

STUDENT NONDISCRIMINATION AND EQUAL EDUCATIONAL OPPORTUNITIES

Policy 411

Sample Policy 3 Waunakee Community School District

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~~(This sample student nondiscrimination policy is appropriate only for a district that has adopted either PRG 113 Sample Policy 1 or PRG 113 Sample Policy 2 (or a locally-numbered equivalent) because this sample incorporates certain provisions from policy 113 by reference (rather than repeating the provisions in their entirety). IMPORTANT: A district using this sample would also need to adopt a student discrimination complaint procedure. PRG 411 Sample Rule 3 is a complaint procedure that was drafted to coordinate with this sample policy. In addition, a district adopting this policy should strongly consider adopting PRG 411.1 Sample Policy 2 (or 411.1 Sample Policy 1) as a supporting policy that further defines and addresses unlawful harassment based on any legally-protected status as one form of prohibited discrimination.)~~

The right of students to be admitted to school and to participate fully in curricular, co-curricular, recreational, student services, or other programs or activities shall not be unlawfully abridged or impaired because of a student's sex. ~~if desired, insert as an interpretive clarification: "(including any non-conformance with conformity to sex-based or gender-based stereotypes)"~~; sexual orientation, race, color, national origin, ancestry, religion, creed, age, pregnancy, marital or parental status, any physical, mental, emotional or learning disability, or any other legally-protected status or classification. Accordingly, the School Board prohibits all forms of unlawful discrimination against students, regardless of the legally-protected status or classification that serves as the basis for any prohibited discriminatory conduct, policy, or practice. When based upon a legally-protected status or classification, examples of unlawful and discriminatory acts can include:

1. The denial of admission to any public school;
2. The denial of participation in, equal access to, or the benefits of any curricular, extracurricular, student services, recreational, or other program/activity, including the District's career and technical education opportunities;
3. The discriminatory and inequitable provision of resources among comparable curricular or extracurricular programs; or
4. Any action, policy, or practice, including segregation, bias, stereotyping, or student harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles or rewards based, in whole or in part, on a legally-protected classification or characteristic.

As further required by the Board's policies and/or applicable law:

- The District shall provide all appropriate and legally-required accommodations, educational services, and/or programs for students who have been identified as having a qualifying disability, regardless of the nature or severity of the disability and regardless of whether the student qualifies for the District's special education program. Facilities modifications necessary to provide for appropriate access and participation for persons with disabilities shall be made to the extent required by law.
- Among other accommodations for a student's religious beliefs that may be required under state or federal law, the District shall provide for the reasonable accommodation of a

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student's sincerely held religious beliefs with regard to examinations and other academic requirements. If any such need is not adequately resolved by the application of regular classroom procedures, a student or the student's parent/guardian may submit a written (including via email) request for such an accommodation to the principal of the student's school. Access to and disclosure of such requests is limited as provided under the District's student records policies. The school principal or his/her designee shall approve or deny each such request. Potential accommodations may include, but are not necessarily limited to, being excused from participation in an activity, alternative assignments, release time from school to participate in religious activities, and opportunities to make up work missed due to religious observances. Any accommodation granted under this paragraph shall be provided to the student without prejudicial effect. ***{Editor's Note: Some districts choose to address the accommodation of students' religious beliefs in a separate policy, while often still directing that any complaints regarding an alleged failure to accommodate are to be filed and processed under the district's general student discrimination complaint procedures. See PI 41.04(1)(d) of the Wisconsin Administrative Code.}***

- Children of homeless individuals and unaccompanied youth (youth not in the custody of a parent or guardian) as identified under federal law shall have equal access to the same free, appropriate public education, including comparable services, as those provided to other children and youth who reside in the District. Homeless children and youth shall not be required to attend a separate school or program for homeless children and shall not be stigmatized by school personnel.

This policy shall not be interpreted to prohibit the District from (1) providing special programs or services based on student need, such as gifted and talented programming, special education, school-age parents, bilingual-bicultural programs or services, at risk or alternative programs, and other special programs or services; or (2) placing a student in a school, program, class, or activity based on objective standards of individual need or performance.

Complaints alleging a violation of any aspect of this policy may be filed and shall be processed in accordance with the District's student discrimination complaint procedures, as adopted in connection with {Board Policy 113413/513} and this policy. ***{Editor's Note: Every time that "Board Policy 113" appears as a cross reference within this sample, a district should modify the cross reference, if necessary, to correspond to the locally-numbered equivalent of PRG 113 Sample Policy 1 or PRG 113 Sample Policy 2, as actually adopted in the district.}*** The Special Education Director{insert the appropriate position title or other appropriate descriptor} is authorized to receive any student discrimination complaint, including any complaint arising under Chapter PI 9 (student nondiscrimination under state law) or Chapter PI 41 (accommodation of students' religious beliefs) of the Wisconsin Administrative Code. ***{Editor's Note: Ensure that the staff position title inserted in the previous sentence is accurate and consistent with the nondiscrimination coordinator designations made in any other policies, including especially the local equivalent to the PRG 113 policy samples.}***

Any person who is determined to be responsible for any form of unlawful discrimination, any act of prohibited retaliation, or other violation of a District nondiscrimination policy, including this policy, is subject to appropriate disciplinary action and/or other appropriate consequences that are within the District's lawful authority.

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Policy Provisions Incorporated by Reference. The following provisions of ~~Board Policy~~ ~~413/513~~, which addresses the District's commitment to nondiscrimination across all aspects of the District's programs, activities, and operations, are applicable to this student-focused policy and are incorporated by reference:

- The designation of nondiscrimination coordinators, including the District's Title IX Coordinator(s). ~~Board Policy 413/513, H-3~~ provides the direct contact information for the District's nondiscrimination coordinators.
- ~~Notice that the prohibitions against sex discrimination established by Title IX of the federal Education Amendments of 1972 ("Title IX") and by the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations") apply to the District. Title IX protects students, employees, and others from various forms of prohibited sex discrimination.~~
- Procedures under which any person (including a person who is not claiming to have been personally harmed/victimized by the alleged conduct or challenged policy) may report information about or, if eligible, submit a complaint alleging possible prohibited discrimination or prohibited retaliation. ~~This includes procedures and conditions under which an individual who is alleged to be the victim of conduct that could constitute sexual harassment under the federal Title IX regulations (i.e., a Title IX "complainant") may file a "formal complaint" of "sexual harassment," as those terms are defined in federal regulations for purposes of Title IX.~~
- ~~Notice that the prohibitions against sex discrimination established by Title IX of the federal Education Amendments of 1972 ("Title IX") and by the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations") apply to the District. Title IX protects students, employees, and others from various forms of prohibited sex discrimination.~~
- The prohibition that no official, employee, or agent of the District or any other person (including a student) may intimidate, threaten, coerce, or unlawfully discriminate against any individual (1) for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or (2) because the individual has made a report or complaint, or testified, assisted, participated, or exercised a ~~protected~~ legal right ~~if any such right is applicable~~ to refuse to participate in any manner in an investigation or proceeding conducted under any District nondiscrimination policy.
- The limitations on the extent to which the District can provide or assure confidentiality, but also the commitment to observe any specific confidentiality requirements established by state or federal law.
- The prohibition against bad faith conduct and abuse of process in connection with any report or complaint of possible discrimination or retaliation.

{Editor's Note: One or more of the sections below this note may be deleted if the district prefers to shorten the policy. However, the remaining sections of this sample cover legal rights or legal obligations that will exist regardless of whether they are expressly addressed in this policy.}

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External Complaints and Proceedings. By following the procedures and timelines established by the applicable non-District entity, complaints of unlawful student discrimination may also be filed externally with the Wisconsin Department of Public Instruction, the Chicago office of the U.S. Department of Education's Office for Civil Rights, or, in appropriate circumstances, with any state or federal court or other agency of competent jurisdiction. Each such external entity independently determines whether a given complaint falls within the entity's scope of authority.

Notices and Published Nondiscrimination Statements. The District Administrator and the District's designated nondiscrimination coordinators shall ensure that notice of this policy and its accompanying complaint procedures is published at the beginning of each school year as a Class 1 legal notice. In addition:

1. A student nondiscrimination statement shall be included in the District's student and employee handbooks, course selection handbooks, and other published materials distributed to the public describing school activities and opportunities;
2. The District's student nondiscrimination complaint procedure shall be included in the District's student and employee handbooks; and
3. The District shall also provide the notices required under applicable federal nondiscrimination laws that apply to students (e.g., Title IX, Section 504, etc.).

Evaluation and Reports. The District Administrator and the District's designated nondiscrimination coordinators shall ensure that the District annually prepares a summary compliance report regarding student nondiscrimination and that the District completes an evaluation of the status of nondiscrimination and equality of educational opportunity in the District at least once every five years, as further specified under the regulations of the Department of Public Instruction.

Legal References:

Wisconsin Statutes

[Section 118.13](#) [student nondiscrimination; policy/procedures required]

Wisconsin Administrative Code

[PI 9](#) [student nondiscrimination; policy/procedure/notice required]
[PI 41](#) [accommodating student religious beliefs; policy required]

Federal Laws

[20 U.S.C. §1681 et seq.](#) [Title IX of the Education Amendments of 1972, as amended, prohibiting sex discrimination in federally-supported educational programs; implementing regulations at [34 C.F.R. Part 106](#)]
[20 U.S.C. §6312\(e\)\(3\)\(D\)](#) [nondiscrimination in admission on the basis of surname or language-minority status]
[29 U.S.C. §794 et seq.](#) [Section 504 of the Rehabilitation Act of 1973, as amended, prohibiting discrimination based on a qualifying disability; implementing regulations at [34 C.F.R. Part 104](#) and [28 C.F.R. Part 42, Subpart G](#)]

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42 U.S.C. §12131 et seq.	[The Americans with Disabilities Act, Title II, as amended, nondiscrimination based on disability by state and local governments; implementing regulations at 28 C.F.R. Part 35]
42 U.S.C. §6101 et seq.	[Age Discrimination Act of 1975, as amended, prohibiting age discrimination, with relevant exceptions, in programs or activities receiving Federal financial assistance]
42 U.S.C. §2000c et seq.	[Title IV of the Civil Rights Act of 1964, as amended, prohibiting certain equal protection violations relating to the assignment of students to public schools and within such schools based on sex, religion, race, color, or national origin]
42 U.S.C. §2000d et seq.	[Title VI of the Civil Rights Act of 1964, as amended, prohibiting discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds; implementing regulations at 28 C.F.R. Part 42, Subpart C]
42 U.S.C. §11431 et seq.	[the McKinney-Vento Homeless Assistance Act; equal access for homeless students; required policies to remove barriers]
34 C.F.R. Part 100, App. B	[this appendix requires school districts to provide a notice that all vocational opportunities will be offered without regard to race, color, national origin, sex, or disability]

Cross References:

WASB PRG 411 Sample Policy 3
342.1, Programs for Students with Disabilities
411-Rule (1), Student Discrimination/Harassment Complaint Procedures
411.1, Student Harassment
413/513, Nondiscrimination in District Programs, Activities and Operations
512, Sexual Harassment
Special Education Handbook
[Insert appropriate cross references to the policy as applicable to your district.]

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