SECOND READING BY BOARD

po3362

Special Update - Nondiscrimination - July 2026 Rescind EMPLOYEE ANTI-HARASSMENT

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

~~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 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 (collectively, Protected Classes),or any other characteristic protected by law in its employment practices (hereinafter referred to as harassment), 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, take immediate steps 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.~~

[ ] The District will offer counseling services to any person found to have been subjected to harassment and, where appropriate, the person(s) who committed the harassment.

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 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 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" 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, 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 gender against a person of the same or another gender.~~

~~Sexual Harassment covered by Policy 2266/ **( )** AG 2266 **[END OF OPTION]** – 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 **[END OF OPTION]** - 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;~~

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, 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, posters, audio recordings, or literature placed in the work environment that reasonably may embarrass or offend individuals;~~

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;~~

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:

1. ( ) _____;
2. ( ) _____;
3. ( ) _____.

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.

[END OF BOUNDARY INVASIONS OPTION]

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 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 or COs):

[DRAFTING NOTE: - Neola suggests the Board - appoint both a male and a female Compliance Officer in order to provide Complainants with the option to report their concerns to an individual of the gender with which they feel most comfortable. The same individual(s) assigned to serve as Compliance Officer(s) may also be assigned to serve as the District's Section 504 Compliance Officer(s) /ADA Coordinator(s) and/or Title IX Coordinator(s). Additionally, by appointing two

~~**(2) Compliance Officers, there should also be a Compliance Officer available to investigate a claim of harassment that pertains to the other Compliance Office r, as appropriate .]**~~

~~_____~~

~~(Name)~~

~~_____~~

~~(School District Title)~~

~~_____~~

~~(Telephone Number)~~

~~_____~~

~~(Office Address)~~

~~_____~~

~~(E-mail Address)~~

~~_____~~

~~(Name)~~

~~_____~~

~~(School District Title)~~

~~_____~~

~~(Telephone Number)~~

~~_____~~

~~(Office Address)~~

~~_____~~

~~(E-mail Address)~~

~~The names, titles, and contact information of these individuals will be published annually:~~

A. ~~on the School District's website.~~

B. ~~( ) in the parent and staff handbooks.~~

C. ~~( ) in the School District Annual Report to the public.~~

D. ~~( ) on each individual school's website.~~

E. ~~( ) in the School District's calendar.~~

F. ~~( ) _____~~

~~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~~ **~~[ ] Option 1~~** ~~the CO(s) will designate a specific individual to conduct such a process as identified in a pre-defined list of investigators.~~ **~~[END OF OPTION 1] [ ] Option 2~~** ~~the District Administrator will designate a specific individual to conduct the process necessary for an informal or formal investigation~~ **~~[END OF OPTION 2]~~** ~~. 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 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 shall file it with the Compliance Officer within two (2) days of receiving the report of harassment.

Members of the School District community and Third Parties who believe they have been harassed by another member of the School District community or a Third Party are entitled to utilize the Board's complaint process that is set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the Complainant'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 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.

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 handled in accordance with 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 3362 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) days of learning of the incident.

Investigation and Complaint Procedure (see Form 3362 F1)

Except for Sexual Harassment that is covered by Policy 2266 - Nondiscrimination on the Basis of Sex in Education Program or Activities, any employee or other member of the School District community or Third Party (e.g., visitor to the District) who believes that they have been subjected to harassment or has witnessed harassment of another may seek resolution of the complaint through the procedures 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.

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, 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 who alleges harassment based on a protected class or retaliation may file a complaint, either orally or in writing: 1) with a Principal; 2) directly to one of the 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 will consult with the other CO, if any, or if necessary appoint/designate another individual to serve as CO for the 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) days.

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

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

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

Upon receiving a complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the Complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the Complainant and/or the Respondent. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO may still take whatever actions deemed appropriate in consultation with the District Administrator. No temporary arrangements shall be disciplinary to either the Complainant or Respondent.

Within two (2) days of receiving a complaint, the CO will inform 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. The 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 two (2) 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.

[ ] [OPTION 1] 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 fifteen (15) days of receiving the formal complaint. **[ ] [OPTION 2]** 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. **[END OF OPTIONS]**

~~The investigation will include:~~

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

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

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

D. ~~consideration of any documentation or other 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 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. 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,~~ **~~[END OF OPTION]~~** ~~engage outside legal counsel to conduct the investigation consistent with this policy.~~

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

~~If the District Administrator requests additional investigation, the District Administrator must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) 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 Third Party alleging the harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board.~~

~~The 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 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 Respondent, and all witnesses in a manner consistent with the School District's legal obligations under State and Federal law. Confidentiality, however, cannot be guaranteed. Additionally, the Respondent must be provided with the Complainant's identity.~~

~~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 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 rights 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 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 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 a 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 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 **( )** Board Attorney 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 employment, and the mailing address and telephone number of the United States Equal Opportunity Employment Commission.

A **( )** link to **( )** summary of **[END OF OPTION]** 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 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 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/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 measures offered and/or provided to Complainant and/or the Respondent, 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.]**

[DRAFTING NOTE: The following options should be selected if the district concludes that the following items are not adequately encompassed in the preceding paragraphs.]

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

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

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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, The 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