-evaluation will be completed prior to a significant change in placement. When a reevaluation is needed, parents will be sent prior notice (Form 2260.01A F18) and a copy of the Notice of Section 504/ADA Procedural Information and Rights. Consistent with initial evaluations, parents will be afforded the opportunity to meaningfully participate and provide input in the re-evaluation process.

## Eligibility Determination

Within a reasonable period of time (generally no more than sixty (60) calendar days), the Building CO will convene ~~a Section 504 Intervention Assistance Team ("IAT")~~ Conference. The student's parents will be sent a letter inviting them to attend and participate in the ~~Section 504 IAT~~ conference (Form 2260.01A F9). The letter to the parents should be sent at least seven (7) calendar days prior to the Conference. Parents will also be sent a copy of the Notice of Section 504/ADA Procedural Information Rights. The ~~Section 504 Team IAT~~ shall be composed of persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and should at a minimum include the Building CO, the designated 504 Case Manager, and the parents. The ~~Section 504 Team IAT~~ may also include general education teacher(s), the student, guidance counselor, school psychologist, the District's Health Coordinator, school nurse, Director of Pupil Services/Special Education, and other persons with knowledge of the student or the suspected disability, and any other individual the parents may wish to bring to the Conference. The purpose of the Conference is to discuss the information gathered, determine whether the student has a disability that makes him/her eligible for specialized services

and/or accommodations/modifications/interventions under Section 504 (i.e. review the impairment/condition and determine whether it substantially limits one (1) or more major life activities), and, if so, determines whether the student requires specialized services and/or accommodations/modifications/interventions in order to receive a ~~free appropriate public education ("FAPE")~~ and to access the District's programs and activities on an equal basis to students without disabilities.

The Building CO will serve as the Chairperson of the ~~Section 504 conference~~~~IAT Conference~~. The Chairperson has the following responsibilities:

- A. at each ~~Section 504 conference~~~~IAT Conference~~, to verbally explain and offer a written copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3)
- B. gather information
- C. organize the presentation of the data
- D. coordinate the deliberation of Section 504 eligibility (see Form 2260.01A F11):
  - 1. Does the student have a physical or mental impairment?
  - 2. Does that impairment "substantially limit one (1) or more major life activities"?
  - 3. Does the team have the data to justify a disability determination?
  - 4. Is the student a qualified individual with ~~a disability~~~~disabilities~~ within the meaning of Section 504?

At the ~~Section 504 conference~~~~IAT Conference~~, the ~~Section 504 Team~~~~IAT~~ will determine the needs, accommodations/modifications/interventions, services and placement for the student, which may include, but are not limited to:

- A. adjusting testing procedures;
- B. individualize classroom assignments, homework;
- C. provide staff interventions;
- D. utilize assistive technology;
- E. provide a buddy to take notes;
- F. provide an interpreter (for students or adults);
- G. modify materials;
- H. modify the student's day;
- I. facilitate or modify parents/student/teacher/staff communication;
- J. modify school procedures (e.g., provide additional time for passing between classes, adjust transportation, or approve early dismissal);
- K. develop and implement appropriate medical plans (e.g. emergency, asthma, seizure, or allergy plans) for eligible students whose physical or mental impairment impacts a major life activity other than learning.

~~The accommodations/modifications/interventions will be individualized to meet the needs of the student.~~

The special education or related services, including any accommodations/modifications/interventions, will be individualized to meet the needs of the student.

In interpreting data and making placement decisions, the District will draw upon information from a variety of sources, including aptitude and achievement tests, teacher observations and recommendations, medical reports that document a physical/mental condition, social or cultural background, and adaptive behavior. The information obtained from all such sources shall be documented and carefully considered.

### Possible Outcomes of the Section 504 Conference ~~IAT Meeting~~

- A. Student is eligible for a Section 504 Plan (Form 2260.01A F13). The Section 504 Team ~~IAT~~ documents this determination on the Section 504 Summary Evaluation Report (Form 2260.01A F10). Section 504 Plan is developed by the Section 504 Team ~~IAT~~. Parents will be given a copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3).
- B. Student is ineligible for a Section 504 Plan. The Section 504 Team ~~IAT~~ documents this determination on the Section 504 Summary Evaluation Report (Form 2260.01A F10). Parents will be given a copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3).
  1. The Section 504 Team ~~IAT~~ determines if the student needs interventions pursuant to a RtI Plan. If RtI is determined to be appropriate, the Section 504 Team ~~IAT~~ will develop strategies to provide necessary interventions. The interventions should be documented on RtI paperwork. A copy of the RtI plan should be filed in the student's cumulative record folder. A copy of the RtI plan is NOT required to be sent to the District CO.
  2. Student will be served appropriately in the general ~~regular~~ education program without written interventions.
- C. The Section 504 Team ~~IAT~~ determines that it needs to collect more information before making an eligibility determination.

The Summary Evaluation Report (Form 2260.01A F10) shall reflect the determination on the issue of whether the student has been identified as having a disability ~~disabled~~ under Section 504. This document should be reviewed periodically.

### Section 504 Plan

If a student is identified as having a disability ~~disabled~~ pursuant to Section 504, and the Section 504 Team ~~IAT~~ determines the student requires specialized services and/or accommodations/modifications/interventions in order to receive a FAPE and to access the District's programs and activities on an equal basis to students without disabilities, the Section 504 Team ~~IAT~~ will develop and complete the Section 504 Plan (Form 2260.01A F13). Aside from the description of the student's disability and the special education or related services and aids needed, the Section 504 Plan will specify how the student will be provided a FAPE. The Section 504 Plan will specify the accommodations/modifications/interventions necessary so that the student's needs are met as adequately as the needs of nondisabled students. The purpose of the Section 504 Plan is to provide the student with equal access to school activities, to remove barriers to educational opportunity, and provide, to the degree possible, a level playing field. The Section 504 Plan should be signed by the members of the Section 504 Team ~~IAT~~, including the parents. A copy of the Section 504 Plan will be sent to both of the District's COs (designated in Policy 2260.01) and the Building CO **as soon as possible**. A copy of the Section 504 Plan also will be placed in the student's cumulative folder and given to school personnel who work with the student. If the parents are present, the Building CO will request written permission from the parents to implement the Section 504 Plan. For initial plans, parent consent is required prior to implementation by the District. If the parents do not attend the meeting to develop a Section 504 Plan, the District will make reasonable efforts to obtain parental input prior to finalizing the plan and (a) submitting the Plan to parents for consent or (b) implementing a subsequent Section 504 Plan. After parents consent to the initial Section 504 Plan, the District may implement subsequent plans without written parental consent, but the parents must be provided with a copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3) that explains their right to challenge the District's actions. Regardless of whether it is an initial or subsequent plan, a copy of the Section 504 Plan must be sent to the student's parents.

With respect to Section 504 Plans, the designated 504 Case Manager is responsible for:

- A. informing staff that the Section 504 Plan is a legal document;
- B. writing and distributing the Section 504 Plan;
- C. encouraging staff to request a Section 504 review if they are concerned about or unable to follow the Section 504 plan;
- D. ensuring that reviews of Section 504 plans are held annually by October 15th, and that the results of the annual review are sent to a District CO.

Upon completion of the Section 504 Plan, the Building CO should follow the Additional Procedures Applicable to Students with Section 504 Plans (see below).

### Additional Procedures Applicable to Students with Section 504 Plans

## A. Prior to the beginning of each school year:

1. The Building CO is responsible for identifying the students in his/her building who have had Section 504 Plans in the past and designating a 504 Case Manager.
2. The designated 504 Case Manager or his/her designee is responsible for obtaining a copy of the previous school year's Section 504 Plans and distributing them to all appropriate staff members.

## B. Within the first two (2) months of the school year:

1. The Building CO must notify the student's parents that the Section 504 Team~~IAF~~ needs to meet to review the Section 504 Plan and to determine whether it is still necessary/appropriate for the new school year.
2. The Building CO must schedule a Section 504 Team~~an IAF~~ meeting to formulate a Section 504 Plan for the student for the new school year. The Section 504 Plan Review form must be completed at the meeting. The Section 504 Team~~IAF~~, including the parents, is charged with deciding whether to continue the existing Plan, discontinue the current Section 504 Plan, or develop a new Section 504 Plan.
3. If there is an "active" Section 504 Plan, a copy of the Section 504 Plan needs to be forwarded to the District CO by October 15th of each school year and a copy of the Plan placed in the student's cumulative record folder.
4. Updated copies of the student's Section 504 Plan will be distributed to all of the students' teachers after review by the 504 Case Manager.

## C. During the school year:

The Section 504 Plan can be reviewed by the Section 504 Team~~IAF~~ at any time if concerns develop as to the appropriateness of the specialized services and/or accommodations/modifications/interventions being used with the student. This review can be initiated by staff or parents.

## D. Procedural Safeguards:

Any time the written results of a Section 504 Team~~an IAF~~ meeting are provided to a student's parents, they should also be offered a copy of the Notice of Section 504/ADA Procedural Information and Rights (Form 2260.01A F3).

### Parents' Options If They Disagree with the District's Identification, Evaluation and/or Placement of Their Child

The parents may challenge the actions of the Section 504 Team~~IAF~~ regarding identification, evaluation or placement of their child by filing a request for an impartial due process hearing. Alternatively, the parents may file an internal complaint. If the parents elect the former, the Board must provide a due process hearing before an impartial hearing officer ("IHO") that is not employed by the District. See AG 2260.01B - Section 504/ADA Parents' Procedural Rights, including Due Process Hearing. A parent does not need to first exhaust the internal complaint process in order to file a request for a due process hearing. In fact, a due process hearing may be requested at any time and parents do not waive that right if they first opt to try to resolve their dispute through the internal complaint process. If a parent is not satisfied with the IHO's decision, the parents~~he~~ may appeal it to a Federal Court of competent jurisdiction.

The parents may also file a complaint with the U.S. Department of Education, Office for Civil Rights (OCR). The OCR~~Office for Civil Rights~~, however, is not part of the District's internal complaint process or the system of procedural safeguards, and, absent extraordinary circumstances, will not review the results of individual placement and other educational decisions so long as the District complied with the "process" requirements of Section 504 (concerning identification and locations, evaluation, and due process procedures).

### Facilities

With regard to accessibility of facilities, the District will meet its obligations through such means as redesign of equipment, reassignment of classes or other services to accessible building, assignment of aides to beneficiaries, alteration of existing facilities and/or construction of new facilities, or any other method that results in making its programs and activities accessible to persons with disabilities. In choosing among available methods for meeting its obligations, the District will serve persons with disabilities in the most integrated setting appropriate.



Last Modified by Steve LaVallee on July 25, 2021



Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA PARENTS' PROCEDURAL RIGHTS, INCLUDING DUE PROCESS HEARING
Code	ag2260.01B - Use Records Choices from Policy
Status	
Adopted	April 23, 2018

## 2260.01B - SECTION 504/ADA PARENTS' PROCEDURAL RIGHTS, INCLUDING DUE PROCESS HEARING

### Procedural Information and Rights – Students and Parents

In accordance with various Federal laws (including Section 504, the Americans with Disabilities Act of 1990, as amended ("ADA"); and Federal Educational Rights and Privacy Act (FERPA), ~~and Title VII~~), the following procedural safeguards will be provided with respect to decisions or actions regarding the identification, evaluation, educational program or placement, ~~and/or~~ content of a Section 504 Plan of a student who is or may be disabled under Section 504, but not also disabled under the Individual with Disability Education Improvement Act (IDEIA):

- A. students with disabilities have the right to take part in, and receive benefits from, public education programs without discrimination because of their disabilities;
- B. parents have the right to be advised of their rights under Section 504;
- C. parents have the right to receive written notice of any decision regarding the identification, evaluation, or educational placement of their child;
- D. parents have the right to have their child receive a free appropriate public education ("FAPE") if the child has a physical or mental impairment that substantially limits one or more major life activities;

This includes the right to be educated with students without disabilities ~~who are not disabled~~ to the maximum extent appropriate (i.e., the student's education will be provided in the general ~~regular~~ education classroom unless it is demonstrated that education in the general education ~~regular~~ environment with the use of supplementary aids and services cannot be achieved satisfactorily) and to receive regular or special education and related aids/services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of ~~nondisabled~~ students without disabilities are met.

- E. parents have the right to have their child educated in facilities and receive services comparable to those provided to students without disabilities;
- F. parents have the right to have evaluation and educational placement decisions made based upon a variety of informational sources, and by persons who know the student, and are knowledgeable about the evaluation data and placement options;
- G. parents have the right to have their child transported in a non-discriminatory manner;

If the District refers a student for aids, benefits, or services outside the District, the District will ensure that adequate transportation is provided at no greater cost to the parents than if the aids, benefits, or services were provided within the District.

- H. parents have the right to place their child in a private school or alternative educational program;

However, if the District makes a FAPE available to the student that conforms to the requirements of Section 504 and ~~nevertheless~~ the parents nevertheless choose to place the student elsewhere, the District is not required to pay for the student's education at the private school or alternative program, including costs associated with transportation.

- I. parents have the right to have their child receive~~given~~ an equal opportunity to participate in nonacademic and extracurricular activities offered by the District;
- J. parents have the right to examine all relevant education records, including, but not limited to, those documents related to decisions regarding their child's identification, evaluation, educational program and placement;
- K. parents have the right to obtain, at their own expense, an independent educational evaluation of their child;
- L. parents have the right to obtain copies of education records at a reasonable cost unless the fee would effectively deny the parents access to the records;
- M. parents have the right to a response from the District to reasonable requests for explanations and interpretations of their child's education records;
- N. parents have the right to receive all information in the parents' native language and mode of communication;
- O. parents have the right to periodic re-evaluations and a reevaluation~~an evaluation~~ before any significant change in program/service modifications;
- P. parents have the right to request amendment~~amendments~~ of their child's education record(s) if there is reasonable cause to believe that information contained in the record(s) is inaccurate, misleading or otherwise in violation of the privacy rights of their child;

If the District refuses to amend the record(s), the parents have the right to request a hearing and/or to attach to the record(s) a statement of why they disagree with the information it contains.

- Q. parents have the right to request mediation or an impartial due process hearing related to decisions or actions concerning their child's identification, evaluation, educational program or placement;
- R. parents have the right to file an internal complaint;
- S. parents have the right to be represented at any point in the process by an attorney;
- T. parents have the right to recover reasonable attorney fees as authorized by law (i.e., if the parents are successful on their due process claim);
- U. parents have the right to be notified of their Section 504 rights:
  1. when evaluations are conducted;
  2. when consent for an evaluation is withheld;
  3. when eligibility is determined;
  4. when a Section 504 Plan is developed; and
  5. before there is significant change in the Section 504 Plan.

### **Reports and Complaints of Discrimination and Retaliation**

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

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against on the basis of disability are entitled to utilize the complaint process set forth in Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

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

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute discrimination based on disability, the Principal shall report the act to one of the COs, who shall investigate the allegation in accordance with Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the principal informed of the status of the Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability investigation and provide the Principal with a copy of the resulting written report.

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

The CO will provide a copy of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability to the Complainant and the Respondent. In the case of a formal complaint, the CO will prepare recommendations for the District Administrator or oversee the preparation of such recommendations by a designee. All members of the District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

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

### **Investigation and Complaint Procedures (See Form 2260.01B F2)**

Any person who alleges to have been subjected to discrimination or retaliation on the basis of disability may seek resolution of the complaint through the procedures described in Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability. The formal complaint procedures involve an investigation of the individual's claims of discrimination/retaliation and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth in Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability are not intended to interfere with the rights of any individual to pursue a complaint of discrimination or retaliation with the OCR, the Wisconsin Civil Rights Commission or the Equal Employment Opportunity Commission ("EEOC").

### **Impartial Due Process Hearing**

- A. Students and their parents will be advised of their right to request an impartial due process hearing before an Impartial Hearing Officer (IHO) regarding the identification, evaluation or educational placement of persons with disabilities, including

the right to participation by the student's parents and representation of counsel, and their right to examine relevant education records.

When a request for a due process hearing is received, the aggrieved party will have the opportunity to receive a hearing conducted by an impartial hearing officer ("IHO") (i.e., by a person not employed by the Board of Education, not involved in the education or care of the child, and not having a personal or professional interest that would conflict with his/her objectivity in the hearing).

- B. The District will maintain a list of trained IHOs that may include IDEIA hearing officers, attorneys, and Directors of Special Education outside the District. The District Compliance Officer will appoint an IHO from that list, and the costs of the hearing shall be borne by the District. The appointment of an IHO will be made within fifteen (15) school days after the request for a due process hearing is received.
- C. A party to such a due process hearing shall have:
1. the right, at his/her/their own cost, to be accompanied and advised by legal counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
  2. the right to present evidence, and confront, cross-examine and compel the attendance of witnesses;
  3. the right to a written or electronic verbatim record of such hearing; and
  4. the right to written findings of fact and the reasons for the decision.
- D. The IHO shall conduct the due process hearing within a reasonable period of time (i.e., not to exceed ninety (90) calendar days of the request for such a hearing, unless this time-frame is mutually waived by the parties or is determined by the IHO to be impossible to comply with due to extenuating circumstances).
- E. The IHO will give the parent and/or student written notice of the date, time and place of the hearing. Notice will be given no less than twenty-one (21) calendar days prior to the date of the hearing, unless otherwise agreed to by the parent and/or student. The notice shall include:
1. a statement of time, place and nature of the hearing;
  2. a statement of the legal authority and jurisdiction under which the hearing is being held;
  3. a reference to the particular section of the statutes and rules involved;
  4. a statement of the availability of relevant records for examination;
  5. a short and plain statement of the matters asserted; and
  6. a statement of the right to be represented by counsel.
- F. The IHO shall conduct the hearing in a manner that will afford all parties a full and fair opportunity to present evidence and to otherwise be heard. The parent and/or student may be represented by another person of his/her choice, including an attorney.
- G. The IHO shall make a full and complete record of the proceedings.
- H. The IHO shall render a decision in writing to the parties within thirty (30) calendar days following the conclusion of the hearing. The decision will be based solely on the testimony and demonstrative evidence presented at the hearing and include a summary of the evidence (i.e., findings of fact) and the reason for the decision.
- The notification shall include a statement that either party may appeal the decision.
- I. Appeal of the IHO's decision may be made to a Federal court of competent jurisdiction.

## 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 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:~~

Retaliation against a person who makes a report or files a complaint alleging harassment/retaliation or participates as a witness in an investigation is prohibited. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, made a report/formal complaint, testified, assisted or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability, or exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Formal complaints alleging retaliation may be filed according to the internal complaint process set forth in Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.

### **Education and Training**

The District Administration shall provide appropriate information to all members of the District community related to the implementation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability and shall provide training for District students and staff where appropriate. All training and information provided regarding the Board's policy and discrimination in general will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

The CO is responsible for overseeing retention of all records that must be maintained pursuant to Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability. All individuals charged with conducting investigations under Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and/or received as part of an investigation, which may include but are not limited to:

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability;
- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and the District's response to the alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability;
- D. written witness statements;
- E. narratives, notes from, and audio, video, or digital recordings of witness interviews/statements;
- F. e-mails, texts, and social media posts that directly relate to or constitute evidence pertaining to an alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability (i.e., not after-the-fact commentary about or media coverage of the incident);
- G. notes and summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability;
- I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based

on Disability;

- J. documentation of any supportive measures offered and/or provided to the Complainant or the Respondent, including no-contact orders issued to both parties, the dates the no-contact orders were issued, and the dates the parties acknowledged receipt of the no-contact orders;
- K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- L. copies of the Board policy and procedures/guidelines used by the District to conduct the investigation and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability (e.g., Student Codes of Conduct and/or Employee Handbooks);
- M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;

**[DRAFTING NOTE: The following options should be selected if they were selected by the Board in Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.]**

- N. ( ) documentation of any training provided to District personnel related to Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability, including but not limited to notification of the prohibitions and expectations of staff set forth in Policy 2260.01 and the role and responsibility of all District personnel involved in enforcing Policy 2260.01, including their duty to report alleged violations of Policy 2260.01, and/or conducting an investigation of an alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time, and location of the training, the name and title (or credentials) of the presenter, and a copy of the materials reviewed or presented during the training.]**
- O. ( ) documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- P. ( ) copies of any notices sent to the Respondent of the allegations constituting a potential violation of Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability;
- Q. ( ) copies of any notices sent to the Complainant and the Respondent in advance of any interview or meeting;
- R. ( ) copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report and any written responses submitted by the Complainant or the Respondent.

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

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State (e.g., I.C. 5-14-3-4) law, such as student records and confidential medical records.

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

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of SUMMER SCHOOL
Code	ag2440 - Board Review
Status	
Adopted	April 23, 2018

#### 2440 - **SUMMER SCHOOL**

In accordance with Board policy, the District's summer school curriculum will consist of remedial programs for grades Kindergarten through 12<sup>th</sup> grade, enrichment programs for grades four (4) year old kindergarten through 12<sup>th</sup> grade, recreational programs.

Staff members are requested to notify the Principal with regard to those students who could benefit most from summer classes. Parents of said children will be contacted about the recommendation for attendance, but are not required to attend.

##### A. **Eligibility**

1. All school-age children residing in the District have the right to attend a summer or interim session program, including home-school and private-school students. ~~Summer school is open to those who are residents of the School District of Manawa.~~
2. Students who have been enrolled in full-time open enrollment must be allowed to attend summer, even if they do not intend to return in the fall. They are eligible to attend summer or interim session school following their first year of full-time attendance. ~~Staff members are requested to contact the parents of children who could benefit from summer school classes but are not required to attend.~~
3. ( ) Children who are legal residents of the state, living in the District during the summer session may be given the status of residents of the District for the purpose of attendance at summer or interim session classes, even though the children were not regular residents of the District during the preceding regular school session.

##### B. **Supervision**

In accordance with guidelines for summer schools established by the Department of Public Instruction which generally follow those required of regular school sessions, the coordinator(s) of Summer School shall carry the same responsibilities as those generally accepted by the Principal of the regular school session. S/He is responsible for the total operation of the school and should give particular attention to the quality of instruction and supervision of his/her staff.

##### C. **Assignments**

The assignment of students to summer school courses will be based on the District procedures.

##### D. **Course Offerings**

1. To receive advanced credit for a subject not previously taken in high school, the student shall receive class instruction in summer equivalent to an amount not less than the minimum customarily required in high school.
2. Courses to be offered in a summer school will be selected by the District Administrator on the advice of the Principals and Summer School Coordinator(s) and with the approval of the Board.
3. The District Administrator, acting upon the recommendation of the Principal and Summer School Coordinator(s) may discontinue any course for reasons of insufficient enrollment.



**E. Tuition/Fees**

1. Nonresident students shall be charged tuition as determined by the District.
2. All students shall be assessed fees for materials as permitted by DPI regulations and may be charged a reasonable fee for any social, recreational, or extra-curricular activity.
3. A refund may be requested within the first day of school.
4. Payment in full should be received before school starts, however, a fee waiver may be requested.

**F. Performance Responsibilities**

1. The Summer School Coordinator(s) shall recommend all personnel, subject to the approval of the Board of Education.
2. The Principals of all participating schools should be consulted for professional staffing recommendations.
3. The Summer School Coordinator(s) shall be responsible for obtaining equipment, supplies, and instructional materials.
4. The Summer School Coordinator(s) shall direct the activities of the professional and support staff members in the performance of their responsibilities.

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Book Administrative Guideline Manual  
 Section For Review - Administrative Guidelines - Vol. 30, No. 2 +  
 Title Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY  
 Code ag3122 - DELETE  
 Status  
 Adopted May 21, 2018

~~3122—NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY~~

~~This administrative guideline is established to assist in the proper implementation of Policy 3122 and Policy 3122.02 and Federal and State laws and regulations, particularly Part 104 of Section 504 of the Rehabilitation Act of 1973 (34 C.F.R.), the Americans with Disabilities Act (ADA), and the Wisconsin Fair Employment Act.~~

~~That policy states:~~

~~The Board does not discriminate in the employment of professional 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, or declining to attend an employer-sponsored meeting or participate in any communication with the employer about religious matters or political matters, or any other characteristic protected by law in its programs and activities, including employment practices and opportunities.~~

~~The District's Compliance Officers identified in Policy 3122 shall handle inquiries regarding the Board's nondiscrimination policies and address any complaint of discrimination.~~

~~**Disability Discrimination And Reasonable Accommodation**~~

~~It is the policy of the Board that the District shall not discriminate on the basis of disability and shall provide reasonable accommodations to disabled individuals as required by State and Federal law.~~

~~In analyzing the District's duties and responsibilities under State and Federal law, it is important to note that the requirements of the Wisconsin Fair Employment Act and the Americans With Disabilities Act differ. The following chart summarizes and compares the major provisions of these two (2) laws and some of the important differences.~~

<del>Issue</del>	<del>ADA</del>	<del>WFEA</del>
<del>Coverage</del>	<del>The ADA applies to employers with fifteen (15) or more employees</del>	<del>The WFEA covers any entity (with certain exceptions), including the State, engaged in any activity, enterprise, or business employing at least one (1) individual.</del>
<del>Definition of Disability</del>	<del>Physical or mental impairment that substantially limits one (1) or more of the major life activities of an individual, or being regarded as having such an impairment, or a records of having such an impairment.</del>	<del>Real or perceived impairment that: (a) makes (or is perceived to make) achievement unusually difficult or (b) limits (or is perceived to limit) the capacity to work.</del>
		<del>For purposes of defining disability, "impairment"</del>

<p>Major Life Activities</p>	<p>EEOC regulations define "major life activities" as functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.</p> <p>Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.</p> <p>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.</p>	<p>means a deterioration, a lessening, or damage to a normal bodily function or bodily condition."</p> <p>Makes achievement unusually difficult—The limitations on an individual's ability to achieve and capacity to work must be beyond normal limitations that might render a person unable to make certain achievements or perform every possible job.</p> <p>The inquiry concerning the effect of an impairment is not about "mere difficulty," but about "unusual difficulty."</p> <p>Limits the Ability to Work—Refers to the ability to perform the particular job in question.</p>
<p>Asymptomatic Conditions</p>	<p>Asymptomatic HIV/AIDS is a disability where it substantially limits the major life activity of reproduction.</p>	<p>Diseases such as HIV/AIDS may be disabilities under the WFEA even if in remission or the person is not otherwise actively suffering from the effects of the disease.</p>
<p>Exclusions From Coverage</p>	<p>A person who is not a "qualified individual with a disability" is not covered by the ADA. A person who is currently engaging in the illegal use of drugs is not a "qualified individual."</p> <p>Homosexuality and bi-sexuality are not impairments, and therefore not disabilities. Other conditions that are specifically excluded from ADA coverage include:</p> <p>Transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders.—Compulsive gambling, kleptomania, or pyromania.</p> <p>—Psychoactive substance use disorders resulting from the current illegal use of drugs.</p>	<p>It is not discrimination where the disability is reasonably related to the individual's ability to adequately undertake the job-related responsibilities of that individual's employment, membership, or licensure.</p>
<p>Reasonable Accommodation</p>	<p>The employer must demonstrate that accommodation would impose "undue hardship" on operation of business.</p>	<p>Employer has the burden of proving that an accommodation would pose a "hardship" on the employer's program, enterprise, or business.</p> <p>It is inappropriate to conclude as a matter of law that any particular kind of action is not required as an</p>

accommodation.

An accommodation may be "reasonable" and still pose a "hardship" to the employer.

**Essential Functions**

The fundamental job duties of the employment position which the disabled individual holds or desires, but not the marginal functions of the position.

No provision of the WFEA uses the term essential function.

- The reason the position exists is to perform that function
- There are a limited number of employees available among whom the performance of that job function can be distributed
- The function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the job

Evidence of whether a particular function is essential includes:

- The employer's judgment as to which functions are essential advertising or interviewing applicants for the job
- The amount of time spent on the job performing the function
- The consequences of not requiring the incumbent to perform the functions
- The work experience of past incumbents in the job
- The current work experience of incumbents in similar jobs

**Direct Threat**

The employer has the burden of showing that the employee presents a "direct threat" (significant risk) to the health or safety of others that cannot be eliminated by reasonable accommodation.

To evaluate whether an employee can "adequately undertake the job-related responsibilities" of a particular job, the present and future safety of the individual, of the individual's co-workers and, if applicable, of the general public may be considered.

**Medical Exams And Inquiries**

The ADA specifically prohibits pre-employment disability-related inquiries.

There is no specific prohibition in the WFEA relating to pre-employment disability-related inquiries.

**Sex-Based Discrimination**

Discrimination against a transgender individual because that person is transgender is discrimination based on sex and therefore a violation of Title VII prohibited by Board policy. Specifically, discrimination against transgender individuals on the basis of sex stereotyping/gender nonconformity will be investigated as sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior.

Additionally, employment actions based upon an individual's sexual orientation are prohibited under Board policy. Administrators are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon his/her transgender identity or sexual orientation.

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

**Military Status**

~~For purposes of this policy/administrative guideline, "military status" refers to a person's status in the uniformed services which includes the performance of duty, on a voluntary or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.~~

**Investigation and Complaint Procedure**

~~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 in Policy 3122 — Nondiscrimination and Equal Employment Opportunity. The complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.~~

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Legal

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

Last Modified by Steve LaVallee on July 25, 2021



Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	ag3123
Status	
Adopted	February 22, 2018

### 3123 - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board prohibits discrimination against any employee or applicant based on his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability against qualified individuals with disabilities in every aspect of employment. Specifically, the Board does not discriminate on the basis of disability against a qualified individual in regard to:

- A. recruitment, advertising, and job application procedures;
- B. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- C. rates of pay or any other form of compensation and changes in compensation;
- D. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- E. leaves of absence, sick leave, or any other leave;
- F. fringe benefits available by virtue of employment, whether or not administered by the District Board;
- G. selection and financial support for training, including: apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- H. activities sponsored by the Board, including social and recreational programs; and
- I. any other term, condition, or privilege of employment.

The District Board will provide a reasonable accommodation to a qualified applicant and employee who has an actual disability or who has a record of a disability that is needed for the employee/applicant to perform the essential functions of the position, unless the accommodation would impose an undue hardship on the operation of the District's programs and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

An individual with a disability is anyone who:

- A. has a physical or mental impairment that substantially limits one or more major life activities ("actual disability");
- B. has a record of having (i.e., has a history of, or has been misclassified as having) a physical or mental impairment that substantially limits one or more major life activities; or

- C. is regarded as having a physical or mental impairment that substantially limits one or more major life activities (i.e., has a physical or mental impairment that does not substantially limit major life activities but is treated by the District as constituting such a limitation, or has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or has none of the physical or mental impairments recognized by Section 504 but is treated as having such an impairment).

Major life activities include, but are not limited to, 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.

Physical or mental impairment means:

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

1. neurological;
2. musculoskeletal;
3. special sense organs;
4. respiratory, including speech organs;
5. cardiovascular;
6. reproductive;
7. digestive;
8. genitourinary;
9. hemic and lymphatic;
10. skin;
11. immune;
12. circulatory;
13. endocrine;

- B. any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

While the determination of whether an impairment substantially limits a major life activity is an individualized one that is case specific, given the inherent nature of the following impairments, as a ~~practical~~~~factual~~ matter, they ~~almost~~~~will~~~~virtually~~ always ~~will~~ be found to impose a substantial limitation, at a minimum, on the major life activity indicated: deafness substantially limits hearing; blindness substantially limits seeing; an intellectual disability substantially limits brain function; partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially ~~limit~~~~limits~~ musculoskeletal function; autism substantially limits brain function; cancer substantially limits normal cell growth; cerebral palsy substantially limits brain function; diabetes substantially limits endocrine function; epilepsy substantially limits neurological function; Human Immunodeficiency Virus (HIV) infection substantially limits immune functions; multiple sclerosis substantially limits neurological function; muscular dystrophy substantially limits neurological function; and major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia substantially ~~limit~~~~limits~~ brain function.

Physical or mental impairments that are episodic in nature or in remission may constitute a disability for the purposes of Section 504/ADA if the impairment would substantially limit a major life activity when active, such as asthma, allergies, or cancer.

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 aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services", learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

Individual with a disability does not include the following (i.e., Section 504 and/or the ADA specifically excludes):

- A. individuals who ~~are currently~~ are engaging in the ~~illegal~~ use of illegal drugs, when the District acts on the basis of such use;
- B. with respect to employment, any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others;
- C. with respect to employment, an individual who ~~has a currently~~ has a contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the ~~currently~~ contagious disease or infection, is unable to perform the duties of the job;
- D. an individual on the basis of homosexuality or bisexuality; and
- E. an individual on the basis of:
  1. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders;
  2. compulsive gambling, kleptomania, or pyromania; or
  3. psychoactive substance use disorders resulting from current use of illegal ~~use of~~ drugs.

Individual with a disability includes an individual who:

- A. has ~~successfully~~ completed a supervised drug rehabilitation program successfully and is no longer engaging in the illegal use of drugs, or ~~has otherwise~~ has been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- C. is erroneously regarded as engaging in the use of illegal ~~use of~~ drugs, but is not engaging in such use.

Under Wisconsin law, an "individual with a disability" means an individual who has a real or perceived physical or mental impairment "which makes achievement unusually difficult or limits the capacity to work." This definition has generally been interpreted as a broader definition than that which exists under Federal law discussed above.

### **Public Notice**

Pursuant to policy, the identity of the District's Compliance Officers (COs) will be published on the District's website and posted throughout the District and included in all recruitment statements or general information publications.

Recruitment materials, job announcements and all other materials/publications published by the Board must contain the following statement:

~~That~~ the Board does not discriminate against individuals with disabilities~~disabled persons~~ in employment or the provision of services.

~~The~~This requirement regarding recruitment materials may be met by including an insert in existing publications or revising and reprinting publications.

### **Equal Employment Opportunity Statement**



The \_\_\_\_\_ School District Board does not discriminate on the basis of race, color, sex (including ~~transgender~~ status, change of sex, sexual orientation, or gender identity), religion, age, pregnancy, disability, 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.

The Board ~~will~~ also will include a notice of reasonable accommodation requirements on District employment application forms and post notices that employee reasonable accommodation Request Forms may be obtained from the District's Section 504/ADA Coordinator(s) (hereinafter referred to as the Compliance Officer(s) or CO(s)). ~~(who also serves as its ADA Coordinator) (hereinafter referred to as the "CO")~~.

### **Decision-Making Process for Determining/Identifying Reasonable Accommodations and Undue Hardship**

In determining the appropriate accommodation in the employment situation, the District will take into account two (2) factors:

- A. the specific abilities and functional limitations of the particular applicant or employee with a disability; and
- B. the specific functional requirements of the particular job.

A reasonable accommodation is "any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities." Many times a reasonable accommodation will be obvious and made without difficulty and at little or no cost. The CO will first inquire of the individual with the disability as to any possible suggestions s/he may have for a simple change or adjustment that will serve as an effective accommodation. The District recognizes that employees with disabilities can be useful sources of the information on what type of accommodation they need, where to obtain information on appropriate accommodations, and where to purchase accommodations.

If, however, the identification of a reasonable accommodation proves difficult, the District will utilize an informal, interactive process whereby it and the individual will work together to identify the appropriate accommodation. The interactive process will include any and/or all of the following steps, as ~~may be~~ appropriate:

- A. Examination of the particular job involved and determination of its purpose and essential functions. The District will conduct an individual assessment of the particular job at issue in order to analyze the actual job duties ("essential functions") and determine the true purpose or object of the job. Preferably, a written job description already will be in place that lists the essential functions of the job.
- B. ~~The District will~~ The District will then consult with the individual with a disability to find out the individual's ~~his/her~~ specific physical or mental abilities and limitations as they relate to the essential job functions. This will help the parties ~~to~~ identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
- C. In consultation with the individual, the District will identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- D. If the parties ~~are still~~ are not able to identify an appropriate accommodation, the District will seek technical assistance.
- E. If there are several effective accommodations that would provide an equal employment opportunity, the District will select the accommodation that best serves the needs of the individual and the District. While the District will give the individual with a disability's preference first consideration, the District may choose among effective accommodations and select the accommodation that is less expensive or easier to provide. The District may consider the cost, efficiency and availability of the alternative accommodations in selecting an effective accommodation. The District does not have the obligation to provide the "best" accommodation possible, so long as it provides an accommodation that is sufficient to meet the job-related needs of the individual being accommodated.

The District will not provide an accommodation without first checking with the employee since the employee may not need or want an accommodation, or the unrequested accommodation may not meet the employee's functional limitations. The District will respect an individual with a disability's right not to accept an accommodation if the individual/s/he has not requested it and does not feel one is necessary. However, if this results in the individual failing to perform essential functions, the individual/s/he may be considered unqualified and ~~may~~ either may be refused employment or discharged.

The District may decline to provide desired accommodations if it determines such accommodations will result in an undue hardship. An undue hardship entails a significant difficulty or expense in, or resulting from, the provision of the accommodation.

Such hardship is not limited to financial difficulty but rather encompasses any accommodation that would be unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the program. If the cost of an accommodation would impose an undue hardship, the District will give the individual with the disability the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation. Further, the District will not consider employee morale or the attitudes of others when determining undue hardship.

Decisions not to provide a reasonable accommodation will be in writing and accompanied by an explanation of the decision ~~not to act~~.

Reasonable accommodations may include:

- A. making facilities used by employees readily accessible to and usable by individuals with disabilities;
- B. job restructuring, part-time or modified work schedule, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions;
- C. making modifications to existing leave policies and providing leave when needed for a disability, even where an employer does not offer leave to other employees;
- D. reassignment to a new job because the disability prevents the employee from performing one (1) or more essential functions of the current job, even with a reasonable accommodation, or because any accommodation in the current job would result in undue hardship. If reassignment is required, the Board will place the employee in a vacant position for which s/he is qualified, without requiring the employee to compete with other applicants for open positions, except reassignment does not include promotion, and generally does not involve placing an employee in a vacant position when another employee is entitled to the position under a uniformly-applied seniority system, if any.

Factors to be considered when determining whether an accommodation would impose an undue hardship on the operation of the District's program or activity include:

- A. the overall size of the District's program or activity with respect to number of employees, number and type of facilities, and size of budget;
- B. the type of the District's operation, including the composition and structure of the District's workforce; and
- C. the nature and cost of the accommodation needed.

Accommodation obligations under the Wisconsin Fair Employment Act may be broader than that required under the ADA, as Wisconsin does not employ the "essential functions of the job" analysis as is used under Federal law.

### **Employment Criteria**

The District will not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the Board, is shown to be job-related for the position in question and consistent with business necessity.

The District will select and administer tests concerning employment so that when administered to an applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

### **Pre-employment Inquiries**

Except as authorized by law, the District will not conduct a pre-employment medical examination or make pre-employment inquiry of an applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability. The District will, however, make pre-employment inquiry into an applicant's ability to perform job-related functions; this includes requesting the applicant to describe or demonstrate how the applicants/he would perform the functions.

The District may give a physical agility test at any point in the application or employment process, since such tests are not medical exams. When the District decides to give such a test it must give the test to all similarly situated applicants or employees regardless of disability.

Some examples of alternative test formats and reasonable accommodations are:

- A. allowing people with certain learning or dexterity disabilities to take extra time on a test;
- B. assuring the test site is accessible to a person with a mobility impairment;
- C. allowing a person with a mental disability who cannot perform well with distractions to take a test in a separate room, if a group test setting is not relevant to the job; and
- D. providing Braille, large print, a reader or a computer for people with vision impairments.

If the District conditions an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, the District will:

- A. subject all entering employees in the same job classification to such an examination regardless of disability; and
- B. use the results of the examination ~~will be used~~ only as authorized by law.

The successful candidate who is required to submit to a medical examination, as well as the medical provider that is designated by the District to conduct the examination, will be directed not to collect or provide any genetic information, including the candidate's medical history, in the report of the medical examination.

Information obtained as to the medical condition of the applicant, including any inadvertently provided genetic information, will be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

- A. supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities and ~~regarding~~ necessary accommodations;
- B. first aid and safety personnel may be informed when ~~where~~ appropriate, if the condition might require emergency treatment; and
- C. government officials investigating compliance with Section 504, the ADA and/or the Genetic Information Nondiscrimination Act ("GINA") shall be provided relevant information upon request.

## Interviews

All of the topics labeled off-limits with respect to job applications ~~are~~ likewise are prohibited as subjects of inquiry during job interviews. The District, however, may ask questions that relate to an applicant's ability to perform job-related functions so long as they do it does not phrase the questions in terms of disability. The interviewer may ask about an applicant's ability to perform both essential and marginal job functions. In addition, the interviewer may describe or demonstrate job function(s) and inquire whether the applicant can perform that function(s) with or without reasonable accommodation. Along the same lines, the interviewer may ask the applicant to describe or demonstrate how, with or without reasonable accommodation, the applicants/he will perform the job-related functions. Any questions concerning the need for reasonable accommodation ~~should~~ always should be linked with performance of a specific job function. The interviewer never should ~~never~~ ask an open-ended question such as, "Will you need a reasonable accommodation?"

Interviews should thus concentrate on how applicants will complete tasks that are essential functions, rather than on eliciting information about the applicant's physical or mental condition. Similarly, the District may inquire as to an applicant's ability to perform a job effectively and safely.

According to the EEOC, the following are examples of questions that cannot be asked on a job application or during an interview:

- A. Have you ever had or been treated for any of the following conditions or diseases?
- B. Please list any conditions or diseases for which you have been treated in the past three (3) years.
- C. Have you ever been hospitalized? If so, for what condition?
- D. Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?

- E. Have you ever been treated for any mental condition?
- F. Is there any health-related reason you may not be able to perform the job for which you are applying?
- G. Have you had a major illness in the last five (5) years?
- H. How many days were you absent from work because of illness last year?
- I. Do you have any physical defects that preclude you from performing certain kinds of work? If yes, describe such defects and specific work limitations?
- J. Do you have any disabilities or impairments that may affect your performance in the position for which you are applying?
- K. Are you taking prescribed drugs?
- L. Have you ever been treated for drug addiction or alcoholism?
- M. Have you ever filed for workers' compensation insurance?

Interviewers should not ask a Reference question about an applicant that they could not ask the applicant directly himself/herself (i.e., previous employers cannot be asked about a former employee's disabilities, illness or workers' compensation history/claims).

The following are pre-employment questions that can be asked:

- A. Can you meet the requirements of our attendance policy?
- B. Can you perform the tasks of this position with or without an accommodation?
- C. Describe or demonstrate how you would perform this function, with or without an accommodation? (Such a question can be asked of applicants who have a known disability that might prevent them from performing a job function. If the disability would not interfere with a job function, however, the person could only be asked to demonstrate job performance only if all other candidates must do so.)

If an applicant indicates the applicant s/he has performed a particular function with an accommodation, the potential employer may inquire about it.

### **Investigation and Complaint Procedure**

Any employee or applicant who believes that s/he has been subjected to unlawful discrimination, retaliation, or denied reasonable accommodation may seek resolution of his/her complaint through the procedures described in Policy 3123 - Section 504/ADA Prohibition Against Disability Discrimination In Employment. The complaint procedure involves an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

### **Privacy/Confidentiality**

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the 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 Board's records retention policy.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of PHYSICAL EXAMINATION
Code	ag3160A
Status	
Adopted	May 21, 2018

### 3160A - **PHYSICAL EXAMINATION**

After the District makes a conditional offer of employment, each professional staff member shall be asked to take a physical examination from a physician designated by the Board.

The District will pay for the cost of this required, post-offer examination, when performed by a District-assigned physician.

In the event the District Administrator is concerned that a professional staff member is unable to perform the duties of their position, the District Administrator may require that the professional staff member submit to an appropriate examination by a healthcare provider of the professional staff member's choice, a healthcare provider designated and compensated by the District, or both. The sole purpose of the examination shall be to determine whether the professional staff member can perform the duties of their position with or without reasonable accommodation. ~~Written evidence of good physical and mental health may be required periodically by the District from a physician of the District's choosing with the District assuming the expense of such an examination, when there is a reasonable basis to suspect that a mental or physical condition is adversely affecting performance.~~

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Book Administrative Guideline Manual

Section For Review - Administrative Guidelines - Vol. 30, No. 2 +

Title NONDISCRIMINATION AND ANTI-HARASSMENT - REPORTING THREATENING BEHAVIORS

Code ag3362.01 - Board Review

Status

### 3362.01 - **REPORTING THREATENING BEHAVIORS**

Threatening behavior may take different forms including, but not limited to the following:

- A. ( ) face-to-face encounters in which words are used that indicate to the staff member that the staff member's his/her safety and well-being are in jeopardy
- B. ( ) any conduct or written/oral communications that include comments toward the staff member or the staff member's his/her family which would imply or state explicitly that the staff member and/or the staff member's his/her family may be subject to some form of physical or psychological abuse or violence
- C. ( ) written or spoken comments to a staff member which could subject the staff member him/her to blackmail or extortion
- D. ( ) written or spoken communication that would imply or explicitly state that some form of damage may be done to the staff member's property or that of the staff member's his/her family
- E. ( ) written or spoken communication that causes a dwelling, a building, another structure, or a vehicle to be evacuated

### **Definitions**

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

Complainant is the individual who alleges, or is alleged, to have been subjected to harassing, threatening, and/or intimidating behavior, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who is alleged to have engaged in harassing, threatening, and/or intimidating behavior, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

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

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

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

Any staff member who believes that the staff members/he is the victim of any of the above actions or has observed such actions taken by a student, parent, fellow staff member, supervisor, co-worker, ~~or other member of person associated with~~ the District community, or Third Parties, such as a vendor, contractor, volunteer, or school official should promptly should immediately take the following steps:

- A. If the ~~Respondent would be~~ alleged threatener is the staff member's supervisor or a member of the central office staff, ~~the affected employee should~~, as soon as possible after the incident, the Complainant should contact the \_\_\_\_\_ or the District's Compliance Officer (see Policy 3362 - Anti-Harassment).
- B. If the ~~Respondent~~ alleged threatener is not the staff member's supervisor or member of the central office staff, ~~the Complainant affected staff member should~~, as soon as possible after the incident, the Complainant should ~~the Complainant may~~ contact his/her supervisor or the District Compliance Officer.
- C. If the ~~Respondent~~ threatener is a student of the District, the supervisor, if not the student's principal, should immediately inform the student's principal of the alleged threat.

The staff member may make contact either by a written report or by telephone or personal visit. During this contact, the reporting staff member should provide the name of the person(s) whom the staff member ~~s/he~~ believes to be responsible for the threatening behavior and the nature of the threatening behavior incident(s). A written summary of each report is to be prepared promptly by the staff member receiving the report and forwarded to the \_\_\_\_\_. In the event that a staff member hears or receives a threat of violence in, or targeted at, any school, the staff member shall immediately refer to Policy 8462.01 - Threats of Violence and proceed accordingly.

Each report received by the supervisor or \_\_\_\_\_ as provided above shall be investigated in a timely and confidential manner. While a charge is under investigation, no information is to be released to anyone who is not involved with the investigation, except as may be required by law or in the context of a legal or administrative proceeding. No one involved is to discuss the subject outside of the investigation.

The purpose of this provision is to:

- A. protect the confidentiality of the staff member who files a complaint, except that a Respondent must be informed of the Complainant's identity;
- B. encourage the reporting of any incidents of threat;
- C. protect the reputation of any party wrongfully charged with threatening conduct.

Investigation of a complaint ~~will~~ normally will include conferring with the parties involved and any named or apparent witnesses. All staff members and others involved are to be protected from coercion, intimidation, retaliation, or discrimination for filing a complaint or assisting in an investigation.

If the investigation reveals that the complaint is valid, then prompt, appropriate, remedial and/or disciplinary action will be taken immediately to prevent the continuance of the threat or its recurrence.

The District recognizes that determining whether a particular action or incident is a threat must be based on all of the facts in the matter. Given the nature of this type of intimidation, the District recognizes that false accusations of a threat can have serious effects on innocent individuals. Accordingly, all staff members are expected to act responsibly, honestly, and with the utmost candor whenever they present threat allegations or charges against fellow staff members, students, or others associated with the District.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of IMPORTANT NOTICE OF EMPLOYEES' RIGHT TO DOCUMENTATION OF HEALTH COVERAGE
Code	ag3421A - DELETE
Status	
Adopted	May 21, 2018

~~3421A~~ **IMPORTANT NOTICE OF EMPLOYEES' RIGHT TO DOCUMENTATION OF HEALTH COVERAGE**

~~The Health Insurance Portability and Accountability Act of 1996 (HIPAA) limits the circumstances under which coverage may be excluded for medical conditions present before the employee enrolls. Under the law, a pre-existing condition exclusion generally may not be imposed for more than twelve (12) months (eighteen (18) months for a late enrollee after the enrollment date). The twelve (12) month (or eighteen (18) month) exclusion period may be reduced by a new employee's prior health coverage. A new employee is entitled to a certificate from his/her former health insurance provider that will show evidence of the person's prior health coverage.~~

~~To obtain a certificate, the employee should mail or email a written request to:~~

~~School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
cobrien@manawaschools.org  
For additional information contact: District Business Manager  
920-596-5332~~

~~The certificate must be provided promptly. The employee should keep a copy of this completed form. S/He may also request certificates for any dependents (including a spouse) who were enrolled under the employee's health coverage.~~

~~The Business Manager will be responsible for providing a Certificate of Health Insurance Coverage to an employee when:~~

- ~~A. s/he no longer is covered by the District's plan;~~
- ~~B. s/he is no longer covered under COBRA;~~
- ~~C. s/he requests a certificate no later than twenty-four (24) months after cessation of coverage.~~

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	ag4122 - DELETE
Status	
Adopted	June 18, 2018

~~4122—NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY~~

~~This administrative guideline is established to assist in the proper implementation of Policy 4122 and Policy 4122.02 and Federal and State laws and regulations, particularly Part 104 of Section 504 of the Rehabilitation Act of 1973 (34 C.F.R.), the Americans with Disabilities Act (ADA), and the Wisconsin Fair Employment Act.~~

~~That policy states:~~

~~The Board does not discriminate in the employment of support staff on the basis of to 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 declining to attend an employer sponsored meeting or participate in any communication with the employer about religious matters or political matters, or non use of lawful products off the District's premises during non working hours, or any other characteristic protected by law in its programs and activities, including employment practices and opportunities.~~

~~The District's Compliance Officers identified in Policy 4122 shall handle inquiries regarding the Board's nondiscrimination policies and address any complaint of discrimination.~~

~~**Disability Discrimination And Reasonable Accommodation**~~

~~It is the policy of the Board that the District shall not discriminate on the basis of disability and shall provide reasonable accommodations to disabled individuals as required by State and Federal law.~~

~~In analyzing the District's duties and responsibilities under State and Federal law, it is important to note that the requirements of the Wisconsin Fair Employment Act and the Americans With Disabilities Act differ. The following chart summarizes and compares the major provisions of these two (2) laws and some of the important differences.~~

<del>Issue</del>	<del>ADA</del>	<del>WFEA</del>
<del>Coverage</del>	<del>The ADA applies to employers with fifteen (15) or more employees</del>	<del>The WFEA covers any entity (with certain exceptions), including the State, engaged in any activity, enterprise, or business employing at least one (1) individual.</del>
<del>Definition of Disability</del>	<del>Physical or mental impairment that substantially limits one (1) or more of the major life activities of an individual, or being regarded as having such an impairment, or a records of having such an impairment.</del>	<del>Real or perceived impairment that: (a) makes (or is perceived to make) achievement unusually difficult or (b) limits (or is perceived to limit) the capacity to work.</del>
		<del>For purposes of defining disability, "impairment"</del>

<p>Major Life Activities</p>	<p>EEOC regulations define "major life activities" as functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.</p>	<p>means a deterioration, a lessening, or damage to a normal bodily function or bodily condition."</p> <p>Makes achievement unusually difficult—The limitations on an individual's ability to achieve and capacity to work must be beyond normal limitations that</p>
	<p>Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.</p>	<p>might render a person unable to make certain achievements or perform every possible job.</p>
	<p>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.</p>	<p>The inquiry concerning the effect of an impairment is not about "mere difficulty," but about "unusual difficulty."</p>
		<p>Limits the Ability to Work—Refers to the ability to perform the particular job in question.</p>
<p>Asymptomatic Conditions</p>	<p>Asymptomatic HIV/AIDS is a disability where it substantially limits the major life activity of reproduction.</p>	<p>Diseases such as HIV/AIDS may be disabilities under the WFEA even if in remission or the person is not otherwise actively suffering from the effects of the disease.</p>
<p>Exclusions From Coverage</p>	<p>A person who is not a "qualified individual with a disability" is not covered by the ADA. A person who is currently engaging in the illegal use of drugs is not a "qualified individual."</p> <p>Homosexuality and bi-sexuality are not impairments, and therefore not disabilities. Other conditions that are specifically excluded from ADA coverage include: Transvestism, transexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders.— Compulsive gambling, kleptomania, or pyromania.— Psychoactive substance use disorders resulting from the current illegal use of drugs.</p>	<p>It is not discrimination where the disability is reasonably related to the individual's ability to adequately undertake the job-related responsibilities of that individual's employment, membership, or licensure.</p>
<p>Reasonable Accommodation</p>	<p>The employer must demonstrate that accommodation would impose "undue hardship" on operation of business.</p>	<p>Employer has the burden of proving that an accommodation would pose a "hardship" on the employer's program, enterprise, or business.</p>
		<p>It is inappropriate to conclude as a matter of law that any particular kind of action is not required as an</p>

accommodation.

An accommodation may be "reasonable" and still pose a "hardship" to the employer.

**Essential Functions**

The fundamental job duties of the employment position which the disabled individual holds or desires, but not the marginal functions of the position.

A job function may be essential for the following reasons:

- The reason the position exists is to perform that function
- There are a limited number of employees available among whom the performance of that job function can be distributed
- The function may be highly specialized so that the incumbent in the position is hired for his/her expertise or ability to perform the job

Evidence of whether a particular function is essential includes:

- The employer's judgment as to which functions are essential advertising or interviewing applicants for the job
- The amount of time spent on the job performing the function
- The consequences of not requiring the incumbent to perform the functions
- The work experience of past incumbents in the job
- The current work experience of incumbents in similar jobs

No provision of the WFEA uses the term essential function.

**Direct Threat**

The employer has the burden of showing that the employee presents a "direct threat" (significant risk) to the health or safety of others that cannot be eliminated by reasonable accommodation.

To evaluate whether an employee can "adequately undertake the job-related responsibilities" of a particular job, the present and future safety of the individual, of the individual's co-workers and, if applicable, of the general public may be considered.

**Medical Exams And Inquiries**

The ADA specifically prohibits pre-employment disability-related inquiries.

There is no specific prohibition in the WFEA relating to pre-employment disability-related inquiries.

**Sex-Based Discrimination**

Discrimination against a transgender individual because that person is transgender is discrimination based on sex and therefore a violation of Title VII prohibited by Board policy. Specifically, discrimination against transgender individuals on the basis of sex stereotyping/gender nonconformity will be investigated as sex discrimination. This is true irrespective of the cause of the person's gender non-conforming behavior.

Additionally, employment actions based upon an individual's sexual orientation are prohibited under Board policy. Administrators are required to investigate allegations of conduct involving the discrimination or harassment of an employee or applicant based upon his/her transgender identity or sexual orientation.

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

**Military Status**

~~For purposes of this policy/administrative guideline, "military status" refers to a person's status in the uniformed services which includes the performance of duty, on a voluntary or involuntary basis, in a uniformed service including active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty. It also includes the period of time for which a person is absent from employment for the purpose of an examination to determine the fitness of the person to perform any such duty as listed above.~~

#### ~~**Investigation and Complaint Procedure**~~

~~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 in Policy 4122 — Nondiscrimination and Equal Employment Opportunity. The complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.~~

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Legal

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

Last Modified by Steve LaVallee on July 25, 2021



Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	ag4123
Status	
Adopted	February 22, 2018

#### 4123 - SECTION 504/ADA - PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT

The Board prohibits discrimination against any employee or applicant based on his/her disability. As such, the Board will not engage in employment practices or adopt policies that discriminate on the basis of disability against qualified individuals with disabilities in every aspect of employment. Specifically, the Board does not discriminate on the basis of disability against a qualified individual in regard to:

- A. recruitment, advertising, and job application procedures;
- B. hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
- C. rates of pay or any other form of compensation and changes in compensation;
- D. job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- E. leaves of absence, sick leave, or any other leave;
- F. fringe benefits available by virtue of employment, whether or not administered by the District Board;
- G. selection and financial support for training, including: apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;
- H. activities sponsored by the Board, including social and recreational programs; and
- I. any other term, condition, or privilege of employment.

The District Board will provide a reasonable accommodation to a qualified applicant and employee who has an actual disability or who has a record of a disability that is needed for the employee/applicant to perform the essential functions of the position, unless the accommodation would impose an undue hardship on the operation of the District's programs and/or activities. A reasonable accommodation is not required for an individual who is merely regarded as having a disability.

An individual with a disability is anyone who:

- A. has a physical or mental impairment that substantially limits one or more major life activities ("actual disability");
- B. has a record of having (i.e., has a history of, or has been misclassified as having) a physical or mental impairment that substantially limits one or more major life activities; or

- C. is regarded as having a physical or mental impairment that substantially limits one or more major life activities (i.e., has a physical or mental impairment that does not substantially limit major life activities but is treated by the District as constituting such a limitation, or has a physical or mental impairment that substantially limits major life activities only as a result of the attitude of others toward such impairment, or has none of the physical or mental impairments recognized by Section 504 but is treated as having such an impairment).

Major life activities include, but are not limited to, 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.

Physical or mental impairment means:

- A. any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

1. neurological;
2. musculoskeletal;
3. special sense organs;
4. respiratory, including speech organs;
5. cardiovascular;
6. reproductive;
7. digestive;
8. genitourinary;
9. hemic and lymphatic;
10. skin;
11. immune;
12. circulatory;
13. endocrine;

- B. any mental or psychological disorder, such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

While the determination of whether an impairment substantially limits a major life activity is an individualized one that is case specific, given the inherent nature of the following impairments, as a ~~practical~~~~factual~~ matter, they ~~almost~~~~will~~~~virtually~~ always ~~will~~ be found to impose a substantial limitation, at a minimum, on the major life activity indicated: deafness substantially limits hearing; blindness substantially limits seeing; an intellectual disability substantially limits brain function; partially or completely missing limbs or mobility impairments requiring the use of a wheelchair substantially ~~limit~~~~limits~~ musculoskeletal function; autism substantially limits brain function; cancer substantially limits normal cell growth; cerebral palsy substantially limits brain function; diabetes substantially limits endocrine function; epilepsy substantially limits neurological function; Human Immunodeficiency Virus (HIV) infection substantially limits immune functions; multiple sclerosis substantially limits neurological function; muscular dystrophy substantially limits neurological function; and major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia substantially ~~limit~~~~limits~~ brain function.

Physical or mental impairments that are episodic in nature or in remission may constitute a disability for the purposes of Section 504/ADA if the impairment would substantially limit a major life activity when active, such as asthma, allergies, or cancer.

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 aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, use of assistive technology, reasonable accommodations or "auxiliary aids or services", learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

Individual with a disability does not include the following (i.e., Section 504 and/or the ADA specifically excludes):

- A. individuals who ~~are currently~~ are engaging in the ~~illegal~~ use of illegal drugs, when the District acts on the basis of such use;
- B. with respect to employment, any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others;
- C. with respect to employment, an individual who ~~has a currently~~ has a contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the ~~currently~~ contagious disease or infection, is unable to perform the duties of the job;
- D. an individual on the basis of homosexuality or bisexuality; and
- E. an individual on the basis of:
  1. transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairment, or other sexual behavior disorders;
  2. compulsive gambling, kleptomania, or pyromania; or
  3. psychoactive substance use disorders resulting from current use of illegal ~~use of~~ drugs.

Individual with a disability includes an individual who:

- A. has ~~successfully~~ completed a supervised drug rehabilitation program successfully and is no longer engaging in the illegal use of drugs, or ~~has otherwise~~ has been rehabilitated successfully and is no longer engaging in such use;
- B. is participating in a supervised rehabilitation program and is no longer engaging in such use; or
- C. is erroneously regarded as engaging in the use of illegal ~~use of~~ drugs, but is not engaging in such use.

Under Wisconsin law, an "individual with a disability" means an individual who has a real or perceived physical or mental impairment "which makes achievement unusually difficult or limits the capacity to work." This definition has generally been interpreted as a broader definition than that which exists under Federal law discussed above.

### **Public Notice**

Pursuant to policy, the identity of the District's Compliance Officers (COs) will be published on the District's website and posted throughout the District and included in all recruitment statements or general information publications.

Recruitment materials, job announcements and all other materials/publications published by the Board must contain the following statement:

~~That~~ the Board does not discriminate against individuals with disabilities~~disabled persons~~ in employment or the provision of services.

~~The~~This requirement regarding recruitment materials may be met by including an insert in existing publications or revising and reprinting publications.

### **Equal Employment Opportunity Statement**



The \_\_\_\_\_ School District Board does not discriminate on the basis of race, color, sex (including ~~transgender~~ status, change of sex, sexual orientation, or gender identity), religion, age, pregnancy, disability, 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.

The Board ~~will~~ also will include a notice of reasonable accommodation requirements on District employment application forms and post notices that employee reasonable accommodation Request Forms may be obtained from the District's Section 504/ADA Coordinator(s) (hereinafter referred to as the Compliance Officer(s) or CO(s)). ~~(who also serves as its ADA Coordinator) (hereinafter referred to as the "CO")~~.

### **Decision-Making Process for Determining/Identifying Reasonable Accommodations and Undue Hardship**

In determining the appropriate accommodation in the employment situation, the District will take into account two (2) factors:

- A. the specific abilities and functional limitations of the particular applicant or employee with a disability; and
- B. the specific functional requirements of the particular job.

A reasonable accommodation is "any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities." Many times a reasonable accommodation will be obvious and made without difficulty and at little or no cost. The CO will first inquire of the individual with the disability as to any possible suggestions s/he may have for a simple change or adjustment that will serve as an effective accommodation. The District recognizes that employees with disabilities can be useful sources of the information on what type of accommodation they need, where to obtain information on appropriate accommodations, and where to purchase accommodations.

If, however, the identification of a reasonable accommodation proves difficult, the District will utilize an informal, interactive process whereby it and the individual will work together to identify the appropriate accommodation. The interactive process will include any and/or all of the following steps, as ~~may be~~ appropriate:

- A. Examination of the particular job involved and determination of its purpose and essential functions. The District will conduct an individual assessment of the particular job at issue in order to analyze the actual job duties ("essential functions") and determine the true purpose or object of the job. Preferably, a written job description already will be in place that lists the essential functions of the job.
- B. ~~The District will~~ ~~The District will then~~ consult with the individual with a disability to find out the individual's ~~his/her~~ specific physical or mental abilities and limitations as they relate to the essential job functions. This will help the parties ~~to~~ identify the barriers to job performance and assess how these barriers could be overcome with an accommodation.
- C. In consultation with the individual, the District will identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions.
- D. If the parties ~~are still~~ are not able to identify an appropriate accommodation, the District will seek technical assistance.
- E. If there are several effective accommodations that would provide an equal employment opportunity, the District will select the accommodation that best serves the needs of the individual and the District. While the District will give the individual with a disability's preference first consideration, the District may choose among effective accommodations and select the accommodation that is less expensive or easier to provide. The District may consider the cost, efficiency and availability of the alternative accommodations in selecting an effective accommodation. The District does not have the obligation to provide the "best" accommodation possible, so long as it provides an accommodation that is sufficient to meet the job-related needs of the individual being accommodated.

The District will not provide an accommodation without first checking with the employee since the employee may not need or want an accommodation, or the unrequested accommodation may not meet the employee's functional limitations. The District will respect an individual with a disability's right not to accept an accommodation if the individual/s/he has not requested it and does not feel one is necessary. However, if this results in the individual failing to perform essential functions, the individual/s/he may be considered unqualified and ~~may~~ either may be refused employment or discharged.

The District may decline to provide desired accommodations if it determines such accommodations will result in an undue hardship. An undue hardship entails a significant difficulty or expense in, or resulting from, the provision of the accommodation.

Such hardship is not limited to financial difficulty but rather encompasses any accommodation that would be unduly costly, extensive, substantial or disruptive, or that would fundamentally alter the nature or operation of the program. If the cost of an accommodation would impose an undue hardship, the District will give the individual with the disability the option of paying that portion of the cost which would constitute an undue hardship or providing the accommodation. Further, the District will not consider employee morale or the attitudes of others when determining undue hardship.

Decisions not to provide a reasonable accommodation will be in writing and accompanied by an explanation of the decision ~~not to act~~.

Reasonable accommodations may include:

- A. making facilities used by employees readily accessible to and usable by individuals with disabilities;
- B. job restructuring, part-time or modified work schedule, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions;
- C. making modifications to existing leave policies and providing leave when needed for a disability, even where an employer does not offer leave to other employees;
- D. reassignment to a new job because the disability prevents the employee from performing one (1) or more essential functions of the current job, even with a reasonable accommodation, or because any accommodation in the current job would result in undue hardship. If reassignment is required, the Board will place the employee in a vacant position for which s/he is qualified, without requiring the employee to compete with other applicants for open positions, except reassignment does not include promotion, and generally does not involve placing an employee in a vacant position when another employee is entitled to the position under a uniformly-applied seniority system, if any.

Factors to be considered when determining whether an accommodation would impose an undue hardship on the operation of the District's program or activity include:

- A. the overall size of the District's program or activity with respect to number of employees, number and type of facilities, and size of budget;
- B. the type of the District's operation, including the composition and structure of the District's workforce; and
- C. the nature and cost of the accommodation needed.

Accommodation obligations under the Wisconsin Fair Employment Act may be broader than that required under the ADA, as Wisconsin does not employ the "essential functions of the job" analysis as is used under Federal law.

### **Employment Criteria**

The District will not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test or other selection criteria, as used by the Board, is shown to be job-related for the position in question and consistent with business necessity.

The District will select and administer tests concerning employment so that when administered to an applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

### **Pre-employment Inquiries**

Except as authorized by law, the District will not conduct a pre-employment medical examination or make pre-employment inquiry of an applicant as to whether the applicant is an individual with a disability or as to the nature or severity of a disability. The District will, however, make pre-employment inquiry into an applicant's ability to perform job-related functions; this includes requesting the applicant to describe or demonstrate how the applicants/s/he would perform the functions.

The District may give a physical agility test at any point in the application or employment process, since such tests are not medical exams. When the District decides to give such a test it must give the test to all similarly situated applicants or employees regardless of disability.

Some examples of alternative test formats and reasonable accommodations are:

- A. allowing people with certain learning or dexterity disabilities to take extra time on a test;
- B. assuring the test site is accessible to a person with a mobility impairment;
- C. allowing a person with a mental disability who cannot perform well with distractions to take a test in a separate room, if a group test setting is not relevant to the job; and
- D. providing Braille, large print, a reader or a computer for people with vision impairments.

If the District conditions an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, the District will:

- A. subject all entering employees in the same job classification to such an examination regardless of disability; and
- B. use the results of the examination ~~will be used~~ only as authorized by law.

The successful candidate who is required to submit to a medical examination, as well as the medical provider that is designated by the District to conduct the examination, will be directed not to collect or provide any genetic information, including the candidate's medical history, in the report of the medical examination.

Information obtained as to the medical condition of the applicant, including any inadvertently provided genetic information, will be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

- A. supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities and ~~regarding~~ necessary accommodations;
- B. first aid and safety personnel may be informed when ~~where~~ appropriate, if the condition might require emergency treatment; and
- C. government officials investigating compliance with Section 504, the ADA and/or the Genetic Information Nondiscrimination Act ("GINA") shall be provided relevant information upon request.

## Interviews

All of the topics labeled off-limits with respect to job applications ~~are~~ likewise are prohibited as subjects of inquiry during job interviews. The District, however, may ask questions that relate to an applicant's ability to perform job-related functions so long as they do it does not phrase the questions in terms of disability. The interviewer may ask about an applicant's ability to perform both essential and marginal job functions. In addition, the interviewer may describe or demonstrate job function(s) and inquire whether the applicant can perform that function(s) with or without reasonable accommodation. Along the same lines, the interviewer may ask the applicant to describe or demonstrate how, with or without reasonable accommodation, the applicants/he will perform the job-related functions. Any questions concerning the need for reasonable accommodation ~~should~~ always should be linked with performance of a specific job function. The interviewer never should ~~never~~ ask an open-ended question such as, "Will you need a reasonable accommodation?"

Interviews should thus concentrate on how applicants will complete tasks that are essential functions, rather than on eliciting information about the applicant's physical or mental condition. Similarly, the District may inquire as to an applicant's ability to perform a job effectively and safely.

According to the EEOC, the following are examples of questions that cannot be asked on a job application or during an interview:

- A. Have you ever had or been treated for any of the following conditions or diseases?
- B. Please list any conditions or diseases for which you have been treated in the past three (3) years.
- C. Have you ever been hospitalized? If so, for what condition?
- D. Have you ever been treated by a psychiatrist or psychologist? If so, for what condition?

- E. Have you ever been treated for any mental condition?
- F. Is there any health-related reason you may not be able to perform the job for which you are applying?
- G. Have you had a major illness in the last five (5) years?
- H. How many days were you absent from work because of illness last year?
- I. Do you have any physical defects that preclude you from performing certain kinds of work? If yes, describe such defects and specific work limitations?
- J. Do you have any disabilities or impairments that may affect your performance in the position for which you are applying?
- K. Are you taking prescribed drugs?
- L. Have you ever been treated for drug addiction or alcoholism?
- M. Have you ever filed for workers' compensation insurance?

Interviewers should not ask a Reference question about an applicant that they could not ask the applicant directly himself/herself (i.e., previous employers cannot be asked about a former employee's disabilities, illness or workers' compensation history/claims).

The following are pre-employment questions that can be asked:

- A. Can you meet the requirements of our attendance policy?
- B. Can you perform the tasks of this position with or without an accommodation?
- C. Describe or demonstrate how you would perform this function, with or without an accommodation? (Such a question can be asked of applicants who have a known disability that might prevent them from performing a job function. If the disability would not interfere with a job function, however, the person could only be asked to demonstrate job performance only if all other candidates must do so.)

If an applicant indicates the applicant s/he has performed a particular function with an accommodation, the potential employer may inquire about it.

### Investigation and Complaint Procedure

Any employee or applicant who believes that s/he has been subjected to unlawful discrimination, retaliation, or denied reasonable accommodation may seek resolution of his/her complaint through the procedures described in Policy 4123 - Section 504/ADA Prohibition Against Disability Discrimination In Employment. The complaint procedure involves an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

### Privacy/Confidentiality

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the 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 Board's records retention policy.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of PHYSICAL EXAMINATION
Code	ag4160A
Status	
Adopted	June 18, 2018

#### 4160A - **PHYSICAL EXAMINATION**

After the District makes a conditional offer of employment, each support staff member shall be asked to take a physical examination from a physician designated by the Board.

The District will pay for the cost of this required, post-offer examination, when performed by a District-assigned physician.

In the event the District Administrator is concerned that the support staff member is unable to perform the duties of their position, the District Administrator may require that the support staff member submit to an appropriate examination by a healthcare provider of the support staff member's choice, a healthcare provider designated and compensated by the District, or both. The sole purpose of the examination shall be to determine whether the support staff member can perform the duties of their position with or without reasonable accommodation. ~~Written evidence of good physical and mental health may be required by the District from a physician of the District's choosing with the District assuming the expense of such an examination when there is a reasonable basis to suspect that a mental or physical condition is adversely affecting performance.~~

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Book Administrative Guideline Manual  
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 Title NONDISCRIMINATION AND ANTI-HARASSMENT - REPORTING THREATENING BEHAVIORS  
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 Status

#### 4362.01 - **REPORTING THREATENING BEHAVIORS**

Threatening behavior may take different forms, including but not limited to the following:

- A.  face-to-face encounters in which words are used that indicate to the staff member that the staff member's his/her safety and well-being are in jeopardy
- B.  any conduct or written/oral communications that include comments toward the staff member or the staff member's his/her family which would imply or state explicitly that the staff member and/or the staff member's his/her family may be subject to some form of physical or psychological abuse or violence
- C.  written or spoken comments to a staff member which could subject the staff member him/her to blackmail or extortion
- D.  written or spoken communication that would imply or explicitly state that some form of damage may be done to the staff member's property or that of the staff member's his/her family
- E.  written or spoken communication that causes a dwelling, a building, another structure, or a vehicle to be evacuated

#### **Definitions**

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

Complainant is the individual who alleges, or is alleged, to have been subjected to harassing, threatening, and/or intimidating behavior, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged harassment.

Respondent is the individual who has been alleged to have engaged in harassing, threatening, and/or intimidating behavior, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged harassment.

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

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

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

Any staff member who believes that the staff members/he is the victim of any of the above actions or has observed such actions taken by a student, parent, fellow staff member, supervisor, co-worker, ~~or other member of person associated with~~ the District community or Third Parties, such as a vendor, contractor, volunteer, or school official promptly should take ~~promptly~~ the following steps:

- A. If the ~~Respondent would be~~ ~~alleged threatener is~~ the staff member's supervisor or a member of the central office, ~~the affected employee should~~, as soon as possible after the incident, the Complainant should contact the \_\_\_\_\_ or the District's Compliance Officer (see Policy 4362 - Anti-Harassment).
- B. If the ~~Respondent~~ ~~alleged threatener~~ is not the staff member's supervisor or a member of the central office, ~~the Complainant affected staff member should~~, as soon as possible after the incident, the Complainant should ~~the Complainant may~~ contact his/her supervisor or the District's Compliance Officer.
- C. If the ~~Respondent~~ ~~alleged threatener~~ is a student of the District, the supervisor, if not the student's director, should immediately inform the student's director of the alleged threat.

The staff member may make contact either by a written report or by telephone or personal visit. During this contact, the reporting staff member should provide the name of the person(s) whom the staff member ~~s/he~~ believes to be responsible for the threatening behavior and the nature of the threatening behavior incident(s). A written summary of each report is to be prepared promptly by the staff member receiving the report and forwarded to the \_\_\_\_\_. In the event that a staff member hears or receives a threat of violence in or targeted at any school, the staff member shall immediately refer to Policy 8462.01 - Threats of Violence and proceed accordingly.

Each report received by the supervisor or \_\_\_\_\_ as provided above shall be investigated in a timely and confidential manner. While a charge is under investigation, no information is to be released to anyone who is not involved with the investigation, except as may be required by law or in the context of a legal or administrative proceeding. No one involved is to discuss the matter outside of the investigation.

The purpose of this provision is to:

- A. protect the confidentiality of the staff member who files a complaint, except that a Respondent must be informed of the Complainant's identity;
- B. encourage the reporting of any incidents of threat;
- C. protect the reputation of any party wrongfully charged with threatening conduct.

Investigation of a complaint ~~will~~ normally will include conferring with the parties involved and any named or apparent witnesses. All staff members and others involved are to be protected from coercion, intimidation, retaliation, or discrimination for filing a complaint or assisting in an investigation.

If the investigation reveals that the complaint is valid, then appropriate, remedial, and/or disciplinary action will be taken immediately to prevent the continuance of the threat or its recurrence.

The District recognizes that determining whether a particular action or incident is a threat must be based on all of the facts in the matter. Given the nature of this type of intimidation, the District recognizes that false accusations of threat can have serious effects on innocent individuals. Accordingly, all staff members are expected to act responsibly, honestly, and with the utmost candor whenever they present threat allegations or charges against fellow staff members, students, or others associated with the District.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of IMPORTANT NOTICE OF EMPLOYEES' RIGHT TO DOCUMENTATION OF HEALTH COVERAGE
Code	ag4421A - DELETE
Status	
Adopted	June 18, 2018

~~4421A - **IMPORTANT NOTICE OF EMPLOYEES' RIGHT TO DOCUMENTATION OF HEALTH COVERAGE**~~

~~The Health Insurance Portability and Accountability Act of 1996 (HIPAA) limits the circumstances under which coverage may be excluded for medical conditions present before the employee enrolls. Under the law, a pre-existing condition exclusion generally may not be imposed for more than twelve (12) months (eighteen (18) months for a late enrollee after the enrollment date). The twelve (12) month (or eighteen (18) month) exclusion period may be reduced by a new employee's prior health coverage. A new employee is entitled to a certificate from his/her former health insurance provider that will show evidence of the person's prior health coverage.~~

~~To obtain a certificate, the employee should mail or email a written request to:~~

~~School District of Manawa~~

~~800 Beech Street~~

~~Manawa, WI 54949~~

~~cobrien@manawaschools.org~~

~~For additional information contact: Business Manager~~

~~920-596-2332~~

~~The certificate must be provided promptly. The employee should keep a copy of this completed form. S/He may also request certificates for any dependents (including a spouse) who were enrolled under the employee's health coverage.~~

~~The Business Manager will be responsible for providing a Certificate of Health Insurance Coverage to an employee when:~~

- ~~A. s/he no longer is covered by the District's plan;~~
- ~~B. s/he is no longer covered under COBRA;~~
- ~~C. s/he requests a certificate no later than twenty-four (24) months after cessation of coverage.~~

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of ADMISSION TO THE DISTRICT
Code	ag5111
Status	
Adopted	August 20, 2018

### 5111 - ADMISSION TO THE DISTRICT

Students who qualify for admission to District schools, in accordance with Board of Education Policy 5111, shall be accepted when the following documents have been submitted:

- A. a birth certificate or other appropriate documentary evidence
- B. court orders or placement papers, if applicable
- C. proof of residency consisting of a deed, building permit, rental agreement, or tax statement.

If a birth certificate is not available, the parent is to submit the documentary evidence. If custody has been established by the courts, a copy of the court order must be submitted. If such verification is not received within thirty (30) days or the document appears to be inaccurate or suspicious, the principal shall notify local law enforcement.

The sending school shall be contacted within twenty-four (24) hours of the student's entry into the school and requested to send all appropriate records.

Immunization requirements are to be in accordance with AG 5320. The staff member enrolling the student is to check the immunization record the parent submits against the requirements listed in AG 5320 to determine if there are any discrepancies or missing inoculations. If so, the parent is to be informed that the needed inoculations must be completed within the next two calendar weeks or as soon thereafter as the schedule for the missing inoculations permits. The principal is to be provided the names of all children who have not met the immunization requirements and the dates by which missing inoculations are to be completed.

~~A student shall be considered homeless under Federal law (42 U.S.C. 11431 et seq) if s/he is an individual who:~~

- ~~A. lacks a fixed, regular, and adequate nighttime residence;~~
- ~~B. has a primary nighttime residence that is:~~
  - ~~1. a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, or transitional housing for the mentally ill);~~
  - ~~2. an institution that provides temporary residence for individuals intended to be institutionalized;~~
  - ~~3. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

Homeless children and youth are defined under Federal law (42 U.S.C. 11431 et seq.) as individuals who lack a fixed, regular, and adequate nighttime residence, and include children and youth who meet any of the following criteria:

- 1. share the housing of other persons due to loss of housing, economic hardship, or similar reason;





Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of ADMISSION TO KINDERGARTEN
Code	ag5112A - Add Early Entrance Procedures for 4K???
Status	
Adopted	August 20, 2018

## 5112A - ADMISSION TO KINDERGARTEN

### Kindergarten Registration

The following guidelines shall be followed for the registration of all kindergarten students.

- A. **Children must be four (4) years old on or before September 1st to be enrolled in four (4) year old kindergarten (4K).**
- B. Children must be five (5) years old on or before September 1st to be enrolled in five (5) year old kindergarten (5K).
- C. Children must be registered by their parent(s) or guardian(s). Guardians must present proper certification of legal guardianship and, when applicable, a parent is to provide a copy of any custody arrangements.  
  
If a birth certificate is not provided, the parent is to submit documentary evidence. If custody has been established by the courts, a copy of the court order must be provided.
- D. Children transferring from another public or private kindergarten who do not meet the age requirements may be admitted.
- E. All registrants shall receive a kindergarten screening as determined by the principal.
- F. Individual classroom assignments will be made by the building principal.

### Early Entrance Criteria

#### A. Rationale

The District shall provide for early admission to kindergarten and first grade for qualified students.

#### B. Application

Referrals are made by school principals or directly by parent request at the time of kindergarten screening but no later than May 15th.

The evaluation shall be made prior to the enrollment date.

#### C. Early Entrance to Kindergarten

The parent or guardian of a child who will not be five (5) years of age by September 1st in the school year the child proposes to enter kindergarten, may apply to have their child admitted to kindergarten at the onset of the upcoming school year.

The following procedures shall be followed:

1. A referral for evaluation shall be completed by the parent/guardian and submitted to the Special Education Director. Completion of this document shall include rationale for early entrance, summary of the child's strengths/weaknesses and serve as the application for early admission. The completed referral shall be discussed with parent/guardian by the Special Education Director and/or other pupil services personnel. The intent is to review Board Policy on early entrance, ensure all appropriate information has been obtained and explain rationale for the ensuing school psychological evaluation.
2. At the discretion of the Special Education Director, it is possible that other District personnel may be asked to complete an evaluation.
3. A written report summarizing results and recommendation for or against early entrance to kindergarten shall be provided to and discussed with parent/guardian.
4. The child must participate in the District's kindergarten screening if the child has not been a participant in the District's 4K program.
5. Screening must be completed and results explained to parents/guardian prior to parents requesting an early entrance to kindergarten evaluation.
6. An evaluation of the child's potential to benefit from early admission to kindergarten shall be the focus of the school psychological evaluation and, ultimately, central to the decision for early admission. This evaluation will be conducted by School District of Manawa personnel. The evaluation shall address the child's emotional stability, social/emotional/mental maturity, physical health and pre-academic readiness skills (i.e., cognitive, motor, language, letter/number concepts), all of which must be exceedingly well established.
7. This evaluation shall be at no cost to the parent/guardian.
8. Subsequent to the evaluation being completed, a conference shall be held with parent/guardian to review results and consider the appropriateness of early entrance into kindergarten. Participants shall include the Building Administrator, Special Education Director and where appropriate, other District personnel may participate. If the conclusion is to allow early entrance to kindergarten, a written recommendation will be made to the District Administrator and Board of Education.
9. If the conclusion is to not allow early entrance to kindergarten, the parent/guardian may provide a written appeal to the Board of Education. The Board of Education has the final authority for deciding whether or not the child is to be admitted for early entrance to kindergarten. The Building Administrator will provide the parent/guardian a written summary of the Board of Education's conclusion.
10. Early admission to kindergarten may be granted if the child has started a certified kindergarten program. This will generally apply to transfer students from states with a later entrance date than Wisconsin's. The same will apply to children who request early admission to first grade.

#### **D. Early Entrance to First Grade**

The parent or guardian of a child who will not be six (6) years of age by September 1st in the school year the child proposes to enter first grade, may apply to the Board of Education to have their child admitted to first grade at the onset of the upcoming school year.

The following procedures shall be followed:

1. The child who has been approved for early admission to kindergarten and successfully completed kindergarten, started first grade in another school or completed a program the District deems equivalent to kindergarten may be approved for early admission to first grade. Given the latter scenario, the parent/guardian will have responsibility to provide the Building Administrator with all necessary documentation pertaining to the curriculum provided the child. Subsequently, a conference shall be held with the parent/guardian and district personnel to review information provided and consider the appropriateness of early entrance to first grade.
2. The child who has not met the aforementioned conditions but who has, nevertheless, met standards outlined in other sections of this guideline and whose educational welfare would best be served by placement in first grade may be

considered for early admission to first grade. Procedures in the Early Entrance to Kindergarten of this guideline shall then be followed.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of ADMISSION OF STUDENTS PARTICIPATING UNDER OPEN ENROLLMENT
Code	ag5113
Status	
Adopted	August 20, 2018

### 5113 - **ADMISSION OF STUDENTS PARTICIPATING UNDER OPEN ENROLLMENT**

The School District will participate in the Wisconsin Public School Open Enrollment Program in accordance with applicable law and the relevant policies and rules of the District, all as amended from time-to-time. More specifically, the District, in administering its participation will:

- A. harmonize to the extent possible Sections 118.145(4), 118.51, 118.52;
- B. give priority to its resident students regarding intra-District open enrollment opportunities;
- C. take account, as appropriate, of individual rights under the Wisconsin and United States Constitution.

#### **Full-Time Open Enrollment**

##### **A. Application Procedures for Nonresident Students**

Applications from nonresidents for full-time open enrollment into a District school must:

1. be submitted on the form provided by the Department of Public Instruction ("DPI"); **and**
2. be received between the first Monday in February and the last weekday in April, unless otherwise provided by the DPI or as described in Section K, below - Alternative Application Procedures.

If a student submits applications to more than three (3) nonresident school districts, all applications submitted are invalid.

Untimely applications will not be processed nor will the review process be delayed by failure to submit supporting documentation. Copies of all nonresident student applications will be sent to the resident school district of each nonresident student and the DPI no later than the first weekday after the last weekday in April unless otherwise provided by the DPI.

The District shall provide to any nonresident district to which a resident student with a disability has applied for open enrollment a copy of the student's Individualized Education Program no later than the first Friday following the first Monday in May.

##### **B. Timetable for Decisions on Applications**

District decisions on full-time open enrollment applications will be made after April 30th and no later than the Friday following the first Monday in June, unless otherwise provided by the DPI and/or (waiting list provisions of this guideline).

##### **C. Procedure for Processing of Open Enrollment Applications**

If there are more applications than spaces, the Board will fill the available spaces by random selection, provided that first priority will be given to nonresident students already attending District schools and their siblings.

If the District determines that space is not otherwise available for open enrollment students in the grade or program to which an individual has applied, the District may nevertheless accept an applicant, who is already attending school in the District.

The District will establish a numbered waiting list of all applicants. When all available slots have been filled by randomly selecting names from all applicants, the remaining names will be drawn randomly and placed on the waiting list in order of selection. The District may approve attendance by non-resident students on the waiting list up to the third Thursday in September, provided that the student will be in attendance in the District by the third Friday in September.

#### D. Decisional Criteria for Nonresident Applications

Decisions on nonresident open enrollment applications will be based only on the following criteria:

1. The availability of space in the schools, programs, classes, or grades within the District. In determining the amount of space available, the District will count resident students, students attending the District for whom tuition is paid under 121.78(1)(a), Wis. Stats. and may include in its counted occupied spaces students and siblings of students who have applied under Section 118.51(3)(a) or (3m)(a) and are already attending public school in the District. Other factors the District Administrator may consider include:
  - a. District practices, policies, procedures or other factors regarding class size ranges for particular programs or classes.
  - b. District practices, policies, procedures or other factors regarding faculty-student ratio ranges for particular programs, classes, or buildings.
  - c. Enrollment projections for the schools of the District which include, but are not limited to, the following factors: the likely short and long-term economic development in the community, projected student transfers in and out of the District, preference requirements for siblings of nonresident open enrollment students, the required length of K-12 attendance opportunities for open enrollment students and current and future space needs for special programs, laboratories (e.g. in technology or foreign languages) or similar District educational initiatives.
2. Whether an applicant for a pre-kindergarten, four (4) year old kindergarten, early childhood or school operated daycare program resides in a district which offers the program for which application is made.
3. Whether the nonresident student has been expelled from any school district within the current school year or the two (2) preceding school years, or has any pending disciplinary proceeding, based on any of the following activities:
  - a. Conveying or causing to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by means of explosives.
  - b. Engaging in conduct while at school or under school supervision that endangered the health, safety or property of others.
  - c. Engaging in conduct while not at school or while not under the supervision of a school authority that endangered the health, safety, or property of others at school or under the supervision of a school authority or of any school employee or Board member.
  - d. Possessing a dangerous weapon (as defined in Section 939.22(10), Wis. Stats.) while on school property or under school supervision.

~~(Note 1-~~Notwithstanding the Board's acceptance of a nonresident student's application, the Board may withdraw acceptance if, prior to the beginning of the first school year in which the nonresident student will attend a school in the District, s/he is determined to fall under any of the above.~~paragraph D-3-.)~~

~~(Note 2-~~The Board may request a copy of a nonresident student's disciplinary records from the resident School Board~~).~~
4. Whether the special education program or related services described in the nonresident student's individualized education program ("IEP") are available in the District.



5. Whether there is space available in the District to provide the special education or related services identified in the nonresident student's IEP, after consideration of class size limits, student-teacher ratios, and enrollment projections.
6. Whether the non-resident student has been referred to his or her resident school board under Wis. Stat. § 115.777(1) or identified by his or her resident school board under Wis. Stat. 115.77(1m) (a), but not yet evaluated by an individualized education program team.

~~(Note: If a nonresident student's IEP is developed or changed after starting in the District, and it is then discovered that the District does not have necessary programs available or does not have space in the special education program, the District may notify the student's parent and the student's resident school board. If such notice is provided, the nonresident may be transferred to his/her resident school district.)~~

7. If the Board has made a determination that a non-resident student attending the District under the Open Enrollment Program is habitually truant from the District during either semester of the current school year, the Board may prohibit the student from attending in the succeeding semester or school year.

#### E. Notice of Decisions

Written notice of acceptance or denial of nonresident applications must be sent to all applicants on or before the first Friday following the first Monday in June. Nonresident students whose applications are accepted shall be notified of the specific school or program that the student may attend the following school year.

The District shall notify any resident student and the nonresident school district if the Board denies enrollment in the nonresident district in writing by the second Friday following the first Monday in June.

Notices of denial will include a reason for the determination. Notice of denial for nonresident students will also include notice as to the student's specific place on the waiting list.

##### 1. Additional Notices When a Nonresident Student is Accepted

If the Board approves an open enrollment application of a nonresident student it will also send the following notices:

- a. written notice to the applicant no later than the first Friday following the first Monday in June of the specific school or program that the applicant may attend during the following school year; **and**
- b. notice to the resident School Board no later than July 7th stating the name of the student.

The parents or guardians of an accepted nonresident student must notify the Board no later than the last Friday in June of the student's intent to attend school in the District during the following school year.

- c. If an accepted nonresident student has not attended school in the district by the third Friday in September, the open enrollment is terminated.

##### 2. Additional Notice When a Nonresident Student is Not Accepted but Placed on the Established Waiting List

If space becomes available, the student on the waiting list will be notified in the order in which s/he appears on the list. The student will be sent notice that space is now available and the school to which the student will be placed. The notice will also state that the applicant has ten (10) days to accept the offer of open enrollment from the postmarked date on the notice.

When a selected applicant notifies the District that the open enrollment position is being rejected or fails to respond within ten (10) days, the offer will be rescinded and the space will be offered to the next applicant on the waiting list. The District will continue to notify students on the waiting list of available spaces up to the third Thursday in September of the school year for which the waiting list applies, provided that the student will begin attendance no later than the third Friday in September. A non-resident student accepted for enrollment once the school year has begun may attend the District even if the student has already attended school in the resident school district, but not if the student has enrolled in the current term in another non-resident school district.

#### Disciplinary Records

The District shall provide the disciplinary records of any resident student that applies for enrollment in a non-resident school district. Such disciplinary records should include but are not limited to: A copy of any expulsion findings and

orders pertaining to the student; a copy of any records of any pending disciplinary proceedings and the length of term of the expulsion; or the possible outcomes of the pending disciplinary proceedings. Such records shall be provided no later than the first Friday following the first Monday in May or within ten (10) days of an application under the Alternative Application Procedures (Section K below).

#### F. Reapplication Procedures

The Board will not require accepted non-resident students to reapply under the open enrollment policy as long as the student is continuously enrolled in the District. ~~The Board does not require accepted nonresident students to reapply under the open enrollment policy when the nonresident student enters middle school, junior high school, or high school. A nonresident student may be required to reapply only once.~~

#### G. Transportation

The parents or guardians of a student attending a nonresident school district will be solely responsible for providing transportation to and from the school site or if space is available, or to a scheduled in-District bus stop, The District will provide transportation for a non-resident student with an identified disability for whom transportation is required by his/her IEP, ~~unless the nonresident student is a special education student and transportation is required by his/her IEP.~~

#### H. Tuition Waivers

Students are eligible for tuition waivers as follows:

##### 1. Current Year Permissive

When the student was:

- a. a resident of the School District on July 1st;
- b. enrolled in the School District on July 1st of the current school year; and
- c. after July 1st changes residence by moving to a new school district.

The District may permit the student to complete the school year. The school district of attendance (the nonresident school district) counts the student in membership.

##### 2. Current Year Mandatory

When the student:

- a. was a resident of the School District and enrolled on either the third Friday in September or the second Friday in January of the current school year;
- b. was enrolled in the School District for at least twenty (20) school days during the current school year; and
- c. changes residence by moving to a new school district.

The District must permit the student to complete the school year. The school district of attendance (the nonresident school district) counts the student in membership.

##### 3. "Additional Year" Mandatory

When the student:

- a. was a resident of the School District on the second Friday in January of the previous school year;
- b. was enrolled in the School District continuously from the second Friday in January of the previous school year to the end of the school term of the previous school year;
- c. ceased to be a resident of the School District after the first Monday in February of the previous school year; and
- d. continues to be a resident of Wisconsin.

The District must permit the student to attend the school year following the year in which the criteria are met. The resident district counts the student in membership and DPI transfers the open enrollment amount to the nonresident district.

## I. Rights and Privileges of Nonresident Students

Nonresident students attending school in the District on a full-time basis will have all of the rights and privileges of resident students and will be subject to the same rules and regulations as resident students.

### J. Alternative Application Procedures

#### 1. Basis for Open Enrollment Outside Regular Deadlines:

The parent of a non-resident student who wishes to attend a school in the District may apply at any time throughout the year by submitting an application under this alternative application procedure if the student satisfies at least one of the following criteria and has not applied to more than three (3) non-resident school districts:

- a. The resident school board determines that the non- resident student has been the victim of a violent criminal offense, as defined by the Department of Public Instruction. An application is not valid unless the District receives the application within thirty (30) days after the determination of the resident school board.
- b. The student is or has been a homeless student in the current or immediately preceding school year. In this subdivision, "homeless student" means an individual who is included in the category of homeless children and youths, as defined in Policy 5111.01 – Homeless Students.
- c. The non-resident student has been the victim of repeated bullying or harassment and all of the following apply:
  1. The student's parent has reported the bullying or harassment to the resident school board.
  2. Despite action taken by the parents and/or the resident school district the repeated bullying and harassment continues.
- d. The place of residence of the student's parent or guardian and of the student has changed as a result of military orders. An application is not valid unless the District receives the application no later than thirty (30) days after the date on which the military orders changing the place of residence were issued.
- e. The student moved into the state, but resides in another District. An application made on the basis is not valid unless the District receives the application no later than thirty (30) days after moving into this state.
- f. The place of residence of the student has changed as a result of a court order or custody agreement or because the student was placed in a foster home or with a person other than the student's parent, or removed from a foster home or from the home of a person other than the student's parent. An application is not valid unless the District receives the application no later than thirty (30) days after the student's change in residence.
- g. The parent of the non-resident student, the resident school board, and the Board agree that attending school in the District is in the best interests of the student.
- h. The parent of a non-resident student and the Board agree, upon application by the parent, that attending school in the District is in the best interests of the student. The District shall immediately forward a copy of the application to the student's resident district and shall inform the parent of its decision regarding the student's best interests within twenty (20) days of receipt of the application. If approved, the written decision shall include a designation of which school and/or program the student may enroll in.

#### 2. Decisions Regarding Resident Students Seeking Enrollment out of the District under the Alternative Procedure.

The Board shall review all applications received for Open Enrollment out of the District under this section upon receipt. The District shall allow such student's enrollment in a non-resident district unless the District determines that the criteria relied on by the applicant to qualify for the alternative application procedure does not apply to the student.

#### 3. Appeal Procedures

If the District rejects the application of a resident student despite agreement by the parent and a nonresident school district that the interests of the student are best served by enrollment in the non- resident school district, the parent may appeal the decision to the State Department of Public Instruction. The decision of the State Superintendent will be final.

If the District rejects the application because a special education or a related service is not available, the student's parent(s) may appeal the decision to the State Department of Public Instruction within thirty days after the receipt of the notice.

4. If a non-resident student is notified that the Board has approved his or her application to enroll in the District because it is in the best interests of the student, the student may immediately begin attending the school or program in the nonresident school district and shall begin attending the school or program no later than the 15th day following receipt by the parent or the student of the notice of acceptance from the District. If the nonresident student has not enrolled in or attended school in the District by then, the District may notify the student's parent in writing, that the student is no longer authorized to attend the school or program in the District.

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Legal                                Secs. 118.145(4), 118.51, 118.52, Wis. Stats.  
    Subchapter VI of Chapter 121, Wis. Stats.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of IMMUNIZATION OF STUDENTS IN SCHOOL
Code	ag5320
Status	
Adopted	August 20, 2018

### 5320 - **IMMUNIZATION OF STUDENTS IN SCHOOL**

Principals are to use the following guidelines in addition to those provided in AG 5111.

#### **Immunizations Which are Medically Contraindicated**

- A. A written statement from any licensed physician that an immunization is medically contraindicated for a specified period of time and the reasons for the medical contraindications will exempt a student from the specific immunization requirements for the period of time specified in the physician's statement.
- B. The physician's statement shall be maintained by the school as part of the immunization record of the student.

Specific annual immunization requirements are available from the Wisconsin Department of Health Services and are published and made available to each school district annually. The standards are also available at the Department of Health Services website at - <https://www.dhs.wisconsin.gov/immunization/index.htm>.

If the District conducts a preschool or day-care program, all children must be immunized in accordance with the regulations provided by the Wisconsin [Department of Health Services](#) (~~DHS~~) ~~Department~~.

#### **Admission to School**

Before a student can be admitted to school, the parents must present documentation that their child has received all required doses of vaccines or that their child has received at least one (1) dose of each of the required vaccines and is waiting to receive the subsequent doses at the appropriate time intervals.

#### **Exemptions: Parent Objections**

- A. A student shall be exempted from mandatory immunization if the parent objects in a written signed statement upon the grounds that the proposed immunization interferes with the free exercise of the student's religious rights.
- B. This statement will be kept by the school as part of the student's immunization record.

#### **Documents Accepted as Evidence of Immunization**

The following documents will be accepted as evidence of a student's immunization history provided they comply with State requirements and contain the date when each immunization was administered.

- A. an official school record from any school

B. a record from any public health department or the Wisconsin Immunization Registry (WIR)

C. a certificate signed by a licensed physician

If a parent cannot provide any of the above documentation, their child ~~may~~<sup>is</sup> not ~~to~~ be admitted until such documentation is provided or until the child has received at least one (1) dose of each required vaccine by the 30th day of school. Such vaccinations, if not covered by medical insurance may be available from the Waupaca County Health Department free of charge. The child may then attend school and must follow guidance from DHS and their health care professional for subsequent vaccinations in accordance to the applicable State laws. Details of student immunization requirements are found each year in the DHS publication entitled Wisconsin School Immunization Requirements.~~The child may then come to school for a period of two (2) months, after which time either the documentation of previous vaccinations shall have been submitted or the child shall have received the second required dose. The child is then eligible to attend school for another two (2) months. If, at the end of that two (2) month period, documentation still has not been received, the child must receive the third required dose in order to remain in school.~~

### **Required Records**

Each school shall maintain a record of immunization for every student which shall include the date of each individual immunization.

If a student transfers to another school, this record or a copy thereof shall be sent to the new school in accordance with Policy 8330 - Student Records.

### **Report to be Sent to Local Health Department**

A summary report of the immunization status of the students in each school, by total and without students names, shall be sent within forty (40) school days of the start of the school term to the local Department of Health by the Principal.

### **Records Available for Inspection**

The Principal shall make immunization records available for inspection by authorized representatives of the Wisconsin Department of Health Services or the local or County Health Departments, only with parental consent, in the event of an emergency, or as otherwise permitted under State or Federal student record laws.

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Legal	118.125(3), 252.04, Wis. Stats.
	DHS 144 and 146, Wis. Adm. Code

Last Modified by Steve LaVallee on July 25, 2021



Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of STUDENT DISCIPLINE
Code	ag5600A - DELETE
Status	
Adopted	August 20, 2018

### ~~5600A~~ **STUDENT DISCIPLINE**

#### ~~Guidelines for District and Building Administrators~~

~~The administration shall take a shared role in the establishment and maintenance of appropriate discipline in the school and in the enforcement of appropriate student conduct in accordance with the following guidelines.~~

~~Each principal should:~~

- ~~A. Annually review the behavioral expectations and corresponding consequences;~~
- ~~B. in concert with teachers, plan and conduct in-service activities on classroom management, discipline procedures, follow-up, and any other strategies which will help the staff use effective discipline;~~
- ~~C. provide for supervision for all school sponsored activities;~~

~~A copy of the behavioral expectations and consequences should be sent to the District Administrator for review and approval.~~

#### ~~Guidelines for Teachers~~

~~Teacher effectiveness and purposeful, well-planned activities are prerequisites to good discipline. Most students will exhibit "good" behavior when they perceive the teacher is competent, consistent, fair, and supportive of school policies.~~

~~The following guidelines should contribute to effective discipline:~~

- ~~A. Establish fair, workable, consistent, and educationally productive procedures by which the classroom and other areas of learning will operate, based on an analysis of the program, the maturity level of the students, and their needs, abilities, and interests.~~
- ~~B. Plan and conduct learning activities that contribute to accomplishing specified objectives and goals, stimulate and encourage application of thought, and require the active participation of the students. Long and frequent activities of data-gathering through lectures, readings, film, etc., without planned opportunities for students to process and apply the information can lead to boredom and indifference—a seedbed for discipline problems.~~
- ~~C. Help set the tone for good discipline by modeling the behaviors expected of students.~~
- ~~D. Inform students of the high expectations regarding discipline and persist in their fulfillment.~~
- ~~E. Initiate parental contact where appropriate and necessary.~~
- ~~F. Support District and building administrators in disciplinary matters and avoid undermining the supervisory guidelines.~~

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	RENUMBERED/REPLACEMENT GUIDELINE - MOVED FROM 8405A - VOL. 30, NO. 2 - USE OF ANIMALS IN THE CLASSROOM AND ON SCHOOL PREMISES
Code	ag8390 - Board Review
Status	
Adopted	July 22, 2019

**RENUMBERED/REPLACEMENT GUIDELINE - MOVED FROM 8405A - VOL. 30, NO. 2**

**8390 - USE OF ANIMALS IN THE CLASSROOM AND ON SCHOOL PREMISES**

The Board and administration support the idea that animals can provide a variety of productive learning experiences for students at almost every level. It is important, however, that the following guidelines be observed when instituting an activity or program involving the use of animals. Teachers are encouraged to contact such organizations as the Wisconsin Veterinary Association, the National Wildlife Federation, etc. regarding resource materials and suggested learning activities that may be available to help students increase their understanding of the animal world.

- A. Students are to be instructed not to bring personal pets to school at any time ( ) without the approval of the principal.
- B. Owners of pets brought onto school property are responsible for any harm or injury caused by the animal to other students, staff, visitors, and/or property.
- C. Owners of service animals brought onto school property must comply with Policy 8390 and AG 8390.
- D. ( ) Owners of therapy dogs brought onto school property must comply with Policy 8390.
- E. Upon the approval of the principal, it is permissible for the class to have one or more animals as classroom pets under the following conditions:
  - 1. ( ) the animal is not venomous or vicious
  - 2. ( ) no one is allergic to the particular animal
  - 3. ( ) proper examination/immunization has been done by a qualified veterinarian
  - 4. ( ) arrangements have been made for housing the animal safely, comfortably, cleanly, and in a manner that does not disrupt the classroom environment
  - 5. ( ) arrangements have been made for the proper care of the animal when school is not in session
  - 6. ( ) rules have been established and understood regarding when and how the animal is to be treated by the students
- F. When animals are to be brought into the school or classroom on an ad hoc basis as part of a lesson or series of lessons, all of the conditions stated above apply, and in addition, the teacher is to ensure the proper pick-up and return of the animal.
- G. Except as set forth above and/or in the case of "service animals" required for use by a person with a disability, no other animals may be on school premises at any time ( ) without the approval of the \_\_\_\_\_.



H. The District may have a service animal removed from the school premises if the animal is out of control and the animal's handler does not take effective action to control it or the animal is not housebroken. The District is not responsible for the care or supervision of a service animal. The service animal is allowed to accompany its human in all areas the human is permitted to go. (see Policy 8390)

I. **[NOTE: The following option should be included in this AG only if the District intends to require this of any animal brought onto District property for official purposes or on a regular/recurring basis.]**

**[ ] Vaccination, Licensing and/or Veterinary Requirements**

Animals housed on or brought on to District property for any school purpose, such as to conduct random searches for illegal substances or to support classroom activities, or brought on to District property on a regular basis for any purpose, including service animals, must meet every veterinary requirement set forth in State law and County and/or local regulation/ordinance, including but not limited to rabies vaccination or other inoculations required to be properly licensed.

**[END OF OPTION]**

**Use of Service Animals**

The Board shall comply with the provisions of the American with Disabilities Act (ADA), as amended, and applicable Wisconsin law regarding an individual with disability's use of a service animal.

It is imperative that representatives of the Board do not ask about the nature or extent of a person's disability; however, they may make inquiries to determine whether an animal qualifies as a service animal. While the representatives of the Board cannot ask about the individual's disability, they may ask if the animal is required because of a disability and what tasks or work the animal can perform. When the work or tasks the service animal will perform is readily apparent, the representatives of the Board should not ask.

Under no circumstances should the representatives of the Board require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

The definition of a service animal, as established by the ADA and applicable Wisconsin law is as follows:

A. Service animal means any dog or other animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. No animal that is not properly trained may be allowed as a Service animal. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

1. The ADA has also defined a miniature horse as an animal that can serve as a service animal, so long as the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. To better determine whether the Board must allow for the use of a miniature horse or make modifications to buildings, the Board should refer to Section 35.136 (c) through (h) of the ADA.
2. A service animal that meets the above definition shall be under the control of its handler (e.g., a student with a disability). A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).
  - a. The service animal's trainer can help to develop a plan to assist the student with the dog (e.g., the student's aide might transfer the service dog's leash from a student's wheelchair to a tree during recess). Additionally, a younger student might need reminders from school staff about controlling the dog until s/he is comfortable handling the service animal at school.
  - b. While the student is responsible for the service animal's care, including feeding and supervision, the District should develop a plan to provide the student with the necessary time to care for the animal and designate a

location for the animal's toileting needs.

3. Additionally, the Board is not responsible for the care or supervision of a service animal.

### Service Animal Procedures

- A. A request for an individual who is not a student, staff member, or previously approved volunteer, who is a person with a disability requesting to be accompanied by a service animal while in a school, District facility, or at a District-sponsored activity or event that is not open for general public attendance (i.e. is an invited guest speaker, or invited to attend an in-school assembly, etc.) shall be handled as follows:
1. The request must be made in writing at least ten (10) school days prior to bringing the service animal to the school, facility, or activity/event. Requests shall be submitted to the building principal.
  2. If necessary to determine whether the animal qualifies as a service animal, the District may ask if the animal is required because of a disability and what work or task(s) the animal is trained to perform. However, the District shall not ask about the nature or extent of the individual's disability, and the District shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal unless the animal when present does not appear to be trained to perform tasks for an individual with a disability. ( ) Any decision to deny the use of a service animal must be reviewed with the District Administrator before communicating with the requestor. **[END OF OPTION]**
- B. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of the District's facilities where members of the public, participants in services, programs, or activities, or approved invitees, as relevant, are allowed to go. An individual with a disability who attends a school event will be permitted to be accompanied by his/her service animal in accordance with Policy 9160 – Public Attendance at School Events.
- C. A representative of the Board shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his/her service animal.
- D. Visitors, including parents, volunteers, vendors, and others, who will access any area of the District's facilities with their service animals shall follow the building's standard visitor registration procedures and are encouraged to notify the building principal that their service animal will accompany them during their visit.
- E. A service animal must be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). If a student with a disability is unable to control the service animal and another person serves as the animal's handler, that individual shall be treated as a volunteer and, as such, will be subject to Policy 8120.
- F. A service animal is considered the personal property of the individual requesting to be accompanied by the service animal. The individual requesting to be accompanied by the service animal is responsible for:
1. Ensuring that the service animal is licensed and up to date on vaccinations as required by State law or local ordinance; and
  2. Handling, caring for, and supervising the service animal, which includes toileting, feeding, and grooming.
- G. The individual requesting to be accompanied by the service animal is encouraged to provide proof of insurance against any liability for any actions, accidents, or property damage caused by the service animal. The individual requesting to be accompanied by the service animal shall remain liable for damage, harm, or injury caused by the service animal to other students, staff, visitors, or property.
- H. The District shall make reasonable accommodations if the presence of an animal results in health concerns for other students. These accommodations may include assignment of the student(s) to a different classroom in the District.

### Removing and/or Excluding a Service Animal

- A. A service animal may be temporarily removed from District premises if:
1. The animal is out of control and the handler does not take effective action to control it;
  2. The animal is not housebroken;
  3. Allowing the service animal would fundamentally alter the nature of the service, program, or activity; or
  4. The animal is a direct threat to the health or safety of others.
- B. The principal or other administrator is responsible for determining if and when a service animal is to be temporarily removed and/or excluded from District property. The principal or administrator shall notify the District Administrator prior to or as soon thereafter as is practicable when a service animal has been removed and/or excluded, and, immediately subsequent to such notification, document the reasons for the removal and/or exclusion.
- C. If a service animal has been removed and/or excluded from District property, the administration shall contact the parents to address the reason(s) that the service animal was removed and to determine appropriate steps to assure that the student continues to have access to the educational program and that resolutions are reached regarding the use of the service animal.
- D. The ADA also provides that if a service animal is properly excluded from the premises, the Board shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises.

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Book	Administrative Guideline Manual
Section	For Review - Administrative Guidelines - Vol. 30, No. 2 +
Title	Copy of USE OF ANIMALS IN THE CLASSROOM AND ON SCHOOL PREMISES
Code	ag8405A - DELETE - Renumbered/Replacement - 8390
Status	
Adopted	May 21, 2018

### ~~8405A -- USE OF ANIMALS IN THE CLASSROOM AND ON SCHOOL PREMISES~~

~~The Board of Education and administration support the idea that animals can provide a variety of productive learning experiences for students at almost every level. It is important, however, that the following guidelines be observed when instituting an activity or program involving the use of animals. Teachers are encouraged to contact such organizations as the Wisconsin Veterinary Association, the National Wildlife Federation, etc. regarding resource materials and suggested learning activities that may be available to help students increase their understanding of the animal world.~~

- ~~A. Students are to be instructed not to bring personal pets to school at any time without prior written approval of the principal.~~
- ~~B. Upon the approval of the principal, it is permissible for the class to have one or more animals as classroom pets under the following conditions:
 
  - ~~1. the animal is not venomous or vicious~~
  - ~~2. no one is allergic to the particular animal~~
  - ~~3. proper examination/immunization has been done by a qualified veterinarian~~
  - ~~4. arrangements have been made for housing the animal safely, comfortably, cleanly, and in a manner that does not disrupt the classroom environment~~
  - ~~5. arrangements have been made for the proper care of the animal when school is not in session~~
  - ~~6. rules have been established and understood regarding when and how the animal is to be treated by the students~~~~
- ~~C. When animals are to be brought into the school or classroom on an ad hoc basis as part of a lesson or series of lessons, all of the conditions stated above apply, and in addition, the teacher is to ensure the proper pick up and return of the animal.~~
- ~~D. Except as set forth above and/or in the case of "service animals" required for use by a person with a disability, no other animals may be on school premises at any time without the approval of building principal.~~
- ~~E. The District may have a service animal removed from the school premises if the animal is out of control and the animal's handler does not take effective action to control it or the animal is not housebroken. The District is not responsible for the care or supervision of a service animal. The service animal is allowed to accompany its human in all areas the human is permitted to go.~~
- ~~F. Owners of pets (see AG 8405A) and service animals (see AG 9160B) brought on school property are responsible for any harm or injury caused by the animal to other students, staff, visitors, and/or property.~~

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Book Administrative Guideline Manual  
 Section For Review - Administrative Guidelines - Vol. 30, No. 2 +  
 Title MANAGEMENT OF CASUAL-CONTACT DISEASES  
 Code ag8450 - Review - School Nurse  
 Status  
 Adopted July 22, 2019

**8450 - MANAGEMENT OF ~~SELECTED~~-CASUAL-CONTACT DISEASES**

Diseases spread by airborne and/or direct contact with germs from sneezing, coughing, and speaking shall be managed according to the current guidelines set forth by the Wisconsin Department of Health Services (DHS), the \_\_\_\_\_ Health Department, the District's Medical Advisor, and a student or staff member's health care provider. District staff shall use the Wisconsin Childhood Communicable Diseases Chart (<https://www.dhs.wisconsin.gov/publications/p4/p44397.pdf>) provided by DHS as a general guide for school-based management of various communicable diseases.

School staff are not qualified to diagnose a communicable disease. However, any school staff member who knows or suspects that a certain communicable disease is present must immediately notify the

- (.) school nurse.
- (.) Principal.
- (.) student's parent(s).
- (.) \_\_\_\_\_.

Students identified to have symptoms of a communicable disease will follow the exclusion and return to school guidelines set forth by DHS, the \_\_\_\_\_ Health Department, and their individual health plan (IHP). The parent(s) will be immediately notified for the reason of the exclusion.

The (.) school nurse (.) Principal (.) \_\_\_\_\_ [END OF OPTION] will notify the (.) school custodian (.) Facility Director (.) \_\_\_\_\_ [END OF OPTION] as needed for any services related to the disinfection of contaminated areas/surfaces.

If an outbreak of a communicable disease is suspected, the (.) school nurse (.) Principal (.) \_\_\_\_\_ [END OF OPTION] will work directly with the \_\_\_\_\_ Health Department and the District's Medical Advisor, as needed, to properly manage the outbreak, which may include closure of a classroom/grade/school as warranted. (.) Such a closure is a joint effort and decision by a Response Team that will include the

- (.) District Administrator.
- (.) Principal.
- (.) school nurse.
- (.) Facility Director.
- (.) \_\_\_\_\_ Health Department.

Timely communications to staff, students, parents, and the community shall be issued as deemed by the District Administrator to be necessary and appropriate. Any communications related to the disease must preserve confidentiality according to State law.

<b>DISEASE</b>	<b>SYMPTOMS</b>	<b>INCUBATION PERIOD</b>	<b>CONTAGIOUS PERIOD</b>	<b>RETURN TO SCHOOL</b>
<b>CHICKENPOX(Varicella)</b>	General discomfort, slight to high fever, headache, and loss of appetite. Lesions	10-21 days av: 5 days before rash to 6 days after rash first starts.	13-17	When lesions are dry and crusted and no new

	appear in bunches with most on upper body. Face and extremities are less affected. Typical lesions have teardrop shape surrounded by reddened area. Blistered (new) and broken and crusted (old) eruptions are on the skin at the same time.			eruptions. At least 5 days after rash first appears.
FIFTH DISEASE(Erythema Infectiosum) (Hungarian measles)	Rash begins as a solid red area on cheeks ("slapped cheek" appearance), spreading to upper arms and legs, trunk, hands and feet.	4-20 days	Exact duration unknown. Greatest before rash onset. Probably not communicable after rash onset.	Fever and signs of illness other than rash are no longer present.
INFLUENZA(Viral Influenza)	Fever, headache, muscles aches, sore throat, and cough (25% of school age children may have nausea, vomiting, and diarrhea).	1-5 days	Probably 3 to 5 days from onset in adults; up to 7 days in young children.	Symptoms subside.
SCARLET FEVER(Scarletina)	Begins with fever and sore throat. Rash appears as a pink-red flush which looks like a sunburn with goose pimples, that spreads to all parts of the body. Afterward, the skin peels off like a sunburn. Often the tongue has a "strawberry" appearance.	1-3 days	In untreated, uncomplicated cases, 10-21 days or until under adequate antibiotic treatment for 24-48 hours.	Adequate treatment for 24-48 hours, and symptoms subside.
SPINAL MENINGITIS (Meningococcal) and (Haemophilus)	Sudden onset of high fever, headache, and stiff neck. In severe cases, delirium stupor or coma can also occur. In meningococcal meningitis small purplish spots are occasionally seen in skin and mucous membranes.	1-10 days av: 2-4 days	Unknown. Probably throughout the duration of symptoms.	Requires doctor's note for re-admittance.
STREP THROAT(Streptococcal sore throat)	Similar to scarlet fever but without a rash. A sore throat and fever are the most pronounced symptoms.	1-3 days av: 2-4 days.	Weeks or months without medical treatment or with antibiotic treatment 24-48 hours.	Adequate treatment for 24-48 hours, and symptoms subside.
ROSEOLA(Exanthem Subitum)	Sudden high fever (104°-105°F.) which falls with the appearance of a rash on about the third or fourth day. Rash consists of small rose-pink spots which first appear on the chest and abdomen but may spread to the face, legs, and arms. Rash is usually limited to only one or two days.	5-15 days	Unknown. The disease does not appear very contagious.	Until no symptoms.
RUBELLA(German Measles)	Rash begins on the face and spreads to the rest of the body within 24 hours and is usually gone by the end of the third day. Often present is a pronounced swelling of the lymph nodes behind the ear and at the base of the skull. Mild coughing, sneezing, and reddened eyes are common early in the course of the illness.	14-23 days av: 16-18 days	7 days before to 4 days after rash onset.	5 days after rash onset.
MEASLES(Rubeola)	Begins 3 to 4 days of gradually increasing fever, runny nose, (red) inflamed eyes, and especially coughing. Rash usually begins around ears and hairline, spreading down to cover face, trunk and arms by second day. Rash is initially bright pink with distinct raised spots. Tiny blue-white pinpoint-sized swelling inside the cheeks may be observed a day before the rash first appears. The rash usually last about five days. Sensitivity to light is also common.	7-18 days av: 10 days	4 days before rash and for up to 4 days after disappearance of the rash.	5 days after disappearance of the rash.
MUMPS(Infectious Parotitis)	Onset is gradual. There may be chills, discomfort, headache, pain below ears accompanied by a moderate fever of 101°-102°F, or higher followed by swelling of one or both salivary glands. Swelling is below and in front of ear. Usually swelling in one	2 to 3 weeks av: 18 days	Usually 5 but may be as long 9 days after onset and no as 7 to 9 days prior to the onset of salivary gland swelling.	symptoms.

gland subsides as the other begins to swell. The ear lobe is often pushed forward by the swelling of the gland. Swelling usually lasts 5 to 7 days.

TUBERCULOSIS(TB)	Starts with fever, night sweats, and weight loss early. Later symptoms include a persistent non-productive cough, chest pain, hoarseness, and coughing of blood.	2-10 weeks	Variable. After starting treatment with anti-TB drugs, a patient may become non-infectious in as little as two weeks.	Requires a doctor's note for re-admittance.
WHOOPING COUGH(Pertussis)	Coughing and sneezing followed 1 to 2 weeks later by breathing characterized by a series of short convulsive-like coughs, and a high-pitched gasp of air called a whoop.	7-14 days av: 7-10 days	Untreated from early throat inflammation to 3 weeks after typical cough symptoms occur. Treated the period of infectiousness extends 5 days onset of treatment.	3 weeks from onset of cough symptoms, if untreated or until after 5 days of treatment.

**Diseases spread by contact with tiny parasites on contaminated belongings of others.**

DISEASE	SYMPTOMS	INCUBATION PERIOD	CONTAGIOUS PERIOD	RETURN TO SCHOOL
RINGWORM(Tinea-Capitis; Tinea-Corporis)	Ringworm of the scalp begins as a small pimple which grows and spreads, leaving scaly patches of temporary baldness. Ringworm of the body appears as flat, spreading, ring-shaped lesions. The outside is usually reddish and filled with pus while the skin on the inside tends to return to normal.	10-14 days	As long as any untreated lesions are present and spores persist on contaminated materials.	Under medical care. While under treatment, infected children should be excluded from gymnasiums, swimming pools and activities likely to lead to exposure of others.
PINWORM	Itching in anal areas, disturbed sleep, irritability and local irritation due to scratching	2-6 weeks	As long as eggs are being laid on perianal skin. Eggs remain infective indoors about 2 weeks.	Under medical care.

**Diseases spread by the fecal-oral route—contamination of food, drink or objects placed in the mouth.**

DISEASE	SYMPTOMS	INCUBATION PERIOD	CONTAGIOUS PERIOD	RETURN TO SCHOOL
CAMPYLOBACTER(Vibriosis Vibronic-Enteritis)	Sudden onset of fever and abdominal pain and diarrhea which may be severe. May also be vomiting and sometimes blood in the stools.	1-10 days av: 3-5 days	Throughout the illness (1 to 4 days). If not treated Shroyer">.	
SALMONELLOSIS(Acute Gastro-Enteritis)(Food Poisoning)	Sudden onset of fever, Abdominal cramps, diarrhea, and possibly vomiting.	6-72 hours av: 12-36 hours	During acute infection and until organism no longer in feces. Usually several weeks.	Exclude until symptoms are gone. Exclude from certain activities based on Health Department recommendation.
SHIGELLOSIS(Bacillary Dysentery)	Sudden onset of fever, diarrhea, abdominal pain. Loss of appetite and vomiting may also occur. There may be blood, mucous, or pus in the stools.	1-7 days av: 1-3 days	During acute infection and until organism no longer in feces. Usually several weeks.	Exclude until symptoms are gone. Exclude from certain activities based on Health Department recommendation.
VIRAL GASTROENTERITIS(Viral Diarrhea; Winter Vomiting Rotoviral Diarrhea)	Abrupt onset of nausea, vomiting, diarrhea, abdominal pain, and discomfort. Fever, if present, is usually low grade. Very contagious.	24-48 hours	From onset of illness until symptoms subside.	Same as above.
Hepatitis A(Infectious Hepatitis)(Epidemic Jaundice)	Onset is usually abrupt with fever, malaise, anorexia, nausea, and abdominal discomfort, followed within a few days by jaundice.	15-50 days av: 28-30 days	Latter half of incubation period to approximately 1 week after onset of jaundice.	Same as above.

**Diseases spread by direct skin contact with wounds or discharges from an infected person.**



DISEASE	SYMPTOMS	INCUBATION PERIOD	CONTAGIOUS PERIOD	RETURN-TO-SCHOOL
IMPETIGO (Impetigo Contagiosa)	Isolated pus-filled spots which become crusted and break releasing a straw-colored fluid. Occurs principally around the mouth and nostrils.	4-10 days	As long as pus-filled lesions continue to drain.	Under medical care and lesions are healing and no new lesions appear.
PINKEYE (Epidemic Form of Acute Conjunctivitis)	Irritation of the eye accompanied by tears, swelling of the lids, extreme sensitivity to light, and a buildup of a sticky fluid that dries to a straw-colored, crusty material accumulating at the corners of the eye.	Variable, dependent upon infecting agent.	During the period of active infection. Some children recover in only a few days but many cases take 2 to 3 weeks.	Under medical care and drainage from eyes has cleared.
MONONUCLEOSIS, (Infectious)	Fever, sore throat, and enlarged lymph glands.	4-6 weeks	Prolonged; pharyngeal excretions may persist for 1 year or more after infection.	Under medical care and physician has given permission to return.
PEDICULOSIS (Head Lice)	Appearance of lice and/or nits in the hair, commonly at nape of neck and/or behind the ears. Nits are fastened to the hair.	Eggs hatch in 7 days; maturity reached 8-10 days after hatching.	Until lice and viable eggs are destroyed.	Treated and nit-free.

**Diseases spread by direct skin contact with wounds or discharges from an infected person.**

DISEASE	SYMPTOMS	INCUBATION PERIOD	CONTAGIOUS PERIOD	RETURN-TO-SCHOOL
HERPES SIMPLEX	Superficial clear blisters on a red base which crust and heal within a few days.	2-12 days	Secretion of virus in the saliva has been reported for as long as 7 weeks after recovery from infection.	None recommended.
SCABIES	Rash, small raised bumps, blisters or linear tracts containing mites or their eggs; found commonly between the fingers, on wrists or waistline. Causes severe itching especially at night.	First exposure, 2-6 weeks; subsequent exposure, 1-4 days	Until mites and eggs are destroyed, usually after 1-2 treatments.	Day after treatment is completed. Occasionally a second treatment is needed.
HAND, FOOT, and MOUTH	Papulovesicular lesions appear on the buccal surfaces of cheek and gums and on sides of the tongue. Lesions may also appear on palms, fingers, and soles and last 7-10 days. Fever may also occur.	3-5 days	Acute stage of illness and perhaps longer.	Exclude until lesions have begun to heal and the fever is gone and physician approves return.
HEPATITIS B (Serum Hepatitis)	Onset is usually insidious with anorexia, vague abdominal discomfort, nausea, and vomiting sometimes arthralgias and rash, often progressing to jaundice. Fever may be absent or mild.	45-180 days; av. is 60-90 days.	Weeks before onset and throughout clinical course. Carrier state may persist for years.	Healthy enough to return without danger to self. Carrier status should be individually. Note from physician is recommended.

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Overview & Comments
Code	01 - Information & Comments - Vol. 30, No. 2
Status	

## WISCONSIN OVERVIEW AND COMMENTS

### Volume 30, Number 2 July 2021

#### **Social Media (Policy/AG 7544) Revisited**

In 2018 a collection of policies were prepared by a team of twenty-two (22) lawyers, IT experts, and Neola staff to provide Districts with a means to establish controls that govern the use of social media in their District. These policies and related documents were released in the Special Update - Social Media in November 2019 along with a toolkit for use with these policies.

Although regulating an employee's personal use of social media is possible only in the narrowest of circumstances, establishing rules about employees' use of social media as it relates to communication regarding the business of the District is something that schools can, and in Neola's judgment, should do.

Three existing policies were also suggested for revision in the Social Media Special Update. A comprehensive definition of "social media" was added to Bylaw 0100 Definitions and the definition of "apps and services" was revised as well. Additionally, revisions were proposed for Policy 7540 Technology to replace the previous definition of "social media" and finally, revisions to Policy 7540.04 Staff Technology Acceptable Use and Safety so that the language is current and compliant with the new social media policy.

While the suggested revisions were put in place before a global pandemic pushed Districts to utilize online learning platforms and more virtual methods of engagement with students, parents, and the community, such use makes consideration of these materials even more important today.

Although the new and revised policies have been thoughtfully prepared and reviewed by Neola's legal counsel for statutory compliance, each District must decide what specific language to include in its own unique policy collection.

It is highly recommended that at this juncture the District reevaluate the materials in the updates referenced above that are still available on each District's BoardDocs platform. While much thought will be necessary to consider these new materials and revised policies each District should take the time necessary to be sure that there is adequate policy guidance provided for the current use of social media technology and applications.

In the next update, Neola will revisit Policy 5722 – School-Sponsored Publications and Productions and issue a revised document and toolkit. The social media policy materials issued in 2019 played a large role in the development of the revised Policy 5722 materials.

Therefore, it is highly recommended that at this juncture the District reevaluate the materials in the update from 2019 that are still available on each District's BoardDocs platform and consider the District and school-level application of these technologies.

#### **Title IX/Nondiscrimination/Anti-Harassment**

This update includes a revised version of Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities (Title IX) due to the updated definition of 'rape' under Federal law. Forms related to the complaint process and investigation procedures in Policy/AG 2266 and in the nondiscrimination/anti-harassment policies included in the Special Update - Nondiscrimination and Anti-Harassment - July 2021, will be made available to you separately upon adoption of Policy 2266. If your District already has adopted Policy 2266, you will be granted access to these forms. Please contact your associate with any questions about those forms.

### Reminders

- The Minimum Wage in Wisconsin remains the same at \$7.25 for 2021, this is the same as the current Federal Minimum Wage.
- The Internal Revenue Service (IRS) issued Notice 2020-279 which provides the 2021 mileage rate at 56 cents per mile for business travel (1.5 cents less than the 2020 rate).
- The U.S. Department of Labor maintains regulatory authority over state and local government employers, including public school districts. Note that the following federal laws have poster requirements that apply to school districts (no federal or federally-assisted contracts or subcontracts):
  - The Employee Polygraph Protection Act (EPPA)
  - The Fair Labor Standards Act (FLSA) Minimum Wage Notification
  - The Family and Medical Leave Act (FMLA)
  - Uniformed Services Employment and Reemployment Rights Act (USERRA)
  - Occupational Safety and Health Act (Workplace Safety)
  - Whistleblower Protections

In addition, certain organizations may be required to display posters that can only be obtained from DOL's Office of Workers' Compensation Programs (OWCP) (<https://www.dol.gov/agencies/owcp>). More information on these posters is available at <https://www.dol.gov/general/topics/posters/>. Links to all federal employment posters are always available on the Poster Page as are answers to frequently asked questions. Note that school districts with federal or federally-assisted contracts or subcontracts may have additional requirements.

## Bylaws and Policies

The following policies and guidelines were revised to include language either prohibiting or requiring permission for the use of District name, logo, mascot, or any other property or assets of the District in connection with fundraising, except where such permission is implicit because it is conducted by a District organization:

### **Bylaw 0100 - Definitions (Revised)**

The definitions for "Personal Communication Devices" and "Relative" have been modified to update the language used and make sure that current legal standards were reflected.

The definition of "Social Media" was updated to reflect optional language in the definition and that selection of the option should be consistent with the choice made in Policy 7544 - Social Media.

Legal Custodian of Records has been revised to reflect that the District Records Custodian (DRC) is designated in Policy 8310 - Public Records.

### **Bylaw 0144.2 - Board Member Ethics (Delete)**

This policy has been updated to reflect current legal standards with regard to Board member conflict of interest standards.

### **Bylaw 0144.3 - Conflict of Interest (Revised)**

The language that has been modified regarding a Board member utilizing their position to obtain financial gain to add the language *or anything of "substantial value"* is derived directly from 19.59(1)(a) Wis. Stats. Whereas, the language added about no Board member being permitted to accept anything of value is also derived directly from statute, 19.59(1)(b), however, it does not utilize the qualifier "substantial" and thereby it is presumed that the legislature wanted to put a broader obligation on Board member's official actions.

Since a court would need to presume that the legislature intended the distinctions, the Board should adopt policy that recognizes such differences.

This policy has been updated to reflect current legal standards with regard to Board member conflict of interest standards.

#### **Bylaw 0144.5 - Board Member Behavior and Code of Conduct (Revised)**

The standards from Bylaw 0144.2 - Board Member Ethics have been incorporated into this policy. In addition, the legal standard in Wisconsin Statute 946.12 has been included.

#### **Bylaw 0145 - Board Member Anti-Harassment (Revised)**

This policy has been revised to bring the language regarding the prohibition of harassment by a Board member from the conclusion of the policy to a more appropriate placement at the beginning of the policy. In addition, unnecessary language was removed. It is strongly recommended that the revisions to this policy be adopted.

#### **Bylaw 0167.3 - Public Comment at Board Meetings (Revised)**

The policy language has been clarified to separate optional board-directed recording of board open meetings from the access required to be given third parties to record meetings under the Open Meetings law. This revision is recommended for consistency with law.

#### **Bylaw 0174.2 - School Performance Report (Delete)**

This policy is recommended for deletion, as the required, necessary and up-to-date material is included in Policy 2700.01 - School Performance and Accountability Reports.

#### **Policy 1130/Policy 3230/Policy 4230 - Ethics and Conflict of Interest (Revised)**

These policies have been revised to clarify that no member of the District staff should have a personal or financial interest where a question of conflict with their duties could be raised. Further, the revisions reflect the specific pecuniary interest provision of the Wisconsin statute that applies to members of the District staff. These revisions are recommended for adoption.

#### **Policy 1210 – Board-District Administrator Relationship (Revised)**

The policy is revised to incorporate reference to the District Administrator's handling of complaints regarding board member conduct and cross-references to applicable policies. These revisions are recommended for adoption.

#### **Policy 2240 - Controversial Issues in the Classroom (Revised)**

This policy has been updated to reflect the recent increase in discussion regarding the inclusion of potentially controversial issues within the school setting. The proposed revisions are intended to limit discussion of controversial issues to topics related to the curriculum and to remind teachers of the importance of maintaining the role of exemplar when expressing personal opinions in the classroom.

These revisions are recommended for adoption.

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

This policy has been revised to include the recognized definition of "Rape" as of January 2021. The revised definition is that provided by the National Incident-Based Reporting System (NIBRS). The original reference to the definition was required by the Clery Act at the time of the release of the regulations in May 2020. Also, there is a suggested revision in the Appeals section of the policy. While the current regulation does not specifically address the implementation of remedies during the appeals process, it seems to be inappropriate to impose disciplinary sanctions while an appeal is pending.

These revisions are recommended for adoption.

#### **Policy 2430 – District-Sponsored Clubs and Activities (Revised)**

The policy is revised to better reflect the scope of district-sponsored student clubs and activities that are not strictly curricular-related.

These revisions are recommended for adoption.

**Policy 2431 – Interscholastic Athletics (Revised)**

The policy is revised to remove a reference to the development of administrative guidelines and instead allow for Districts to choose the options that should be incorporated into the policy. In addition, a reference to concussion protocols has been added.

These revisions are recommended for adoption.

**Policy 2700.01 – School Performance Reports and Accountability Report Cards (Revised)**

This policy is revised to more accurately reflect the current structure of performance reports and accountability report cards, as well as the publication and distribution requirements for each.

These revisions are recommended to have policies that accurately reflect current requirements.

**Policy 3120 - Employment of Professional Staff (Revised)**

Other bylaws and policies establish the legal standards for Board members with regard to the employment of staff. For purposes of consistency, it is strongly recommended that the revisions to these policies be adopted.

**Policy 3170/Policy 4170 – Substance Abuse (Delete)**

These policies should be deleted as the content is outdated and is already incorporated into Policy 3122.01/Policy 4122.01.

**Policy 3215/Policy 4215/Policy 7434/Policy 5512 – Use of Tobacco and Nicotine (Revised)**

These policies have been revised to add a definition of “tobacco products retailer” to avoid inadvertently including retailers who sell tobacco products, but whose business is not primarily related to tobacco or nicotine products (e.g. a local gas station as compared to a vape store).

These revisions are recommended for adoption.

**Policy 3216/Policy 4216 - Staff Dress and Grooming (Revised)**

The policies have been updated to be more consistent with prevailing legal standards, as well as the diversity of district staff. These revisions are recommended for adoption.

**Policy 4120 - Employment of Support Staff (Revised)**

**Policy 4120.04 - Employment of Substitutes (Revised)**

Other bylaws and policies establish the legal standards for Board members with regard to employment of staff. For purposes of consistency, it is strongly recommended that the revisions to these policies be adopted.

**Policy 4161 – Unrequested Leaves of Absence (Revised)**

The policy is revised to more accurately reflect the process and to align the language with Policy 3161 – Unrequested Leaves of Absence.

These revisions are recommended for adoption.

**Policy 4162 – Controlled Substance and Alcohol Policy for Employees that Transport Students (Revised)**

This policy is revised to incorporate post-accident drug and alcohol testing requirements for employees transporting students, including those with CDLs.

These revisions are recommended so the policy accurately reflects current requirements.

**Policy 5112 – Entrance Age (Revised)**

The policy is revised to remove enrollment information that is not statutorily required.

These revisions are recommended for adoption.

**Policy 5500.01 – Conduct in Virtual Classroom (New)**

This new policy has been developed in an effort to assist Districts with issues related to student conduct that may have arisen over the past year and a half of virtual instruction. Many districts may choose to continue to offer virtual instruction as an option to students. This policy may assist in establishing appropriate rules and controls for that environment.

#### **Policy 5520 - Disorderly Conduct (Revised)**

The policy has been revised to more closely align with disciplinary options under Wisconsin law. The revision is recommended for clarity of potential consequences for student misconduct.

#### **Policy 5720 – Student Activism and Expression (Revised)**

This policy is revised to clarify language and incorporate adherence to Board policy and administrative guidelines as an expectation in the course of student expression.

These revisions are recommended for adoption.

#### **Policy 5880 – Public Performance by Students (Revised)**

The policy is revised to better reflect practice associated with student performances in the community, and to remove reference to an administrative guideline that is no longer available.

These revisions are recommended.

#### **Policy 6152 - Student Fees, Fines, and Charges (Revised)**

This policy has been revised to clearly identify that no student shall be denied participation in any educational opportunity due to their inability to pay any fee or charge imposed.

Specific provisions regarding students experiencing homelessness and the requirements pursuant to the McKinney-Vento Act have been incorporated into the policy.

These revisions reflect the current state of the law and should be adopted.

#### **Policy 6152.01 - Waiver of School Fees or Fines (New)**

The McKinney-Vento Act requires states and local school districts to review and revise policies to remove barriers to the education of homeless children and youth, "including barriers to enrollment and retention due to outstanding fees, or fines, or absences" (42 U.S.C. 11432(1)(I)). This new policy addresses this provision of the McKinney-Vento Act and provides eligibility standards for the waiver of fees or fines assessed and notification requirements.

If a fee or fine cannot be paid, this policy provides a resolution process so each case is viewed objectively when the District is determining whether they can collect the fees or fines or to provide a waiver.

These revisions are recommended for adoption to be in compliance with current law.

#### **Policy 7440.01 - Video Surveillance and Electronic Monitoring (Revised)**

Due to the significant increase in the use of virtual/online learning, this policy has been revised to allow a District to use prerecorded lessons or observations of online or virtual learning sessions as part of an employee's evaluation.

These revisions are recommended for adoption.

#### **Policy 7450 – Property Inventory (Revised)**

#### **Policy 7455 - Accounting System for Capital Assets (Revised)**

In December 2014, the U.S. Department of Education (ED) released the newly updated Education Department General Administrative Regulations (EDGAR). This major rewrite of the regulations was issued after nearly 40 years of very little change in the compliance measures that federally funded programs must meet. The regulations covered the application process, financial management, procurement, inventory management, time and effort accountability, cost allowability, record retention, and program oversight.

The Office of Management and Budget (OMB) has now revised sections of OMB Guidance for Grants and Agreements, also known as Uniform Grant Guidance (UGG). Proposed changes to 2 C.F.R. Part 200 were published in the Federal Register in January 2020, comments closed on March 23, 2020, and Final Revisions were published in August 2020. Despite the

intervening pandemic, OMB released its final revisions to the Uniform Grant Guidance (2 C.F.R. Part 200) right on schedule! The revisions continue the OMB's push for results-oriented accountability for grants, significantly rewrite the sections on procurement, and attempt to clarify prior requirements, including provisions related to period of performance and indirect costs. The revised rules became effective November 12, 2020.

These revisions reflect changes outlined in the President's Management Agenda (PMA). This guidance is intended to focus on improved stewardship and ensuring that the American people are receiving value for funds spent on grant programs. The revisions are limited in scope to support the implementation of statutory requirements, alignment of these provisions with other Federal requirements, and clarification of existing requirements to minimize risk in financial transactions.

These revisions are recommended for adoption.

#### **Policy 8500 - Food Services (Revised)**

This policy has been revised to add the emphasis being sought by the United States Department of Agriculture (USDA) to prohibit stigmatizing of students who lack the funds to pay for their meals or have unpaid meal charges. Other revisions have been made with regard to dietary modifications and negative account balances as well as the inclusion of a nondiscrimination statement.

This revision is recommended for adoption.

#### **Policy 9270 - Home-Based, Private, or Tribal Schooling (Revised)**

The language in this policy has been revised to clarify the options private school or tribal school students have for participating in certain athletic and extra-curricular activities.

This revision is recommended for adoption.

#### **Policy 9500 – Relations with Educational Institutions and Organizations**

This policy is revised to clarify language regarding District relationships with other educational institutions and to add optional language regarding District coordination with third-party organizations or potentially District staff or other individuals in conducting educational research projects.

These revisions are recommended.

#### **Policy 9700 - Relations with Non-School Affiliated Groups (Revised)**

This policy has been modified to reflect that there shall be no advertising without the prior approval of either the Board or the District Administrator. Further, the section of this policy regarding crowdfunding is being recommended for deletion with a cross-reference to the stand-alone crowdfunding policy and AG being identified as the place where all such activities would be managed.

These revisions are strongly recommended.

## **ADMINISTRATIVE GUIDELINES**

#### **AG 2240 - Controversial Issues in the Classroom (Revised)**

Optional language has been modified to better reflect the option's intention to promote balanced discussion. The revision is recommended but not required.

#### **AG 2440 - Summer and Interim Session School (Revised)**

Eligibility provisions and other terminology in this guideline have been updated for consistency with current law and the requirements established by the Department of Public Instruction regarding summer and interim session participation. The revisions are recommended for adoption.

#### **AG 3160A/Policy 4160A – Physical Examination (Revised)**

The guideline is revised to clarify the process relative to determining a staff member's fitness for duty and ability to perform the duties of their position.

The revision is recommended for adoption.

**AG 3421A/AG 4421A – Important Notice of Employees’ Right to Documentation of Health Coverage (Delete)**

This guideline is deleted because the information is no longer accurate as notices are provided by the Districts’ benefit plan administrator.

**AG 5111 – Admission to the District (Revised)**

The guideline is revised to reflect the corrected definition of homelessness for purposes of the McKinney Vento Act. The revision is recommended for adoption.

**AG 5112A - Admission to Kindergarten (Revised)**

This guideline has been revised to reflect the requirements of when a student must attain the age of four (4) or the age of five (5) to be enrolled in four (4) year-old or five (5) year-old kindergarten. The revision is recommended for adoption.

**AG 5113 - Admission of Students Participating Under Open Enrollment (Revised)**

The guideline is modified to provide an option under reapplication procedures whereby the Board does not require accepted non-resident students to reapply under their open enrollment policy, as long as the student has been continuously enrolled in the District. Additional language has been added with regard to transportation options.

**AG 5320 - Immunization of Students in School (Revised)**

Language within the guideline which was previously optional has been updated to be consistent with current requirements of the Department of Health Services and Wisconsin Administrative Code provisions. These revisions are recommended for compliance with current regulations.

**AG 5600A - Student Discipline (Delete)**

Like its accompanying policy which was deleted previously, this guideline is being deleted since details of student discipline are contained in the student code of conduct. It is recommended but not required to delete this outdated guideline.

**AG 5610.01 - Alternative Expulsion Hearing Procedure (New)**

This new guideline is only for districts that use the alternative hearing procedure and have the accompanying Policy 5610.01 - Alternative Expulsion Hearing Procedure. Previously, this language was contained in AG 5610, but has been removed as it is appropriate only for districts that use this procedure.

This guideline should be added by districts that use this procedure to be in compliance with State requirements.

**AG 8390 – Use of Animals in the Classroom and on School Premises (Renumbered/Replacement - Moved from 8405A)  
**AG 8405A - Use of Animals in the Classroom and On School Premises (Delete - Moved to 8390)****

The guideline language has been revised to provide detailed procedures relative to requesting, evaluating, and maintaining the use of a service animal on school grounds.

Additionally, this guideline reflects the protocols for when animals are to be brought into the classroom or onto District property.

It is strongly recommended that the District Administrator review this replacement Administrative Guideline for consideration of inclusion.

**AG 8450 - Management of Casual-Contact Diseases (Revised)**

This guideline has been revised to reflect the current expectations of the Department of Health Services regarding the management by school staff of casual-contact communicable diseases.

This guideline provides the appropriate reference to the DHS Wisconsin Childhood Communicable Diseases Chart which should be used by the staff as a general guide for school-based management of various communicable diseases.

Last Modified by Steve LaVallee on July 25, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Overview - Nondiscrimination and Anti-Harassment
Code	0- Information & Comments - Special Update
Status	

## WISCONSIN OVERVIEW AND COMMENTS

### **Nondiscrimination and Anti-Harassment July 2021**

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This update includes revisions to fifteen policies and seven administrative guidelines and four administrative guidelines that should be rescinded. The proposed revisions to current policies and guidelines provided are the result of our ongoing work with our Wisconsin clients, as well as our ongoing review of the statutory language at the State and Federal level, court decisions, et cetera. The revisions recommended in this update are deemed necessary to comply with changes in both State and Federal law.

However, policies from multiple sections are grouped together in this Overview when and if the explanation is the same for the proposed revisions to a group of policies/guidelines.

#### **Questions?**

Any content-related questions should be directed to your District's associate.

All production related questions should be directed to the Coshocton Production Office at 632 Main Street, Coshocton, Ohio 43812 (email [production@neola.com](mailto:production@neola.com), phone 800-407-5815, fax 740-622-2557).

Billing questions should be directed to the Corporate Office at 3914 Clock Pointe Trail, Suite 103, Stow, Ohio 44224 (email [tkee@neola.com](mailto:tkee@neola.com), phone 330-926-0514, fax 330-926-0525).

#### **The Update Material**

The proposed new and revised policies included in this update have been prepared and reviewed by Davis & Kuelthau, s.c. & Strang, Patteson, Renning, Lewis & Lacy, s.c., Neola's outside legal counsel in Wisconsin, for compliance with Federal and State law, Federal and State Regulatory Agencies, and applicable Federal and State court decisions.

If you make substantive changes to a Neola template or substitute in its entirety a policy or other material of your own drafting, that material should be reviewed by the legal counsel for your District to verify compliance with applicable laws, regulations, and court decisions. Neola does not review any district-specific Material.

If the District authors language and adds it to a policy template or deletes content that is not marked as a choice in the policy template, then these actions will constitute District-specific edits. Neola does not review District-specific edits to update materials or District-specific policies for statutory compliance. (See "Caveat RE: District-Specific Edits" below.)

If a policy or guideline is marked revision, the proposed revisions will include material to be added and material to be deleted. As you review a revised policy or guideline, you may choose to accept any or all of the changes presented.

If a policy or guideline is marked as a replacement, that means there have been enough changes made that instead of showing each individual change, a complete, clean replacement copy has been provided. As you review a replacement policy or guideline, you should also compare the replacement materials to your current policy or guideline to determine if there is some District-specific wording in your current material that you want to be included in the replacement policy. If so, any wording from the current policy should be added using BoardDocs "Track Changes" tool before returning the replacement policy electronically to the Coshocton production office for processing.

Policies that are to be deleted from the District's Board-adopted Policy Manual require Board action to rescind the policy.

Your Neola Associate will contact you in the near future to schedule an appointment to review this update and ensure you are current on this and previous updates.

### **Caveat RE: Neola's Warranty**

Neola proudly warrants that the content of the policy templates is legally correct.

However, when Federal and State law is amended or new provisions are added to State or Federal law and revision or replacement of an existing policy template is necessitated, the copyright date noted at the end of the policy is updated as well.

Please note, Neola's warranty applies only to the policy template with the most current copyright date. All previous iterations of the policy template are no longer warranted.

Therefore, the material included in each update should be adopted if the District wants assurance that their adopted policies are warranted by Neola.

### **Notifying Neola of a Challenge to the Legal Accuracy of a Policy**

The Neola staff in Wisconsin is vigilant in providing policy language to our clients that have been vetted for legal accuracy by our outside counsel. Should questions arise as to the legal compliance or accuracy of Neola materials, it is our expectation that our outside counsel would have the opportunity to assist in the resolution of such a claim. That can occur only if we are notified immediately upon receipt of such a challenge. Please notify Neola's corporate office (330-926-0514) if an issue arises in which such a review or assistance is necessary. To be eligible for assistance under our warranty we must be notified with ten (10) business days of the receipt of such a challenge.

### **BYLAWS AND POLICIES**

After reviewing the proposed revisions included in this update and making any decisions regarding the options presented, the Board should adopt formally adopt the policies to assure compliance with current law and regulations.

If any of the templates in this update have not been previously adopted by the Board, it is recommended that the District consider approval of these policies to assure compliance with Wisconsin and Federal code and/or the law.

#### **Policy 1422 - Nondiscrimination and Equal Employment Opportunity (Revised)**

#### **Policy 3122 - Nondiscrimination and Equal Employment Opportunity (Revised)**

#### **Policy 4122 - Nondiscrimination and Equal Employment Opportunity (Revised)**

The policies, administrative guidelines, and forms related to discrimination and harassment on the basis of a protected class have been revised to comport with the new Title IX regulations. Because of the number of revisions involved, these have been issued as replacement policies.

The Board should adopt these revisions to assure compliance with the regulations as well as consistency with other policies and the grievance process.

#### **Policy 1422.02 - Nondiscrimination Based on Genetic Information of the Employee (Revised)**

#### **Policy 3122.02 - Nondiscrimination Based on Genetic Information of the Employee (Revised)**

#### **Policy 4122.02 - Nondiscrimination Based on Genetic Information of the Employee (Revised)**

The policies, administrative guidelines, and forms related to discrimination and harassment on the basis of a protected class have been revised to comport with the new Title IX regulations. Because of the number of revisions involved, these have been issued as replacement policies.

The Board should adopt these revisions to assure compliance with the regulations as well as consistency with other policies and the grievance process.

**Policy 1623 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)****Policy 3123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)****Policy 4123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)**

The policies, administrative guidelines, and forms related to discrimination and harassment on the basis of a protected class have been revised to comport with the new Title IX regulations. Because of the number of revisions involved, these have been issued as replacement policies.

The Board should adopt these revisions to assure compliance with the regulations as well as consistency with other policies and the grievance process.

**Policy 1662 - Employee Anti-Harassment (Revised)****Policy 3362 - Employee Anti-Harassment (Revised)****Policy 4362 - Employee Anti-Harassment (Revised)****Policy 5517 - Student Anti-Harassment (Revised)**

The policies, administrative guidelines, and forms related to discrimination and harassment on the basis of a protected class have been revised to comport with the new Title IX regulations.

A number of provisions/options pertaining to prohibited staff-student relationships have been omitted from the anti-harassment policies listed above, including references to the sexual harassment of students and criminal sexual misconduct with minors.

**Because the policies referenced above exclude Title IX matters, which instead are addressed in Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, including the sexual harassment of students, those provisions are more appropriately included and referenced in Policy 2266. Neola is developing a new policy regarding staff-student relations to further address this issue that will be included in the next update to be released in the Fall of 2021.**

The Board should adopt the revised policies for consistency with other District policies.

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

The policies, administrative guidelines, and forms related to discrimination and harassment on the basis of a protected class have been revised to comport with the new Title IX regulations. Because of the number of revisions involved, this policy has been issued as a replacement policy.

The Board should adopt the revised policies for consistency with other District policies.

**Policy 2260.01 – Section 504/ADA Prohibition Against Discrimination Based on Disability (Revised)**

Board Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability places particular emphasis on protections for students who are identified as having a disability under Section 504 and the American with Disabilities Act (ADA). This includes accessibility to qualified individuals with regard to facilities, programs and activities as directed by Federal law. Revisions to this policy are based on recent Office for Civil Rights (OCR) investigations and reviews of compliance issues, particularly related to vocational education/Career-Technical education programs, with particular emphasis on vocational education. Other revisions have been made to address changes in the terminology used to refer to students with disabilities and to revise the Complaint and Grievance Procedure for the processing of complaints of discrimination or retaliation so this procedure is consistent with the other nondiscrimination and anti-harassment policies. Due to the significance of the revisions involved, this policy has been issued as a replacement policy.

The Board should adopt this policy in order to maintain compliance under Section 504 and ADA as well as consistency with other District policies.

**ADMINISTRATIVE GUIDELINES****AG 1422 - Nondiscrimination and Equal Employment Opportunity (Deleted)****AG 3122 - Nondiscrimination and Equal Employment Opportunity (Deleted)****AG 4122 - Nondiscrimination and Equal Employment Opportunity (Deleted)**

The revised policies for Policy 1422, Policy 3122 and Policy 4122 are comprehensive and include the complaint procedure and grievance process for complaints of discrimination on the basis of a protected class in employment, and as such these administrative guidelines are no longer required.

These administrative guidelines should be deleted.

**AG 1623 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)****AG 3123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)****AG 4123 - Section 504/ADA Prohibition Against Disability Discrimination in Employment (Revised)**

Although revised Policies 1623, 3123, and 4123 are comprehensive and include the complaint procedure and grievance process for addressing complaints of discrimination on the basis of disability in employment, these administrative guidelines address the decision-making process for determining and identifying reasonable accommodations and undue hardship, employment criteria, pre-employment inquiries, and interviews. Therefore, these administrative guidelines have been revised to reflect current terminology and ensure consistency between the policies and their administrative guidelines.

These administrative guidelines should be revised and updated to reflect current standards.

**AG 3362.01 - Reporting Threatening Behaviors (Revised)****AG 4362.01 - Reporting Threatening Behaviors (Revised)**

Although revised Policies 1662, 3362, 4362, and 5517 are comprehensive and include the complaint procedure and grievance process for addressing complaints of harassment on the basis of a protected class, these administrative guidelines address the procedure for reporting threatening and intimidating behaviors to local law enforcement as required by State law. Therefore, these administrative guidelines have been revised to reflect current terminology and ensure consistency between the policies and their administrative guidelines.

These administrative guidelines should be updated.

**AG 2260 - Nondiscrimination and Access to Equal Educational Opportunity (Deleted )**

Policy 2260 now includes the complaint procedure and grievance process for addressing complaints of discrimination on the basis of a protected class in educational programs, Administrative Guideline 2260 is no longer required. This guideline should be deleted.

**AG 2260.01A - Section 504/ADA Prohibition Against Discrimination Based on Disability, Including Procedures for the Identification, Evaluation, and Placement of Students Suspected of having a Disability, and the Right to FAPE (Revised)****AG 2260.01B - Section 504/ADA Parents' Procedural Rights, Including Due Process Hearing (Revised)**

Although the revision to Policy 2260.01 is comprehensive and includes the complaint procedure and grievance process for complaints of discrimination on the basis of disability for students, Administrative Guideline 2260.01A includes the **procedures applicable to Section 504 referrals, evaluations and plans for students with disabilities. Administrative Guideline 2260.01B includes the parent rights and procedural safeguards in connection with complaints regarding Free Appropriate Public Education (FAPE) and impartial due process hearings. None of these topics are addressed in the revision to Policy 2260.01 and as such** these administrative guidelines have been revised to reflect current terminology and ensure consistency between the policy and administrative guidelines. .

These administrative guidelines should be updated.

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of DEFINITIONS
Code	po0100
Status	
Adopted	April 25, 2016
Last Revised	March 15, 2021

## 0100 - **DEFINITIONS**

The bylaws of the Board of Education of this District incorporate quotations from the laws and administrative code of the State of Wisconsin. Such quotations may be substantively altered only by appropriate legislative, judicial, or administrative action.

Whenever the following items are used in these bylaws, policies, and administrative guidelines, they shall have the meaning set forth below:

### **Administrative Guideline**

A statement, based on policy, usually written, which outlines and/or describes the means by which a policy should be implemented and which provides for the management cycle of planning, action, and assessment or evaluation. The District previously referred to administrative guidelines as rules.

### **Agreement**

A collectively negotiated contract with a recognized bargaining unit.

### **Apps and Services**

Apps and services are software (i.e., computer programs) that support the interaction of personal communication devices (as defined in Bylaw 0100, above) over a network, or client-server applications in which the user interface runs in a web browser. Apps and services are used to communicate/transfer information/data that allow students to perform actions/tasks that assist them in attaining educational achievement goals/objectives, enable staff to monitor and assess their students' progress, and allow staff to perform other tasks related to their employment. Apps and services also are used to facilitate communication to, from and among and between, staff, students, and parents, Board members, and/or other stakeholders and members of the community.

### **Board**

The School Board also commonly referred to as the Board of Education. Within these bylaws and policies, the terms Board and District may be used interchangeably, depending on the context of the policy.

### **Bylaw**

Rule of the Board for its own governance.

### **Clerk**

The chief clerk of the Board. (See Bylaw 0170)

**District**

The School District. Within these bylaws and policies, the terms Board and District may be used interchangeably, depending on the context of the policy.

**District Administrator**

The administrative head of the School District of Manawa. In policy, capitalization of the term District Administrator, implies delegation of responsibilities to appropriate staff members.

**Due Process**

Procedural due process requires prior knowledge (a posted discipline code), notice of offense (accusation), and the opportunity to respond. Specific due process requirements are dependent upon the circumstances and may vary depending on such circumstances.

**Full Board**

Authorized number of voting members entitled by law to govern the District. The full Board is the total number of Board members authorized by law regardless of the number of current sitting members.

**Information Resources**

The Board defines information resources to include any data/information in electronic, audio-visual or physical form, or any hardware or software that makes possible the storage and use of data/information. This definition includes but is not limited to electronic mail, voice mail, social media, text messages, databases, CD-ROMs/DVDs, web sites, motion picture film, recorded magnetic media, photographs, digitized information, or microfilm. This also includes any equipment, computer facilities, or online services used in accessing, storing, transmitting or retrieving electronic communications.

**Law Enforcement Officer(s) or Agencies**

These terms include any local, State, or Federal law enforcement agency of competent jurisdiction and its officers acting within their legal authority.

**Legal Custodian of Records**

The School District will designate one (1) District Records Custodian (DRC) to be the legal custodian of records for the District. The DRC shall keep and preserve the public records of the District and is granted authority to render a decision and carry out duties related to those public records. [The DRC is designated in Policy 8310 - Public Records.](#)

**May**

This word is used when an action by the Board or its designee is permitted but not required.

**Medical Advisor**

The School District is required to appoint a medical advisor. The medical advisor shall be a licensed physician and will participate in the annual review of the District emergency nursing services plan. The School District may also have the medical advisor fulfill other roles. (PI 8.01(g)(3))

**Meeting**

Any gathering which is attended by or open to all of the members of the Board, held with the intent on the part of the members of the body present to discuss or act as a unit upon the specific public business of that body. Wis. Stat. 19.82(2).

**Parent**

The natural, adoptive, or surrogate parents or the party designated by the courts as the legal guardian or custodian of a student. Both parents will be considered to have equal rights unless a court of law decrees otherwise.

**Personal Communication Devices**

Personal communication devices ("PCDs") include computers, laptops, tablets, e-readers, cellular/mobile phones, smartphones, and/or other web-enabled devices of any type.

**Policy**

A general, written statement by the governing Board which defines its expectations or position on a particular matter and authorizes appropriate action that must or may be taken to establish and/or maintain those expectations.

**President**

The chief executive officer of the Board of Education. (See Bylaw 0170)

**Principal**

The educational leader and head administrator of one (1) or more District schools. In policy and administrative guidelines, implies authority to delegate responsibilities to appropriate members of his/her staff.

**Professional Staff Member**

District employees who are either certified teachers employed in a position for which certification is a requirement of employment or administrative employees who are responsible for oversight or supervision of a component or components of the District's operation, or serve as assistants to such persons, regardless of whether they hold an administrative contract or are required to have administrator certification, but excluding the District Administrator/Superintendent.

**Relative**

The mother, father, sister, brother, spouse, domestic partner, parent of spouse/domestic partner, child or step-child, grandparents, grandchild, ~~or~~ dependent or member of the immediate household.

**School Nurse**

A school nurse is a registered nurse who meets the requirements of Wis. Stat. Sec. 115.001(11). A school nurse has the authority to exclude students for signs of illness.

**School Official**

A school official is a person employed by the Board as an administrator, supervisor, teacher/instructor (including substitutes), or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board; a person or company with whom the Board has contracted to perform a special task (such as an attorney, auditor, or medical consultant); a contractor, consultant, volunteer or other party to whom the Board has outsourced a service otherwise performed by Board employees (e.g. a therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks (including volunteers).

**Shall**

This word is used when an action by the Board or its designee is required. (The word "will" or "must" also signifies a required action.)

**Social Media**

Social media are online platforms where users engage with another and/or share information and ideas through text, video, or pictures. Social media consists of any form of online publication or presence that allows interactive communication, including, but not limited to, text messaging, instant messaging, websites, web logs ("blogs"), wikis, online forums (e.g., chat rooms), virtual worlds, and social networks. Examples of social media include, but are not limited to, Facebook, Facebook Messenger, Google Hangouts, Twitter, LinkedIn, YouTube, Flickr, Instagram, Pinterest, Skype, and Facetime. Social media does not include sending or receiving e-mail through the use of District-issued e-mail accounts. Apps and web services shall not be considered social media unless they are listed on the District's website as District-approved social media platforms/sites.

**Student**

A person who is officially enrolled in a school or program of the District.

**Superintendent**

Sometimes the administrative head of the School District is referred to as Superintendent but has the authority of the District Administrator by law. In policy, capitalization of the "S" in Superintendent implies delegation of responsibilities to appropriate staff members.

**Support Staff**

Any employee who provides support to the District's program and whose position does not require a professional certificate. This category includes special education paraprofessionals, even though it is a requirement to hold a special education program aide license issued by the Wisconsin Department of Public Instruction (DPI) or another valid and current DPI license or permit..

**Technology Resources**

The Board defines technology resources to include computers, laptops, tablets, e-readers, cellular/mobile telephones, smartphones, web-enabled devices, video and/or audio recording equipment, SLR and DSLR cameras, projectors, software and operating systems that work on any device, copy machines, printers and scanners, information storage devices (including mobile/portable storage devices such as external hard drives, CDs/DVDs, USB thumb drives and memory chips), the computer network, Internet connection, and online educational services and apps.

**Treasurer**

The chief financial officer of the Board (See Bylaw 0170)

**Vice-President**

The Vice-President of the Board. (See Bylaw 0170)

**Voting**

A vote at a meeting of the Board. The law requires that Board members must be present in order to have their vote officially recorded in the Board minutes, and to be available for a roll call vote. A Board member's presence at a meeting includes his/her presence if attending by telephone or other manner of remote access, so long as such remote access is compliant with State law. No voting by Proxy may be recorded or counted in an official vote of the Board. Remote access during quasi-judicial functions (e.g. termination hearings, expulsions) may be permitted after consultation with legal counsel.

Citations to Wisconsin statutes are shown by the Section Number (e.g., 120.11, Wis. Stats.). Citations to the Wisconsin Administrative Code are prefaced P.I. (e.g., P.I. 11). Citations to the United States Code are noted as U.S.C., Federal Register are noted as F.R., and the Code of Federal Regulations as C.F.R.

Revised 8/22/16

Revised 7/17/17

Revised 12/18/17

Revised 4/27/20

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Book Policy Manual

Section For Board Review - Vol. 30, No. 2 + Special Update

Title Copy of BOARD POWERS

Code po0122

Status

Adopted April 25, 2016

0122 - **BOARD POWERS**

The power of this Board extends to those matters expressly or implicitly granted by constitution, statute, local charter or ordinance, or other law, including the power to do all things reasonable to promote the cause of education unless prohibited by Federal or State law.

The Board shall also authorize the development and promulgation of rules and guidelines by the District Administrator for the proper operation and management of the District, including the conduct of students while in school or enroute on school buses.

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Legal 118.001, Wis. Stats.  
120.13, Wis. Stats.

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Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of BYLAWS AND POLICIES
Code	po0131.1
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#### 0131.1 - **BYLAWS AND POLICIES**

The Board shall adopt bylaws and policies for the organization and operation of this Board. Such policies are to include those needed to meet the education standards established by Wisconsin Statute. In the event of any conflict between these bylaws and policies and any applicable law or regulation, including temporary emergency orders or mandates, the legal authority shall prevail.

Bylaws and policies not dictated by the statutes or rules of the Department of Public Instruction or ordered by the State Superintendent of Public Instruction or a court of competent authority may be adopted, amended, and repealed at any meeting of the Board.

Adoption of new or revised policies, as well as the deletion of policies, is solely the responsibility of the Board. Recommendations for new or revised policies shall be brought to the Board for consideration at two (2) scheduled Board meetings. At the first meeting, the Board shall discuss the proposed policy and offer any suggested changes. At a subsequent meeting, the Board may vote on the adoption of the policy, including any amendments approved by the Board.

On matters of unusual urgency, and following a Board vote to waive the two (2) meeting process, a new proposed policy may be introduced and acted upon at the same meeting. Policy revisions that include only stylistic or minor content changes may be adopted at the same meeting initially presented.

[OPTION: CHOOSE IF TWO READINGS ARE REQUIRED, BUT AN EMERGENCY PROVISION IS ALSO DESIRED.]

[.] When compelling reasons exist for an immediate revision, the Board may adopt, amend, or suspend any bylaw or policy, provided the amendment, adoption, or suspension does not conflict with the law.

[.] Any such emergency resolution adopting, amending, or suspending a bylaw or policy under this provision shall expire automatically at the next public meeting of the Board unless the Board moves to adopt the resolution in final form at that subsequent meeting.

Bylaws and policies shall be adopted, amended, repealed, or suspended by a majority vote of the Board.

The Board may adopt, amend, or repeal rules of order for its own operation by simple resolution of the Board passed by a majority of those present and voting.

The adoption, modification, repeal, or suspension of a Board bylaw or policy shall be recorded in the minutes of the Board. All bylaws and policies shall be included in the Board policy manual.

#### **Technical Corrections**

The District Administrator is authorized to review and make technical corrections to policies that have already been adopted through normal rulemaking procedures. Technical corrections are those corrections to policy language or construction that do not reflect a policy decision or substantive consideration by the Board, such as correction of a typographical or grammatical error, inclusion or correction of a statutory citation, renumbering of sections, combining of policies, or similar actions. The District Administrator shall inform the Board of any such changes at the next regular Board meeting.

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of BOARD MEMBER ETHICS
Code	po0144.2 - Delete - Added to 0144.5
Status	
Adopted	April 25, 2016

#### ~~0144.2~~ **BOARD MEMBER ETHICS**

~~The School Board's primary responsibility is the educational welfare of the District's students. The Board serves the best interest of students and the community and its students, utilizing all available resources toward that end. The Board functions most effectively when individual Board members act responsibly, professionally and ethically. To promote such conduct, the Board has adopted the following standards for Board members.~~

~~Board members should meet the high professional responsibilities of membership in the following ways:~~

- ~~A. Comply with Federal, State and local laws and regulations.~~
- ~~B. Communicate with Federal and State legislators about the assistance needed to provide a quality, free public education for all students.~~
- ~~C. Become fully informed about the nature, value, and direction of current education issues by individual study and through participation in professional development opportunities such as those sponsored by State and National School Board Associations.~~
- ~~D. Acknowledge that the Board represents the entire school community, and refuse to surrender independent judgment to special interests or partisan political groups.~~
- ~~E. Support the employment of the best qualified school staff who will serve in the best interests of the students.~~
- ~~F. Support all District employees in the proper performance of their duties by ensuring all staff members have access to quality professional development opportunities and receive regular, impartial job performance evaluations.~~
- ~~G. Recognize that the Board is responsible for overall management and control of District affairs and property, including the development of policies by which the schools are to be administered, but that the day to day administration of the educational program and school business shall be the responsibility of the District Administrator and other designated staff members.~~
- ~~H. Work continually with administration to identify the needs, goals, and priorities of the District.~~

~~Board members should respect relationships with other Board members in the following ways:~~

- ~~A. Recognize that authority rests only with the Board in properly called official meetings, and that the individual member has no legal authority outside Board meetings unless performing officer duties under State law or directed by the Board to act on its behalf.~~
- ~~B. Attend all regularly scheduled Board and committee meetings, and be prepared to contribute to the discussion of agenda items and make informed decisions.~~
- ~~C. Encourage the free and courteous exchange of ideas and opinions by all Board members.~~

- D. ~~Base all decisions on available facts and independent judgment after full discussions of issues at publicly held Board meetings.~~
- E. ~~Respect the opinions of others, and abide by rule of the majority when decisions are made by the Board.~~

~~Board members should meet responsibilities to the community in the following ways:~~

- A. ~~Maintain open communication lines with all elements of the community and inform community members about the educational needs of the District, the actions of the Board and the accomplishments of the District's educational program~~
- B. ~~Communicate to other Board members and the District Administrator expressions of public reaction to Board policies and school programs.~~
- C. ~~Refer all public concerns and complaints through the proper channels in accordance with Board policy, and act on such matters at public meetings only when not resolved through administrative actions.~~

~~Board members should adhere to the high ethical standards and personal conduct expectations:~~

- A. ~~Model integrity in all matters, especially in the performance of duties and responsibilities as a Board member, by maintaining a high level of honesty, credibility and openness.~~
- B. ~~Make no personal promises nor take private action which may compromise the Board or administration.~~
- C. ~~Avoid being placed in a position of conflict of interest, refrain from using the Board position for personal, family, partisan or associate gain, and adhere to all other ethical standards required by law.~~
- D. ~~Shall not discuss personnel matters or any confidential information at home, at work, in public, or with school personnel who are not authorized to have access to such information.~~

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of CONFLICT OF INTEREST
Code	po0144.3
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#### 0144.3 - **CONFLICT OF INTEREST**

Board members shall perform their official duties in an ethical manner and free from conflict of interest pursuant to 19.59, Wis. Stats. To this end:

- A. no Board member shall use his/her position as a Board member to obtain financial gain or anything of substantial value for himself/herself, immediate family as defined in 19.42(7), Wis. Stats., or any organization with which s/he is associated;
- B. no Board member shall accept any offer of anything of value from a person either directly or indirectly, nor shall solicit or accept anything of value, if it could be reasonably expected to influence the Board member's actions;
- C. no Board member shall engage in or have a 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 and as a public officer;
- D. when a member of the Board determines that the possibility of such a personal or financial interest conflict exists, s/he should, prior to the matter being considered, disclose his/her interest (such disclosure shall become a matter of record in the minutes of the Board), and thereafter shall abstain from participation in both the discussion of the matter and the vote thereon. In the event that the potential conflict involves a program or activity in whole or in part financed through Federal grant funds, the potential conflict of interest must be disclosed to the Federal granting agency consistent with the requirements of the particular granting agency;-
- E. Board members shall also perform their duties in a manner that does not violate criminal conflict of interest laws pursuant to 946.13, Wis. Stats. by having a private pecuniary interest in a contract with the District in an amount that exceeds \$15,000 annually or by participating in making or performing some function as a Board member with respect to a contract in which the Board member has a private pecuniary interest, unless statutory exceptions apply.

~~Board members shall also perform their duties in a manner that does not violate criminal conflict of interest laws pursuant to 946.13, Wis. Stats., by having a private interest in a contract with the District in an amount that exceeds \$15,000 annually.~~

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Legal 19.42(7), 19.59, 946.13, Wis. Stats





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Code	po0144.5
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#### 0144.5 - **BOARD MEMBER BEHAVIOR AND CODE OF CONDUCT**

The Board functions most effectively when individual Board members act ethically, professionally, and responsibly. School Board members serve as a member of the School District's governing body and do not have individual authority to represent a policy or enforce positions that are not supported by a majority of the Board as evidenced by official action of the Board (See Bylaw 0143 - Authority of Individual Board Members).

Board members accept responsibility for the well-being and positive leadership of the School District, for protecting the interests of the School District as a legal entity, and for facilitating governance for the purpose of delivering the highest quality educational and related services to all of the District's students. Conduct by Board members that compromises the legal position of the District should be avoided.

Any authority delegated to the Board President in this policy is automatically vested in the Board Vice President in the event that either the Board President is unavailable or the Board President is the Board member accused of violating this policy.

#### **General Expectations of All Board Members**

- A. Be familiar with and follow applicable local, State, and Federal laws and regulations.
- B. Be familiar with and comply with Board policies, including policies governing Board member conduct and ethics (~~see Bylaw 0144.2~~) and Board member ethics and conflicts of interest (see Bylaw 0144.3).
- C. Conduct themselves with integrity, honesty, and in a manner that reflects positively on the Board and on the District.
- D. Be accountable for guiding and supporting the policy decision-making process that impacts students, staff, and the community. The operation of the District is the responsibility of the administration.
- E. Establish and maintain a high level of honesty, credibility, and truthfulness in all matters dealt with by the Board.
- F. Treat others with respect and dignity at all times, and maintain decorum, and always communicate in a way that does not violate or illustrate disregard for Board policy concerning harassment or discrimination. This decency expectation applies in all communications, including while discussing sensitive, controversial, or matters involving disagreement.
- G. At all times conduct themselves in the best interest of the School District, including avoiding implicating the District in unlawful activity or supporting or encouraging efforts to harm the reputation, legal standing, or to bring other material harm to the interests of the District or the Board.
- H. Recognize that they should endeavor to make policy decisions only after full discussion at publicly held Board meetings.
- I. Render all decisions based on the available facts and independent judgment.



- J. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board and students, staff, and all elements of the community.
- K. Work with the other Board members to establish effective Board policies and to delegate authority for the administration of the District to the District Administrator.
- L. Communicate to other Board members and the District Administrator expressions of public reaction to Board policies and school programs.
- M. Inform themselves about current educational issues by individual study and through participation in programs providing needed information, such as those sponsored by the Wisconsin Association of School Boards and the National School Boards Association.
- N. Support the employment of those persons best qualified to serve as school staff, and insist on a regular and impartial evaluation of all staff.
- O. Refrain from using their Board positions for personal partisan gain.
- P. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law.
- Q. Remember always that their first and greatest concern must be for the educational welfare of the students attending the public schools.
- R. No Board member shall act or fail to act in his/her position as a Board member in violation of 946.12, Wis. Stats., regarding misconduct in public office.

### **Board Member Communication**

Board members are expected to refrain from engaging in communication on behalf of the Board or on behalf of the District unless authorized to do so by majority vote of the Board (See Bylaw 0143.1).

Any Board member who chooses to engage in individual communication on matters related to Board and/or District business is expected to clearly identify whether the Board member is communicating in the following capacity:

- A. On behalf of the Board: normally, this is the function of the Board President or in the President's absence, the Vice President. The Board may by majority vote delegate this responsibility to another Board member in a specific circumstance. In every case, the Board Member communicating the Board's position shall do so as determined by the Board and avoiding individual interpretation or editorializing.
- B. As an individual Board member, but not on behalf of the Board: a Board member who speaks, including online, in social media forums, or in any other public forum, on matters related to Board and/or District business, but not as an officially designated spokesperson of the Board.

Board members who fail to adhere to this expectation, or who publicly communicate false or intentionally misleading information pertaining to Board action or District policy, will be asked to correct such communication in a way that is likely to reach the same audience as the false or misleading information. The Board President is authorized to communicate such requests to the pertinent Board member.

The Board President is authorized to issue public statements on behalf of the Board in the event a Board member expresses false or misleading information, or makes statements without properly identifying whether he or she is speaking as an individual Board member. The President's communication should be limited to correcting the false or misleading statement, clarifying that the Board member was not speaking on behalf of the Board, and providing information relative to Board action if any on the subject matter.

### **Board Member Interaction with Staff**

The general expectations of Board member decorum and civility apply to interactions with employees; however, because the Board is the employer of all District staff, this responsibility is appropriate for special reference. Each Board member is an individual with authority to bring matters to the Board and to influence matters related to staff. Therefore, it is imperative that Board members treat all employees with respect and as professionals. Board members are also required to comply with Board Policies governing employee anti-harassment, non-discrimination, and threatening behavior.

No Board member has inherent authority to require any staff member to respond to the Board member regarding a specific request for information, or to direct any staff member to perform or not perform any task, except as provided by Board policy or as directed by majority vote of the Board.

Board members access to and request for School District records and information is governed by Board Bylaw 0143.2.

### **Board Member Records and Confidentiality**

Board members are expected to maintain their own public records created on resources not controlled by and thus not maintained by the School District. Each Board member is an elected official responsible for preserving all public records he/she creates, and to comply with requests to inspect such records. The District has no obligation nor responsibility to assist any Board member in fulfilling this responsibility with respect to records that are not maintained by the District.

Board members are encouraged to review Board policy defining and explaining public records, their maintenance, and public access (See Board Policy 8310).

Board members are expected to maintain and protect the privacy of District records, including student records, and communications received in closed session meetings of the Board.

### **Enforcement**

Complaints alleging violations of the Board Member Code of Conduct may be brought by any person and can be submitted to the Board President or, if the Board President is the member accused of violating this policy, to the Vice President.

The President or Vice President shall review the complaint and determine whether he/she can investigate the matter or contact the School District's legal counsel for support. Upon completion of the investigation, if the conclusion reached is that the Board member violated the policy, the investigator shall brief the Board and may recommend action to be taken.

Board members are elected officials and therefore cannot be disciplined, prevented from participating in Board meetings, or removed from office by the Board. The Board may consider the following:

- A. Formal censure by resolution passed by a majority of the Board in an open session meeting of the Board.
- B. Removal from Board committee assignments for the remainder of the year and until the following organizational meeting of the Board, at which time the President is authorized to continue to withhold committee assignment. Approval of this sanction is an adopted exception to Bylaw 0155.
- C. Restriction on Board member rights granted by policy, including requesting items for a Board meeting agenda.
- D. Referral to proceed with efforts to remove the Board member from office for cause, which means inefficiency, neglect of duty, official misconduct, or malfeasance in office.
- E. Referral to law enforcement if any alleged misconduct constitutes potentially unlawful conduct.
- F. Other efforts to pursue compliance with and adherence to the policy as determined by the Board and not prohibited by law.

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Legal                      946.12, Wis. Stats.  
                                  17.13, Wis. Stats.

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#### 0145 - ~~BOARD MEMBER ANTI-SEXUAL AND OTHER FORMS OF HARASSMENT~~

The Board is committed to an environment that is free of harassment. The Board will not tolerate any form of harassment and will take all necessary and appropriate action to eliminate it.

The Board will vigorously enforce its prohibition against harassment based on race, color, national origin, age, sex (including gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other characteristic protected by law in its employment practices (hereinafter referred to as "Protected Classes"), 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 harassment of a District staff member, student, or another Board member by a member of the Board is strictly forbidden. Any member who is found to have harassed a member of the staff, a student, or another Board member, will be subject to discipline by the Board and may be reported to law enforcement authorities. (See Policy 0144.5 - Board Member Behavior and Code of Conduct).

The Board believes that sexual or other forms of offensive speech and conduct are wholly inappropriate to the harmonious relationships necessary to the operation of the District and intolerable in an environment in which students and staff members of this District function.

Sexual harassment includes all unwelcome sexual advances, requests for sexual favors, and verbal or physical contacts of a sexual nature whenever submission to such conduct is made a condition of employment or a basis for an employment decision, or when such conduct has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive working environment. (See also Policy 1422 - Nondiscrimination and Equal Employment Opportunity, Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, Policy 3122 - Nondiscrimination and Equal Employment Opportunity, and Policy 4122 - Nondiscrimination and Equal Employment Opportunity)

Other forms of harassment include verbal or non-verbal expression related to race, gender, age, religion, disability, pregnancy, or sexual orientation.

Substantial interference with a person/employee's work performance or creation of an intimidating, hostile, or offensive work environment is established when the conduct based on sex or one of the other Protected Classes referenced above, is such that a reasonable person under the same circumstances as the person/employee would consider the conduct sufficiently severe or pervasive so as to interfere substantially with the person's work performance or create an intimidating, hostile, or offensive work environment. (See also Policy 3362.01/Policy 4362.01 - Threatening Behavior Toward Staff Members)

~~The harassment of a District staff member, student or another Board member by a member of the Board is strictly forbidden. Any member who is found to have harassed a member of the staff, a student, or another Board member will be subject to discipline by the Board and may be reported to law enforcement authorities.~~

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Legal                      118.13, 120.13(1) 111.36(1) Wis. Stats.  
                                  P.I. 9, Wis. Adm. Code  
                                  Title IX Education Amendments of 1972, Chapter 227

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#### 0167.3 - **PUBLIC COMMENT AT BOARD MEETINGS**

The Board recognizes the value of public comment on educational issues and the importance of allowing members of the public to express themselves on District matters.

#### **Agenda Item**

Any person or group who would like to have an item put on the agenda shall submit their request to the District Administrator no later than ten (10) days prior to the meeting and include:

- A. name and address of the participant;
- B. group affiliation, if and when appropriate;
- C. topic to be addressed.

Such requests shall be subject to the recommendation of the District Administrator and the approval of Board President.

#### **Public Comment Section of the Meeting**

To permit fair and orderly public expression, the Board may provide a period for public comment at any regular or special meeting of the Board and publish rules to govern such comment in Board meetings.

The presiding officer of each Board meeting at which public comment is permitted shall administer the rules of the Board for its conduct.

The presiding officer shall be guided by the following rules:

- A. Public comment shall be permitted as indicated on the order of business, at the discretion of the presiding officer, and for individuals who live or work within the District and parents/guardians of students enrolled in the District.
- B. Attendees must register their intention to participate in the public portion of the meeting upon their arrival at the meeting.
- C. Participants must be recognized by the presiding officer and will be requested to preface their comments by an announcement of their name; address; and group affiliation, if and when appropriate.
- D. Each statement made by a participant shall be limited to three (3) minutes duration.

- E. No participant may speak more than once on the same topic unless all others who wish to speak on that topic have been heard.
- F. Participants shall direct all comments to the Board and not to staff or other participants.
- G. Participants shall address only topics within the legitimate jurisdiction of the Board.
- H. All statements shall be directed to the presiding officer; no person may address or question Board members individually.
- I. The presiding officer may:
  - 1. interrupt, warn, or terminate a participant's statement when the statement is too lengthy, personally directed, abusive, obscene, or irrelevant;
  - 2. request any individual to leave the meeting when that person does not observe reasonable decorum;
  - 3. request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly progress of the meeting;
  - 4. call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action.
  - 5. waive these rules with the approval of the Board when necessary for the protection of privacy or the administration of the Board's business.
- J. The portion of the meeting during which the comment of the public is invited shall be limited to fifteen (15) minutes unless extended by a vote of the Board.
- K. The Board may authorize the administration to arrange for the ~~recording, filming, photographing, broadcasting, or live streaming of open sessions of Board meetings.~~
- L. Signage, banners, or other material which impedes any person's view of the proceedings, including a Board member's view, shall be relocated so as not to obstruct views.

Recording, filming, or photographing the Board's open meetings by Third Parties is permitted pursuant to 19.90, Wis. Stat. Recording, filming, or photographing the Board's closed session is only permitted pursuant to Bylaw 0167.2 – Closed Session. The person operating the equipment should contact the District Administrator prior to the Board meeting to review possible placement of the equipment, and must agree to abide by the following conditions:

- 1. No obstructions are created between the Board and the audience.
- 2. No interviews are conducted in the meeting room while the Board is in session.
- 3. No commentary, adjustment of equipment, or positioning of operators is made that would distract either the Board or members of the audience or otherwise disrupt the meeting while the Board is in session.

Revised 11/16/2020

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Legal                      19.90, Wis. Stats.

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of SCHOOL PERFORMANCE REPORT
Code	po0174.2 - DELETE - Included in Policy 2700.01
Status	
Adopted	April 25, 2016
Last Revised	April 27, 2020

~~0174.2~~ **SCHOOL PERFORMANCE REPORT**

~~The Board will also publish an annual school and School District performance report including all information prescribed by statute. By January 1<sup>st</sup> of each year, the Board shall notify the parents of each student enrolled in the District of the right to request a school and School District performance report. Parents shall be notified that the performance report will be provided to the parent electronically unless the parent requests a written copy of the report. By May 1st, the Board shall distribute copies of the report to those who have requested the report including students enrolled in charter schools located in the District, that have requested the report.~~

~~The School and School District Performance Report will be posted on the District's website.~~

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Legal 115.38, Wis. Stats.

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	ETHICS AND CONFLICT OF INTEREST
Code	po1130
Status	
Adopted	October 17, 2016
Last Revised	November 16, 2020

### 1130 - **ETHICS AND CONFLICT OF INTEREST**

The proper performance of school business is dependent upon the maintenance of unusually high standards of honesty, integrity, impartiality, and professional conduct by Board members, and the District's administrative employees, officers, and agents, and is essential to the Board's commitment to earn and keep the public's confidence in the School District.

For these reasons, the Board adopts the following guidelines to that are designed to avoid the occurrence or appearance of any conflicts of interest. These guidelines apply to all administrative employees, officers, and agents, including members of the Board. These guidelines are not intended to be all inclusive, nor to substitute for good judgment on the part of all administrative employees, officers, and agents. Administrative employees are expected to perform their duties in an ethical manner and free from an actual conflict of interest or from situations that create the appearance of a conflict of interest, in a manner consistent with 19.59, Wis. Stats. The Board's interest in enforcing this policy is to assure that the decisions and actions of public employees retain the public's trust. Therefore, even a conflict relationship that can be viewed as beneficial to the District or that was intended to be beneficial to the District, may still be a violation of this policy.

- A. No administrative employee, officer, or agent shall engage in or have a personal or financial or other 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. Specifically, administrative employees must perform their duties in a manner that does not violate criminal conflict of interest laws pursuant to 946.13, Wis. Stats. by having a private pecuniary interest in an amount that exceeds~~This includes not only those interests that violate state criminal law, which typically requires at least \$15,000 in financial interest,~~ but also lesser valued conflicts that nonetheless create the appearance of using one's public position to secure a private pecuniary interest and/or benefit.
- B. Administrative employees, officers, and agents shall not engage in business, private practice of their profession, the rendering of services, or anything of substantial value or the sale of goods of any type where advantage is taken of any professional relationship they may have with any employee, student, client, or parents of such students or clients in the course of their employment or professional relationship with the School District.

Included, by way of illustration rather than limitation are the following:

1. the provision of any private lessons or services for a fee, unless the provision of services is arranged outside of school and is separate from, and in addition to, regular support provided to students as part of the administrator's regular duties.
2. soliciting on school premises or under circumstances which are coercive for the private sale of goods or services to students or other employees
3. the use, sale, or improper divulging of any privileged information through his/her access to School District records, about a student or client, gained in the course of the administrative employee's, officer's or agent's employment or



professional relationship with the School District

4. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
  5. the requirement of employees, students or clients to purchase any private goods or services provided by an administrative employee, officer or agent or any business or professional practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
- C. 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 administrative employee's supervisor and will be disclosed to the District Administrator before entering into any private relationship.
- D. Administrative employees, officers, and agents shall not make use of materials, equipment, or facilities of the School District for their own personal financial gain or business interest. 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.
- E. Administrative employees, officers, and agents cannot participate in the selection, award, or administration of a contract supported by a Federal grant/award if s/he has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties described in this section, has a financial or other interest in, or a tangible personal benefit from, a firm considered for a contract.

Administrative employees, officers, and agents may not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

However, pursuant to Federal rules, the School District has set standards for when an administrative employee, officer or agent may accept a gift of an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$50.00 or less.

- F. Administrative employees, officers, and agents must disclose any potential conflict of interest which may lead to a violation of this policy to the School District. Upon discovery of any potential conflict of interest, the School District will disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

The District will also disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

- G. Administrative employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action.

No administrative employee may accept or engage in any employment, consulting, advising, or other professional activity with any organization other than the District, whether the administrator will receive compensation for such outside activity or not, without first providing notice to the District Administrator, or in the case of the District Administrator, such notice must be provided to the Board.

In the event that, within the course of administering a Federally funded grant program or service to the District, an administrative employee identifies a conflict of interest, a potential conflict of interest, or that the appearance of a conflict of interest may arise in the course of administering the Federal grant funds, the administrative employee must immediately notify either the Federal agency administering the grant in a manner consistent with that particular agencies rules on conflict of interests, or the District employee directly responsible for grant compliance. Such notice shall be provided at the earliest possible time.

It is a violation of this policy to take action or to refrain from taking action, or for an administrative employee to otherwise use his/her public position to obtain a financial gain or anything of substantial value for himself/herself or his/her immediate family, as defined in 19.42(7), Wis. Stats.

Revised 7/22/19  
Revised 4/27/2020

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19.59, 19.42(7), 946.13, Wis. Stats.

2 C.F.R. 200.12, 2 C.F.R. 200.113, 2 C.F.R. 200.318

7 C.F.R. 3016.36(b)(3) and 7 C.F.R. 3019.42

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	ETHICS AND CONFLICT OF INTEREST
Code	po1130
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Adopted	October 17, 2016
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### 1130 - **ETHICS AND CONFLICT OF INTEREST**

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- B. Administrative employees, officers, and agents shall not engage in business, private practice of their profession, the rendering of services, or anything of substantial value or the sale of goods of any type where advantage is taken of any professional relationship they may have with any employee, student, client, or parents of such students or clients in the course of their employment or professional relationship with the School District.

Included, by way of illustration rather than limitation are the following:

1. the provision of any private lessons or services for a fee, unless the provision of services is arranged outside of school and is separate from, and in addition to, regular support provided to students as part of the administrator's regular duties.
2. soliciting on school premises or under circumstances which are coercive for the private sale of goods or services to students or other employees
3. the use, sale, or improper divulging of any privileged information through his/her access to School District records, about a student or client, gained in the course of the administrative employee's, officer's or agent's employment or

professional relationship with the School District

4. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
  5. the requirement of employees, students or clients to purchase any private goods or services provided by an administrative employee, officer or agent or any business or professional practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
- C. 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 administrative employee's supervisor and will be disclosed to the District Administrator before entering into any private relationship.
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- E. Administrative employees, officers, and agents cannot participate in the selection, award, or administration of a contract supported by a Federal grant/award if s/he has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties described in this section, has a financial or other interest in, or a tangible personal benefit from, a firm considered for a contract.

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- G. Administrative employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action.

No administrative employee may accept or engage in any employment, consulting, advising, or other professional activity with any organization other than the District, whether the administrator will receive compensation for such outside activity or not, without first providing notice to the District Administrator, or in the case of the District Administrator, such notice must be provided to the Board.

In the event that, within the course of administering a Federally funded grant program or service to the District, an administrative employee identifies a conflict of interest, a potential conflict of interest, or that the appearance of a conflict of interest may arise in the course of administering the Federal grant funds, the administrative employee must immediately notify either the Federal agency administering the grant in a manner consistent with that particular agencies rules on conflict of interests, or the District employee directly responsible for grant compliance. Such notice shall be provided at the earliest possible time.

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19.59, 19.42(7), 946.13, Wis. Stats.

2 C.F.R. 200.12, 2 C.F.R. 200.113, 2 C.F.R. 200.318

7 C.F.R. 3016.36(b)(3) and 7 C.F.R. 3019.42

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of BOARD - DISTRICT ADMINISTRATOR RELATIONSHIP
Code	po1210
Status	
Adopted	October 1, 2015
Last Revised	April 23, 2018

#### 1210 - **BOARD - DISTRICT ADMINISTRATOR RELATIONSHIP**

The Board believes that, in general, it is the primary duty of the Board to establish policies and that of the District Administrator to administer such policies. Policy should not be originated or changed without the input or recommendation of the District Administrator. The District Administrator should be given the latitude to determine the best method of implementing the policies of the Board.

The District Administrator, as the chief administrative officer of the District, is the primary professional advisor to the Board. S/He is responsible for the development, supervision, and operation of the school program and facilities, including the development of administrative guidelines consistent with Policy 1230.01 - Development of Administrative Guidelines. The Board shall retain oversight of any administrative guidelines established by the District Administrator to implement Board policy.

The District Administrator and those administrators directed by the District Administrator shall attend all Board meetings, when feasible. Administrative participation shall be by professional counsel, guidance, and recommendation - as distinct from deliberation, debate, and voting of Board members.

[In the interests of promoting and maintaining a healthy and productive work environment, the District Administrator shall report to the Board President any information regarding Board member conduct in violation of Policy 3362.01 - Threatening Behavior Toward Staff Members, Policy 4362.01 - Threatening Behavior Toward Staff Members, or Bylaw 0144.5 - Board Member Behavior and Code of Conduct. If such a report involves the Board President, the Board Vice-President shall be notified.](#)

The Board is responsible for determining the success of the District Administrator in meeting the goals established by the Board through annual evaluations of the District Administrator's performance. The Board, in formulating its position with regard to the performance of the District Administrator, shall rely, whenever possible, on the objective outcomes of its evaluations rather than on subjective opinions.

Revised 6/19/17

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Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE
Code	po1422.02
Status	
Adopted	October 17, 2016

#### 1422.02 - **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 applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of the person as an employee ~~as an employee~~, based on genetic information. Harassment of a person because of his/her genetic information ~~is~~ is prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy ~~an applicant or employee for engaging in protected activity~~ is prohibited.

The identity of the Compliance Officer (see Policy 1422 - Nondiscrimination and Equal Employment Opportunity) shall be posted throughout the District and published in any District statement regarding the prohibition of discrimination on the basis of genetic information in all aspects of employment, in any staff handbooks, and in general information publications of the District as required by Federal and State law and on the District website.

In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq., and 29 C.F.R. Part 1635 ("GINA"), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA this Act, applicants and 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 provided ~~acquired~~ as part of the certification process for FMLA leave, or 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 for employment process. Employees and applicants for employment shall not be penalized for providing genetic information in good faith in response to a request from a District employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the District.

The ~~Board~~ District recognizes that genetic information may be acquired through commercially and publicly available media including documents like newspapers, books, magazines, periodicals, television shows or the Internet. The ~~Board~~ District ~~prohibits, however, District~~ its employees and agents including commercial background investigation agents from searching these such sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall be redacted immediately and not shared beyond the point of first receipt.

As used in this policy, "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.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the ~~District's employees or agents~~~~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.

The ~~District's~~~~District Administrator shall appoint a~~ Compliance Officer (see Policy 1422 - Nondiscrimination and Equal Employment Opportunity) ~~is who shall be~~ responsible for overseeing the ~~Board~~~~District's~~ compliance with this policy and GINA and proposing revisions and additions to this policy as necessary to ensure the Board's compliance with GINA~~Federal regulations and promptly dealing with any inquiries or complaints.~~ This person shall be responsible for working with the Board's legal counsel to fully implement the requirements of GINA in all activities of the School District. The Compliance Officer~~S/He shall~~ also ~~shall~~ verify that proper notice of nondiscrimination for Title II of ~~GINA~~~~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) ~~are~~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:

### **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**

The Genetic Information Nondiscrimination Act of 2008 ~~or ("GINA")~~ prohibits employers and other entities covered by the law~~GINA Title II~~, including the Board ~~of Education~~, from requesting or requiring genetic information of an employee or applicant~~individual~~ or family member of an employee or applicant~~the individual~~, except as specifically allowed by law. To comply with GINA~~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. Questions concerning compliance with the requirements of GINA may be directed to the Compliance Officer at 920-596-5840.

The ~~Board~~~~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 ~~District~~~~Board~~ and no applicant or employee shall be identified or identifiable from the reported information.

The grievance procedure for complaints of discrimination in Policy 1422 applies to complaints of discrimination, including harassment, or retaliation prohibited by GINA and may be utilized if an employee alleges discrimination or harassment on the basis of genetic information or retaliation for identifying, objecting to, or filing a complaint concerning a violation of GINA or this policy.

42 U.S.C. 2000ff et seq.

Title II, The Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

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42 U.S.C. 2000ff et seq.

Title II, The Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

Last Modified by Steve LaVallee on September 16, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po1422
Status	
Adopted	October 17, 2016
Last Revised	July 22, 2019

#### 1422 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board does not discriminate in the employment of administrative 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.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities~~characteristic protected by law in its employment practices.~~

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

#### **Definitions**

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

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

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

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

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

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

**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 Board, and other individuals

who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### District Compliance Officers

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

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Middle School Principal  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5310  
dwolfgram@manawaschools.org

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

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~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. ~~A copy of each of the Acts and regulations on which this notice is available upon request from the CO.~~

### Reports and Complaints of ~~Unlawful~~ Discrimination and Retaliation

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

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

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

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

Employees who believe they have been ~~unlawfully~~ discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the ~~Complainant's/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 reports/complaints of ~~unlawful~~ discrimination/retaliation directly from any member of the School District community or a Third Party, ~~or receive reports that are initially filed with another Board employee (District employees, students, parent(s), and member of the Board), a resident of the District, or a visitor to the District.~~ Upon receipt of a report of alleged discrimination/retaliation/complaint, ~~the either directly or through a school building administrator, a~~ CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) investigation, or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. ~~the CO will designate a specific individual to conduct such a process.~~ The CO will

provide a copy of this policy to the Complainant and the Respondent upon request.~~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.~~

Any Board employee who directly observes ~~unlawful~~ discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any 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 Complainant~~employee~~ within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

## Investigation and Complaint Procedure

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

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

A Complainant who alleges discrimination/retaliation~~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; 1) with a Principal; 2) the CO; or 3) to the District Administrator or other supervisory employees. 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 coordinate with the other appointed/designated~~assume the role of~~ CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~for such complaints.~~

Due to the sensitivity surrounding complaints of ~~unlawful~~ discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged~~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 employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than~~within~~ two (2) ~~business~~ days.

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

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

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

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including; but not limited to; a change of work assignment or schedule for the Complainant and/or the Respondent~~person who allegedly engaged in the misconduct~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with~~his/her position to~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still may take whatever actions are deemed~~s/he deems~~ appropriate in consultation with the District Administrator.

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

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

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint. ~~though 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:~~

The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the 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 Respondent has engaged in harassment/retaliation of the Complainant ~~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 attorney during the course of the investigatory process and/or before finalizing the report to the District Administrator.

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator either must ~~either~~ issue a written final decision regarding whether the charges have been substantiated or request further investigation. A summary explanation of the copy of the District Administrator's final decision will be provided 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, or as quickly as possible if additional time is necessary due to the availability of necessary witness(es) or documents. 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 Respondent engaged in discrimination/retaliation toward the Complainant, the District Administrator ~~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, age-appropriate, 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 the party's his/her receipt of the District Administrator's ~~final~~ decision. The written statement of appeal must be submitted to the District Administrator, who will forward the request to the Board President.

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 ~~Complainant~~~~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 or its designee.

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

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

### **Privacy/Confidentiality**

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

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity. ~~Additionally, the Respondent must be provided the Complainant's identity. 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 is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

### **Remedial ActionSanctions 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 and/or the Employee Handbook.~~

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

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

### **Sanctions and Disciplinary Action**

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

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

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

Where the Board becomes aware that a prior ~~disciplinary~~~~remedial~~ action has been taken against ~~the Respondent~~~~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.

### **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. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy. ~~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.~~

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

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

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

### **Education and Training**

In support of this policy, the 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 staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;
- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- J. dated written determinations to the parties;
- K. dated written descriptions of verbal notifications to the parties;
- L. written documentation of any ~~supportive~~ ~~interim~~ measures offered and/or provided to the Complainant and/or the Respondent ~~complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

- M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;:-
- N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
- O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**

**It is suggested the following records also be maintained, as appropriate.**

- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- T. copies of any notices sent to the Complainant and alleged perpetrator in advance of any interview or hearing;
- U. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 11/19/18

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## Legal

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

Last Modified by Steve LaVallee on September 16, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po1623
Status	
Adopted	October 17, 2016
Last Revised	July 22, 2019

#### 1623 - **SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT**

The Board 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.

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

#### **Definitions**

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

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

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

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

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

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

**"An individual with a disability"** means a person who has, ~~has had~~ a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities.

#### **Major Life Activities**

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

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

### **Impairment That Substantially Limits a Major Life Activity**

~~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.~~

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 aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

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

### **Qualified Individual with a Disability**

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

### **Reasonable Accommodation**

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

### **Facilities**

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

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

### **District Compliance Officer(s)**

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

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Junior High School Principal  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5310

dwolfgram@manawaschools.org

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

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

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

### **Training**

~~The 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.~~

### **Notice**

~~Notice of the Board's policy on nondiscrimination in employment practices and the identity of the 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 COs within the time limits specified below. The COs are 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.
- 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) ~~business~~ days. If no decision is rendered within ten (10) business 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) ~~business~~ 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) ~~business~~ days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- 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, 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

### **Privacy/Confidentiality**

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, take appropriate action, and 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. Additionally, the Respondent must be provided the Complainant's identity.

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

## **Remedial Action and Monitoring**

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

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

## **Sanctions and Disciplinary Action**

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

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

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

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

## **Retaliation**

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

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

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

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

## **Education and Training**

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

## **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;

- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
  - D. written witness statements;
  - E. narratives, notes from, and audio, video, or digital recordings of witness interviews/statements;
  - F. e-mails, texts, and social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
  - G. notes and summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
  - H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
  - I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
  - J. documentation of any supportive measures offered and/or provided to the Complainant and the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
  - K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
  - L. copies of the Board policy and procedures/guidelines used by the District to conduct the investigation and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
  - M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - N. documentation of any training provided to District personnel related to this policy including, but not limited to notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conduct an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time, and location of the training, the name and title (or credentials) of the presenter, and a copy of the materials reviewed or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- O. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - P. copies of any notices sent to the Respondent of the allegations constituting a potential violation of this policy;
  - Q. copies of any notices sent to the Complainant and the Respondent in advance of any interview or meeting;
  - R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 11/19/18

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Legal                    29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended  
                              42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
                              29 C.F.R. Part 1630  
                              34 C.F.R. Part 104

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - EMPLOYEE ANTI-HARASSMENT
Code	po1662
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Last Revised	April 27, 2020

## 1662 - EMPLOYEE ANTI-HARASSMENT

### Prohibited Harassment

The Board 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 discriminatory harassment based on race, color, national origin, age, sex (including ~~trans~~gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters (collectively, "Protected Classes"), or any other characteristic protected by law in its employment practices (hereinafter referred to as "harassment" "Protected Classes 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 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.

~~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).~~

### Notice

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the District's Compliance Officers will be posted throughout the District and published in any District statement regarding the availability of employment, staff handbooks, and general information publications of the District as required by Federal and State law and this policy.

### Definitions



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

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

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

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

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

**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 Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### Bullying

Bullying rises to the level of harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

~~"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 Classes 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.~~

"Harassment" also includes "hate speech"—the use of language, behavior, or images/symbols that express prejudice against a particular group or groups on the basis of any protected characteristic(s).

Examples are:

- A. making statements that promote violence toward a racial or ethnic group;
- B. drawing, displaying, or posting images or symbols of prejudice (e.g., swastikas).

### **Sexual Harassment**

For purposes of this policy and consistent with 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 any ~~either~~ gender against a person of the same or another ~~opposite~~ gender.

Sexual Harassment covered by Policy 2266/AG 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, i.e., sexual harassment prohibited by Title IX, is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities.

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

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact ~~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, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, text messages, or social media postings;
- E. sexually suggestive objects, pictures, graffiti, videos, videotapes, posters, audio recordings, or literature, placed in the work ~~or educational~~ environment that reasonably may embarrass or offend individuals; ~~remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;~~
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;

- G. asking or telling about sexual fantasies, sexual preferences, or sexual activities;
- H. speculation about a person's sexual activities or sexual history or remarks about one's own sexual activities or sexual history;
- I. giving unwelcome personal gifts, such as lingerie, that suggest the desire for a romantic relationship;
- J. leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin;
- K. 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~~
- L. inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life; and
- M. 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;
- 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;
- 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/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry 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 or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **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. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references regarding racial customs.

### **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 disability ~~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.

### **Anti-Harassment Compliance Officers**

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)" or "CO" "COs"):

Carmen O'Brien  
 Business Manager  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5840  
 cobrien@manawaschools.org

Daniel Wolfgram  
 High School/Middle School Principal  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5310  
 wolfgram@manawaschools.org

The Compliance Officer(s) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

### **Reports and Complaints of Harassing Conduct**

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept reports of harassment directly from any member of the School District community or a Third Party, or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the District Administrator or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of harassment is expected to intervene to stop the harassment, 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 harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Members of the School District community ~~and third parties, which includes all staff,~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other 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 ~~report/complaint~~ shall file it with the ~~District's~~ Compliance Officer within two (2) days of receiving the report of harassment at his/her first opportunity.

Members of the School District community and Third Parties~~or third parties~~ who believe they have been harassed by another member of the School District community or a ~~Third Party~~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 ~~Complainant's/complaining individual's~~ employment unless the complaining individual makes the complaint maliciously or with the 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 District 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 District 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 will coordinate with the other appointed/designated CO, or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~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 Board's legal counsel, who shall assume the role of the District Compliance Officer for such complaints.
- 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 or other supervisory employee.
- 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.

If during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to the Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be investigated in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Principal shall suspend the Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Principal informed of the status of the Policy 1662 investigation and provide the Principal with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal with the determination of responsibility that results from the Policy 2266 grievance process.

~~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.~~

~~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**

Except for sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, aAny employee or other member of the School District community or Third Party (e.g., visitor to the District) who believes that they have/he has been subjected to harassment or has witnessed harassment of another may seek resolution of the his/her complaint through the procedures ~~as~~ described below. The complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated. ~~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 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 harassment or retaliation with the United States Department of Education Office for Civil Rights ("OCR"), the Wisconsin Equal Rights Division, and/or Equal Employment Opportunity Commission ("EEOC"). The Chicago Office of the OCR can be reached at John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor, Chicago, IL 60604; Telephone: 312-730-1560; FAX: 312-730-1576; TDD: 800-877-8339; Email: OCR.Chicago@ed.gov; Web: <http://www.ed.gov/ocr>.

## Complaint Procedure

A Complainant ~~An individual who believes s/he has been subjected to harassment hereinafter referred to as the "Complainant," who alleges harassment based on a protected class or retaliation~~ may file a complaint, either orally or in writing: 1) with a teacher, Principal; 2) directly to one of the 7 COs; or 3) to the 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 ~~may will consult; in consultation~~ with the other appointed/designated CO, if any, and if necessary ~~appoint/designate another individual to serve in the role of CO~~ assume the role of the CO for such a complaint regarding a CO.

Due to the sensitivity surrounding complaints of harassment 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 as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All written complaints must include the following information to the extent known it is available: the identity of the Respondent ~~individual believed to have engaged in, or be actively engaging in, harassment~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); ~~and~~ 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 harassment or retaliation including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent ~~alleged harasser~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with 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 deemed s/he deems appropriate in consultation with the District Administrator. No temporary arrangements shall be disciplinary to either the Complainant or Respondent.

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

The Respondent is not entitled to receive a copy of any written complaint unless the CO determines it is appropriate to do so; however, the Respondent will be informed about the nature of the allegations. The CO shall inform the Respondent of the requirements of this policy, which may include providing the Respondent with a copy of this policy or information about where to find it. Respondent shall be afforded the opportunity to submit a written response to the complaint. The CO shall inform the Respondent of the Respondent's deadline to provide the CO with the written response to the allegations in the complaint.

Within five (5) days of receiving the complaint, the CO will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

~~Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint.~~

~~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. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who ~~may~~ reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

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

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the 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 Respondent engaged in harassment of or retaliation toward the Complainant~~Complainant has been subjected to harassment~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

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

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator must either issue a written 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 ~~R~~espondent.

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 Respondent engaged in harassment of or retaliation toward the Complainant, the District Administrator must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the harassment or retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

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 3340. 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 ~~T~~hird ~~P~~arty 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 parties may be represented, at their own cost, at any of the above-described meetings/hearings.

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

All timelines pertinent to the investigation process are intended to be guidelines to assure that the investigation proceeds with all deliberate efficiency. Failure of the CO to meet any specific timeline does not invalidate the investigation or provide a defense to the allegations.

### **Privacy/Confidentiality**

The ~~School~~-District will employ 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 ~~R~~espondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided with the Complainant's identity.~~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 is learned or provided~~s/he learns or that s/he provides~~ during the course of the investigation.



## Directives During Investigation

The CO may recommend to the District Administrator placing any employee involved in an investigation under this Policy on administrative leave pending resolution of the matter. If the District Administrator is the Respondent, the CO shall make such recommendation to the Board. Administrative leave may be appropriate in situations in which protecting the safety of any individual or the integrity of the investigation necessitates such action.

The CO shall determine whether any witnesses in the course of an investigation should be provided a *Garrity* warning apprising the person of his/her obligations to answer questions truthfully and honestly while preserving the right against self-incrimination in the context of any resulting criminal investigation or prosecution.

Every employee interviewed in the course of an investigation is required to provide truthful responses to all questions. Failure to do so may result in disciplinary action.

## Remedial Action ~~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.~~

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

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

## Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment 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 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.

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

## Retaliation

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

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

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

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

## 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.

### **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 educational 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.

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.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;

- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
  - I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
  - J. dated written determinations to the parties;
  - K. dated written descriptions of verbal notifications to the parties;
  - L. written documentation of any supportive~~interim~~ measures offered and/or provided to Complainant and/or the Respondent~~Complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
  - M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
  - N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
  - O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; [REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
  - S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
  - T. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 12/18/17

Revised 7/22/19

Revised 11/18/19

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Legal

111.31, 118.195, 118.20, Wis. Stats.  
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967  
29 U.S.C. 794, Rehabilitation Act of 1973  
42 U.S.C. 1983  
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964  
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975  
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
29 C.F.R. Part 1635  
National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of CONTROVERSIAL ISSUES IN THE CLASSROOM
Code	po2240
Status	
Adopted	October 17, 2016

#### 2240 - **CONTROVERSIAL ISSUES IN THE CLASSROOM**

The Board believes that the consideration of controversial issues has a legitimate place in the instructional program of the district.

Properly introduced and conducted, the consideration of such issues can help students learn to identify important issues, explore fully and fairly all sides of an issue, weigh carefully the values and factors involved, and develop techniques for formulating and evaluating positions. In addition, the opportunity can lead students to learn about how to use critical thinking and problem solving skills, to study and analyze relevant issues, evaluate different sources of information, make intelligent decisions regarding issues and how to appreciate the value of differing viewpoints.

For purposes of this policy, a controversial issue is a topic on which opposing points of view have been promulgated by responsible opinion and/or are likely to arouse both support and opposition in the community. These issues may range across a wide spectrum of political, social, economic and religious topics.

The Board will permit the introduction and proper educational use of controversial issues provided that their use in the instructional program:

- A. is related to the instructional goals of the course of study and level of maturity of the students;
- B. does not tend to indoctrinate or persuade students to a particular point of view;
- C. encourages open-mindedness and is conducted in a spirit of scholarly inquiry.
- D. does not cause a substantial disruption in the school environment.

Controversial issues related to the program may be initiated by the students themselves provided they are presented in the ordinary course of classroom instruction, relate to the topic of instruction, and do not cause substantial disruption to the school environment and it is not disruptive to the educational setting.

Controversial issues may not be initiated by a source outside the schools unless prior approval has been given by the principal. Issues pertaining to human growth and development, as defined by statute, are subject to 118.019, Wis. Stats.

In the discussion of any controversial issue in the classroom or in the course of professional duties, a teacher may express a personal opinion, but shall identify it as such, and must not express such an opinion for the purpose of persuading students to his/her point of view and may only express a personal opinion after the teacher has confirmed that student discussion has concluded.

Teachers should be mindful that this does not permit them to offer opinions on topics that would not be the subject of discussion in the classroom due to their appropriateness for the age(s) of the students involved. As always, teachers are expected to serve as exemplars for their students by demonstrating good judgment as professionals when discussing controversial issues and expressing

personal opinions in the classroom.

The classroom should not be used as a forum for the discussion of District employment issues.

The Board recognizes that a course of study or certain instructional materials may contain content and/or activities that some parents find objectionable. If after careful, personal review of the program lessons and/or materials, a parent indicates to the school that either content or activities conflicts with his/her religious beliefs or value system, the school will honor a written request for his/her child to be excused from particular classes for specified reasons. The student, however, will not be excused from participating in the course or activities mandated by the State and will be provided alternative learning activities during times of parent-requested absences.

~~The District Administrator shall develop administrative guidelines for dealing with controversial issues.~~

(See also Policy 3310 – Freedom of Speech in Noninstructional Settings)

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Legal

Garcetti v. Ceballos, 126 S. Ct. 1951 (2006)

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY
Code	po2260.01
Status	
Adopted	October 17, 2016
Last Revised	November 16, 2020

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

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

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

#### Free Appropriate Public Education

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

If a student has a physical or mental impairment that significantly limits one or more major life activities (see Definitions below), the Board shall provide the student a FAPE. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For students with disabilities who are not eligible for specially designed instruction under the IDEA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of students without disabilities are met shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A F13). Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan. The quality of education services provided to students with disabilities shall be equal to the quality of services provided to students without disabilities.

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

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

In accordance with Section 504, parents and students shall be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Section 504. In addition, students and their parents shall be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"). Finally, students and parents shall be advised of their right to request a due process hearing before an Impartial Hearing Officer ("IHO") regarding the identification, evaluation, or educational placement of persons with disabilities, and their right to examine relevant education records. (See also AG 2260.01B - Section 504/ADA - Complaint and Due Process Procedures).

## **Definitions**

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

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

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

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

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

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

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

## **Major Life Activities**

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

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

## **Impairment That Substantially Limits a Major Life Activity**

~~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.~~

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

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

## **Qualified Individual with a Disability**



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

- A. who is of an age during which ~~nondisabled~~ persons without disabilities are provided educational services;
- B. who is of any age during which it is mandatory under Wisconsin law to provide educational services to ~~disabled~~ persons with disabilities; or
- C. to whom the State is required to provide a free appropriate public education pursuant to the IDEA~~Individuals with Disabilities Education Improvement Act (IDEIA)~~.

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

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

### **Reasonable Accommodation**

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

### **Facilities**

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

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

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

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

Carmen O'Brien  
 Director of Curriculum & Assessment  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5840  
 cobrien@manawa.k12.wi.us

Daniel Wolfgram  
 High School/Middle School Principal  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5310  
 dwolfgram@manawa.k12.wi.us

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

The COs are~~is~~ responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination/retaliation or denial of equal access. The COs also shall verify that proper notice of nondiscrimination for Title II of the

~~Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), and the Age Discrimination in Employment Act of 1975 is provided to staff members and the general public. A copy of each of the Acts and regulations on which this notice is based will be made available upon request from the CO and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the CO.~~

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

### **Training**

~~The CO will also oversee the training of employees of the Board 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. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.~~

### **Education**

~~The Board is committed to identifying, evaluating, and providing a free appropriate public education ("FAPE") to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.~~

~~If a student has a physical or mental impairment that significantly limits one or more major life activities, the Board will provide the student with a free appropriate public education ("FAPE"). An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under the Individuals with Disabilities Education Improvement Act ("IDEIA"), the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan (Form 2260.01A-F13). Parents/guardians/custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan.~~

~~The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate. Generally, the District will place a person with a disability in the regular educational environment unless it is demonstrated that the education of the person in the regular environment even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a person in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the person's home.~~

~~The Board will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified persons with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to persons with disabilities, and employment of students. In providing or arranging for the provision of meals and recess periods, and nonacademic~~

~~and extracurricular services and activities, including those listed above, the District will verify that persons with disabilities participate with persons without disabilities in such services and activities to the maximum extent appropriate.~~

### **Reports and Complaints of Discrimination and Retaliation**

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

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

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

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

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

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

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

### **Investigation and Complaint Procedure**

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

All complaints must include the following information to the extent known it is available: a description of the alleged violation, the identity of the Respondent individual(s) believed to have engaged in, or to be actively engaging in, conduct in violation of this policy, if any; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); ~~and~~ a list of potential witnesses; and the resolution sought by the Complainant.

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

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

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

Within five (5) business days of receiving the complaint, the CO will initiate an investigation by at a minimum confirming receipt of the complaint with the complainant and informing the complainant of the investigation process.

~~Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint. Investigations shall be completed promptly. What constitutes promptness will depend on the complexity of the issues, the number of incidents or factual elements, the number of witnesses and documents to be consulted, and the availability of witnesses and other evidence. The CO shall keep the Complainant reasonably informed of the investigation's progress.~~

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent~~any persons named in the complaint~~;
- C. interviews with any other witnesses who reasonably may ~~reasonably~~ be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other information~~evidence~~ presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO or the designee shall prepare and deliver a written report to the District Administrator which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination/retaliation as provided in Board policy and State and Federal law as to whether the Respondent has engaged in harassment/retaliation of the Complainant~~definitions in this Policy, as well as in State and Federal law as to whether the Complainant has been denied access to educational opportunities on the basis of one of the protected classifications, based on a preponderance of evidence standard~~. The CO's recommendations must be based upon the totality of the circumstances~~, including the ages and maturity levels of those involved~~. In determining if discrimination or retaliation occurred, a preponderance of evidence standard will be used.

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

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

Absent extenuating circumstances, within five (5)~~ten (10) business~~ days of receiving the report of the CO or designee, the District Administrator must either issue a final decision regarding whether the charges have been substantiated~~the complaint~~ or request further investigation. A copy of the District Administrator's final decision will be delivered to the Complainant and to the Respondent. The District Administrator may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The Board authorizes the District Administrator to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the 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)~~ten (10) 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 will be reviewed by the Board upon request.

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

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

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

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

### **Additional School District Action**

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

### **Privacy/Confidentiality**

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

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

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

### **Remedial Action and Monitoring**

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

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

### **Sanctions and Disciplinary Action**

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

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

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

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

### **Impartial Due Process Hearing**

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

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

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

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

- A. be accompanied and advised by legal counsel and individuals with special knowledge or training with respect to the problems of students with disabilities at the party's own cost;
- B. present evidence and confront, cross-examine and compel the attendance of witnesses;
- C. a written or electronic verbatim record of the hearing; and
- D. written findings of fact and conclusions of law setting forth the reasons for the decision.

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

- A. a statement of the time, place and nature of the hearing;
- B. a statement of the legal authority and jurisdiction under which the hearing is being held;
- C. a reference to the particular section(s) of the statutes and rules involved;
- D. a statement of the availability of relevant records for examination;
- E. a short and plain statement of the matters asserted; and
- F. a statement of the right to be represented by counsel.

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

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

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

### **OCR Complaint**

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

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

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

### **Notice**

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

### **Retaliation**

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

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

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

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

### **Education and Training**

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

### **Retention of ~~Public Records, Student Records, and~~ Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;

- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
  - F. all documentary evidence;
  - G. e-mails, texts, or social media posts related to the investigation;
  - H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
  - I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
  - J. dated written determinations to the parties;
  - K. dated written descriptions of verbal notifications to the parties;
  - L. written documentation of any supportive~~interim~~ measures offered and/or provided to the Complainant and/or the Respondent~~Complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
  - M. documentation of all actions, both individual and systemic, taken to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
  - N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
  - O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; [REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
  - S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
  - T. copies of any notices sent to the Complainant and alleged perpetrator in advance of any interview or hearing;
  - U. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

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



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T.C. 11/16/2020

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

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY
Code	po2260
Status	

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

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

The Board does not discriminate on the basis of race, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex, (including transgender status, change of sex or gender identity), or physical, mental, emotional, or learning disability ("Protected Classes") in any of its student program and activities. This policy is intended to support and promote nondiscriminatory practices in all District and school activities, particularly in the following areas:

- A. use of objective bases for admission to any school, class, program, or activity;
- B. prohibition of harassment towards students and procedures for the investigation of claims (see Policy 5517);
- C. use of disciplinary authority, including suspension and expulsion authority;
- D. administration of gifts, bequests, scholarships and other aids, benefits, or services to students from private agencies, organizations, or persons;
- E. selection of instructional and library media materials in a nondiscriminatory manner and that reflect the cultural diversity and pluralistic nature of American society;
- F. design and implementation of student evaluation practices, materials, and tools, but not at the exclusion of implementing techniques to meet students' individual needs;
- G. design and configuration of facilities;
- H. opportunity for participation in extra-curricular and co-curricular activities provided that separate programs for male and female students may be available provided comparable activities are made available to all in terms of type, scope, and District support; and
- I. the school lunch program and other school-sponsored food service programs.

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

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

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

disability shall participate with students without disabilities to the maximum extent appropriate.

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

### **Principal's Responsibilities**

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

### **District Administrator's Responsibilities**

In furtherance of the aforesaid goal, the District Administrator shall:

#### A. Curriculum Content

1. review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict ~~those~~ the Protected Classes ~~contribution of both sexes, various races, ethnic groups, etc.~~ toward the development of human society;
2. provide that necessary programs are available for students with limited use of the English language;

#### B. Staff Training

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

#### C. Student Access

1. review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under State regulations;
2. verify that facilities are made available in a non-discriminatory fashion, in accordance with Board Policy 7510 - Use of District Facilities, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;
3. verify that the educational programs of this District are accessible to all students;  
  
All programs need to be designed and scheduled so the location or nature of the facility or area will not deny an otherwise qualified student with a disability the opportunity to participate in the academic or other school programs on the same basis as students without disabilities.
4. require that service animals for students who require this type of assistance shall be permitted access to all facilities, programs, and events of the District.

#### D. District Support

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

#### E. Student Evaluation

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

### **Definitions**

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

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

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

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

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

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

**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 Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

The District Administrator shall ~~appoint and~~ publicize the name of the compliance officer(s) who is/are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or equal access. The Compliance Officer(s) also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, ~~Title IX of the Education Amendment Act of 1972,~~ Section 504 of the Rehabilitation Act of 1973 (as amended), is provided to students, their parents, staff members, and the general public.

The District Administrator shall attempt annually to identify children with disabilities, ages 3 - ~~21~~22, who reside in the District but do not receive a public education.

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

## Reporting Procedures

~~Students and District employees are required, and all other members of the District community and Third Parties~~Students, parents and all other members of the School District community are encouraged to promptly report suspected violations of this policy to ~~an~~a ~~teacher or~~ administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, ~~or~~ administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District's Compliance Officer within two (2) days at his/her first opportunity. **[NOTE: While students are advised to report discrimination/retaliation to administrators, supervisors, or other District officials, the Board recognizes that some students may report discrimination/retaliation to a teacher. When a teacher receives such a report, the teacher must file it with the CO as indicated above.]**

~~Students who believe they have been denied equal access to District educational opportunities in a manner inconsistent with this policy may initiate a complaint and the investigation process that is set forth below. Initiating a complaint will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with the knowledge that it is false.~~

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

If during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a Protected Class, the Principal

shall report the act to one of the COs, who shall investigate the allegation in accordance with this policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

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

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

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

### **~~Title IX Complaint Coordinators~~/District Compliance Officers (hereinafter referred to as the "COs")**

The Board designates the following individuals to serve as the District's CO's:

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Middle School Principal  
800 Beech Street  
Manawa, WI 54949  
920-596-5310  
dwolfgram@manawaschools.org

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

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

### **Investigation and Complaint Procedure**

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

All complaints must include the following information to the extent known it is available: a description of the alleged violation, the identity of the Respondent individual(s) believed to have engaged in, or to be actively engaging in, conduct in violation of this policy, if any; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); ~~and~~ 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 report by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further loss of educational opportunity, including but not limited to a change of work assignment or class schedule

for the Complainant, tentative enrollment in a program, or other appropriate action. In making such a determination, the CO should consult the **Complainant to assess whether the individual agrees with the proposed action** ~~prior to any action being taken. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the District Administrator.~~ ~~The Complainant should be notified of any proposed action prior to such action being taken.~~

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

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

The investigation will include:

- A. interviews with the Complainant;
- B. interviews with ~~the Respondent~~ ~~any persons named in the complaint~~;
- C. interviews with any other witnesses who ~~may~~ reasonably ~~may~~ be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other evidence presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

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

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

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

Absent extenuating circumstances, within ~~five (5)~~ ~~ten (10)~~ ~~business~~ days of receiving the report of the CO ~~or designee~~, the District Administrator ~~must~~ either ~~must~~ issue a ~~written~~ ~~final~~ decision regarding ~~whether the charges have been substantiated~~ ~~the complaint~~ or request further investigation. A copy of the District Administrator's final decision will be delivered to ~~both~~ the Complainant ~~and Respondent~~ ~~(-)~~ ~~and to the Respondent, if any~~ ~~[END OF OPTION]~~. The District Administrator may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The Board authorizes the District Administrator to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the 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)~~ ~~ten (10)~~ ~~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 will be reviewed by the Board upon request.

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

The Board reserves the right to investigate and resolve a complaint or report regardless of whether the member of the School District community or third party chooses to pursue the complaint. The 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 parties may be represented, at their own cost, at any of the above-described meetings/hearings.

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

### **Additional School District Action**

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

### **Privacy/Confidentiality**

The District will make reasonable efforts to protect the privacy of any individuals involved in the investigation process. Confidentiality cannot be guaranteed, however. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the investigation process should be advised that as a result of the investigation, allegations against individuals may become known to those individuals, including the Complainant's identity.~~

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

### **Remedial Action and Monitoring**

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

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

### **Sanctions and Disciplinary Action**

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

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

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

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

### **Retaliation**

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

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

appropriate remedies.

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

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

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of 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 students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### **Retention of ~~Public Records, Student Records, and~~ Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts related to the investigation;
- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- J. dated written determinations to the parties;
- K. dated written descriptions of verbal notifications to the parties;
- L. written documentation of any ~~supportive~~interim measures offered and/or provided to Complainant and/or the Respondent~~complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- M. documentation of all actions, both individual and systemic, taken to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
- N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
- O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; [REMINDER: Documentation of training should be maintained



**regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**

**It is suggested the following records also be maintained, as appropriate.**

- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy.;
- S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- T. copies of any notices sent to the complainant and alleged perpetrator in advance of any interview or hearing;
- U. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

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Revised 7/22/19

Revised 11/18/19

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Legal	118.13 Wis. Stats. P.I. 9, Wis. Adm. Code P.I. 41, Wis. Adm. Code Fourteenth Amendment, U.S. Constitution 20 U.S.C. 1701 et seq., Equal Educational Opportunities Act of 1974 20 U.S.C. 7905, Boy Scouts of America Equal Access Act 29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended 42 U.S.C. 6101 et seq., Age Discrimination Act of 1975 42 U.S.C. 2000 et seq., Civil Rights Act of 1964 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act 42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended 29 C.F.R. Part 1635, The GINA Regulations 34 C.F.R. Part 110, The Age Discrimination Act Regulations Guidelines for Vocational Education Programs, Department of Education, Office for Civil Rights, March 21, 1979
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Title	Copy of NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2266 - Board Discussion- HOLD
Status	
Adopted	August 17, 2020

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

### **Introduction**

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

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

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

### **Coverage**

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

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

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in the District's education programs or activities. Sexual harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by other applicable Board policies and administrative guidelines, applicable State and/or Federal laws and/or Employee Handbook(s) if committed by a Board employee.

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

### **Definitions**

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

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

- A. A Board employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

1. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and the "nonforcible" sex offenses of incest and statutory rape. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
  - a. Rape is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity~~penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Attempted rape is included.~~
  - b. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - c. Sexual Assault with an Object is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
  - d. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e. Incest is nonforcible (i.e. not able to give consent) sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.
  - f. Statutory Rape is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by Wis. Stat. §§ 948.02 or 948.09, or whose status as a student prohibits such sexual contact per Wis. Stat. §948.095.
  - g. Other Sexual Contact includes the intentional emission of bodily fluids on the complainant, or at the direction of the Respondent, for the purposes of sexual gratification as defined in Wis. Stat. § 940.225(5)(b).
  - h. Consent refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.
  - i. Incapacitated refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.

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

- a. A current or former spouse or intimate partner of the victim;
  - b. A person with whom the victim shares a child in common;
  - c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
  - e. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.
3. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  4. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – 1) fear for the person's safety or the safety of others; or 2) suffer substantial emotional distress.

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

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

**Formal Complaint:** "Formal complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation(s) of sexual harassment. At the time of filing a formal complaint with the District, a Complainant must be participating in or attempting to participate in the District's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or a party to the formal complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

**Actual Knowledge:** "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator, or any District official who has authority to institute corrective measures on behalf of the Board, or any Board employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. This standard is not met when the only District official with actual knowledge is the Respondent. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

**Supportive Measures:** "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), referral to Employee Assistance Program, and other similar measures.

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

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

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

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

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

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

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

### **Title IX Coordinator(s)**

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

Carmen O'Brien  
Business Manager  
920-596-5332  
800 Beech Street  
Manawa, WI 54949  
cobrien@manawaschools.org

Daniel Wolfgram  
Manawa Middle School/Little Wolf High School Principal  
920-596-5310  
515 East 4th Street  
Manawa, WI 54949  
dwolfgram@manawaschools.org

The Title IX Coordinator shall report directly to the District Administrator except when the District Administrator is a Respondent. In such matters, the Title IX Coordinator shall report directly to the Board President. Questions about this policy should be directed to the Title IX Coordinator.

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

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

Carmen O'Brien  
Business Manager  
920-596-5332  
800 Beech Street  
Manawa, WI 54949  
cobrien@manawaschools.org

Daniel Wolfgram  
Manawa Middle School/Little Wolf High School Principal  
920-596-5310  
515 East 4th Street  
Manawa, WI 54949  
dwolfgram@manawaschools.org

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

The Board has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: <https://www.manawaschools.org/district/policies.cfm> The grievance process and procedures specifically address how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the District will respond.

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

### **Grievance Process**

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The District's response to allegations of sexual harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this grievance process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

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

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

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

### **Report of Sexual Discrimination/Harassment**

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s).

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

If a report involves allegations of sexual harassment by or involving the Title IX Coordinator, the person making the report should submit it to the District Administrator, or another Board employee who, in turn, will notify the District Administrator of the report. The District Administrator will then serve in place of the Title IX Coordinator for purposes of addressing that report of sexual harassment.

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

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

Any allegations of sexual misconduct/sexual activity not involving sexual harassment will be addressed through the procedures outlined in Board policies and/or administrative guidelines, the applicable Student Code of Conduct, or Employee Handbook(s).

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

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

When a report of sexual harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days) of the Title IX Coordinator's receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

**Emergency Removal:** Subject to limitations and/or procedures imposed by State and/or Federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related District policies, including Policy 5120 - Assignment within District; Policy 5605 - Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, and Policy 5611 – Due Process Rights.

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

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

### **Formal Complaint of Sexual Harassment**

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

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

When the Title IX Coordinator receives a formal complaint or signs a formal complaint, the District will follow its grievance process and procedures, as set forth herein. Specifically, the District will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

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

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

### **Timeline**

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

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

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

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must:
  1. Include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  2. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
  3. Inform the parties of any provision in the Student Code of Conduct, this policy, and/or Employee Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

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

### **Dismissal of a Formal Complaint**

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

- A. Would not constitute sexual harassment (as defined in this policy) even if proved;
- B. Did not occur in the District's education program or activity; or
- C. Did not occur against a person in the United States.

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

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

- A. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;



- B. The Respondent is no longer enrolled in the District or employed by the Board; or
- C. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

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

### **Consolidation of Formal Complaints**

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

### **Informal Resolution Process**

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

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

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

- A. The allegations;
- B. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and
- C. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

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

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

The informal resolution process is not available to resolve allegations that a Board employee sexually harassed a student.

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

### **Investigation of a Formal Complaint of Sexual Harassment**

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

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

The District is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or

paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the District with voluntary, written consent to do so; if a student party is not an eligible student, the District must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

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

- A. Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. Have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.
- C. (.) The District establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings-:

**Limit the advisor from:**

-

1. **questioning the other party,**
2. **answering questions on behalf of any party, and**
3. **disrupting the investigation process.**

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

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

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the Title IX Coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

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

### **Determination of Responsibility**

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

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the question of any decision to exclude a question as not relevant.

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

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

The written determination will include the following content:

- A. Identification of the allegations potentially constituting sexual harassment pursuant to this policy;
- B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and
- F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

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

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, Policy 5610.01 – Alternative Expulsion Hearing Procedure, Policy 5610.02 – In-School Discipline, and Policy 5611 – Due Process Rights. The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

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

- A. oral or written warning;
- B. written reprimands;
- C. performance improvement plan;
- D. required counseling;
- E. required training or education;
- F. suspension with pay;
- G. suspension without pay;
- H. termination, and any other sanction authorized by any applicable Employee Handbook.

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

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

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District

community or Third Party determined responsible for violating this policy (i.e., engaging in sexual harassment):

- A. oral or written warning;
- B. suspension or termination/ cancellation of the Board's contract with the third-party vendor or contractor;
- C. restriction/prohibition on the Third-Party's ability to be on school property; and
- D. any combination of the same.

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

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

In ultimately, imposing a disciplinary sanction/consequence, the District Administrator will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.

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

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

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

### **Appeal**

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

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.

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

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

Nothing herein shall prevent the District Administrator (or the Board when the District Administrator is the Respondent) from implementing appropriate remedies, excluding disciplinary sanctions, while the appeal is pending. ~~from imposing any remedy, including disciplinary sanction, while the appeal is pending.~~

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

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

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within five (5) days after the Title IX Coordinator provides notice to the non-appealing party of the appeal.

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

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

### **Retaliation**

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

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

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

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

### **Confidentiality**

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA's regulations, and State law under Wis. Stat. § 118.12, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).

### **Application of the First Amendment**

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

### **Training**

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

- A. The definition of sexual harassment (as that term is used in this policy);
- B. The scope of the District's education program or activity;
- C. How to conduct an investigation and implement the grievance process appeals and informal resolution processes, as applicable; and
- D. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All Board employees will be trained concerning their legal obligation to report sexual harassment to the Title IX Coordinator. This training will include practical information about how to identify and report sexual harassment.

### **Recordkeeping**

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

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

- A. Each sexual harassment investigation including any determination regarding responsibility any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process.

The District will make its training materials publicly available on its website.

### **Outside Appointments, Dual Appointments, and Delegations**

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

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

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

### **Discretion in Application**

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

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

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

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Legal

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

Last Modified by Melanie Oppor on September 13, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of HUMAN GROWTH AND DEVELOPMENT
Code	po2414
Status	
Adopted	October 17, 2016

#### 2414 - **HUMAN GROWTH AND DEVELOPMENT**

The Board of Education directs that students receive instruction in human growth and development, consistent with Chapter 118.019(2) Wis. Stats, to include the following:

##### A. Medically accurate and age-appropriate instruction in the following topics:

1. the importance of communication about sexuality between the student and the student's parents or guardians
2. reproductive and sexual anatomy and physiology, including biological, psychosocial, emotional, and intellectual changes that accompany maturation
3. puberty, pregnancy, parenting, body image, and gender stereotypes
4. the skills needed to make responsible decisions about sexuality and sexual behavior throughout the student's life, including how to refrain from making inappropriate verbal, physical, and sexual advances and how to recognize, rebuff, and report any unwanted or inappropriate verbal, physical, and sexual behaviors
5. the benefits of and reasons for abstaining from sexual activity

Instruction under this subdivision shall stress the value of abstinence as the only reliable way to prevent pregnancy and sexually transmitted infections and shall identify the skills necessary to remain abstinent

6. methods for developing healthy life skills, including setting goals, making responsible decisions, communicating, and managing stress
7. how alcohol and drug use affect responsible decision making
8. the impact of media and one's peers on thoughts, feelings, and behaviors related to sexuality
9. adoption resources, prenatal care, and postnatal supports
10. the nature and treatment of sexually transmitted infections

B. use instructional methods and materials that do not discriminate against a student based upon the student's race, gender, religion, sexual orientation, or ethnic or cultural background or against sexually active students or children with disabilities

C. address self-esteem, personal responsibility, healthy relationships, and positive interpersonal skills, with an emphasis on healthy relationships







Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of DISTRICT-SPONSORED CLUBS AND ACTIVITIES
Code	po2430
Status	
Adopted	October 17, 2016
Last Revised	March 15, 2021

#### 2430 - **DISTRICT-SPONSORED CLUBS AND ACTIVITIES**

The Board believes that the goals and objectives of this District are best achieved by a diversity of learning experiences, including those that are not conducted in a regular classroom but are related to the District's curriculum and/or mission.

The purpose of District-sponsored~~curricular-related~~ activities shall be to enable students to explore a wider range of individual interests than may be available in the District's courses of study but are still directly related to accomplishing the educational outcomes for students as adopted by the Board in Policy 2131. The Board encourages all students, including those students in elementary and middle school grades, to participate in such opportunities. In implementing this policy, the District Administrator shall take steps to make such opportunities accessible to all students.

For purposes of this policy, District-sponsored~~curricular-related~~ activities are typically defined as those activities in which:

- A. the subject matter is actually taught or will be taught in a regularly offered course;
- B. the subject matter concerns the District's composite courses of study;
- C. participation is required for a particular course;
- D. participation results in academic credit; or
- E. the subject matter is of interest to students and aligns with the District's goals and mission.

No ~~curricular-related~~ activity shall be considered to be under the sponsorship of this Board unless it meets one or more of the criteria stated above and has been approved by the District Administrator.

Such activities, along with competitive extra-curricular activities/athletics (not directly related to courses of study), may be conducted on-or-off-school premises by clubs, associations, and organizations of students sponsored by the Board and directed by a staff advisor.

Non-District sponsored~~Non-curricular~~ student activities that are initiated by parents or other members of the community may be allowed under the provisions of Policy 7510 - Use of District Facilities. The Board, however will not:

- A. assume any responsibility for the planning, conducting, or evaluating of such activities;
- B. provide any funds or other resources;

C. allow any member of the District's staff to assist in the planning, conducting, or evaluating of such an activity during the hours s/he is functioning as a member of the staff.

No non-district-sponsored organization may use the name, logo, mascot, or any other name which would associate an activity with the District. Additionally, no nondistrict-sponsored organization may use the assets of the District, including but not limited to facilities, technology, or communication networks without the specific permission(s) as outlined in the relevant District policies.

In addition to the eligibility requirements established by the Wisconsin Interscholastic Athletic Association, to be eligible for any athletic or other extra-curricular activity, a student must meet the criteria established in the Activities Code.

Students shall be fully informed of the curricular-related activities available to them and of the eligibility standards established for participation in these activities. District-sponsored activities shall be available to all students who elect to participate and who meet eligibility standards.

The District Administrator shall prepare administrative guidelines to implement a program of curricular-related clubs and activities. Such guidelines should ensure that the needs and interests of the students are properly assessed and procedures are established for continuing evaluation of each club and activity.

To remain a member of a District-established student group or national organization such as the National Honor Society, a student must continue to meet all of the eligibility criteria and abide by the principles and practices established by the group or the organization.

Revised 12/18/17

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Legal                      120.12(23), Wis. Stats.  
                                    P.L. 98-377

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of INTERSCHOLASTIC ATHLETICS
Code	po2431
Status	
Adopted	October 17, 2016
Last Revised	December 18, 2017

#### 2431 - **INTERSCHOLASTIC ATHLETICS**

The Board recognizes the value to the District and to the community of a program of interscholastic athletics for as many students as feasible and in accordance with Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The Board believes that it is the purpose of an interscholastic program to provide the benefits of an athletic experience to as large a number of students as feasible within the District.

The Board recognizes that the purpose of athletics is to promote the physical, mental, moral, social and emotional well-being of each participant with emphasis on the proper ideals of sportsmanship, ethical conduct and fair play. Athletics should encourage leadership, use of initiative and good judgment by the participants.

Interscholastic athletic programs provide opportunities for participants to develop positive school morale, practice hospitality and exercise the qualities of fair play and courtesy. The interscholastic athletic program is a part of the school curriculum, educational in purpose and conduct.

The athletic program affords opportunities for wholesome school-community relations under constructive conditions. It is the responsibility of school authorities to inform the community regarding the purposes of the program. The community should recognize that an athletic contest is an integral part of the school program because of its educational values. If interscholastic athletics cease to possess educational value, then these should cease to be school functions.

The Board encourages the full participation of elementary and middle school students in interscholastic athletic activities. For purposes of Board policy, "full participation" means fair and equal participation to the extent that the budget, facilities or type of activity allow.

The District shall maintain membership in the Wisconsin Interscholastic Athletic Association (WIAA) and the District's conference. The District shall abide by all WIAA and conference rules and regulations, and student athletes shall also be expected to abide by all eligibility rules and regulations.

The District Administrator ~~provides shall develop appropriate administrative guidelines for the operation of the Athletic Program and a Code of Conduct for those who participate. Such guidelines should provide for~~ the following safeguards:

- A. Prior to enrolling in the sport, each participant shall submit to a thorough physical examination by a District-approved physician and parents shall report any past or current health problems along with a physician's statement that any such problems have or are being treated and pose no threat to the student's participation.
- B. Any student who is found to have a health condition which may be life-threatening to self or others shall not be allowed to participate until the situation has been analyzed by a medical review panel that has determined the conditions under which the student may participate.





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	SCHOOL PERFORMANCE AND STATE ACCOUNTABILITY REPORT CARDS
Code	po2700.01
Status	
Adopted	October 1, 2015
Last Revised	November 16, 2020

#### 2700.01 - SCHOOL PERFORMANCE AND STATE ACCOUNTABILITY REPORT CARDS ~~REPORTS~~

The Board believes that a vital component of the District's educational programs is ensuring that parents and other individuals are informed of the performance of the schools and the School District. To this end, the Board has adopted this policy.

#### ~~State~~ School Performance Report (SPR)

The Board will publish an annual school and school district performance report including all information prescribed by statute. By January 1st of each year, the Board shall notify the parents of each student enrolled in the District of the right to request a school and school district performance report. ~~(-) Parents shall be notified that the performance report will be provided to the parent electronically unless the parent requests a written copy of the report. [Note: End of Choice] By May 1st, the Board shall distribute copies of the report to those who have requested the report, including students enrolled in charter schools located in the District, that have requested the report.~~

~~(-)~~ Per the Wisconsin Department of Public Instruction, the District ~~shall~~ may use links to the [WISEdash Public Portal](#) to meet the electronic State School Performance Report requirements.

~~(-)~~ The annual school and School District report shall be made available on the District's internet for public viewing.

The report shall generally include the following information, as required or modified by the State Superintendent:

- A. ~~indicators of academic achievement, including the performance of students on Statewide assessment examinations by subject area~~
- B. ~~dropout, attendance, retention in grade and graduation rates~~
- C. ~~number of suspensions and expulsions, the reasons for, and duration of, the suspensions and expulsions and the length of time students are expelled~~
- D. ~~staffing and financial data information~~
- E. ~~number and percentage of resident students attending a course in a nonresident district and the number and percentage of nonresident students attending a course in the district, and~~
- F. ~~method of reading instruction used in the District~~

#### Title I Provisions of the School/District Accountability Performance Report Card

In any year that the District receives Title I funding, its school/~~District accountability performance~~-report card(s) must also include the information regarding the delivery of Title I services as described in Policy 2261.03.

**State Accountability Report Card** ~~SCHOOL ACCOUNTABILITY REPORTS~~

A copy of each school's accountability report card as prepared by the Wisconsin Department of Public Instruction shall be provided to the parent of each student enrolled in or attending the school, ~~and the ranking levels for each school within the District shall be provided to all parents~~ on an annual basis. The report shall be sent simultaneously with the notice required in Policy 8146 - Notification of Educational Options.

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Legal                            115.38, Wis. Stats.  
   115.385, Wis. Stats.  
   20 U.S.C. 6311

Last Modified by Melanie Oppor on September 13, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of EMPLOYMENT OF PROFESSIONAL STAFF
Code	po3120
Status	
Adopted	May 16, 2016
Last Revised	July 22, 2019

### 3120 - **EMPLOYMENT OF PROFESSIONAL STAFF**

The Board recognizes that positions be filled with highly-qualified and competent personnel are vital to the successful operation of the District.

All employees other than the District Administrator or support staff members (Policy 0100 – Definitions) are considered professional employees.

The Board shall approve the employment, fix the compensation, and establish the term of employment for each professional staff member employed by this District. Teachers, governed by Wis. Stat. 118.22 and administrators, governed by Wis. Stat. 118.24, may only be employed by contract and only following majority vote of the full membership of the Board or as required or permitted by law.

The District Administrator shall provide a description of the work schedule, hours of work per week, a determination of whether the employee is exempt or non-exempt for purposes of overtime eligibility (See Policy 6700). For non-exempt employees, there shall be a clear statement in the job description and employee handbook which states the following: "No non-exempt employee may perform work for the District outside of his/her regular schedule without prior supervisory approval. Violations of this requirement will result in disciplinary action, up to and including termination from employment," and for overtime eligible employees, there shall be a clear statement in the job description and employee handbook which states the following: "No overtime eligible employee may perform overtime work for the District without prior supervisory approval. Violations of this requirement will result in disciplinary action, up to and including termination from employment."

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 WECAN.

~~Relatives of Board members may be employed by the Board. If the Board member benefits financially either directly or indirectly, the Board member may not participate in any way in the discussion or vote on any matter relating to said employment.~~

Relatives of staff members may be employed by the Board. The newly employed staff member shall not be placed in a position in which s/he will be supervised directly by, or supervise directly, his/her relative.

Any professional staff member's intentional misstatement of fact pertaining to his/her qualifications for employment or the determination of salary shall constitute grounds for dismissal by the Board.

The employment of professional staff members prior to approval by the Board is authorized when their employment is required to maintain continuity in the educational program, except as prohibited by law, including the employment of full-time teachers and



certain administrative employees on a substitute basis, pending Board approval. Employment shall be recommended to the Board at the next regular meeting.

No candidate for employment as professional staff shall receive recommendation for such employment without having proffered visual evidence of proper certification or application for such certification. For staff members instructing children in reading and/or language arts, pre-school and/or grades kindergarten through sixth grade, their certificate must verify successful completion of instruction that includes the teaching of phonics.

For each candidate, a satisfactory background check will be conducted by the Department of Public Instruction or appropriate State agency.

Any person who signs a contract to teach in the District must, within ten (10) days after signing the contract, file in the office of the District Administrator a statement showing the date of expiration and the grade and character of the certificate or license held.

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

### **DISTRICT SUPPORTED ALTERNATIVE LICENSING PROGRAMS**

As part of the Board's efforts to provide the highest quality education for all students in all subject areas, the Board authorizes the District Administrator, where appropriate, to support teacher licensure opportunities.

### **EXPERIENCED-BASED LICENSURE FOR TECHNICAL AND VOCATIONAL EDUCATION**

"Technical education" means technology education and any technology-related occupation.

"Vocational education" means agriculture, child services, clothing services, food services, housing and equipment services, family and consumer education, family and consumer services, home economic-related occupations, health care-related occupations, trade specialist, business education, business and office, and marketing education.

The District Administrator may support the application for an experience-based license for a teacher to teach in a technical and/or vocational education field, provided that the individual can be credited with at least 100 points using the following system:

A. The following points for experience in a technical field (must comprise at least twenty-five (25) of the required 100 points):

1. For a bachelor's degree in any science, technology, engineering, or mathematics field and any teaching license or permit, or in a field related to the vocational subject, 100 points.
2. For a bachelor's degree in any science, technology, engineering, or mathematics field, or in a field related to the vocational subject seventy-five (75) points.
3. For a bachelor's degree in a field other than those described in numbers 1. and 2., above, any science, technology, engineering, mathematics, or technical or technology education field, sixty-five (65) points.
4. For industry or vocational certification, ninety (90) points.
5. For industry experience in a trade or technical field or vocation, five (5) points per forty (40) hours worked up to a maximum of ninety (90) points.
6. For an internship in a trade or technical field or in the vocation, twenty-five (25) points.
7. For being mentored in a trade or technical skill or in the vocation by a colleague or a Wisconsin Technology Education Association or a recognized vocational association approved mentor, twenty-five (25) points.
8. For an apprenticeship in a trade or technical field or in the vocation, five (5) points per forty (40) hours worked up to a maximum of ninety (90) points.

B. The following points for pedagogical experience (must be at least twenty-five (25) out of the 100 required points):

1. For a bachelor's degree in technical or technology education, 100 points.

2. For a bachelor's degree in a field other than any science, technology, engineering, mathematics, or technical or technology education field, or in a subject related to the vocation and any teaching license or permit, seventy-five (75) points.
3. For credit earned at an accredited institution of higher education or technical college, three (3) points per credit up to a maximum of seventy-five (75) points for technical or technology education courses and science, technology, engineering, or mathematics courses or any field related to the vocation and three (3) points per credit up to a maximum of seventy-five (75) points for education and pedagogical courses.
4. For completing at least 100 hours of training in pedagogy, five (5) points per fifty (50) hours up to a maximum of seventy-five (75) points.

Individuals that have sufficient points may be employed by the District under an experience-based license provided that the District Administrator implements a professional development curriculum for the teacher to follow during the three (3) year period of the initial license. The District Administrator shall monitor the teacher's progress in fulfilling the curriculum.

### **PROFESSIONAL TEACHING PERMIT**

The District Administrator may support the teaching license application of an individual to teach a course in engineering, mathematics, science, computer science, art, music, or world languages that do not yet hold a professional teacher license provided that the following criteria are met:

- A. The District is experiencing a shortage in the availability of teachers with professional teaching certification in the subject area and is unable to fill a position with an acceptable licensed teacher.
- B. The individual holds at least a bachelor's degree in engineering, mathematics, science, computer science, art, music, or world languages.
- C. The individual possesses at least five (5) years of verifiable industry experience in the same field as the bachelor's degree.
- D. The individual has completed at least 100 hours of pedagogical training in an alternative teacher licensing program approved by DPI.
- E. The District Administrator shall implement a plan to provide supervision of the teacher by a teacher that holds regular professional teaching licensure during the two (2) year period of the permit.
- F. The hiring of the teacher under this alternative licensure program will not displace a regularly licensed teacher in the District.

Revised 8/22/16  
 Revised 7/17/17  
 Revised 11/19/18

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Legal	118.191, Wis. Stats.
	118.192, Wis. Stats.
	118.21, Wis. Stats.
	118.22(2), Wis. Stats.
	118.24, Wis. Stats.
	121.02, Wis. Stats.
	Wis. Admin. Code P.I. 34

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE
Code	po3122.02
Status	
Adopted	May 16, 2016

### 3122.02 - 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 applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of ~~the person~~an employee as an employee, based on genetic information. Harassment of a person because of ~~his/her~~ genetic information ~~is also~~ is prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy~~an applicant or employee for engaging in protected activity~~ is prohibited.

The identity of the Compliance Officer (see Policy 3122 - Nondiscrimination and Equal Employment Opportunity) shall be posted throughout the District and published in any District statement regarding the prohibition of discrimination on the basis of genetic information in all aspects of employment, in any staff handbooks, and in general information publications of the District as required by Federal and State law and on the District website.

In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq., and 29 C.F.R. Part 1635 ("GINA"), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA this Act, applicants and 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 ~~provided~~acquired as part of the certification process for FMLA leave, or 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 for employment process. Employees and applicants for employment shall not be penalized for providing genetic information in good faith in response to a request from a Board employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Board.

The ~~Board District~~ recognizes that genetic information may be acquired through commercially and publicly available media including documents like newspapers, books, magazines, periodicals, television shows or the Internet. The ~~Board District~~ prohibits, ~~however,~~ its employees and agents including commercial background investigation agents from searching ~~these~~such sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall be redacted immediately and not shared beyond the point of first receipt.

As used in this policy, "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.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the ~~Board's employees or agents~~~~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.

The ~~District Administrator shall appoint a~~ Compliance Officer (See Policy 3122 - Nondiscrimination and Equal Employment Opportunity) ~~is who shall be~~ responsible for overseeing the ~~Board~~~~District's~~ compliance with this policy and GINA and proposing revisions and additions to this policy as necessary to ensure the Board's compliance with GINA~~Federal regulations and promptly dealing with any inquiries or complaints.~~ This person shall be responsible for working with the Board's legal counsel to fully implement the requirements of GINA in all activities of the School District. The Compliance Officer ~~S/He~~ shall also verify that proper notice of nondiscrimination for Title II of ~~GINA~~~~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) ~~are~~ 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:

### **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**

The Genetic Information Nondiscrimination Act of 2008 ~~or ("GINA")~~ prohibits employers and other entities covered by the law~~GINA Title II~~, including the Board ~~of Education~~, from requesting or requiring genetic information of an employee or applicant~~individual~~ or family member of an employee or applicant~~the individual~~, except as specifically allowed by law. To comply with GINA~~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. Questions concerning compliance with the requirements of GINA may be directed to the Compliance Officer at 920-596-5840.

The ~~Board~~~~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 and no applicant or employee shall be identified or identifiable from the reported information.

The grievance procedure for complaints of discrimination in Policy 3122 applies to complaints of discrimination, including harassment, or retaliation prohibited by GINA and may be utilized if a District employee alleges discrimination or harassment on the basis of genetic information or retaliation for identifying, objecting to, or filing a complaint concerning a violation of GINA or this policy.

**~~{NOTE: It should be noted that any sections of the District's collective bargaining agreements dealing with terms and conditions of employment should contain a statement of nondiscrimination similar to that in the Board's statement above.}~~**

42 U.S.C. 2000ff et seq.

Title II of, ~~the~~ Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

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Legal

42 U.S.C. 2000ff et seq.

Title II, The Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po3122
Status	
Adopted	October 17, 2016
Last Revised	July 22, 2019

### 3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Board does not discriminate in the employment of professional 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.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities characteristic protected by law in its employment practices.

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

#### **Definitions**

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

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

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

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

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

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

**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 Board, and other individuals

who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### District Compliance Officers

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

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Middle School Principal  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5310  
dwolfgram@manawaschools.org

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

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~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. ~~A copy of each of the Acts and regulations on which this notice is available upon request from the CO.~~

### Reports and Complaints of ~~Unlawful~~ Discrimination and Retaliation

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

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

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

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

Employees who believe they have been ~~unlawfully~~ discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the ~~Complainant's~~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 reports~~complaints~~ of ~~unlawful~~ discrimination/retaliation directly from any member of the School District community or a Third Party,~~or receive reports that are initially filed with another Board employee (District employees, students, parent(s), and member of the Board), a resident of the District, or a visitor to the District.~~ Upon receipt of a report of alleged discrimination/retaliation~~complaint, the either directly or through a school building administrator, a~~ CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) investigation, or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. ~~the CO will designate a specific individual to conduct such a process.~~ The CO will

provide a copy of this policy to the Complainant and the Respondent upon request.~~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.~~

Any Board employee who directly observes ~~unlawful~~ discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any 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 Complainant~~employee~~ within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

## Investigation and Complaint Procedure

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

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

A Complainant who alleges discrimination/retaliation~~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; 1) with a Principal; 2) the CO; or 3) to the District Administrator or other supervisory employees. 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 coordinate with the other appointed/designated~~assume the role of~~ CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~for such complaints.~~

Due to the sensitivity surrounding complaints of ~~unlawful~~ discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged~~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 employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than~~within~~ two (2) ~~business~~ days.

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

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

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

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including; but not limited to; a change of work assignment or schedule for the Complainant and/or the Respondent~~person who allegedly engaged in the misconduct~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with~~his/her position to~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still may take whatever actions are deemed~~s/he deems~~ appropriate in consultation with the District Administrator.

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

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

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint. ~~though 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:~~

The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the 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 Respondent has engaged in harassment/retaliation of the Complainant ~~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 attorney during the course of the investigatory process and/or before finalizing the report to the District Administrator.

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator either must ~~either~~ issue a written final decision regarding whether the charges have been substantiated or request further investigation. A summary explanation of the copy of the District Administrator's final decision will be provided 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, or as quickly as possible if additional time is necessary due to the availability of necessary witness(es) or documents. 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 Respondent engaged in discrimination/retaliation toward the Complainant, the District Administrator ~~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, age-appropriate, 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 the party's his/her receipt of the District Administrator's ~~final~~ decision. The written statement of appeal must be submitted to the District Administrator, who will forward the request to the Board President.

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 ~~Complainant~~~~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 or its designee.

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

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

### **Privacy/Confidentiality**

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

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity. ~~Additionally, the Respondent must be provided the Complainant's identity. 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 is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

### **Remedial ActionSanctions 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 and/or the Employee Handbook.~~

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

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

### **Sanctions and Disciplinary Action**

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

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

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

Where the Board becomes aware that a prior ~~disciplinary~~~~remedial~~ action has been taken against ~~the Respondent~~~~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.

### **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. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy. ~~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.~~

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

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

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

### **Education and Training**

In support of this policy, the 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 staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;
- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- J. dated written determinations to the parties;
- K. dated written descriptions of verbal notifications to the parties;
- L. written documentation of any ~~supportiveinterim~~ measures offered and/or provided to the Complainant and/or the Respondent ~~complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

- M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;:-
- N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
- O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- T. copies of any notices sent to the Complainant and alleged perpetrator in advance of any interview or hearing;
- U. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 11/19/18

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Legal

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

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of SUBSTANCE ABUSE
Code	po3170 - Delete - Incorporated in Other Policies
Status	
Adopted	May 16, 2016

~~3170~~ **SUBSTANCE ABUSE**

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

~~A professional 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 professional 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 professional 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 professional staff member will have his/her job security or promotion opportunities jeopardized by his/her request for counseling or referral assistance.~~

~~Professional 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 such as the District's Employee Assistance Program.~~

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

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Legal	Americans with Disabilities Act of 1990
	Wis. Stat. 111.34

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of USE OF TOBACCO AND NICOTINE BY PROFESSIONAL STAFF
Code	po3215
Status	
Adopted	May 16, 2016
Last Revised	November 16, 2020

### 3215 - **USE OF TOBACCO AND NICOTINE BY PROFESSIONAL STAFF**

The Board recognizes that the use of tobacco products, as well as other nicotine delivery systems, such as electronic smoking devices, are a health, safety, and environmental hazard for students, staff, visitors, and school facilities. The Board is acutely aware of the serious health risks associated with the use of these products, both to users and non-users, and that their use or promotion on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors. The Board also believes accepting tobacco industry gifts or materials will send an inconsistent message to students, staff, and visitors.

It shall be a violation of this policy for any professional staff of the District to use, consume, display, promote, or sell any tobacco products, tobacco industry brand, tobacco-related devices, imitation tobacco products, or electronic smoking or vaping devices, regardless of content at any time on school property or at off-campus, school-sponsored events.

It shall be a violation of this policy for the District to solicit or accept any contributions, gifts, money, curricula, or materials from the tobacco industry or from any tobacco products retailer. This includes, but is not limited to, donations, monies for sponsorship, advertising, promotions, loans, or support for equipment, uniforms, and sports and/or training facilities. It shall be a violation of this policy to participate in any type of service funded by the tobacco industry while in the scope of employment for the District.

#### **Exceptions**

It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, or lighters to be included in instructional or work-related activities in school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise ingesting the product.

FDA approved cessation products or tobacco dependence products are exempt from this policy for adults and staff eighteen years and older. Staff using such products and bringing them to any school property or school-sponsored activity are responsible for safe-keeping of these products at all times and are responsible for assuring that no students are able to obtain access to these products.

#### **Policy Specific Definitions**

The term "any time" means during normal school and non-school hours: twenty-four (24) hours a day, seven (7) days a week.

The term "electronic smoking device" means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, JUUL, or under any other product name or descriptor. The term electronic smoking device includes any component part of a product, whether or not marketed or sold separately, including but not limited to e-liquids, e-juice, cartridges, and pods.

The term "imitation tobacco product" means any edible non-tobacco product designed to resemble a tobacco product, or non-edible, non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation

tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, pouches containing flavored substances packaged similar to snuff, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.

The term "off-campus, school-sponsored event" means any event sponsored by the school or School District that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.

The term "school property" means all facilities and property, including land, whether owned, rented, or leased by the District, and all vehicles owned, leased, rented, contracted for, or controlled by the District used for transported students, staff, and visitors.

The term "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. "Smoking" also includes carrying or using an activated electronic smoking device.

The term "tobacco products retailer" means retailers whose primary business is to sell tobacco and/or tobacco-related products.

The term "tobacco industry" means manufacturers, distributors, or wholesalers of tobacco products, electronic smoking devices, or tobacco-related devices; this includes parent companies and subsidiaries.

The term "tobacco industry brand" means any corporate name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indication of product identification identical or similar to those used for any brand of tobacco product, company, or manufacturer of tobacco products.

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

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of STAFF DRESS AND GROOMING
Code	po3216
Status	
Adopted	May 16, 2016

3216 - **STAFF DRESS AND GROOMING**

The Board believes that professional staff members set an example in dress and grooming for their students to follow. ~~A professional staff member who understands and adheres to this belief enhances his/her status, presents an image of dignity, and encourages discipline and respect for authority.~~

The Board authorizes the development of standards for staff dress and grooming that promote a professional educational atmosphere that gives consideration to the impact on the educational process and the diversity of the District's staff.

~~The Board retains the authority to specify the following dress and grooming guidelines for staff that will prevent such matters from having an adverse impact on the educational process.~~ When assigned to District duty, all professional staff members shall follow the guidelines as identified in the Employee Handbook.

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	ETHICS AND CONFLICT OF INTEREST
Code	po3230
Status	
Adopted	May 16, 2016
Last Revised	November 16, 2020

### 3230 - ETHICS AND CONFLICT OF INTEREST

The proper performance of school business is dependent upon the maintenance of unusually high standards of honesty, integrity, impartiality, and professional conduct by Board members, and the District's employees, officers and agents and is essential to the Board's commitment to earn and keep the public's confidence in the School District.

For these reasons, the Board adopts the following guidelines designed to avoid the occurrence or appearance of any conflicts of interest do not occur. These guidelines apply to all District employees, officers, and agents, including members of the Board. These guidelines are not intended to be all-inclusive, nor to substitute for good judgment on the part of all professional employees, officers, and agents. Professional employees are expected to perform their duties in an ethical manner and free from an actual conflict of interest or from situations that create the appearance of a conflict of interest, in a manner consistent with 19.59, Wis. Stats. The Board's interest in enforcing this policy is to assure that the decisions and actions of public employees retain the public's trust. Therefore, even a conflict relationship that can be viewed as beneficial to the District or that was intended to be beneficial to the District, may still be a violation of this policy.

- A. No professional employee, officer, or agent shall engage in or have a personal or financial or other 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. Specifically, professional employees must perform their duties in a manner that does not violate criminal conflict of interest laws pursuant to 946.13, Wis. Stats. by having a private pecuniary interest in an amount that exceeds~~This includes not only those interests that violate state criminal law, which typically requires at least \$15,000 in financial interest,~~ but also lesser valued conflicts that nonetheless create the appearance of using one's public position to secure a private pecuniary interest and/or benefit.
- B. Professional employees, officers, and agents shall not engage in business, private practice of their profession, the rendering of services, anything of substantial value, or the sale of goods of any type where advantage is taken of any professional relationship they may have with any employee, student, client, or parents of such students or clients in the course of their employment or professional relationship with the School District.

Included, by way of illustration, rather than limitation are the following:

1. the provision of any private lessons or services for a fee unless the provision of services is arranged outside of school and is separate from and in addition to regular support provided to students as part of the professional staff member's regular duties.
2. soliciting on school premises or under circumstances which are coercive for the private sale of goods or services to students or other employees
3. the use, sale, or improper divulging of any privileged information through his/her access to School District records, about a student or client granted in the course of the employee's, officer's or agent's employment or professional relationship with the School District.

4. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
  5. the requirement of employees, students or clients to purchase any private goods or services provided by an employee, officer or agent or any business or professional practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
- C. 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 and approval of the Board of Education before entering into any private relationship.
- D. Professional employees, officers, and agents shall not make use of materials, equipment, or facilities of the School District for their own personal financial gain or business interest. 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.
- E. Professional employees, officers, and agents shall not participate in the selection, award and administration of any contract to an entity in which they have a pecuniary interest or from which they derive a profit or in which a dependent of the employee has a pecuniary interest or from which the dependent derives a profit. "Dependent" includes the employee's spouse; unemancipated child, stepchild, or adopted child under the age of eighteen (18); or individual for whom the employee provides more than one-half (1/2) of the individual's support during a year. A "pecuniary interest" means an interest in a contract or purchase that will result or is intended to result in an ascertainable increase in the income or net worth of the employee or the employee's dependent who is under the direct or indirect administrative control of the professional employee or who receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the employee.
- Professional employees, officers, and agents may not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- However, pursuant to Federal rules, the School District has set standards for when an employee, officer or agent may accept a gift of an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$50.00 or less.
- F. Professional employees, officers, and agents must disclose any potential conflict of interest which may lead to a violation of this policy to the School District. Upon discovery of any potential conflict of interest, the School District will disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity.
- The District will also disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.
- G. Professional employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action up to and including termination.

No professional staff employee may accept or engage in any employment, consulting, advising, or other professional activity with any organization other than the District, whether the employee will receive compensation for such outside activity or not, without first providing notice to the District Administrator.

In the event that, within the course of administering a Federally funded grant program or service to the District, any professional employee that identifies a conflict of interest, a potential conflict of interest, or that the appearance of a conflict of interest may arise in the course of administering the Federal grant funds, the employee must immediately notify either the Federal agency administering the grant in a manner consistent with that particular agencies rules on conflict of interests, or the District employee directly responsible for grant compliance. Such notice shall be provided at the earliest possible time.

It is a violation of this policy to take action or to refrain from taking action, or for an employee to otherwise use his/her public position to obtain a financial gain or anything of substantial value for himself/herself or his/her immediate family, as defined in 19.42(7), Wis. Stats.

Revised 8/22/16  
 Revised 11/19/18  
 Revised 7/22/19  
 Revised 4/27/2020

Legal

- 19.42(7), Wis. Stats
- 19.59, Wis. Stats.
- 946.13, Wis. Stats.
- 2 C.F.R. 200.12
- 7 C.F.R. 3019.42
- 2 C.F.R. 200.113
- 2 C.F.R. 200.318
- 7 C.F.R. 3016.36(b)(3)

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - EMPLOYEE ANTI-HARASSMENT
Code	po3362
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Adopted	October 17, 2016
Last Revised	April 27, 2020

### 3362 - EMPLOYEE ANTI-HARASSMENT

#### Prohibited Harassment

The Board 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 discriminatory harassment based on race, color, national origin, age, sex (including ~~trans~~gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters (collectively, "Protected Classes"), or any other characteristic protected by law in its employment practices (hereinafter referred to as "harassment" "Protected Classes 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 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.

~~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).~~

#### Notice

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the District's Compliance Officers will be posted throughout the District and published in any District statement regarding the availability of employment, staff handbooks, and general information publications of the District as required by Federal and State law and this policy.

#### Definitions

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

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

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

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

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

**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 Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### Bullying

Bullying rises to the level of harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

~~"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 Classes 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.~~

"Harassment" also includes "hate speech"—the use of language, behavior, or images/symbols that express prejudice against a particular group or groups on the basis of any protected characteristic(s).

Examples are:

- A. making statements that promote violence toward a racial or ethnic group;
- B. drawing, displaying, or posting images or symbols of prejudice (e.g., swastikas).

### **Sexual Harassment**

For purposes of this policy and consistent with 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 any ~~either~~ gender against a person of the same or another ~~opposite~~ gender.

Sexual Harassment covered by Policy 2266/AG 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, i.e., sexual harassment prohibited by Title IX, is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities.

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

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact ~~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, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, text messages, or social media postings;
- E. sexually suggestive objects, pictures, graffiti, videos, videotapes, posters, audio recordings, or literature, placed in the work ~~or educational~~ environment that reasonably may embarrass or offend individuals; ~~remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;~~
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;

- G. asking or telling about sexual fantasies, sexual preferences, or sexual activities;
- H. speculation about a person's sexual activities or sexual history or remarks about one's own sexual activities or sexual history;
- I. giving unwelcome personal gifts, such as lingerie, that suggest the desire for a romantic relationship;
- J. leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin;
- K. 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~~
- L. inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life; and
- M. 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;
- 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;
- 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/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry 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 or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **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. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references regarding racial customs.

### **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 disability ~~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.

### **Anti-Harassment Compliance Officers**

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)" or "CO" "COs"):



Carmen O'Brien  
 Business Manager  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5840  
 cobrien@manawaschools.org

Daniel Wolfgram  
 High School/~~Middle~~~~Junior High~~ School Principal  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5310  
 wolfgram@manawaschools.org

The Compliance Officer(s) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

### **Reports and Complaints of Harassing Conduct**

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept reports of harassment directly from any member of the School District community or a Third Party, or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the District Administrator or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of harassment is expected to intervene to stop the harassment, 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 harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Members of the School District community ~~and third parties, which includes all staff,~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other 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 ~~report~~complaint shall file it with the ~~District's~~ Compliance Officer within two (2) days of receiving the report of harassment ~~at his/her first opportunity.~~

Members of the School District community and Third Parties~~or third parties~~ who believe they have been harassed by another member of the School District community or a ~~Third Party~~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 ~~Complainant's~~complaining individual's employment unless the complaining individual makes the complaint maliciously or with the 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 District 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 District 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 will coordinate with the other appointed/designated CO, or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~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 Board's legal counsel, who shall assume the role of the District Compliance Officer for such complaints.
- 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 or other supervisory employee.
- 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.

If during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to the Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be investigated in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Principal shall suspend the Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Principal informed of the status of the Policy 1662 investigation and provide the Principal with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal with the determination of responsibility that results from the Policy 2266 grievance process.

~~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.~~

~~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**

Except for sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, aAny employee or other member of the School District community or Third Party (e.g., visitor to the District) who believes that they have/he has been subjected to harassment or has witnessed harassment of another may seek resolution of the his/her complaint through the procedures ~~as~~ described below. The complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated. ~~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 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 harassment or retaliation with the United States Department of Education Office for Civil Rights ("OCR"), the Wisconsin Equal Rights Division, and/or Equal Employment Opportunity Commission ("EEOC"). The Chicago Office of the OCR can be reached at John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor, Chicago, IL 60604; Telephone: 312-730-1560; FAX: 312-730-1576; TDD: 800-877-8339; Email: OCR.Chicago@ed.gov; Web: <http://www.ed.gov/ocr>.

## Complaint Procedure

A Complainant ~~An individual who believes s/he has been subjected to harassment hereinafter referred to as the "Complainant," who alleges harassment based on a protected class or retaliation~~ may file a complaint, either orally or in writing: 1) with a teacher, Principal; 2) directly to one of the 7 COs; or 3) to the 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 ~~may will consult; in consultation~~ with the other appointed/designated CO, if any, and if necessary ~~appoint/designate another individual to serve in the role of CO~~ assume the role of the CO for such a complaint regarding a CO.

Due to the sensitivity surrounding complaints of harassment 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 as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All written complaints must include the following information to the extent known it is available: the identity of the Respondent ~~individual believed to have engaged in, or be actively engaging in, harassment~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); ~~and~~ 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 harassment or retaliation including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent ~~alleged harasser~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with 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 deemed s/he deems appropriate in consultation with the District Administrator. No temporary arrangements shall be disciplinary to either the Complainant or Respondent.

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

The Respondent is not entitled to receive a copy of any written complaint unless the CO determines it is appropriate to do so; however, the Respondent will be informed about the nature of the allegations. The CO shall inform the Respondent of the requirements of this policy, which may include providing the Respondent with a copy of this policy or information about where to find it. Respondent shall be afforded the opportunity to submit a written response to the complaint. The CO shall inform the Respondent of the Respondent's deadline to provide the CO with the written response to the allegations in the complaint.

Within five (5) days of receiving the complaint, the CO will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

~~Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint.~~

~~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. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who ~~may~~ reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

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

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the 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 Respondent engaged in harassment of or retaliation toward the Complainant~~Complainant has been subjected to harassment~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

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

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator must either issue a written 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 ~~R~~espondent.

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 Respondent engaged in harassment of or retaliation toward the Complainant, the District Administrator must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the harassment or retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

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 3340. 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 ~~T~~hird ~~P~~arty 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 parties may be represented, at their own cost, at any of the above-described meetings/hearings.

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

All timelines pertinent to the investigation process are intended to be guidelines to assure that the investigation proceeds with all deliberate efficiency. Failure of the CO to meet any specific timeline does not invalidate the investigation or provide a defense to the allegations.

### **Privacy/Confidentiality**

The ~~School~~-District will employ 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 ~~R~~espondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided with the Complainant's identity.~~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 is learned or provided~~s/he learns or that s/he provides~~ during the course of the investigation.

## Directives During Investigation

The CO may recommend to the District Administrator placing any employee involved in an investigation under this Policy on administrative leave pending resolution of the matter. If the District Administrator is the Respondent, the CO shall make such recommendation to the Board. Administrative leave may be appropriate in situations in which protecting the safety of any individual or the integrity of the investigation necessitates such action.

The CO shall determine whether any witnesses in the course of an investigation should be provided a *Garrity* warning apprising the person of his/her obligations to answer questions truthfully and honestly while preserving the right against self-incrimination in the context of any resulting criminal investigation or prosecution.

Every employee interviewed in the course of an investigation is required to provide truthful responses to all questions. Failure to do so may result in disciplinary action.

## Remedial Action ~~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.~~

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

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

## Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment 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 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.

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

## Retaliation

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

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

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

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

## 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.

### **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 educational 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.

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.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;

- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
  - I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
  - J. dated written determinations to the parties;
  - K. dated written descriptions of verbal notifications to the parties;
  - L. written documentation of any supportive~~interim~~ measures offered and/or provided to Complainant and/or the Respondent~~Complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
  - M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
  - N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
  - O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
  - S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
  - T. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 12/18/17

Revised 7/22/19

Revised 11/18/19

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Legal

111.31, 118.195, 118.20, Wis. Stats.  
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967  
29 U.S.C. 794, Rehabilitation Act of 1973  
42 U.S.C. 1983  
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964  
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975  
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
29 C.F.R. Part 1635  
National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Steve LaVallee on September 16, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of EMPLOYMENT OF SUBSTITUTES
Code	po4120.04
Status	
Adopted	May 16, 2016

#### 4120.04 - **EMPLOYMENT OF SUBSTITUTES**

The Board 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.

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

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of EMPLOYMENT OF SUPPORT STAFF
Code	po4120
Status	
Adopted	May 16, 2016
Last Revised	March 15, 2021

#### 4120 - **EMPLOYMENT OF SUPPORT STAFF**

The Board 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.

The District Administrator shall provide a description of the work schedule, hours of work per week, a determination of whether the employee is exempt or non-exempt for purposes of overtime eligibility (See Policy 6700). For non-exempt employees, there shall be a clear statement in the job description and employee handbook which states the following: "No non-exempt employee may perform work for the District outside of his/her regular schedule without prior supervisory approval. Violations of this requirement will result in disciplinary action, up to and including termination from employment," and for overtime eligible employees, there shall be a clear statement in the job description and employee handbook which states the following: "No overtime eligible employee may perform overtime work for the District without prior supervisory approval. Violations of this requirement will result in disciplinary action, up to and including termination from employment."

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.

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.

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.

Revised 5/16/16

Revised 7/17/17

T.C. 3/15/21

Legal

20 U.S.C. 6319

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION BASED ON GENETIC INFORMATION OF THE EMPLOYEE
Code	po4122.02
Status	
Adopted	May 16, 2016

#### 4122.02 - **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 applicants or employees in any way that would deprive or tend to deprive them of employment opportunities or otherwise adversely affect the status of ~~the person~~an employee as an employee, based on genetic information. Harassment of a person because of ~~his/her~~ genetic information ~~is also~~ is prohibited. Likewise, retaliation against a person for identifying, objecting to, or filing a complaint concerning a violation of this policy~~an applicant or employee for engaging in protected activity~~ is prohibited.

The identity of the Compliance Officer (see Policy 4122 - Nondiscrimination and Equal Employment Opportunity) shall be posted throughout the District and published in any District statement regarding the prohibition of discrimination on the basis of genetic information in all aspects of employment, in any staff handbooks, and in general information publications of the District as required by Federal and State law and on the District website.

In accordance with Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff, et seq., and 29 C.F.R. Part 1635 ("GINA"), the Board shall not request, require or purchase genetic information of employees, their family members or applicants for employment. Further, in compliance with GINA this Act, applicants and 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 ~~provided~~acquired as part of the certification process for FMLA leave, or 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 for employment process. Employees and applicants for employment shall not be penalized for providing genetic information in good faith in response to a request from a Board employee or agent, unless that applicant or employee refuses to delete the information at the request of the employee or agent of the Board.

The ~~Board~~District recognizes that genetic information may be acquired through commercially and publicly available media including documents like newspapers, books, magazines, periodicals, television shows or the Internet. The ~~Board~~District prohibits, ~~however,~~ its employees and agents including commercial background investigation agents from searching ~~these~~such sources with the intent of finding or obtaining genetic information, or accessing sources from which they are likely to acquire genetic information. If genetic information about an employee or applicant is obtained in error, it shall immediately be redacted and not shared beyond the point of first receipt.

As used in this policy, "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.

The term "genetic information" does not include information about the sex or age of the individual, the sex or age of family members, or information about the race or ethnicity of the individual or family member that is not derived from a genetic test.

As used in this policy, "genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detect genotypes, mutations, or chromosomal changes. The term includes any test of a person's DNA/RNA.

If the ~~Board's employees or agents~~~~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.

The ~~District's~~~~District Administrator shall appoint a~~ Compliance Officer (see Policy 4122 - Nondiscrimination and Equal Employment Opportunity) ~~is who shall be~~ responsible for overseeing the ~~Board~~~~District's~~ compliance with this policy and GINA and proposing revisions and additions to this policy as necessary to ensure the Board's compliance with GINA~~Federal regulations and promptly dealing with any inquiries or complaints.~~ This person shall be responsible for working with the Board's legal counsel to fully implement the requirements of GINA in all activities of the School District. The Compliance Officer ~~S/He shall~~ also ~~shall~~ verify that proper notice of nondiscrimination for Title II of ~~GINA~~~~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) ~~are~~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:

### **Genetic Information Nondiscrimination Act of 2008 (GINA) Disclosure Requirement**

The Genetic Information Nondiscrimination Act of 2008 ~~or ("GINA")~~ prohibits employers and other entities covered by the law~~GINA Title II~~, including the Board ~~of Education~~, from requesting or requiring genetic information of an employee or applicant~~individual~~ or family member of an employee or applicant~~the individual~~, except as specifically allowed by law. To comply with GINA~~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. Questions concerning compliance with the requirements of GINA may be directed to the GINA Compliance Officer at 920-596-5840.

The ~~Board~~~~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 ~~District~~~~Board~~ and no applicant or employee shall be identified or identifiable from the reported information.

The grievance procedure for complaints of discrimination in Policy 4122 applies to complaints of discrimination, including harassment, or retaliation prohibited by GINA and may be utilized if a District employee alleges discrimination or harassment on the basis of genetic information or retaliation for identifying, objecting to, or filing a complaint concerning a violation of GINA or this policy.

**~~[NOTE: It should be noted that any sections of the District's collective bargaining agreements dealing with terms and conditions of employment should contain a statement of nondiscrimination similar to that in the Board's statement above.]~~**

42 U.S.C. 2000ff et seq.

Title II, The Genetic Information Nondiscrimination Act of 2008

29 C.F.R. Part 1635

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Legal 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
Title II, The Genetic Information Nondiscrimination Act of 2008  
29 C.F.R. Part 1635

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY
Code	po4122
Status	
Adopted	October 17, 2016
Last Revised	July 22, 2019

#### 4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

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

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

#### **Definitions**

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

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

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

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

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

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

**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 Board, and other individuals

who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### District Compliance Officers

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

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Middle School Principal  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5310  
dwolfgram@manawaschools.org

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

The COs are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination, retaliation, or denial of equal access. The COs shall also verify that proper notice of nondiscrimination has been provided for Title II of the Americans with Disabilities Act (as amended), Title VI and Title VII of the Civil Rights Act of 1964, ~~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. ~~A copy of each of the Acts and regulations on which this notice is available upon request from the CO.~~

### Reports and Complaints of ~~Unlawful~~ Discrimination and Retaliation

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

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

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

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

Employees who believe they have been ~~unlawfully~~ discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint will not adversely affect the ~~Complainant's/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 reports/complaints of ~~unlawful~~ discrimination/retaliation directly from any member of the School District community or a Third Party, or receive reports that are initially filed with another Board employee (District employees, students, parent(s), and member of the Board), a resident of the District, or a visitor to the District. Upon receipt of a report of alleged discrimination/retaliation/complaint, the either directly or through a school building administrator, a CO will contact the Complainant and begin either an informal or formal complaint process (depending on the Complainant's request and the nature of the alleged discrimination/retaliation) investigation, or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. the CO will designate a specific individual to conduct such a process. The CO will



provide a copy of this policy to the Complainant and the Respondent upon request. ~~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.~~

Any Board employee who directly observes ~~unlawful~~ discrimination/retaliation is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any 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 Complainant ~~employee~~ within two (2) business days to advise ~~him/her~~ of the Board's intent to investigate the alleged wrongdoing.

## Investigation and Complaint Procedure

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

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

A Complainant who alleges discrimination/retaliation ~~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; 1) with a Principal; 2) the CO; or 3) to the District Administrator or other supervisory employees. 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 coordinate with the other appointed/designated ~~assume the role of~~ CO or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO. ~~for such complaints.~~

Due to the sensitivity surrounding complaints of ~~unlawful~~ discrimination and retaliation, timelines are flexible for initiating the complaint process; however, individuals are encouraged ~~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 employees, either orally or in writing, about any complaint of discrimination or retaliation, that employee must report such information to the CO at the employee's first opportunity, but no later than ~~within~~ two (2) ~~business~~ days.

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

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

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

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further discrimination or retaliation, including; but not limited to; a change of work assignment or schedule for the Complainant and/or the Respondent ~~person who allegedly engaged in the misconduct~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with ~~his/her position to~~ the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still may take whatever actions are deemed ~~s/he deems~~ appropriate in consultation with the District Administrator.

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

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

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint. ~~though 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:~~

The investigation will include:

- A. interviews with the Complainant;
- B. interviews with the Respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other information presented by the Complainant, Respondent, or any other witness that is reasonably believed to be relevant to the allegations, as determined by the CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the 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 Respondent has engaged in harassment/retaliation of the Complainant ~~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 attorney during the course of the investigatory process and/or before finalizing the report to the District Administrator.

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator either must ~~either~~ issue a written final decision regarding whether the charges have been substantiated or request further investigation. A summary explanation of the copy of the District Administrator's final decision will be provided 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, or as quickly as possible if additional time is necessary due to the availability of necessary witness(es) or documents. 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 Respondent engaged in discrimination/retaliation toward the Complainant, the District Administrator ~~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, age-appropriate, 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 the party's his/her receipt of the District Administrator's ~~final~~ decision. The written statement of appeal must be submitted to the District Administrator, who will forward the request to the Board President.

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 ~~Complainant~~~~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 or its designee.

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

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

### **Privacy/Confidentiality**

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

All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. Respondents must be provided an opportunity to meaningfully respond to allegations, which may include disclosure of the Complainant's identity. ~~Additionally, the Respondent must be provided the Complainant's identity. 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 is learned or provided ~~s/he learns and/or provides~~ during the course of the investigation.

### **Remedial ActionSanctions 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 and/or the Employee Handbook.~~

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

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

### **Sanctions and Disciplinary Action**

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

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

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

Where the Board becomes aware that a prior ~~disciplinary~~~~remedial~~ action has been taken against ~~the Respondent~~~~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.

### **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. Neither the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws and/or this policy. ~~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.~~

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

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

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

### **Education and Training**

In support of this policy, the 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 staff where appropriate. All training, as well as all information provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;
- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- J. dated written determinations to the parties;
- K. dated written descriptions of verbal notifications to the parties;
- L. written documentation of any ~~supportive~~ ~~interim~~ measures offered and/or provided to the Complainant and/or the Respondent ~~complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and

- M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;:-
- N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
- O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
- R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
- S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
- T. copies of any notices sent to the Complainant and alleged perpetrator in advance of any interview or hearing;
- U. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 11/19/18

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Legal

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

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT
Code	po4123
Status	
Adopted	October 17, 2016
Last Revised	July 22, 2019

#### 4123 - **SECTION 504/ADA PROHIBITION AGAINST DISABILITY DISCRIMINATION IN EMPLOYMENT**

The Board 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.

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

#### **Definitions**

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

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

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

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

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

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

**"An individual with a disability"** means a person who has, ~~has had~~ a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities.

#### **Major Life Activities**

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

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

### **Impairment That Substantially Limits a Major Life Activity**

~~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.~~

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 aids or services," learned behavioral or adaptive neurological modifications, psychotherapy, behavioral therapy, or physical therapy.

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

### **Qualified Individual with a Disability**

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

### **Reasonable Accommodation**

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

### **Facilities**

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

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

### **District Compliance Officer(s)**

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

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Junior High School Principal  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5310



dwolfgram@manawaschools.org

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

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

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

### **Training**

~~The 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.~~

### **Notice**

~~Notice of the Board's policy on nondiscrimination in employment practices and the identity of the 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 COs within the time limits specified below. The COs are 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.
- 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) ~~business~~ days. If no decision is rendered within ten (10) business 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) ~~business~~ 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) ~~business~~ days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- 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, 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

### **Privacy/Confidentiality**

The District will employ all reasonable efforts to protect the rights of the Complainant, the Respondent(s), and the witnesses as much as possible, consistent with the District's legal obligations to investigate, take appropriate action, and 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. Additionally, the Respondent must be provided the Complainant's identity.

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

## **Remedial Action and Monitoring**

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

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

## **Sanctions and Disciplinary Action**

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

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

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

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

## **Retaliation**

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

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

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

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

## **Education and Training**

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

## **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;
- B. any narratives that memorialize oral reports/allegations/complaints/grievances/statements/responses pertaining to an alleged violation of this policy;

- C. any documentation that memorializes the actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities related to the investigation and/or the District's response to the alleged violation of this policy;
  - D. written witness statements;
  - E. narratives, notes from, and audio, video, or digital recordings of witness interviews/statements;
  - F. e-mails, texts, and social media posts that directly relate to or constitute evidence pertaining to an alleged violation of this policy (i.e., not after-the-fact commentary about or media coverage of the incident);
  - G. notes and summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
  - H. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of this policy;
  - I. dated written determinations/reports (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of this policy;
  - J. documentation of any supportive measures offered and/or provided to the Complainant and the Respondent, including no contact orders issued to both parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
  - K. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
  - L. copies of the Board policy and procedures/guidelines used by the District to conduct the investigation and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Codes of Conduct and/or Employee Handbooks);
  - M. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - N. documentation of any training provided to District personnel related to this policy including, but not limited to notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conduct an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time, and location of the training, the name and title (or credentials) of the presenter, and a copy of the materials reviewed or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- O. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - P. copies of any notices sent to the Respondent of the allegations constituting a potential violation of this policy;
  - Q. copies of any notices sent to the Complainant and the Respondent in advance of any interview or meeting;
  - R. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report and any written responses submitted by the Complainant or the Respondent.

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

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

Legal

- 29 U.S.C. 794, Section 504 Rehabilitation Act of 1973, as amended
- 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
- 29 C.F.R. Part 1630
- 34 C.F.R. Part 104

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY
Code	po4161
Status	
Adopted	May 16, 2016
Last Revised	November 16, 2020

#### 4161 - **UNREQUESTED LEAVES OF ABSENCE/FITNESS FOR DUTY**

It is the policy of the Board 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.

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

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.

If, as a result of his/her such examination, the support staff member is found to be unable to perform assigned duties, the support staff member shall be placed on leave of absence pending further determination of ability to perform duties, including an evaluation of any reasonable accommodations in the event of the existence of a disability.

Should a support staff member refuse to submit to ~~the an~~ examination requested by the District Administrator, such refusal shall subject the support staff member to disciplinary action. ~~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.

Revised 7/17/17  
Revised 4/27/2020

T.C. 11/16/2020

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Legal

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

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of SUBSTANCE ABUSE
Code	po4170 - Delete - Incorporated in Other Policies
Status	
Adopted	May 16, 2016

#### 4170 - **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.

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Legal	Americans with Disabilities Act of 1990
	Wis. Stat. 111.34

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of USE OF TOBACCO AND NICOTINE BY SUPPORT STAFF
Code	po4215
Status	
Adopted	May 16, 2016
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#### 4215 - **USE OF TOBACCO AND NICOTINE BY SUPPORT STAFF**

The Board recognizes that the use of tobacco products, as well as other nicotine delivery systems, such as electronic smoking devices, are a health, safety, and environmental hazard for students, staff, visitors, and school facilities. The Board is acutely aware of the serious health risks associated with the use of these products, both to users and non-users, and that their use or promotion on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors. The Board also believes accepting tobacco industry gifts or materials will send an inconsistent message to students, staff, and visitors.

It shall be a violation of this policy for any support staff of the District to use, consume, display, promote, or sell any tobacco products, tobacco industry brand, tobacco-related devices, imitation tobacco products, or electronic smoking or vaping devices, regardless of content at any time on school property or at off-campus, school-sponsored events.

It shall be a violation of this policy for the District to solicit or accept any contributions, gifts, money, curricula, or materials from the tobacco industry or from any tobacco products retailer. This includes, but is not limited to, donations, monies for sponsorship, advertising, promotions, loans, or support for equipment, uniforms, and sports and/or training facilities. It shall be a violation of this policy to participate in any type of service funded by the tobacco industry while in the scope of employment for the District.

#### **Exceptions**

It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, or lighters to be included in instructional or work-related activities in school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise ingesting the product.

FDA approved cessation products or tobacco dependence products are exempt from this policy for adults and staff eighteen years and older. Staff using such products and bringing them to any school property or school-sponsored activity are responsible for safe-keeping of these products at all times and are responsible for assuring that no students are able to obtain access to these products.

#### **Policy Specific Definitions**

The term "any time" means during normal school and non-school hours: twenty-four (24) hours a day, seven (7) days a week.

The term "electronic smoking device" means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, JUUL, or under any other product name or descriptor. The term electronic smoking device includes any component part of a product, whether or not marketed or sold separately, including but not limited to e-liquids, e-juice, cartridges, and pods.

The term "imitation tobacco product" means any edible non-tobacco product designed to resemble a tobacco product, or non-edible, non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation

tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, pouches containing flavored substances packaged similar to snuff, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.

The term "off-campus, school-sponsored event" means any event sponsored by the school or School District that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.

The term "school property" means all facilities and property, including land, whether owned, rented, or leased by the District, and all vehicles owned, leased, rented, contracted for, or controlled by the District used for transported students, staff, and visitors.

The term "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. "Smoking" also includes carrying or using an activated electronic smoking device.

The term "tobacco products retailer" means retailers whose primary business is to sell tobacco and/or tobacco-related products.

The term "tobacco industry" means manufacturers, distributors, or wholesalers of tobacco products, electronic smoking devices, or tobacco-related devices; this includes parent companies and subsidiaries.

The term "tobacco industry brand" means any corporate name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indication of product identification identical or similar to those used for any brand of tobacco product, company, or manufacturer of tobacco products.

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Legal  
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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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of SUPPORT STAFF DRESS AND GROOMING
Code	po4216
Status	
Adopted	May 16, 2016

4216 - **SUPPORT STAFF DRESS AND GROOMING**

The Board believes that support staff members set an example in dress and grooming for their students to follow. ~~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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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	ETHICS AND CONFLICT OF INTEREST
Code	po4230
Status	
Adopted	May 16, 2016
Last Revised	November 16, 2020

#### 4230 - ETHICS AND CONFLICT OF INTEREST

The proper performance of school business is dependent upon the maintenance of unusually high standards of honesty, integrity, impartiality, and support conduct by Board members, and the District's employees, officers and agents and is essential to the Board's commitment to earn and keep the public's confidence in the School District.

For these reasons, the Board adopts the following guidelines designed to avoid the occurrence or appearance of any conflicts of interest do not occur. These guidelines apply to all District employees, officers, and agents, including members of the Board. These guidelines are not intended to be all-inclusive, nor to substitute for good judgment on the part of all support employees, officers, and agents. support employees are expected to perform their duties in an ethical manner and free from an actual conflict of interest or from situations that create the appearance of a conflict of interest, in a manner consistent with 19.59, Wis. Stats. The Board's interest in enforcing this policy is to assure that the decisions and actions of public employees retain the public's trust. Therefore, even a conflict relationship that can be viewed as beneficial to the District or that was intended to be beneficial to the District, may still be a violation of this policy.

- A. No support employee, officer, or agent shall engage in or have a personal or financial or other 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. Specifically, support employees must perform their duties in a manner that does not violate criminal conflict of interest laws pursuant to 946.13, Wis. Stats. by having a private pecuniary interest in an amount that exceeds~~This includes not only those interests that violate state criminal law, which typically requires at least \$15,000 in financial interest,~~ but also lesser valued conflicts that nonetheless create the appearance of using one's public position to secure a private pecuniary interest and/or benefit.
- B. Support employees, officers, and agents shall not engage in business, private practice of their profession, the rendering of services, anything of substantial value, or the sale of goods of any type where advantage is taken of any support relationship they may have with any employee, student, client, or parents of such students or clients in the course of their employment or support relationship with the School District.

Included, by way of illustration, rather than limitation are the following:

1. the provision of any private lessons or services for a fee unless the provision of services is arranged outside of school and is separate from and in addition to regular support provided to students as part of the support staff member's regular duties.
2. soliciting on school premises or under circumstances which are coercive for the private sale of goods or services to students or other employees
3. the use, sale, or improper divulging of any privileged information through his/her access to School District records, about a student or client granted in the course of the employee's, officer's or agent's employment or support relationship with the School District.

4. the referral of any student or client for lessons or services to any private business or support practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
  5. the requirement of employees, students or clients to purchase any private goods or services provided by an employee, officer or agent or any business or support practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
- C. 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 and approval of the Board of Education before entering into any private relationship.
- D. Support employees, officers, and agents shall not make use of materials, equipment, or facilities of the School District for their own personal financial gain or business interest. 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.
- E. Support employees, officers, and agents shall not participate in the selection, award and administration of any contract to an entity in which they have a pecuniary interest or from which they derive a profit or in which a dependent of the employee has a pecuniary interest or from which the dependent derives a profit. "Dependent" includes the employee's spouse; unemancipated child, stepchild, or adopted child under the age of eighteen (18); or individual for whom the employee provides more than one-half (1/2) of the individual's support during a year. A "pecuniary interest" means an interest in a contract or purchase that will result or is intended to result in an ascertainable increase in the income or net worth of the employee or the employee's dependent who is under the direct or indirect administrative control of the support employee or who receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the employee.

Support employees, officers, and agents may not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

However, pursuant to Federal rules, the School District has set standards for when an employee, officer or agent may accept a gift of an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$50.00 or less.

- F. Support employees, officers, and agents must disclose any potential conflict of interest which may lead to a violation of this policy to the School District. Upon discovery of any potential conflict of interest, the School District will disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

The District will also disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

- G. Support employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action up to and including termination.

No support staff employee may accept or engage in any employment, consulting, advising, or other support activity with any organization other than the District, whether the employee will receive compensation for such outside activity or not, without first providing notice to the District Administrator.

In the event that, within the course of administering a Federally funded grant program or service to the District, any support employee that identifies a conflict of interest, a potential conflict of interest, or that the appearance of a conflict of interest may arise in the course of administering the Federal grant funds, the employee must immediately notify either the Federal agency administering the grant in a manner consistent with that particular agencies rules on conflict of interests, or the District employee directly responsible for grant compliance. Such notice shall be provided at the earliest possible time.

It is a violation of this policy to take action or to refrain from taking action, or for an employee to otherwise use his/her public position to obtain a financial gain or anything of substantial value for himself/herself or his/her immediate family, as defined in 19.42(7), Wis. Stats.

Revised 8/22/16  
 Revised 11/19/18  
 Revised 7/22/19  
 Revised 4/27/2020

Legal

- 19.42(7), Wis. Stats
- 19.59, Wis. Stats.
- 946.13, Wis. Stats.
- 2 C.F.R. 200.12
- 7 C.F.R. 3019.42
- 2 C.F.R. 200.113
- 2 C.F.R. 200.318
- 7 C.F.R. 3016.36(b)(3)

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - EMPLOYEE ANTI-HARASSMENT
Code	po4362
Status	
Adopted	October 17, 2016
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#### 4362 - **EMPLOYEE ANTI-HARASSMENT**

##### **Prohibited Harassment**

The Board 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 discriminatory harassment based on race, color, national origin, age, sex (including ~~trans~~gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters (collectively, "Protected Classes"), or any other characteristic protected by law in its employment practices (hereinafter referred to as "harassment" "Protected Classes 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 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.

~~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).~~

##### **Notice**

Notice of the Board's policy on anti-harassment related to employment practices and the identity of the District's Compliance Officers will be posted throughout the District and published in any District statement regarding the availability of employment, staff handbooks, and general information publications of the District as required by Federal and State law and this policy.

##### **Definitions**

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

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

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

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

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

**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 Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### Bullying

Bullying rises to the level of harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon one (1) or more Protected Classes, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational or work environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school or work performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

~~"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 Classes 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.~~



"Harassment" also includes "hate speech"—the use of language, behavior, or images/symbols that express prejudice against a particular group or groups on the basis of any protected characteristic(s).

Examples are:

- A. making statements that promote violence toward a racial or ethnic group;
- B. drawing, displaying, or posting images or symbols of prejudice (e.g., swastikas).

### **Sexual Harassment**

For purposes of this policy and consistent with 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 any ~~either~~ gender against a person of the same or another ~~opposite~~ gender.

Sexual Harassment covered by Policy 2266/AG 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, i.e., sexual harassment prohibited by Title IX, is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities.

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

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact ~~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, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls, text messages, or social media postings;
- E. sexually suggestive objects, pictures, graffiti, videos, videotapes, posters, audio recordings, or literature, placed in the work ~~or educational~~ environment that reasonably may embarrass or offend individuals; ~~remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;~~
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;

- G. asking or telling about sexual fantasies, sexual preferences, or sexual activities;
- H. speculation about a person's sexual activities or sexual history or remarks about one's own sexual activities or sexual history;
- I. giving unwelcome personal gifts, such as lingerie, that suggest the desire for a romantic relationship;
- J. leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin;
- K. 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~~
- L. inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life; and
- M. 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;
- 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;
- 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/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry 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 or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **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. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references regarding racial customs.

### **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 disability ~~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.

### **Anti-Harassment Compliance Officers**

The following individual(s) shall serve as the District's Anti-Harassment Compliance Officer(s) (hereinafter, "the Compliance Officer(s)" or "CO" "COs"):

Carmen O'Brien  
 Business Manager  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5840  
 cobrien@manawaschools.org

Daniel Wolfgram  
 High School/~~Middle~~~~Junior High~~ School Principal  
 School District of Manawa  
 800 Beech Street  
 Manawa, WI 54949  
 920-596-5310  
 wolfgram@manawaschools.org

The Compliance Officer(s) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

### Reports and Complaints of Harassing Conduct

The Compliance Officer(s) will be available during regular school/work hours to discuss concerns related to harassment, to assist students, other members of the District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Compliance Officers shall accept reports of harassment directly from any member of the School District community or a Third Party, or receive reports that are initially filed with an administrator, supervisor, or other District-level official. Upon receipt of a report of alleged harassment, the Compliance Officer(s) will contact the Complainant and begin either an informal or formal complaint process (depending on the request of the Complainant or the nature of the alleged harassment), or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. In the case of a formal complaint, the Compliance Officer(s) will prepare recommendations for the District Administrator or will oversee the preparation of such recommendations by a designee. All Board employees must report incidents of harassment that are reported to them to the Compliance Officer within two (2) days of learning of the incident.

Any Board employee who directly observes harassment is obligated, in accordance with this policy, to report such observations to the Compliance Officer(s) within two (2) days. Additionally, any Board employee who observes an act of harassment is expected to intervene to stop the harassment, 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 harassment. Thereafter, the Compliance Officer(s) or designee must contact the Complainant, if age eighteen (18) or older, or Complainant's parents/guardians if the Complainant is under the age eighteen (18), within two (2) days to advise of the Board's intent to investigate the alleged wrongdoing.

Members of the School District community ~~and third parties, which includes all staff,~~ along with Third Parties are encouraged to promptly report incidents of harassing conduct to an administrator, supervisor or other 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 ~~report/complaint~~ shall file it with the ~~District's~~ Compliance Officer within two (2) days of receiving the report of harassment at his/her first opportunity.

Members of the School District community and Third Parties~~or third parties~~ who believe they have been harassed by another member of the School District community or a ~~Third Party~~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 ~~Complainant's/complaining individual's~~ employment unless the complaining individual makes the complaint maliciously or with the 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 District 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 District 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 will coordinate with the other appointed/designated CO, or, if appropriate appoint/designate another individual to serve as CO for the complaint regarding a CO.~~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 Board's legal counsel, who shall assume the role of the District Compliance Officer for such complaints.
- 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 or other supervisory employee.
- 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.

If during an investigation of alleged bullying, aggressive behavior, and/or harassment in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may have created a hostile work environment and may have constituted discriminatory harassment based on a Protected Class, the Principal shall report the act of bullying, aggressive behavior and/or harassment to the Compliance Officer(s) who shall investigate the allegation in accordance with this policy. If the alleged harassment involves Sexual Harassment as defined by Policy 2266, the matter will be investigated in accordance with the grievance process and procedures outlined in Policy 2266. While the Compliance Officer investigates the allegation, or the matter is being addressed pursuant to Policy 2266, the Principal shall suspend the Policy 5517.01 investigation to await the Compliance Officer's written report or the determination of responsibility pursuant to Policy 2266. The Compliance Officer shall keep the Principal informed of the status of the Policy 1662 investigation and provide the Principal with a copy of the resulting written report. Likewise, the Title IX Coordinator will provide the Principal with the determination of responsibility that results from the Policy 2266 grievance process.

~~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.~~

~~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**

Except for sexual harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, aAny employee or other member of the School District community or Third Party (e.g., visitor to the District) who believes that they have/he has been subjected to harassment or has witnessed harassment of another may seek resolution of the his/her complaint through the procedures ~~as~~ described below. The complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated. ~~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 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 harassment or retaliation with the United States Department of Education Office for Civil Rights ("OCR"), the Wisconsin Equal Rights Division, and/or Equal Employment Opportunity Commission ("EEOC"). The Chicago Office of the OCR can be reached at John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor, Chicago, IL 60604; Telephone: 312-730-1560; FAX: 312-730-1576; TDD: 800-877-8339; Email: OCR.Chicago@ed.gov; Web: <http://www.ed.gov/ocr>.

## Complaint Procedure

~~A Complainant~~ An individual who believes s/he has been subjected to harassment hereinafter referred to as the "Complainant," who alleges harassment based on a protected class or retaliation may file a complaint, either orally or in writing: 1) with a teacher, Principal; 2) directly to one of the 7 COs; or 3) to the 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 ~~may will consult;~~ in consultation with the other appointed/designated CO, if any, and if necessary appoint/designate another individual to serve in the role of CO ~~assume the role of the CO~~ for such a complaint regarding a CO.

Due to the sensitivity surrounding complaints of harassment 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 as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

All written complaints must include the following information to the extent known it is available: the identity of the Respondent ~~individual believed to have engaged in, or be actively engaging in, harassment~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); ~~and~~ 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 harassment or retaliation including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent ~~alleged harasser~~. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with 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 deemed ~~s/he deems~~ appropriate in consultation with the District Administrator. No temporary arrangements shall be disciplinary to either the Complainant or Respondent.

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

The Respondent is not entitled to receive a copy of any written complaint unless the CO determines it is appropriate to do so; however, the Respondent will be informed about the nature of the allegations. The CO shall inform the Respondent of the requirements of this policy, which may include providing the Respondent with a copy of this policy or information about where to find it. Respondent shall be afforded the opportunity to submit a written response to the complaint. The CO shall inform the Respondent of the Respondent's deadline to provide the CO with the written response to the allegations in the complaint.

Within five (5) days of receiving the complaint, the CO will initiate an investigation by at a minimum confirming receipt of the complaint with the Complainant and informing the Complainant of the investigation process.

~~Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of harassment based on a protected class or retaliation within thirty (30) days of receiving the formal complaint.~~

~~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. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who ~~may~~ reasonably may be expected to have any information relevant to the allegations, as determined by the CO;

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

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the 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 Respondent engaged in harassment of or retaliation toward the Complainant~~Complainant has been subjected to harassment~~. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used.

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

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

Absent extenuating circumstances, within five (5) ~~business~~-days of receiving the report of the CO, the District Administrator must either issue a written 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 ~~R~~espondent.

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 Respondent engaged in harassment of or retaliation toward the Complainant, the District Administrator must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the harassment or retaliation. The corrective action should be reasonable, timely, age-appropriate, effective, and tailored to the specific situation.

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 3340. 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 ~~T~~hird ~~P~~arty 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 parties may be represented, at their own cost, at any of the above-described meetings/hearings.

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

All timelines pertinent to the investigation process are intended to be guidelines to assure that the investigation proceeds with all deliberate efficiency. Failure of the CO to meet any specific timeline does not invalidate the investigation or provide a defense to the allegations.

### **Privacy/Confidentiality**

The ~~School~~-District will employ 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 ~~R~~espondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided with the Complainant's identity.~~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 is learned or provided~~s/he learns or that s/he provides~~ during the course of the investigation.

## Directives During Investigation

The CO may recommend to the District Administrator placing any employee involved in an investigation under this Policy on administrative leave pending resolution of the matter. If the District Administrator is the Respondent, the CO shall make such recommendation to the Board. Administrative leave may be appropriate in situations in which protecting the safety of any individual or the integrity of the investigation necessitates such action.

The CO shall determine whether any witnesses in the course of an investigation should be provided a *Garrity* warning apprising the person of his/her obligations to answer questions truthfully and honestly while preserving the right against self-incrimination in the context of any resulting criminal investigation or prosecution.

Every employee interviewed in the course of an investigation is required to provide truthful responses to all questions. Failure to do so may result in disciplinary action.

## Remedial Action ~~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.~~

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

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

## Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against harassment/retaliation by taking appropriate action reasonably calculated to stop the harassment 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 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.

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

## Retaliation

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

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

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

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

## **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.

### **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 educational 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.

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.

### **Retention of Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts pertaining to the investigation;

- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
  - I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
  - J. dated written determinations to the parties;
  - K. dated written descriptions of verbal notifications to the parties;
  - L. written documentation of any supportive~~interim~~ measures offered and/or provided to Complainant and/or the Respondent~~Complainants~~, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
  - M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
  - N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
  - O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
  - S. copies of any notices sent to the Complainant and the Respondent in advance of any interview, meeting, or hearing;
  - T. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 12/18/17

Revised 7/22/19

Revised 11/18/19

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Legal

111.31, 118.195, 118.20, Wis. Stats.  
29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967  
29 U.S.C. 794, Rehabilitation Act of 1973  
42 U.S.C. 1983  
42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964  
42 U.S.C. 2000e et seq., Title VII of the Civil Rights Act of 1964  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975  
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended  
29 C.F.R. Part 1635  
National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of ENTRANCE AGE
Code	po5112
Status	
Adopted	June 20, 2016
Last Revised	July 22, 2019

#### 5112 - **ENTRANCE AGE**

The Board of Education shall establish student entrance age requirements that are consistent with Wisconsin Law and sound educational practice and that ensure equitable treatment.

##### A. **Kindergarten**

1. A child is eligible for entrance into four-(4)-year-old kindergarten if s/he attains the age of four (4) on or before September 1st of the year in which s/he applies for entrance and meets the residency requirements.
2. A child is eligible for five-(5)-year-old kindergarten when s/he attains the age of five (5) on or before September 1st of the year in which s/he applies for entrance and meets residency requirements. The child may not be placed in an alternative program without permission of the parent.

##### B. **First Grade**

A child must be six (6) years of age on or before September 1st in the year in which s/he enrolls. A student must have completed a kindergarten program or must receive a waiver of this requirement.

Any student who has not completed a five-(5)-year-old kindergarten program, but seeks to enroll into first grade must receive a waiver of the requirement. The following students are eligible to receive a waiver:

1. Any student who has moved to the District from another state or country where completion of a five-(5)-year-old kindergarten program is a prerequisite to enrollment in first grade and that student has received a waiver of the requirement in his or her prior state or country.
2. Any student who has moved to the District from another state or country that does not require the completion of five (5)-year old kindergarten prior to enrollment in first grade.
3. Any student who, at the discretion of the building principal, in consultation with the first grade teacher(s) of the District, determines that, notwithstanding that the student has not completed a five-(5)-year-old kindergarten program, the student has demonstrated sufficient aptitude in all core competencies normally required of kindergarten students in the District upon completion of the kindergarten program.

The Principal shall perform any required testing to establish the student's academic capabilities and shall prepare a written evaluation that either grants or denies the waiver and provides explanation as to the decision.

### C. Appeal of Denial of Waiver

The parents of any student denied a waiver under this section by the building principal may appeal that decision to the District Administrator by submitting a written request to the Administrator within ten (10) days of the decision of the principal.

The decision of the District Administrator is final.

### D. Initial Entry

Children entering the District for the first time must comply with State law. Students must have an immunization record on file at the school. Any student who does not have the proper immunization may be excluded or permitted to remain in school pursuant to Policy 5320 - Immunization.

~~A child may be exempt from the required immunizations upon written request of the parent of such child stating the objection to immunizations on religious grounds, personal conviction, or for medical reasons certified by a competent medical authority.~~

Any student and/or his/her parent(s) who enters the District for the first time must disclose prior or pending school expulsions at the time of enrollment.

### E. Verification of Residence

Verification of a parent's residence shall be required at the time the child registers in a District school. Verification of residence may also be required at any other time at the discretion of the District Administrator.

### F. Early Admission

The District shall prescribe procedures, conditions, and standards for early admission to four-year-old and five-year-old kindergarten and first grade.

### G. Older Students

A person who is a resident of the District and over twenty (20) years of age may enroll providing the District Administrator does not think his/her enrollment will interfere with the education of the other students.

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Wis. Stats 118.14, 118.15, 120.12(25)

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of USE OF TOBACCO AND NICOTINE BY STUDENTS
Code	po5512
Status	
Adopted	June 20, 2016
Last Revised	November 16, 2020

#### 5512 - **USE OF TOBACCO AND NICOTINE BY STUDENTS**

The Board recognizes that the use of tobacco products, as well as other nicotine delivery systems, such as electronic smoking devices, are a health, safety, and environmental hazard for students, staff, visitors, and school facilities. The Board is acutely aware of the serious health risks associated with the use of these products, both to users and non-users, and that their use or promotion on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors. The Board also believes accepting tobacco industry gifts or materials will send an inconsistent message to students, staff, and visitors.

It shall be a violation of this policy for any student of the District to use, consume, display, promote, or sell any tobacco products, tobacco industry brand, tobacco-related devices, imitation tobacco products, or electronic smoking or vaping devices, regardless of content at any time on school property or at off-campus, school-sponsored events.

It shall be a violation of this policy for the District to solicit or accept any contributions, gifts, money, curricula, or materials from the tobacco industry or from any tobacco products retailer. This includes, but is not limited to, donations, monies for sponsorship, advertising, promotions, loans, or support for equipment, uniforms, and sports and/or training facilities. It shall be a violation of this policy to participate in any type of service funded by the tobacco industry while in the scope of employment for the District.

#### **Exceptions**

It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, or lighters to be included in instructional or work-related activities in school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise ingesting the product.

The prohibition on the use of other products containing nicotine, including, but not limited to, nicotine patches and nicotine gum may be removed when a parent or "adult" student provides documentation from a licensed medical practitioner that the student's use of non-tobacco nicotine products is being medically supervised for the cessation of a nicotine addiction and the student complies with Policy 5330 - Administration of Medication.

#### **Policy Specific Definitions**

The term "any time" means during normal school and non-school hours: twenty-four (24) hours a day, seven (7) days a week.

The term "electronic smoking device" means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, JUUL, or under any other product name or descriptor. The term electronic smoking device includes any component part of a product, whether or not marketed or sold separately, including but not limited to e-liquids, e-juice, cartridges, and pods.

The term "imitation tobacco product" means any edible non-tobacco product designed to resemble a tobacco product, or non-edible, non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, pouches containing flavored substances packaged similar to snuff, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.

The term "off-campus, school-sponsored event" means any event sponsored by the school or School District that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.

The term "school property" means all facilities and property, including land, whether owned, rented, or leased by the District, and all vehicles owned, leased, rented, contracted for, or controlled by the District used for transported students, staff and visitors.

The term "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. "Smoking" also includes carrying or using an activated electronic smoking device.

The term "tobacco products retailer" means retailers whose primary business is to sell tobacco and/or tobacco-related products.

The term "tobacco industry" means manufacturers, distributors, or wholesalers of tobacco products, electronic smoking devices, or tobacco-related devices; this includes parent companies and subsidiaries.

The term "tobacco industry brand" means any corporate name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indication of product identification identical or similar to those used for any brand of tobacco product, company, or manufacturer of tobacco products.

Revised 7/22/19

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

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	NONDISCRIMINATION AND ANTI-HARASSMENT - STUDENT ANTI-HARASSMENT
Code	po5517
Status	
Adopted	June 20, 2016
Last Revised	April 27, 2020

## 5517 - STUDENT ANTI-HARASSMENT

### Prohibited Harassment

It is the policy of the Board to maintain an educational environment that is free from all forms of harassment, ~~including sexual harassment~~. This commitment applies to all District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of harassment. This policy applies to conduct occurring in any manner or setting over which the Board can exercise control, including on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will not tolerate any form of harassment and will take all necessary and appropriate actions to eliminate it, including suspension or expulsion of students and disciplinary action against any other individual in the School District community. Additionally, appropriate action will be taken to stop and otherwise deal with any third party who engages in harassment against our students.

The Board will vigorously enforce its prohibition against harassment based on the traits of sex (including ~~trans~~gender status, change of sex, or gender identity), race, color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights laws (hereinafter referred to as "Protected Classes"), and encourages those within the School District community as well as ~~I~~third ~~P~~parties, who feel aggrieved to seek assistance to rectify such problems. Additionally, the Board prohibits harassing behavior directed at students for any reason, even if not based on one of the Protected Classes, through its policies on bullying (See Policy 5517.01 – Bullying).

Harassment may occur student-to-student, student-to-staff, staff-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 Board will take immediate steps designed to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in harassment will be subject to appropriate disciplinary action.

~~For purposes of this policy, "School District community" means individuals students, administrators, teachers, staff, and as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.~~

~~For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on District property (e.g., visiting speakers, participants on opposing athletic teams parent), vendors doing business with, or seeking to do business with the Board, and other individuals who come in contact with members of the School District community at school related events/activities (whether on or off District property).~~

### Other Violations of the Anti-Harassment Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:



- A. Retaliating against a person who has made a report or filed a complaint alleging harassment, or who has participated as a witness in a harassment investigation;
- B. Filing a malicious or knowingly false report or complaint of harassment;
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of harassment, when responsibility for reporting and/or investigating harassment charges comprises part of one's ~~supervisory~~ duties

Sexual Harassment covered by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, i.e., sexual harassment prohibited by Title IX, is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities.

### **Notice**

Notice of the Board's policy on anti-harassment in the educational environment and the identity of the District's Compliance Officers will be posted throughout the District and published in any District statement regarding the availability of employment, staff handbooks, and general information publications of the District as required by Federal and State law and this policy.

### **Definitions**

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

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

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

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

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

**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 Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

### **Bullying**

Bullying is prohibited by Board Policy 5517.01 – Bullying. It is defined as deliberate or intentional behavior using words or actions, intended to cause fear, intimidation, or harm. Bullying may be a repeated behavior and involves an imbalance of power. Furthermore, it may be serious enough to negatively impact a student's educational, physical, or emotional well-being. Bullying need not be based on any Protected Class. Bullying behavior rises to the level of harassment when the prohibited conduct is based upon the student's sex (including transgender status, change of sex, or gender identity), race color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights. Complaints brought under this policy that are more appropriately handled under the Bullying policy shall be referred for investigation consistent with the procedures in that policy.

Bullying that rises to the level of Sexual Harassment is covered by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities, i.e., sexual harassment prohibited by Title IX, and is not included in this policy. Allegations of such conduct shall be addressed solely by Policy 2266/AG 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities.

### **Harassment**

Harassment means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student based on one or more of the student's Protected Class that:

- A. places a student in reasonable fear of harm to his/her person or damage to his/her property;

- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

"Harassment" also includes "hate speech"—the use of language, behavior, or images/symbols that express prejudice against a particular group or groups on the basis of any protected characteristic(s).

Examples are:

- A. making statements that promote violence toward a racial or ethnic group;
- B. drawing, displaying, or posting images or symbols of prejudice (e.g., swastikas).

## **Sexual Harassment**

For purposes of this policy and consistent with Title VII of the Civil Rights Act of 1964, "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- A. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of access to educational opportunities or program;
- B. submission or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education;
- C. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's education, or creating an intimidating, hostile, or offensive educational environment.

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

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

- A. unwelcome verbal harassment or abuse;
- B. unwelcome pressure for sexual activity;
- C. threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs, activities, or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances;
- D. unwelcome verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, profanity, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls and obscene gestures;
- E. Sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature, placed in the work or educational environment, that may reasonably embarrass or offend individuals;
- F. unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by teachers, administrators, or other school personnel to avoid physical harm to persons or property;
- G. unwelcome sexual behavior or words including demands for sexual favors, accompanied by implied or overt threats concerning an individual's educational status;
- H. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's educational status;
- I. unwelcome behavior or words directed at an individual because of gender;

Examples are:

1. repeatedly asking a person for dates or sexual behavior after the person has indicated no interest;
  2. rating a person's sexuality or attractiveness;
  3. staring or leering at various parts of another person's body;
  4. spreading rumors about a person's sexuality;
  5. letters, notes, telephone calls, or materials of a sexual nature;
  6. displaying pictures, calendars, cartoons, or other materials with sexual content.
- J. inappropriate boundary invasions by a District employee or other adult member of the District community into a student's personal space and personal life;:-

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:

1. hugging, kissing, or other physical contacts with a student;
2. telling sexual jokes to students;
3. engaging in talk containing sexual innuendo or banter with students;
4. talking about sexual topics that are not related to the curriculum;
5. showing pornography to a student;
6. taking an undue interest in a student (i.e. having a "special friend" or a "special relationship");
7. initiating or extending contact with students beyond the school day for personal purposes;
8. using e-mail, text messaging or websites to discuss personal topics or interests with students;
9. giving students rides in the staff member's personal vehicle or taking students on personal outings without administrative approval;
10. 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);
11. going to a student's home for non-educational purposes;
12. inviting students to the staff member's home without proper chaperones (i.e. another staff member or parent of a student);
13. giving gifts or money to a student for no legitimate educational purpose;
14. accepting gifts or money from a student for no legitimate educational purpose;
15. being overly "touchy" with students;
16. favoring certain students by inviting them to come to the classroom at non-class times;
17. getting a student out of class to visit with the staff member;
18. 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;

19. talking to a student about problems that would normally be discussed with adults (i.e. marital issues);
20. being alone with a student behind closed doors without a legitimate educational purpose;
21. telling a student "secrets" and having "secrets" with a student;
22. 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.

- H. ~~remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history; and~~
- I. verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

It is further the policy of the Board that a sexual relationship between staff and students is not permissible in any form or under any circumstances, in or out of the workplace, in that it interferes with the educational process and may involve elements of coercion by reason of the relative status of a staff member to a student.

Not all behavior with sexual connotations constitutes sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's education, or such that it creates a hostile or abusive educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of: interfering with the individual's educational performance; ~~of~~ creating an intimidating, hostile, or offensive learning environment; or ~~of~~ interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references regarding~~relative to~~ racial customs.

### **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 or educational performance; ~~of~~ creating an intimidating, hostile, or offensive learning environment; or ~~of~~ interfering with one's ability to participate in or benefit from a class or an educational program or activity. 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/Ancestry Harassment**

Prohibited national origin/ancestry harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin or ancestry and when the conduct has the purpose or effect of: interfering with the individual's educational performance; ~~of~~ creating an intimidating, hostile, or offensive working and/or learning environment; or ~~of~~ interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin or ancestry, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's physical, mental, emotional or learning disability and when the conduct has the purpose or effect of: interfering with the individual's educational performance; ~~of~~ creating an intimidating, hostile, or offensive learning environment; or ~~of~~ interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disability~~disabling condition~~, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

### **Anti-Harassment Compliance Officers**

The Board designates the following individuals to serve as the District's Compliance Officers (also known as "Anti-Harassment Compliance Officers"; hereinafter referred to as the "COs").

Carmen O'Brien  
Business Manager  
School District of Manawa  
800 Beech Street  
Manawa, WI 54949  
920-596-5840  
cobrien@manawaschools.org

Daniel Wolfgram  
High School/Middle School Principal  
800 Beech Street  
Manawa, WI 54949  
920-596-5310  
dwolfgram@manawaschools.org

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

The Compliance Officer(s) are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding harassment.

### **Reports and Complaints of Harassing Conduct**~~Reporting Procedures~~

~~Students and all other members of the School District community, as well as third parties, are encouraged to promptly report incidents of harassing conduct to a teacher, administrator, supervisor, or District employee or official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer at his/her first opportunity.~~

~~Students who believe they have been subjected to harassment are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with the knowledge that it is false.~~

~~If, during an investigation of a reported act of bullying in accordance with Policy 5517.01 — Bullying, the principal determines that the reported misconduct may have created a hostile learning environment and may have constituted harassment based on sex (including transgender status, change of sex, or gender identity), race, color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights laws, the principal will report the act of bullying to one of the Compliance Officers who shall assume responsibility to investigate the allegation in accordance with this policy.~~

Reporting procedures are as follows:

- A. Any student who believes s/he has been the victim of harassment prohibited under this policy will be encouraged to report the alleged harassment to any District employee, such as a teacher, administrator or other employees.
- B. Any parent of a student who believes the student has been the victim of harassment prohibited under this policy is encouraged to report the alleged harassment to the student's teacher, building administrator or District Administrator.
- C. Teachers, administrators, and other school officials who have the knowledge or received notice that a student has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to the Compliance Officer and the building principal or District Administrator.
- D. Any other person with knowledge or belief that a student has or may have been the victim of harassment prohibited by this policy shall be encouraged to immediately report the alleged acts to any District employee, such as a teacher, administrator or other employees.
- 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.

F. To provide individuals with options for reporting harassment to an individual of the gender with which they feel most comfortable, each school's building principal shall be advised to designate both a male and a female Compliance Officer for receiving reports of harassment prohibited by this policy. At least one (1) Compliance Officer or other individuals shall be available outside regular school hours to address complaints of harassment that may require immediate attention.

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, or to intercede informally on behalf of the student.

Any Board employee who directly observes harassment of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) ~~business~~ days. Thereafter, the COs must contact the ~~Complainant~~ student, if over age eighteen (18) or the ~~Complainant's~~ student's parents/guardians if under the age eighteen (18), within two (2) ~~business~~ days to advise ~~s/he/them~~ of the Board's intent to investigate the alleged misconduct, including the obligation of the compliance officer to conduct an investigation following all the procedures outlined in the complaint procedures.

The COs are assigned to accept complaints of harassment directly from any member of the School District community or a ~~Third Party~~ 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 ~~contact the Complainant and begin either an informal or formal process (depending on the request of the Complainant or the nature of the alleged harassment), review and investigation or the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation. or the CO will designate a specific individual to conduct such a process.~~ The Compliance Officer(s) will provide a copy of this policy to the Complainant and Respondent. The CO will prepare recommendations for the District Administrator or will oversee the preparation of such recommendations by a designee. All ~~Board employees~~ members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer as soon as possible, but always within no more than two (2) ~~calendar~~ days of learning of the incident.

### Investigation and Complaint Procedure

~~Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, a~~ Any student who believes that ~~they have~~ ~~he has~~ been subjected to harassment may seek resolution of ~~the his/her~~ complaint through the procedures described below. ~~The formal complaint process involves an investigation of the Complainant's claims of harassment or retaliation and a process for rendering a decision regarding whether the charges are substantiated. 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.~~

Due to the sensitivity surrounding complaints of harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. Once the complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

~~The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of harassment or retaliation with the United States Department of Education Office for Civil Rights ("OCR") and/or the Wisconsin Equal Rights Division. The Chicago Office of the OCR can be reached at John C. Kluczynski Federal Building, 230 S. Dearborn Street, 37th Floor Chicago, IL 60604; Telephone: 312-730-1560; FAX: 312-730-1576; TDD: 800-877-8339; Email: OCR.Chicago@ed.gov; Web: <http://www.ed.gov/ocr>.~~

If at any time during the investigation process the investigator determines that the complaint is properly defined as Bullying, under Policy 5517.01 - Bullying and not Harassment under this Policy, because the conduct at issue is not based on a student's Protected Characteristics, the investigator shall transfer the investigation to the appropriate building principal.

### Complaint Procedure

~~A Complainant~~ A student 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, or other District employee at the student's school, the CO, District Administrator, or other District ~~official~~ employee who works at another school or at the District level. Due to the sensitivity surrounding complaints of harassment, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a Complainant informs a teacher, principal, or other District ~~official~~ employee at the student's school, the CO, District Administrator, or other District employee, either orally or in writing, about any complaint of harassment, 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 reasonably informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent ~~known~~it is available: the identity of the ~~Respondent individual believed to have engaged in, or to be actively engaging in, harassment~~; a detailed description of the facts upon which the complaint is based (i.e., when, where, and what occurred); 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 Compliance Officer 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 class schedule for the Complainant or the ~~Respondent alleged harasser~~, or possibly a change of school for either or both of the parties. In making such a determination, the Compliance Officer should consult the ( ) Principal ( ) District Administrator **[END OF OPTION]** prior to any action being taken. The Complainant should be notified of any proposed action prior to such action being taken.

As soon as appropriate in the investigation process, the CO will inform the ~~Respondent individual alleged to have engaged in the harassing 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 any relevant policies and/or~~these~~ administrative procedures and the Board's anti-harassment policy shall be provided to the Respondent at that time. The Respondent must also be provided an opportunity to respond to the complaint.

Within five (5) business days of receiving the complaint, the CO will initiate an investigation by at a minimum confirming receipt of the complaint with the complainant and informing the complainant of the investigation process.

Although certain cases may require additional time, the CO will attempt to complete an investigation into the allegations of harassment within thirty~~fifteen (15)~~30 days of receiving the formal complaint.

~~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. A principal will not conduct an investigation unless directed to do so by the Compliance Officer.~~

~~Although certain cases may require additional time, the CO or designee Compliance Officer will attempt to complete an investigation into the allegations of harassment based on a Protected Class or retaliation within fifteen (15) calendar days of receiving the formal complaint.~~

The investigation will include:

- A. interview(s) with the Complainant;
- B. interview(s) with the Respondent;
- C. interviews with any other witnesses who ~~may~~ reasonably may be expected to have any information relevant to the allegations, as determined by the CO;
- D. consideration of any documentation or other evidence presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

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

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

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

Absent extenuating circumstances, within ten (10) ~~business~~ days of receiving the report of the CO, the District Administrator ~~must~~ either must 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 written~~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 ten (10) ~~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 Complainant feels that the decision does not adequately address the complaint s/he may appeal the decision to the State Superintendent of Public Instruction by submitting a written request to the Wisconsin Department of Public Instruction ("DPI"), Pupil Nondiscrimination Program, or by contacting the DPI Pupil Nondiscrimination Program at (608) 267-9157.

If the decision of the District Administrator is that there is no finding of harassment pursuant to this policy, the student/parent will be informed of the provisions of Policy 5517.01 - Bullying.

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~~~~third party~~ alleging the harassment 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 parties may be represented, at their own cost, at any of the above-described meetings/hearings.

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

### **Additional School District Action**

If the evidence suggests that the harassment at issue is a crime or requires mandatory reporting under the Children's Code (Sec. 48.981, Wis. Stat.), the CO or District Administrator shall report the harassment to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations and crimes.

Any reports made to the local child protection service or to local law enforcement shall not terminate the CO's obligation and responsibility to continue to investigate a complaint of harassment. While the COs may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the District Administrator.

### **Privacy/Confidentiality**

The District will make all reasonable efforts to protect the rights of the Complainant and the Respondent. The District will respect the privacy of the Complainant, the Respondent, and all witnesses in a manner consistent with the District's legal obligations under State and Federal law. Confidentiality cannot be guaranteed, however. Additionally, the Respondent must be provided the Complainant's identity. ~~All Complainants proceeding through the investigation process should be advised that as a result of the investigation, the Respondent may become aware of the Complainant's identity.~~

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

### **Remedial ActionSanctions and Monitoring**

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

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

### **Sanctions and Disciplinary Action**

The Board shall vigorously enforce its prohibitions against harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further misconduct~~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 or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable law.



When imposing discipline, the District Administrator shall consider the totality of the circumstances involved in the matter, including the ~~age~~ages and maturity ~~level~~levels of ~~any student~~those involved. 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.

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

### **Retaliation**

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

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

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

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

### **Reprisal**

Submission of a good faith complaint or report of harassment will not affect the Complainant's status or educational 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.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of discriminatory practices. The District Administrator will develop a method of discussing this policy with the School District community. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to the School District community at such times as the Board in consultation with the District Administrator determines is necessary or appropriate.

This policy shall be reviewed at least annually for compliance with local, State, and Federal law.

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 Compliance Officers, the name, mailing address and telephone number of the State agency responsible for investigating allegations of discrimination in educational opportunities, and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

A summary of this policy shall appear in the student handbook and shall be made available upon request of parents, students, and other interested parties.

### **Retention of ~~Public Records, Student Records, and~~ Investigatory Records and Materials**

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

- A. all written reports/allegations/complaints/statements;

- B. narratives of all verbal reports, allegations, complaints, and statements collected;
  - C. a narrative of all actions taken by District personnel;
  - D. any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
  - E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
  - F. all documentary evidence;
  - G. e-mails, texts, or social media posts pertaining to the investigation;
  - H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
  - I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
  - J. dated written determinations to the parties;
  - K. dated written descriptions of verbal notifications to the parties;
  - L. written documentation of any supportive interim measures offered and/or provided to the Complainant and/or the Respondent/Complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
  - M. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.
  - N. copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of this policy (e.g., Student Code of Conduct and/or Employee Handbooks);
  - O. copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
  - P. documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy; **[REMINDER: Documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.]**
- It is suggested the following records also be maintained, as appropriate.**
- Q. documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;
  - R. copies of any notices sent to the alleged perpetrator/responding party of the allegations constituting a potential violation of this policy;
  - S. copies of any notices sent to the Complainant and the Respondent in advance of any interview or hearing;
  - T. copies of any documentation or evidence used during informal and formal disciplinary meetings and hearings, including the investigation report, and any written responses submitted by the Complainant or the Respondent.

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

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

Revised 12/18/17  
Revised 7/22/19

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Legal

- 48.981, Wis. Stats.
- 118.13, Wis. Stats.
- P.I. 9, Wis. Admin. Code
- P.I. 41 Wis. Admin. Code
- 20 U.S.C. 1400 et seq., the Individuals with Disabilities Education Act of 2004, as amended (IDEA)
- 29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended
- 42 U.S.C. 1983
- 42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964
- 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended
- 34 C.F.R. Part 104, Section 504 Regulations
- 34 C.F.R. Part 300, IDEA Regulations

Last Modified by Steve LaVallee on September 16, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of DISORDERLY CONDUCT
Code	po5520
Status	
Adopted	June 20, 2016

#### 5520 - **DISORDERLY CONDUCT**

The Board recognizes the right of each student to attend school for the purpose of receiving an education. Students involved in the disruption of the educational program of the schools by disorder or any other purposeful activity may will be subject to disciplinary consequences, including, but not limited to, suspension and expulsion not be tolerated.

For purposes of this policy, disorder shall be any deliberate activity by an individual or a group, whether peaceful or violent, that is reasonably likely to disrupt the normal operation of the school.

The Board, having the responsibility for providing an educational program for the students of this District, shall have the authority to preserve order for the proper functioning of its program.

Students shall not be disturbed in the exercise of their constitutionally guaranteed rights to assemble peaceably and to express ideas and opinions, privately or publicly, provided that such exercise does not infringe on the rights of others and does not interfere with the operation of the schools.

~~The District Administrator shall develop administrative guidelines for the implementation of this policy.~~

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Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of STUDENT ACTIVISM
Code	po5720
Status	
Adopted	June 20, 2016

5720 - **STUDENT ACTIVISM**

The Board to encourages students to express opinions and ideas, take stands, debate publicly or privately, orally and in writing. Students may be given opportunity for expression through established school media. Such expression shall not interfere with the educational program, present a health or safety hazard, or violate Board policy. Students may advocate change of law or school regulations and pursue their advocacy through lawful means~~by due process means~~.

Students may not use obscenity, slanderous or libelous statements, or disruptive tactics, or advocate violation of the law or school policies or guidelines~~regulations~~.

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Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of PUBLIC PERFORMANCES BY STUDENTS
Code	po5880
Status	
Adopted	June 20, 2016

#### 5880 - **PUBLIC PERFORMANCES BY STUDENTS**

The Board recognizes the value to students of sharing their talents and skills with the community through participation and performances in public events. Students who participate in public events and performances as part of a District-sponsored group are subject to District policies and regulations for student dress and conduct.

The Board approves~~endorses~~ such performances when:

- A. they constitute a learning experience which contributes to the educational program;
- B. the circumstances of the event do not pose a threat to the health, safety, and well-being of the students who will be involved.
- C. parental permission for each minor student is sought and received prior to the performance;
- D. students and student groups are protected from exploitation.

All requests for student public performances require the approval of the principal.

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~~The District Administrator shall develop administrative guidelines that include a requirement that parental permission before students participation, protection of students interests, and their safeguarding against exploitation.~~

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of STUDENT FEES, FINES, AND CHARGES
Code	po6152
Status	
Adopted	July 18, 2016
Last Revised	November 18, 2019

#### 6152 - **STUDENT FEES, FINES, AND CHARGES**

The Board may levy certain charges to students to facilitate the utilization of adequate, appropriate learning materials used in the course of instruction. If the District determines that a student is in serious financial need, it may choose to provide any or all such materials free of charge. No student shall be denied any educational opportunity because of his/her inability to pay any fee or charge imposed.

A charge shall not exceed the combined cost of the material used, freight and/or handling charges. Money received from resale of such material shall be returned to the Business office with an accurate accounting of all transactions.

#### **Fines**

When school property, equipment, or supplies are damaged, lost, or taken by a student, a fine will be assessed. The fine will be reasonable, seeking only to compensate the school for the expense or loss incurred.

The late return of borrowed books or materials from the school libraries will be subject to appropriate fines.

Any fees (including trip fees) or fines collected by members of the staff are to be turned into the school office no later than the end of the day on which the money was collected. If the school office is not open or accessible, the collected monies should be deposited in the financial institution designated by the District or in another secure location specified by the District no later than the end of the day on which the money was collected. Staff are prohibited from leaving collected money in classrooms overnight or taking collected money home. Money shall be deposited by the District no less than one (1) week after collected with a full accounting of all transactions.

In the event the above course of action does not result in the fee being collected, the Board authorizes the Business Manager to take the student and/or his/her parents to Small Claims Court for collection. The District shall not permit or elicit the assistance of volunteers in efforts to collect unpaid student fees or expenses, including food service balances.

Nothing in this policy restricts the right of access of a parent or student to school records or to receive copies of such records, as required by Federal and State laws.

#### **Students Experiencing Homelessness - McKinney-Vento Act**

- No fine or fee shall be charged to a student identified as a student experiencing homelessness unless it is determined that the student has the ability to pay the fee or fine and that its imposition does not create a barrier to the student's ability to enroll, attend school, achieve academic success, or be identified as experiencing homelessness. Any dispute regarding a fine or a fee that is imposed, shall not delay the student's enrollment or serve as a barrier to enrollment by delaying the transfer of student records to another school or school district if applicable.

- Immediate enrollment notwithstanding fines or fees shall be extended to extra-curricular and co-curricular activities as well as to academic programming.

Revised 8/22/16  
Revised 7/17/17

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Last Modified by Steve LaVallee on September 16, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of USE OF TOBACCO AND NICOTINE ON SCHOOL PREMISES
Code	po7434
Status	
Adopted	November 21, 2016
Last Revised	November 16, 2020

#### 7434 - **USE OF TOBACCO AND NICOTINE ON SCHOOL PREMISES**

The Board recognizes that the use of tobacco products, as well as other nicotine delivery systems, such as electronic smoking devices, are a health, safety, and environmental hazard for students, staff, visitors, and school facilities. The Board is acutely aware of the serious health risks associated with the use of these products, both to users and non-users, and that their use or promotion on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors. The Board also believes accepting tobacco industry gifts or materials will send an inconsistent message to students, staff, and visitors.

It shall be a violation of this policy for any visitor of the District to use, consume, or sell any commercial tobacco products, tobacco-related devices, imitation tobacco products, or electronic smoking or vaping devices, regardless of content at any time on school property or at off-campus, school-sponsored events.

It shall be a violation of this policy for the District to solicit or accept any contributions, gifts, money, curricula, or materials from the tobacco industry or from any tobacco products retailer. This includes, but is not limited to, donations, monies for sponsorship, advertising, promotions, loans, or support for equipment, uniforms, and sports and/or training facilities. It shall be a violation of this policy to participate in any type of service funded by the tobacco industry while in the scope of employment for the District.

#### **Exceptions**

It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, or lighters to be included in instructional or work-related activities in school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise ingesting the product.

FDA approved cessation products or tobacco dependence products are exempt from this policy for adults and staff eighteen (18) years and older. Staff using such products and bringing them to any school property or school-sponsored activity are responsible for the safekeeping of these products at all times and are responsible for assuring that no students are able to obtain access to these products.

#### **Policy Specific Definitions**

The term "any time" means during normal school and non-school hours: twenty-four (24) hours a day, seven (7) days a week.

The term "electronic smoking device" means any product containing or delivering nicotine, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. The term electronic smoking device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, JUUL, or under any other product name or descriptor. The term electronic smoking device includes any component part of a product, whether or not marketed or sold separately, including but not limited to e-liquids, e-juice, cartridges, and pods.

The term "imitation tobacco product" means any edible non-tobacco product designed to resemble a tobacco product, or non-edible, non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, pouches containing flavored substances packaged similar to snuff, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.

The term "off-campus, school-sponsored event" means any event sponsored by the school or school district that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.

The term "school property" means all facilities and property, including land, whether owned, rented, or leased by the District, and all vehicles owned, leased, rented, contracted for, or controlled by the District used for transported students, staff and visitors.

The term "smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. "Smoking" also includes carrying or using an activated electronic smoking device.

The term "tobacco products retailer" means retailers whose primary business is to sell tobacco and/or tobacco-related products.

The term "tobacco industry" means manufacturers, distributors, or wholesalers of tobacco products, electronic smoking devices, or tobacco-related devices; this includes parent companies and subsidiaries.

Revised 11/18/19

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

Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of VIDEO SURVEILLANCE AND ELECTRONIC MONITORING
Code	po7440.01
Status	
Adopted	November 21, 2016
Last Revised	March 15, 2021

#### 7440.01 - **VIDEO SURVEILLANCE AND ELECTRONIC MONITORING**

The Board authorizes the use of video surveillance and electronic monitoring equipment at various facilities and school sites throughout the District and on school buses. Wherever the terms video surveillance or electronic monitoring are used, such reference includes both video and audio surveillance as possible technologies employed.

The District Administrator is responsible for determining where to install and operate fixed-location video surveillance/electronic monitoring equipment in the District. The determination of where and when to use video surveillance/electronic monitoring equipment will be made in a nondiscriminatory manner. Video surveillance/electronic monitoring equipment may be placed in common areas in school buildings (e.g. school hallways, entryways, the front office where students, employees and visitors are permitted to freely come and go, gymnasiums, cafeterias, libraries), the school parking lots and other outside areas, and in school buses. Except in extraordinary circumstances and with the written authorization of the District Administrator, video surveillance/electronic monitoring equipment shall not be used in areas where persons have a reasonable expectation of privacy (e.g. restrooms, locker rooms, changing areas, private offices (unless there is express consent given by the office occupant), or conference/meeting rooms), or in individual classrooms during instructional times. Administrators are authorized to carry and use portable video cameras when responding to incidents. The Board authorizes security personnel to use body-worn video cameras while on duty, but prohibits them from being operated while the individual is routinely patrolling restrooms and locker rooms, unless the staff member is responding to a specific incident.

Any person who takes action to block, move, or alter the location and/or viewing angle of a video camera shall be subject to disciplinary action.

Legible and visible signs shall be placed at the main entrance to buildings and in the areas where video surveillance/electronic monitoring equipment is in use to notify people that their actions/behavior are subject to being monitored/recorded, which may include video footage, audio recording, or both. Additionally, the District Administrator is directed to annually notify parents and students via the Student Handbook, and staff via the Staff Handbook(s), of the use of video surveillance/electronic monitoring systems in their schools, which may include video footage, audio recording, or both. In cases approved by the District Administrator, camera surveillance may be used for investigatory purposes without staff, student, or public notice if the usage is calculated to further investigation into misconduct believed to have occurred or believed to be ongoing.

Any information obtained from video surveillance/electronic monitoring systems may only be used to support the orderly operation of the School District's schools and facilities, and for law enforcement purposes, and not for any other purposes. As such, recordings obtained through the use of video surveillance/electronic monitoring equipment may be used as evidence in any disciplinary proceedings, administrative proceeding or criminal proceeding, subject to Board policy and regulations. Further, such recordings may become a part of a student's education record or staff member's personnel file.

Ordinarily, video surveillance/electronic monitoring equipment will not be used to make an audio recording of conversation occurring on school grounds or property.

The Board will not place video surveillance/electronic monitoring equipment for the purpose of obtaining information routine staff appraisal/evaluation or monitoring; however, video footage captured in the normal course of surveillance which shows information

pertinent to staff performance or conduct may be used for that purpose.

Additionally, prerecorded lessons or observations of online or virtual learning sessions may be included as part of an employee's evaluation.

Further, if an employee is assigned to work remotely (i.e., telework), the administration is authorized to conduct observations that consist of the supervisor reviewing video-recordings of the employee working and/or watching the employee perform his/her job responsibilities through means of a live-stream that includes both video and audio.

Additionally, nothing herein shall prevent the administration from using information gathered through electronic means (i.e., viewing a video-recording or live-stream of an employee working) for employment purposes, including but not limited to completing components of an evaluation.

Recordings that capture students may be student records and as such will be treated as confidential, subject to the Board's public records and student records policies.

### **Retention, Secure Storage, Access to and Disposal of Video Recordings**

The Board shall maintain video surveillance/electronic monitoring recordings for a limited period. Any request to view a recording under this policy must be made within seven (7) calendar days of the event/incident in order to assure its availability. Inquiries after that time period may be available depending on current retention capabilities. Unless a recording is separated and maintained for some reason by the District, any recording may be destroyed after thirty (30) calendar days. If, however, action is taken by the Board/administration, as a result of a formal complaint or incident, recordings shall be kept consistent with the Board's record retention policy depending on the nature of the video record retained, but for a minimum of one (1) year from the date of the action taken. Recordings may also be kept beyond the normal retention period if they are going to be utilized for training purposes.

Video recordings, if stored on a removable/portable device or on a locally hosted server, when not in use, shall be stored in a locked cabinet or room in an area to which students and the public do not normally have access. Any video data stored on a cloud-based server system must be stored pursuant to a vendor agreement that assures the confidentiality of data accessible only to school officials.

Access to and viewing of video recordings is limited to authorized personnel. The technology director is responsible for maintaining a proper audit trail for all video recordings (i.e., logs must be maintained of all instances of access to, and use of, recorded material – the log must document the person accessing the recording, the date and time of access, and the purpose). The technology director shall approve requests for access to recorded and stored video images. The technology director may authorize the viewing of recorded images in the event of an ongoing law enforcement investigation, an incident involving property damage or loss, or for other reasons deemed appropriate.

Video files should not be transmitted electronically to sources outside the District except as required or permitted by law.

All video surveillance/electronic monitoring recording media shall be considered legal evidence and treated as confidential or as directed by Board counsel. The release of original video recordings to individuals or outside agencies may only occur pursuant to subpoena or court order after the same has been reviewed by Board counsel.

Original video recordings shall never be edited or manipulated in any manner. When video recordings are requested by any law enforcement agency as part of an ongoing investigation, a duplicate may be provided for that purpose. The original media shall be protected from accidental overwrite or erasure during the duplicating process. Nothing in this paragraph prohibits the redaction of personally identifiable information from duplicated media when mandated by FERPA.

Video recordings may never be sold publicly, viewed or distributed in any other fashion except as provided for by Board policy and this guideline, and consistent with State and Federal law.

Legal	19.31 – 19.39, 118.125 Wis. Stats.
	FERPA 20 U.S.C. 1232g
	34 C.F.R. 99.1-99.67
	Title I of the Electronic Communication Privacy Act of 1986
	18 U.S.C. 2510-2521





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of PROPERTY INVENTORY
Code	po7450
Status	
Adopted	October 1, 2015
Last Revised	June 19, 2017

#### 7450 - **PROPERTY INVENTORY**

As steward of the District's property, the Board recognizes that efficient management and full replacement upon loss requires accurate inventory and properly maintained property records.

The Board shall conduct a complete inventory of all District-owned equipment and supplies, including computing devices ~~by June 2016 and maintain a continuous inventory of all District-owned equipment and supplies, including computing devices~~ annually.

For purposes of this policy, "equipment" means tangible personal property (including information technology systems) having a useful life of more than one (1) year and a per-unit acquisition cost which equals or exceeds \$5,000.

Capital assets include equipment as well as the following:

- A. land, buildings (facilities), and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases
- B. additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance)

Capital expenditures, which are expenditures for capital assets, require prior written approval in order to be allowable in certain situations. General purpose equipment, buildings, and land, as well as improvements to land, buildings, or equipment which materially increase their value or useful life, are unallowable as direct charges unless the Federal awarding agency or pass-through entity provides prior written approval. Whereas capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

When defining supplies for inventory purposes, no items will be counted whose total acquisition cost is less than \$1,000.

"Computing devices" are machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories for printing, transmitting and receiving, or storing electronic information. Examples of computing devices include laptops, smartphones, tablets, etc. Computing devices are classified as equipment if their acquisition cost meets the above-mentioned equipment threshold. Computing devices that do not meet the acquisition cost threshold are considered supplies. Regardless of whether a computing device is classified as an equipment or supply, it must be counted during the inventory.

It shall be the duty of the Business Manager to ensure that inventories are recorded systematically and accurately and property records of equipment are updated and adjusted annually by reference to purchase orders and withdrawal reports.

The Business Manager shall maintain a system of property records regarding consumable supplies on a continuous inventory basis.

Equipment and computing devices acquired under a Federal award will vest upon acquisition to the District, subject to the following conditions:

- A. The property shall be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award.
1. When no longer needed for the original program or project, the property may be used in other activities in the following order of priority: (1) activities under a Federal award from the Federal awarding agency which funded the original program or project; then (2) activities under Federal awards from other Federal awarding agencies.
  2. During the time that property is used on the project or program for which it was acquired, the District must also make the property available for use on other projects or programs currently or previously supported by the Federal program, provided that the use will not interfere with the work on the original project or program.
- B. The property shall not be encumbered without the approval of the Federal awarding agency or the pass-through entity.
- C. The property may only be used and disposed of in accordance with the provisions of the Federal awarding agency or the pass-through entity and Policy 7300 and Policy 7310 and AG 7310.
- D. Property records shall be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), title entity, acquisition date, cost of the property, percentage of Federal participation in the project costs for the award under which the property was acquired, the location, use, and condition of the property, and ultimate disposition data, including date of disposal and sale price of the property, in accordance with this policy.
- E. A physical inventory of the property must be taken and results reconciled with property records at least once every two (2) years, in accordance with this policy.
- F. A control system shall be developed to provide adequate safeguards to prevent loss, damage, or theft of the property. Any such loss, damage, or theft shall be investigated.
- G. Adequate maintenance procedures shall be implemented to keep the property in good condition.
- H. Proper sales procedures shall be established to ensure the highest possible return, in the event the District is authorized or required to sell the equipment/property.
- I. When original or replacement equipment acquired under a Federal award is no longer needed for the original project/program or for activities currently or previously supported by a Federal awarding agency, and except as otherwise provided by Federal statutes, regulations, or Federal awarding agency disposition instructions, the District shall request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment shall be made in accordance with the provisions of 2 C.F.R. 200.313.

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Legal 2 C.F.R. 200.313

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of ACCOUNTING SYSTEM FOR CAPITAL ASSETS
Code	po7455
Status	
Adopted	November 21, 2016
Last Revised	April 27, 2020

#### 7455 - ACCOUNTING SYSTEM FOR ~~CAPITAL~~FIXED ASSETS

The Board shall maintain a ~~capital~~fixed-asset accounting system. The fixed-asset system shall maintain sufficient information to permit the following:

- A. the preparation of year-end financial statements in accordance with Generally Accepted Accounting Principles (GAAP); ~~generally accepted, accounting principles~~
- B. adequate insurance coverage; and
- C. control and accountability.

~~The Business Manager shall be responsible for the development and maintenance of the fixed asset accounting system. The District Administrator shall develop procedures to ensure compliance with all fixed asset policies. Each principal shall also be assigned fixed asset responsibilities.~~

~~Fixed assets are defined as those tangible assets of the District system with a useful life in excess of one (1) year and an initial cost equal to or exceeding \$5,000.00. Some items may be identified as "controlled" assets that, although they do not meet all fixed asset criteria, are to be recorded on the fixed asset system to maintain control.~~

Capital assets are defined as those tangible assets of the District:

1. with a useful life in excess of one (1) year;
2. with an initial cost equal to or exceeding the amount determined periodically by the District in Policy 7450 - Property Inventory;
3. which are capitalized in accordance with GAAP; and
4. which the District intends to hold or continue in use for an extended period of time.

Further, some items may be identified as "controlled" assets that, although they do not meet all capital asset criteria, are to be recorded on the capital asset system to maintain control.

Capital assets shall be classified as follows:

1. land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as a financed purchase under Government Accounting.



- Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and
2. additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

~~Fixed assets shall be classified as follows:~~

- A. ~~land~~
- B. ~~building~~
- C. ~~improvements other than building~~
- D. ~~machinery and equipment~~
- E. ~~furniture and fixtures~~
- F. ~~vehicles~~
- G. ~~plant (aerator)~~
- H. ~~underground lines~~
- I. ~~construction in progress~~

Leased ~~capital~~fixed assets and assets that are jointly-owned shall be identified and recorded on the ~~capital~~fixed-asset system.

In accordance with GAAP, assets must be depreciated over their estimated useful lives and approved by the auditor.~~Depreciation shall be recorded for fund fixed assets.~~

Accumulated depreciation shall be calculated on a straight-line basis and be recorded for general ~~capital~~fixed assets.

The following information shall be maintained for all ~~capital~~fixed assets:

- A. description
- B. asset classification (land, building, equipment, etc.)
- C. location
- D. purchase price
- E. date purchased
- F. replacement cost
- G. appropriation
- H. manner of asset disposal

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Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of FOOD SERVICES
Code	po8500 - Review with Food Service/Board
Status	
Adopted	November 1, 2015
Last Revised	March 15, 2021

#### 8500 - **FOOD SERVICES**

The Board shall provide cafeteria facilities in all school buildings where space permits, and will provide food service for the purchase and consumption of lunch for all students.

The Board shall also provide a breakfast program in accordance with procedures established by the Department of Public Instruction.

The Board does not discriminate on the race, color, national origin, age, sex (including gender status, change of sex, sexual orientation, or gender identity), pregnancy, creed or religion, genetic information, handicap or disability, marital status, citizenship status, veteran status, military service (as defined in 111.32, Wis. Stats.), ancestry, arrest record, conviction record, use or non-use of lawful products off the District's premises during non-working hours, declining to attend an employer-sponsored meeting or to participate in any communication with the employer about religious matters or political matters, or any other legally protected category in its programs and activities, including employment opportunities in its educational programs or activities, including the Food Service program. Students and all other members of the District community and Third Parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation related to the Food Service program to a teacher, administrator, supervisor, or other official so that the Board may address the conduct. See Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity.

The food-service program shall comply with Federal and State regulations pertaining to the selection, preparation, delivery, consumption, and disposal of food and beverages, including but not limited to the current USDA's school meal pattern requirements and the USDA Smart Snacks in School nutrition standards, as well as to the fiscal management of the program. Further, the food-service program shall comply with Federal and State regulations pertaining to the fiscal management of the program as well as all the requirements pertaining to food service hiring and food service manager/operator licensure and certification. In addition, as required by law, a food safety program based on the principles of the Hazard Analysis and Critical Control Point (HACCP) system shall be implemented with the intent of preventing food-borne illnesses. For added safety and security, access to the facility and the food stored and prepared therein shall be limited to food service staff and other authorized persons.

The Board shall approve and implement nutrition standards governing the types of food and beverages that may be sold on the premises of its schools and shall specify the time and place each type of food or beverage may be sold. In adopting such standards, the Board shall:

- A. consider the nutritional value of each food or beverage;
- B. consult and incorporate to the maximum extent possible the dietary guidelines for Americans jointly developed by the United States Department of Agriculture (USDA) and the United States Department of Health and Human Services; and
- C. consult and incorporate the USDA Smart Snacks in School nutrition guidelines.

No food or beverage may be sold on any school premises except in accordance with the standards approved by the Board.

~~In addition, as required by law, a food safety program based on the principles of the Hazard Analysis and Critical Control Point (HACCP) system shall be implemented with the intent of preventing food borne illnesses. For added safety and security, access to the facility and the food stored and prepared therein shall be limited to food service staff and other authorized persons.~~

### Dietary Modifications

~~Substitutions to the standard meal requirements shall be made, at no additional charge, for students for whom a health care provider who has prescriptive authority in the State of Wisconsin has provided medical certification that the student's medical condition restricts his/her diet, in accordance with the criteria set forth in 7 C.F.R. Part 15b. Substitutions to the standard meal requirements shall be made, at no additional charge, for students who are certified by a licensed physician to have a disability that restricts his/her diet, in accordance with applicable State and Federal requirements. To qualify for such substitutions the medical certification must identify:~~

A request for substitutions to the standard meal requirements shall be made, at no additional charge, for students for whom a health care provider with prescriptive authority in the State of Wisconsin has provided medical certification that the student's medical condition necessitates dietary restrictions for the student. The individual making such a request of the Food Service Director shall be informed that medical certification that the student has a restricted diet, in accordance with the criteria set forth in 7 C.F.R. Part 15b., must be submitted within \_\_\_\_\_ ( ) school days from a health care provider with prescriptive authority in the State of Wisconsin or the dietary modification may be discontinued until such statement is received.

### The medical certification must identify:

- A. the student's medical condition or symptoms of a condition that restricts one (1) or more major life activity or function;
- B. an explanation of how the condition or symptom affects the student's diet; and
- C. the food(s) to be omitted from the student's diet, and the food or choice of foods that must be substituted (e.g., caloric modifications or use of liquid nutritive formula).

On a case by case basis, substitutions to the standard meal requirements may be made, at no additional charge, for students who are not "disabled persons", but have a signed statement from a qualified medical authority that the student cannot consume certain food items due to medical or other special dietary needs. To qualify for such consideration and substitutions the medical statement must identify:

- A. the medical or dietary need that restricts the student's diet; and
- B. the food(s) to be omitted from the student's diet and the food(s) or choice of foods that may be substituted

For non-disabled students who need a nutritional equivalent milk substitute, only a signed request by a parent is required.

### Meal Charges

Lunches sold by the school may be purchased by students and staff members and community residents in accordance with the rules of the District's school lunch program.

The operation and supervision of the food-service program shall be the responsibility of the Business Manager. Food services shall be operated on a self-supporting basis with revenue from students, staff, Federal reimbursement, and surplus food. The Board shall assist the program by furnishing available space, initial major equipment, and utensils. Maintenance and replacement of equipment is the responsibility of the program.

A periodic review of the food-service accounts shall be made by the Business Manager. Any surplus funds from the National School Lunch Program shall be used to reduce the cost of the service to students or to purchase cafeteria equipment. Surplus funds from a-la-carte foods purchased using funds from the nonprofit food service account must accrue to the nonprofit food service account.

### Bad Debt

Bad debt incurred through the inability to collect lunch payment from students is not an allowable cost chargeable to any Federal program. Any related collection cost, including legal cost, arising from such bad debt after they have been determined to be uncollectible are also unallowable. District efforts to collect bad debt shall be in accordance with Policy 6152 - Student Fees, Fines, and Charges.

Bad debt is uncollectable/delinquent debt that has been determined to be uncollectible no sooner than the end of the school year in which the debt was incurred. If the uncollectable/delinquent debt cannot be recovered by the School Meals Program in the year when the debt was incurred, then this is classified as bad debt. Once classified as bad debt, non-Federal funding sources must reimburse the NSFSFA for the total amount of the bad debt. The funds may come from the District general fund, State or local funding, school or community organizations such as the PTA, or any other non-federal source. Once the uncollectable/delinquent debt charges are converted to bad debt, records relating to those charges must be maintained in accordance with the record retention requirements in 7 CFR 210.9(b) (17) and 7 CFR 210.15(b).

### **Negative Account Balances**

Students will be permitted to purchase meals from the District's food service using either cash on hand or a food service account. A student may be allowed to incur a negative food service account balance subject to the following conditions.

Students may be permitted to accumulate negative food service account balance as determined by the District Administrator. The District Administrator shall determine the manner of determining permissible account balances by grade level. A student shall not be permitted to purchase a la carte items without sufficient account balance or cash on hand. Likewise, any student that has a negative account balance may not purchase a la carte items with cash unless the student is also able to bring his/her account current.

A student who has exceeded the permissible negative balance amount in his/her account and does not have cash on hand sufficient to purchase a meal will be treated respectfully. The District will provide meals to students with unpaid meal balances without stigmatizing them, will provide parents of students who charge meals with notification when a student charges a meal, and will make efforts to collect the charges incurred by the students so that the unpaid charges are not classified as "bad debt" at the end of the school year.

#### [.] [Option A]

If a student has a significant negative lunch account balance, s/he shall be provided a regular reimbursable meal that follows the USDA meal pattern, the cost of which shall continue to accrue to his/her negative lunch account balance.

#### [End of Option A]

#### [.] [Option B]

If a student has a significant negative lunch account balance, s/he shall be provided an alternate meal (.) at a reduced price recommended by the District Administrator and approved by the Board END OF OPTION], the cost of which shall continue to accrue to his/her negative lunch account balance, and his/her parent(s) shall be contacted to collect the outstanding charges. The alternate meal will be a low-cost alternative to the regular reimbursable meal and shall meet USDA nutritional standards or the Smart Snacks in Schools Regulations so that it qualifies for reimbursement under the National School Lunch/Breakfast Program.

#### [End of Option B]

~~Students that are receiving free or reduced-price meals will be permitted to purchase a USDA approved meal if the student has the necessary funds with him/her to purchase the meal, regardless of whether the student has a negative account balance.~~

This policy and any implementing guidelines shall be provided in writing to all households at the start of each school year and to households transferring to the school or School District during the school year. The policy and implementing guidelines will also be provided to all District staff with responsibility for enforcing the policies.

The food-service program may participate in the "Farm to School Program" using locally grown food in school meals and snacks.

No foods or beverages, other than those associated with the District's food-service program, are to be sold during food-service hours.

The District's food service program shall serve only food items and beverages determined by the Food Service Department to be in compliance with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines. Any competitive food items and beverages that are available for sale to students a la carte in the dining area between midnight and thirty (30) minutes following the end of the last lunch period shall also comply with the current USDA Dietary Guidelines for Americans and the USDA Smart Snacks in School nutrition guidelines, and may only be sold in accordance with Board Policy 8550. Foods and beverages unassociated with the food-service program may be vended in accordance with the rules and regulations set forth in Board Policy 8540.

The District Administrator will require that the food service program serve foods in the schools of the District that are wholesome and nutritious and reinforce the concepts taught in the classroom.

The District Administrator is responsible for implementing the food service program in accordance with the adopted nutrition standards and shall provide a report regarding the District's compliance with the standards at one of its regular meetings annually.

### **Nondiscrimination Statement**

The following statement applies to all programs administered by the District that are funded in whole or in part by the U.S. Department of Agriculture (USDA):

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

1. Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
2. Fax: (202) 690-7442; or
3. E-mail: [program.intake@usda.gov](mailto:program.intake@usda.gov).

This institution is an equal opportunity provider.

All verbal or written civil rights complaints regarding the school nutrition programs that are filed with the District must be forwarded to the Civil Rights Division of USDA Food and Nutrition Service within three (3) days.

Revised 11/21/16  
Revised 7/17/17  
Revised 11/19/18  
T.C. 3/15/21

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SP 32-2015 Statements Supporting Accommodations for Children with Disabilities in the Child Nutrition Programs

SP 59-2016 Modifications to Accommodate Disabilities in the School Meal Program

OMB Circular No. A-87 USDA Smart Snacks in School Food Guidelines (effective July 1, 2014)

Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq.

Healthy, Hunger-Free Kids Act of 2010 and Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq.

42 U.S.C. 1758

15.137, 93.49, 115.34 -115.345, 120.10(16), 120.13(10), Wis. Stats.

7 C.F.R. Parts 15b, 210, 215, 220, 225, 226, 227, 235, 240, 245

42 U.S.C., Chapter 13

Last Modified by Melanie Oppor on September 13, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of HOME-BASED, PRIVATE, OR TRIBAL SCHOOLING
Code	po9270
Status	
Adopted	November 21, 2016

#### 9270 - HOME-BASED, PRIVATE, OR TRIBAL SCHOOLING

The Board encourages the enrollment of all school-age children residing in this District in public schools or in approved parochial or private schools so that such children they may enjoy the benefits of a well-planned educational program and the socialization possible in a group environment.

#### Private Education or Tribal School Education Students

The Board shall allow students who are being educated at a private school or a tribal school to participate, if space is available, in any of the District's courses by enrolling in up to two (2) courses during each semester. The student must meet the criteria for admission to the high school established for private school or tribal school students.

The Board shall not allow any student who is being educated at a private school or a tribal school to participate in any of the District's non-WIAA sanctioned athletic or extra-curricular programs.

#### **Home-Based Private Education Students**

The Board shall allow a student receiving Home-Based private education to attend up to two (2) courses per semester in the public school classroom provided that the student meets the minimum standards for enrollment in each course as established by the District. Such student may attend no more than 2 courses per semester, which shall include any courses being taken by the student in another public school district such that the aggregate number of courses taken in a public school district in any semester does not exceed two (2).

A student receiving Home-Based private education may participate in interscholastic athletics in the District including WIAA sanctioned interscholastic athletics, on the same basis and to the same extent that the District permits students enrolled in the District to participate. Upon request, the Home-Based educational program in which the student is enrolled shall provide the District with a written statement that the student meets the Board's requirements for participation in interscholastic athletics based on age and academic and disciplinary records. No person may provide a false statement.

A student receiving Home-Based private education may participate in extracurricular activities in the District on the same basis and to the same extent that it permits students enrolled in the District to participate.

The District may charge a student who participates in interscholastic athletics or extracurricular activities participation fees, including fees for uniforms, equipment, and musical instruments, on the same basis and to the same extent that it charges these fees to a student who is enrolled in the District.

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Legal                    118.145(4), Wis. Stats.  
                              118.1330 Wis. Stats.  
                              118.53, Wis. Stats.

Last Modified by Steve LaVallee on September 16, 2021





Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of RELATIONS WITH EDUCATIONAL INSTITUTIONS AND ORGANIZATIONS
Code	po9500
Status	
Adopted	November 21, 2016

#### 9500 - **RELATIONS WITH EDUCATIONAL INSTITUTIONS AND ORGANIZATIONS**

It is the policy of the Board that strong lines of communication be maintained by the District with other districts and with institutions and organizations that provide District students with programs, training, or services not available in the District.

The Board also recognizes the value of these relationships in furtherance of educational research initiatives that provide benefit to the District staff and students.

The District Administrator may enter into such cooperative ventures with institutions or organization for the purpose of providing programs that correlate to the District's curriculum and help students better accomplish the educational outcomes established by the Board.

Before entering into any agreements, the District Administrator shall keep the Board advised of any arrangements that involve the use of District resources or require any additional resources of the District~~would affect the use of District resources or require any additional resources of the District.~~

In order to maintain cordial and constructive relationships with private and parochial schools, the District Administrator shall designate a staff member to serve as a liaison with the administration of all such schools that enroll District resident students in order to be aware of any potential program changes that could affect the District; and to foster cooperation in the implementation of all State and Federal programs administered by the District that benefit, in whole or in part, eligible students attending private or parochial school.~~The District Administrator shall maintain liaison with the administration of all schools enrolling significant numbers of students resident in this School District to be aware of any program changes that may be planned that could affect this District; and to cooperate fully in the implementation of all State and Federal programs administered by this District and benefiting, in whole or in part, eligible students attending private or parochial school.~~

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Last Modified by Steve LaVallee on July 24, 2021



Book	Policy Manual
Section	For Board Review - Vol. 30, No. 2 + Special Update
Title	Copy of RELATIONS WITH NON-SCHOOL AFFILIATED GROUPS
Code	po9700
Status	
Adopted	November 21, 2016
Last Revised	March 15, 2021

#### 9700 - **RELATIONS WITH NON-SCHOOL AFFILIATED GROUPS**

It is the policy of the Board of Education that students, staff members, and District facilities not be used for advertising or promoting the interests of any non-school related agency or organization, public or private, without the approval of the Board or its delegated representative; and any such approval, shall not be construed as an endorsement of any cause or group by this Board. [All crowdfunding activities are subject to Policy 6605 - Crowdfunding and AG 6605.](#)

No non-school affiliated group may use the name, logo, mascot, or any other name which would associate an activity with the District without the specific written permission of the District Administrator. Additionally, no non-school affiliated group may use any assets of the District, including but not limited to facilities, technology, or communication networks without the specific written permission of the District Administrator.

#### **School District Referendum Advocacy**

This policy applies expressly to any outside organization's advocacy concerning School District referenda. Any such organization, whether advocating in favor of or in opposition to a referendum question must clearly identify themselves as independent of the School District and may not, under any circumstances, use School District logos, mascots, slogans or other such items that are protected by or regularly used and identified with the District. School District officials may not advocate for a position on a referendum in any manner in which such advocacy is in the individual's capacity as a School District official or may reasonably be perceived as such. School District officials may always provide factual information concerning any referendum question.

##### **A. Materials or Activities**

All materials or activities proposed by outside organizations for student or staff use or participation shall be reviewed by the principal on the basis of the proposed activities or materials educational contribution to part or all of the school program and benefit to students, and no such approval shall have the primary purpose of advancing the name, product, or special interest of the proposing group.

The Board shall permit the use of educational materials, programs, and equipment that contain commercial messages, providing the content of such messages are in a manner of presentation have been approved by the District Administrator and are in compliance with the District's administrative guidelines.

Outside speakers representing commercial organizations are welcome only when the commercial aspect is limited to naming the organization represented and the subject matter advances the educational interests of the District's students.

##### **B. Contests/Exhibits**

The Board recognizes that contests, exhibits may benefit individual students or the District as a whole, but participation in such special activities may not:

1. have the primary effect of advancing a special product, group, or company;
2. make unreasonable demands upon the time and energies of staff or students or upon the resources of the District;
3. interrupt the regular school program;
4. involve any direct cost to the District;
5. cause the participants to leave the School District.

All contests and exhibits may take place if:

- a. There is compliance with Board's Policy 2340 - Field and Other District-Sponsored Trips;
- b. The District Administrator has granted special permission;
- c. the parents of a minor student have granted their permission.

### **C. Distribution/Posting of Literature**

Non-school affiliated organizations may distribute or post literature on that organization's behalf on District property either during or after school hours only with advance permission of the principal.

The Board requires that any materials distributed for non-school-related activities contain the statement: "This activity is neither endorsed nor supported by the School District of Manawa".

### **D. Solicitation of Funds**

Because the District cannot accommodate every organization that desires to solicit funds for worthy purposes, the Board shall not permit any organization not related to the District to solicit funds on District property.

### **E. Prizes/Scholarships/Other Awards**

The Board is appreciative of the generosity of organizations that offer scholarships, prizes, or other awards to deserving students in the District.

In the administration of scholarships, prizes, or other awards, the District shall not discriminate on the basis of sex, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability.

Administration of scholarship or award programs appropriately designated under this policy to benefit individuals in a particular group that has not traditionally been represented does not violate this policy.

The District may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established by a domestic or foreign will, trust, bequest, or similar legal instrument that requires the award to go to a student of a particular sex, race, color, national origin, or with a particular disability. Such restricted awards must not lead to discrimination in access to the total amount of prizes, scholarships, or other awards available.

In accepting the offer of such scholarships or prizes from non-District entities or persons, the Board directs that no information either academic or personal shall be released from the student's record for the purpose of selecting a scholarship or prize winner without the permission of the student who is eighteen (18), or the parents of a student who is younger in accordance with the Board's policy on student records.

The District will periodically review their procedures for awarding scholarships, prizes, and other awards. This review will require that the District's procedure does not discriminate on the basis of sex, race, color, national origin, or disability in the overall effect of the scholarships, prizes, and other awards given to students.

### **F. Surveys and Questionnaires**

Distribution of Surveys and Questionnaires to Students is governed by Policy 2416 - Surveys, Analyses, Evaluation.

Legal 118.125, Wis. Stats.

Last Modified by Steve LaVallee on July 24, 2021