



Book	Policy Manual
Section	Ready for 7-9-2024
Title	New Policy - Special Update - Title IX - June 2024 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
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New Policy - Special Update - Title IX

2264 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

This policy pertains to sex discrimination, including sex-based harassment, which occurs on or after August 1, 2024. Allegations of sex-based harassment that occur on or before July 31, 2024, shall be addressed pursuant to Policy 2266 (-X) and AG 2266 ~~[END OF OPTION]~~. Throughout this policy, unless expressly stated otherwise, reference to "Title IX" includes and incorporates the 2024 Title IX regulations (also known as the "2024 Final Rule"). The Title IX regulations are found at 34 C.F.R. Part 106. References solely to Title IX (20 U.S.C. §§ 1681 – 1688) are denoted as "Title IX (Statute)." In this policy, unless the context otherwise requires, words importing the singular include the plural and vice versa.

For purposes of this policy, both Policy 2264 - Nondiscrimination on the Basis of Sex in Education Programs or Activities and Policy 2266 - Nondiscrimination on the Basis of Sex in Education Programs or Activities are frequently referenced herein and shall only be referred to by the policy number. As identified in Policy 2266, that policy shall be used for allegations of sex discrimination, including Sexual Harassment, that is based on conduct alleged to have occurred prior to August 1, 2024.

~~[DRAFTING NOTE: The 2024 Final Rule serves to "clarify the scope and application of Title IX and the obligations of recipients of Federal financial assistance from the United States Department of Education [“ED”]...to provide an educational environment free from discrimination on the basis of sex, including through responding to incidents of sex discrimination." The 2024 Final Rule stresses — in its Supplementary Information section (i.e., "Preamble") — that ED is responsible for "fully [enforcing] Title IX's nondiscrimination mandate."]~~

~~The 2024 Title IX regulations are effective August 1, 2024. As such, they apply *only* to sex discrimination that allegedly occurred on or after August 1, 2024. With respect to sex discrimination that allegedly occurred prior to August 1, 2024, regardless of when the alleged sex discrimination was reported, ED has stated that it will "evaluate a recipient's compliance against the Title IX statute and the Title IX regulations in place at the time that the alleged sex discrimination occurred." The 2020 Title IX regulations (effective 8/14/2020) focus on effectuating Title IX's prohibition against sex discrimination by requiring recipients to address sexual harassment as a form of sex discrimination in education programs or activities. The 2020 Title IX regulations obligate recipients to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims. The 2020 Title IX regulations do not provide procedures for addressing claims of sex discrimination in a recipient's education program or activity that are unrelated to sexual harassment. As such, ED states in the Preamble to the 2024 Title IX regulations that "some reports regarding sex discrimination occurring in a recipient's education program or activity may be handled under [the 2024 Title IX regulations] while others will be addressed under the requirements of the [2020 Title IX regulations]." (emphasis added) Presumably, the "will" relates to reports of sexual harassment (or "sex-based harassment" as defined in the 2024 Title IX regulations) that allegedly occurred prior to 8/1/2024, and the "may" refers to reports of alleged sex discrimination that occurred prior to 8/1/2024 that involve non-sexual harassment related violations of Title IX (Statute).~~

~~Since a recipient is not required to use the grievance procedures outlined in the 2024 Title IX regulations (and this policy) to investigate, address, and remedy alleged violations of Title IX—not involving sex-based harassment—that occurred before 8/1/2024 in the school district’s education programs or activities (again, allegations of sexual harassment that involve conduct that occurred before 8/1/2024 must be addressed pursuant to the grievance procedures delineated in Policy 2266 and AG 2266), the Title IX Coordinator is afforded broad discretion to determine how best to address in a prompt, effective and equitable manner such Title IX violations.~~

~~The language quoted in this DRAFTING NOTE is found at 89 Fed. Reg. 33,841 (Apr. 29, 2024).~~

~~For more information concerning the use of this policy and the grievance procedures set forth herein, as opposed to Policy 2266 and the grievance procedures contained in it, refer to the first few paragraphs of the Grievance Procedures section located below.~~

~~Neola recommends the Board consult with its Legal Counsel relating to any questions it may have concerning application and implementation of this policy and its corresponding administrative guideline, as compared to Policy 2266 and AG 2266.]~~

NONDISCRIMINATION

Overview:

The Board of the _____ School District School District of Tomahawk (hereinafter referred to as “the Board” or “the District”) does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

~~[DRAFTING NOTE: For purposes of the 2024 Title IX regulations, the term “admission” refers to admission to postsecondary institutions (i.e., institutions of graduate higher education, institutions of undergraduate higher education, institutions of professional education, and institutions of vocational education). If a K-12 school does not operate a vocational program (e.g., a school or institution that has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study), the K-12 school does not have to include “admission and” in the preceding sentence (and where that phrase is used throughout this policy); Neola, however, recommends that boards include it because all K-12 schools “enroll” students and often the term “enroll” is viewed as synonymous with the term “admit.” Further, K-12 schools cannot discriminate when enrolling students into the education programs or activities that they operate, so it seems reasonable to include the term “admission.” Additionally, many districts operate adult-based vocational programs and/or have students dual-enrolled in post-secondary institutions—e.g., through Wisconsin’s Early College Credit Program, Start College Now Program, and/or youth apprenticeship programs, so it makes sense to include “admission” even though those postsecondary institutions will have their own Title IX nondiscrimination policies and grievance procedures. If a student enrolled in/admitted to one of these programs notifies the District that the student was allegedly subjected to sex discrimination during/through the student’s participation in the program, the Title IX Coordinator should consult with the Board’s Legal Counsel regarding the District’s responsibility to implement the District’s grievance procedures to address the allegations of sex discrimination and provide supportive measures. The Title IX Coordinator should also contact and coordinate with the postsecondary institution’s Title IX Coordinator concerning the matter.]~~

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

[DRAFTING NOTE:

~~Unlike a couple of years ago when several States challenged in court a legal guidance document that ED released interpreting the U.S. Supreme Court’s Bostock decision (Bostock v. Clayton County, 590 U.S. (2020), as applying to Title IX and therefore protecting individuals from discrimination based on their sexual orientation or gender identity, the 2024 Title IX regulations “carry the force and effect of law” as a result of ED going through the notice and comment rulemaking process prior to promulgating them.~~

~~While the pending lawsuits each seek to void, cancel, or otherwise block ED from implementing the 2024 Final Rule, they each present slightly different bases for challenging the 2024 Title IX regulations. All of them, however, express an underlying or primary concern related to an alleged expansion of the term “sex” to include sexual orientation and gender identity. While these plaintiffs, to date, contend the 2020 Bostock~~

~~decision—which involved Title VII—does not apply to Title IX, Neola has interpreted “sex” to include “sexual orientation and gender identity” for a number of years pre-dating Bostock based on applicable Sixth Circuit case law (see *Dodd v. U.S. Dept. of Education*, 845 F.3d 217 (6th Cir. 2016) (holding that discrimination against transgender students likely constitutes sex discrimination under Title IX of the Education Amendments Act of 1972 and the Equal Protection Clause of the U.S. Constitution); since that time, even more Circuit courts have upheld such an interpretation (e.g., *Whitaker v. Kenosha Unified School District*, 858 F.3d 1034 (7th Cir. 2017) (holding that discrimination against transgender students constitutes sex discrimination under Title IX of the Education Amendments Act of 1972 and the Equal Protection Clause of the U.S. Constitution). In fact, original Policy 2266, which Neola developed in 2020 following ED releasing the 2020 Title IX regulations, expressly provides that “sex” includes “sexual orientation and gender identity”).~~

~~Other concerns raised in the lawsuits primarily deal with aspects of the rules that have a more significant role in the postsecondary setting as opposed to the K-12 education environment; namely, the use of a single investigator/decision-maker model, and a purported reduction in the due process rights afforded to the accused (i.e., whether the respondent is entitled to a live hearing and the ability to cross-examine parties and witnesses prior to a decision-maker rendering a determination of responsibility—which is something that is an option for K-12 schools under the 2020 Title IX regulations but was rarely selected.)~~

The Board is committed to maintaining an education and work environment that is free from sex discrimination (including sex-based harassment), responding promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination, and addressing sex discrimination in its education program or activity. Persons who commit sex-based harassment are subject to the full range of disciplinary sanctions set forth in this policy. The Board will provide persons who have experienced sex-based harassment ongoing remedies as reasonably necessary to restore or preserve access to the District’s education program or activity.

KEY DEFINITIONS

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

Complainant means:

- A. a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- B. a person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the District’s education program or activity at the time of the alleged sex discrimination.

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

~~{OPTIONAL LANGUAGE}~~

~~{ } Confidential employee~~ means:

- ~~A. a Board employee whose communications are privileged under Federal or State law; or~~

~~The employee’s confidential status, for purposes of this policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.~~

- ~~B. a Board employee whom the Board has designated as confidential under this policy for the purpose of providing services to persons related to sex discrimination;~~

~~If the employee also has a duty not associated with providing these services, the employee’s confidential status is only with respect to information received about sex discrimination in connection with providing these services.~~

- ~~C. The Board designates individuals () assigned to/holding the following positions () with the following job titles **[END OF OPTIONS]** to be confidential employees for purposes of this policy:~~

- ~~1. () school counselor;~~
- ~~2. () social worker;~~

3. ~~() school psychologist;~~
4. ~~() school nurse;~~
5. ~~() _____;~~
6. ~~() _____.~~

[DRAFTING NOTE:

- A. ~~Neola does not recommend the Board include this definition or designate “confidential employees” based on:~~**
- 1. ~~the confusion that may result from designating a confidential employee(s) — in particular, Board-designated confidential employees will have different responsibilities as compared to ALL other Board employees when it comes to the actions they must take if a person notifies them of alleged sex discrimination;~~**
 - 2. ~~they require additional training concerning the responsibilities mentioned in the preceding paragraph, which are different from the responsibilities required of ALL other Board employees; and~~**
 - 3. ~~students or persons who are acting on their behalf may “lose” the “confidentiality” they are seeking if they communicate their concerns about alleged sex discrimination to a person who is not actually a confidential employee — it is safer for students, and those acting on their behalf, to operate on the assumption that if they tell a Board employee about alleged sex discrimination that the Board employee will report it to the Title IX Coordinator.~~**
- B. ~~Unlike the postsecondary environment, there is little anticipated benefit in an elementary/secondary school setting to designating confidential employees. A person acting on behalf of a student could contact the Title IX Coordinator to obtain clarification about the Title IX grievance procedures, informal resolution process, and other options available to their child (e.g., supportive measures) without releasing any information or specifically reporting alleged sex discrimination, so there is not much gained by having the person instead speak with a confidential employee who would tell them essentially the same things.~~**
- C. ~~Before the Board designates a confidential employee(s), it should consult with its Legal Counsel.~~**
- D. ~~If the Board decides to designate one (1) or more confidential employees, Neola suggests that it does so by Position, Title, or Office, and not the person’s name, for the reasons discussed below with respect to why it is preferable to only list the Job Title of the Title IX Coordinator in the policy, as opposed to both the Name and Title — i.e., so the Board does not have to act to amend the policy each time a different person is employed in the designated position.]~~**

[END OPTIONAL LANGUAGE]

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).

Disciplinary sanctions means: consequences imposed on a respondent following a determination under Title IX that the respondent violated the Board’s prohibition on sex discrimination.

Education program or activity refers to: all the District’s operations including, but not limited to, in-person and online/remote 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 but over which the District asserts disciplinary authority.

Eligible Student means: a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education. **[DRAFTING NOTE: This definition is derived from, and consistent with, the corresponding definition from the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g (see 20 U.S.C. 1232g(a)(4) and (d)) and its implementing regulations (see 34 C.F.R. § 99.3).]**

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

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

Parental status means: the status of a person who, with respect to another person who is under the age of eighteen (18) or who is eighteen (18) or older but is incapable of self-care because of a physical or mental disability, is:

- A. a biological parent;
- B. an adoptive parent;
- C. a foster parent;
- D. a stepparent;
- E. a legal custodian or guardian;
- F. in loco parentis with respect to such a person; or
- G. actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Party means: a complainant or respondent.

Peer retaliation means: retaliation by a student against another student.

Pregnancy or related conditions means:

- A. pregnancy, childbirth, termination of pregnancy, or lactation;
- B. medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- C. recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Relevant means: related to the allegations of sex discrimination under investigation as part of the Board's grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

Remedies means: measures provided, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that sex discrimination occurred.

Respondent means: a person who is alleged to have violated the Board's prohibition on sex discrimination.

Retaliation means: intimidation, threats, coercion, or discrimination against any person by the District, a student, a Board employee, or any other person authorized by the Board to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the 2024 Title IX regulations.

Sex-based harassment prohibited under this policy and the 2024 Title IX regulations is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex – including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity – that is:

- A. Quid pro quo harassment. An employee, agent, or other person authorized by the Board to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

OR

B. Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

1. the degree to which the conduct affected the complainant's ability to access the District's education program or activity;
2. the type, frequency, and duration of the conduct;
3. the parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
4. the location of the conduct and the context in which the conduct occurred; and
5. other sex-based harassment in the District's education program or activity.

OR

C. Specific offenses.

1. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
2. Dating violence meaning violence committed by a person:
 - a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 1. the length of the relationship;
 2. the type of relationship; and
 3. the frequency of interaction between the persons involved in the relationship.
3. Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - a. is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction in which the District is located, or a person similarly situated to a spouse of the victim;
 - b. is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - c. shares a child in common with the victim; or
 - d. commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the applicable jurisdiction.
4. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - a. fear for the person's safety or the safety of others; or
 - b. suffer substantial emotional distress.

Student means: a person eligible to enroll in, attend, or participate in an elementary (including preschool) or secondary school in the District and who is enrolled in, attending, or participating in, or is seeking/attempting to enroll in, attend, or participate, in the District's education program or activity.

Student with a disability means: a student who is an individual with a disability as defined under Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504"), or a child with a disability as defined under the Individuals with Disabilities Education Improvement Act ("IDEA").

Supportive measures means: individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- A. restore or preserve that party's access to the District's education program or activity, including measures that are designed to protect the safety of the parties or the District's educational environment; or
- B. provide support during the Board's grievance procedures or an informal resolution process.

Parental, Family, or Marital Status

The Board will not adopt or apply any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats such student differently on the basis of sex.

Pregnancy or Related Conditions

Students:

The Board prohibits discrimination in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. ~~() The Board will permit a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of the District's education program or activity provided the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions. [END OF OPTION]~~ A student who is pregnant or experiencing related conditions shall receive comparable treatment to those with temporary medical conditions. (X) In other words, to the extent not otherwise addressed above, the Board will treat pregnancy or related conditions in the same manner and under the same policies as any other medical condition with respect to any medical or hospital benefit, service, plan, or policy the Board administers, operates, offers, or participates in with respect to students admitted to the District's education program or activity. [END OF OPTION] ~~[DRAFTING NOTE: This last sentence is consistent with the content of the 2024 Title IX regulations, however, on its face, it appears to be more applicable to postsecondary institutions as compared to K-12 schools; hence, Neola suggests the Board determine for itself whether to include it in this policy.]~~

The District will not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the District's class, program, or extra-curricular activity unless:

- A. the certified level of physical ability or health is necessary for participation in the class, program, or extra-curricular activity;
- B. the District requires such certification of all students participating in the class, program, or extra-curricular activity; and
- C. the information obtained is not used as a basis for discrimination prohibited by Title IX or this Policy.

District's Responsibilities with Respect to a Student's Pregnancy or Related Conditions

When a Board employee is informed of a student's pregnancy or related conditions by the student or a person who has a legal right to act on behalf of the student, the employee shall promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's education program or activity, unless the employee reasonably believes the Title IX Coordinator has already been notified.

Once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator shall promptly take the following specific actions to effectively prevent sex discrimination and ensure equal access to the District's education program or activity:

- A. Inform the student and, if applicable, the person who notified the Title IX Coordinator of the District's obligations to:
 - 1. prohibit sex discrimination under this policy, including sex-based harassment;

2. provide the student with the option of reasonable modifications to the Board's policies, practices, or procedures because of pregnancy or related conditions;
 3. allow access, on a voluntary basis, to any separate and comparable portion of the District's education program or activity;
 4. allow a voluntary leave of absence;
 5. provide lactation space; and
 6. maintain grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination, including sex-based harassment.
- B. Provide the student with voluntary reasonable modifications to the Board's policies, practices, or procedures because of pregnancy or related conditions.
- C. Allow the student to take a voluntary leave of absence from the District's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a Board maintains a leave policy for students that allows a greater period of time than the medically necessary period, the Board shall permit the student to take leave under that policy instead if the student so chooses. When the student returns to the District's education program or activity, the student will be reinstated to the academic status and, as practicable, to the extra-curricular status that the student held when the leave began.
- D. Provide lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

~~See Policy 5751 — School Age Parents and Married Status of Students () and AG 5751 — Education Services for School Age Parents [END OF OPTION].~~

Employees:

The Board will not adopt or implement any policy, practice, or procedure, or take any employment action, on the basis of sex:

- A. concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- B. that is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

The Board also will not make a pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is a "Miss or Mrs."

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

If an employee has insufficient leave or accrued employment time to qualify for leave under the Board's leave policy, the Board will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

The Board will provide reasonable break time for an employee to express breast milk or breastfeed as needed and will provide the employee with access to a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed. See Board Policy 6700 – Fair Labor Standards Act.

TITLE IX COORDINATOR(S)

Director of Pupil Services

Wendy Simonis

715-453-2106

1048 E King Road

Tomahawk, WI 54487

simonisw@myhatchets.org

[DRAFTING NOTES:

- A. Neola suggests the Board appoint both a male and a female Title IX Coordinator; however, if the Board appoints more than one (1) Title IX Coordinator, it must designate one (1) of the Title IX Coordinators to retain ultimate oversight over the assigned responsibilities and ensure the Board's consistent compliance with its responsibilities under Title IX. Alternatively, the Board could appoint a Title IX Coordinator and one (1) or more persons to assist the Title IX Coordinator with performance of the responsibilities identified in this policy and the 2024 Title IX regulations. Often the persons designated to assist a Title IX Coordinator are called: Deputy or Assistant Title IX Coordinator, or Title IX Administrator, or Title IX Compliance Officer. If the Board elects this alternative approach, it would only designate a Title IX Coordinator for purposes of this policy, but it would designate the other positions through its AG. The persons in the alternative support roles will need to be trained in the same manner as the Title IX Coordinator (see AG 2264).**
- B. The Board must list either the Name(s) or Title(s) of the Title IX Coordinator(s); while the Board may list both the Name(s) and Title(s), Neola suggests that the Board only list the Title(s) in this policy (so the Board does not need to revise/amend the policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name(s) and Title(s) in the requisite notices/postings (e.g., website) and publications (e.g., handbooks). The District will also need to decide whether to list the Name(s) and Title(s), or just the Title(s), in Administrative Guideline 2264 if the District elects to identify the Title IX Coordinator in the AG (see DRAFTING NOTE in the AG; again, if the District lists the Name(s) and Title(s), it will need to remember to update the AG whenever there is a change in the actual person(s) holding the designated position(s). No matter what, the Board will need to amend its policy and update its AG, requisite notices/postings, and publications, whenever it changes the Title of the position(s) designated to serve as the Title IX Coordinator(s).**
- C. Reminder: Whenever a new person begins to serve as the Title IX Coordinator (or in a support role to the Title IX Coordinator), the District needs to make sure the new person is appropriately trained, in a timely manner, to fulfill the responsibilities of the Title IX Coordinator position as specified the 2024 Title IX regulations and AG 2264.]**

The Board designates and authorizes the following individual(s) to coordinate its efforts to comply with the Board's responsibilities under Title IX:

—

Elementary Principal

Sheri Woodall

715-453-2126

1048 E King Road

Tomahawk, WI 54487

woodalls@myhatchets.org

Middle School Principal

Stacy Bolder

715-453-5371

1048 E King Road

Tomahawk, WI 54487

bolders@myhatchets.org

High School Principal

Ryan Huseby

715-453-2106

1048 E King Road

Tomahawk, WI 54487

husebyr@myhatchets.org

(Name and/or School District Title)

(Office Address)

(Email Address)

(Telephone Number)

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

~~[DRAFTING NOTE: Complete the following information if the Board appoints more than one (1) Title IX Coordinator.]~~

X [DESIGNATION OF A SECOND TITLE IX COORDINATOR]

Mark Schommer
Director of Teaching and Learning
715-453-2106
1048 E King Road
Tomahawk, WI 54487
schommerm@myhatchets.org

(Name and/or School District Title)

(Office Address)

(Email Address)

(Telephone Number)

[END OF OPTION]

[DRAFTING NOTE: Select the following option if the Board designates more than one (1) Title IX Coordinator.]

The Board designates _____ **[DRAFTING NOTE: Insert Name and/or Title of the Title IX Coordinator who is ultimately responsible for the District's compliance with its responsibilities under Title IX]** as the coordinator who is ultimately responsible for oversight over the Board's compliance with its responsibilities under Title IX. **[END OF OPTION]**

The Title IX Coordinator may delegate specific duties to one (1) or more designees. **[END OF OPTION]**

[DRAFTING NOTE: The Board may want to select the following option when the District Administrator is not the District's Title IX Coordinator. While Neola recognizes that this may not always be possible, it may be preferable to have the Title IX Coordinator be someone other than the District Administrator because then if the Title IX Coordinator serves as the investigator and decision maker the District Administrator can serve as the appeal decision maker or the facilitator for the informal resolution process.]

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

Questions about this policy and Policy 2266 and AG 2264 and AG 2266 **[END OF OPTION]** should be directed to the Title IX Coordinator.

The Title IX Coordinator shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX, and take steps reasonably calculated to address such barriers.

The Title IX Coordinator is responsible for notifying all participants in the District's education program or activity of how to contact its confidential employees. **[END OF OPTION]**

[DRAFTING NOTE:

- A. For the reasons discussed in the DRAFTING NOTE that accompanies the Definition of "confidential employee," Neola does not recommend the Board designate confidential employee(s), especially for their K-12 programs.**
- B. If, however, the Board designates one or more confidential employees, it needs to select this OPTION.**
- C. The District has flexibility and discretion to decide what information to provide (e.g., whether to identify a confidential employee by Name, Title, Office, or Telephone Number (this presumably would be a static number that would auto-forward to the actual person serving as a confidential employee)). The District just needs to provide sufficient information for participants to be able to contact the confidential employee(s).]**

Notice of Nondiscrimination

The District Administrator shall provide a notice of nondiscrimination to students, parents, guardians, or other authorized legal representatives of elementary and secondary students; employees; and applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the Board. Specifically, the District Administrator shall post the notice of discrimination on the District's website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to the persons listed above, or which are otherwise used in connection with the recruitment of students or employees. See AG 2264 and Form 2264F1 – Notice and Statement of Nondiscrimination. **[END OF OPTION]**

GRIEVANCE PROCEDURES

Overview:

The Board adopts the following grievance procedures to provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the District's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX.

These grievance procedures shall be used for all complaints of sex discrimination, including sex-based harassment, involving conduct alleged to have occurred on or after August 1, 2024. These grievance procedures also may be used, at the discretion of the Title IX Coordinator, to investigate, address, and remedy (as necessary) conduct alleged to have occurred before August 1, 2024, that does not involve sex-based harassment, but some other form of sex discrimination prohibited by Title IX (Statute) – e.g., claims of unequal athletic opportunities, admissions discrimination, discrimination in courses or academic programs (i.e., excluding students from certain classes or programs based on their sex), pregnancy discrimination, unequal treatment based on parental, family, or marital status, discrimination in employment (including in hiring, promotion, and compensation), and retaliation. If the Title IX Coordinator elects not to use these grievance procedures to investigate and resolve such claims, the Title IX Coordinator will still need to implement some procedures to assess – in a prompt, effective, and equitable manner – whether Title IX (Statute) was violated, and, if it was, how best to end the sex discrimination in the District’s education program or activity, prevent its recurrence, and remedy its effects.

~~**[DRAFTING NOTE: Title VII of the Civil Rights Act of 1964 (“Title VII”) and Title IX are both Federal laws that prohibit discrimination in employment, but they differ in their focus. Title VII prohibits employment discrimination based on race, color, religion, sex, or national origin, and applies to employers with fifteen (15) or more employees. Title IX, on the other hand, specifically prohibits discrimination on the basis of sex in education programs and activities that receive Federal financial assistance, including employment within those institutions. While both laws aim to prevent sex-based discrimination in the workplace, Title VII applies more broadly to various types of employers, whereas Title IX is limited to educational institutions receiving Federal funds. Ultimately, both laws aim to ensure equal employment opportunities and protect individuals from discrimination. When a Title IX Coordinator receives a complaint or notification of alleged misconduct, involving sex discrimination (in particular, sex-based harassment) that involves an employee complainant and an employee respondent, the Title IX Coordinator may want to consult with the Board’s Legal Counsel concerning which law – it may be both – the District will need to comply with when investigating the allegations.]**~~

Reports and Formal Complaints of “Sexual Harassment” (as defined in Policy 2266) involving conduct alleged to have occurred prior to August 1, 2024, are subject to the grievance procedures outlined in Policy 2266.

Under all circumstances, the Title IX Coordinator shall offer and coordinate supportive measures, as appropriate, in accordance with this policy ~~(-X)~~ and AG 2264 ~~[END OF OPTION]~~, or Policy 2266 (X) and AG 2266 ~~[END OF OPTION]~~, if the Report or Formal Complaint involves “Sexual Harassment” alleged to have occurred prior to August 1, 2024.

If the conduct giving rise to a report or complaint of sex discrimination is alleged to have occurred both before **and** after August 1, 2024 (i.e., is part of a pattern of sex discrimination), the Title IX Coordinator shall determine (X), after consulting with the Board’s Legal Counsel, ~~[END OF OPTION]~~ whether to use the grievance procedures contained in this policy or the grievance procedures contained in Policy 2266. The Title IX Coordinator will notify, in writing, the parties of the determination and the rationale for it. Under no circumstances, however, will a party be denied the due process to which the party is entitled based on the U.S. Department of Education-issued regulations in effect at the time the conduct alleged to violate Title IX (Statute) took place. ~~(-)~~ ~~Nothing herein shall prevent the Title IX Coordinator from using a hybrid grievance procedure that contains aspects of the grievance procedures contained in both this policy and Policy 2266, so that the parties receive all of the due process to which they are entitled. [END OF OPTION]~~

Complaints:

The following people may make a complaint of sex discrimination – i.e., request that the District investigate and make a determination about whether sex discrimination as prohibited under Title IX occurred:

- A. a “complainant,” which includes:
 - 1. a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - 2. a person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the District’s education program or activity;
- B. a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
- C. the District’s Title IX Coordinator.

A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person who was subjected to the sex-based harassment, or if the Title IX Coordinator initiates a complaint consistent with the requirements of the 2024 Title

IX regulations (X), which are detailed in AG 2264 ~~END-OF-OPTION~~.

~~[DRAFTING NOTE: This paragraph emphasizes that in order for a person to file a complaint of sex-based harassment, the person has to have been subjected to the alleged misconduct directly, or be a person who has a legal right to act on behalf of the person who was subjected to the alleged misconduct. This is consistent with the prior paragraph where the complainant is identified as a student or employee who was "subjected to conduct that could constitute sex discrimination under Title IX." The following paragraph, on the other hand, expands who can file a complaint—when the alleged sex discrimination does not involve sex-based harassment—to persons who are aware of the alleged sex discrimination, even if that person was not directly affected by or subject to the alleged sex discrimination.]~~

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- A. any student or employee of the District; or
- B. any person other than a student or employee who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

The District may consolidate complaints of sex discrimination against more than one (1) respondent, or by more than one (1) complainant against one (1) or more respondents, or by one (1) party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one (1) complainant or more than one (1) respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Basic Requirements:

The District will treat complainants and respondents equitably.

All persons involved with implementing the grievance procedures and any other aspects of Policy 2264, including the Title IX Coordinator, the investigator, the decision-maker, and the appeal decision-maker, ~~()~~ and the facilitator of the informal resolution process, ~~END-OF-OPTION~~ shall be free from any conflicts of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

The Title IX Coordinator may serve simultaneously as an investigator and/or a decision-maker. ~~END-OF-OPTION~~
[DRAFTING NOTE: Neola recommends the Board select this OPTION; note it is "may" (i.e., optional) so the Title IX Coordinator can decide when to serve in both roles and when to designate one or more persons to perform those responsibilities in a given case.]

If the Title IX Coordinator does not intend to serve as the investigator and decision-maker in a specific case, the Title IX Coordinator shall designate one (1) or more administrators who are appropriately trained to serve in the role. Likewise, the Title IX Coordinator shall appoint an appeal decision-maker when an appeal is filed.

In circumstances when the Title IX Coordinator and trained administrators do not have time/capacity to serve, or are prevented due to a conflict of interest, bias, or partiality, or other reasons that impair the Title IX Coordinator and other trained administrators from serving as an investigator and/or decision-maker in a specific case, the Title IX Coordinator shall , in consultation with and with the approval of ~~END-OF-OPTION~~ the District Administrator ~~and () Board () Board President (as appropriate),~~ ~~END-OF-OPTION~~ secure one (1) or more independent third parties to serve as the investigator and/or decision-maker. Similarly, the Title IX Coordinator has authority ~~(-X)~~, in consultation with and approval of ~~END-OF-OPTION~~ the District Administrator ~~and or () Board (X) Board President (as appropriate),~~ ~~END-OF-OPTION~~ to secure an independent third party to serve as the appeal decision-maker.

The District presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Under ordinary circumstances, the Board expects to complete the major stages of the grievance procedures within the timeframe specified below:

- A. **Evaluation** – The Title IX Coordinator will determine whether to dismiss a complaint or investigate it within ~~ten (10) — [INSERT # OF DAYS]~~ days of receiving the complaint. **[DRAFTING NOTE: Neola recommends that the evaluation stage be completed within ten (10) days of the Title IX Coordinator receiving notice of the complaint.]**
- B. **Investigation** – The Title IX Coordinator, or designated investigator, shall ordinarily complete the investigation (i.e., collect relevant evidence that is not otherwise impermissible) within ~~thirty (30) — [INSERT # OF DAYS]~~ days of

the Title IX Coordinator determining the charges require investigation. If, however, the Title IX Coordinator, or designated investigator, determines that the investigation is going to take longer, the Title IX Coordinator will so notify the parties (X) and the District Administrator ~~[END OF OPTION]~~ and will thereafter keep the parties (X) and the District Administrator ~~[END OF OPTION]~~ informed of the status of the matter on a ~~regular~~ ~~_____~~ ~~[INSERT TIME PERIOD — E.G., BIWEEKLY OR REGULAR]~~ basis. ~~[DRAFTING NOTE: Recognizing ED wants investigations to be completed in a prompt and equitable manner, and therefore provided elementary and secondary schools with greater flexibility when it comes to completing an investigation than is afforded to them under the 2020 Title IX regulations, Neola recommends a school district typically complete investigations within thirty (30) days.]~~ Once the Title IX Coordinator, or designated investigator, provides the parties with “access” to either the relevant and not otherwise impermissible evidence and/or an accurate description of the evidence, the parties will have ~~five (5)~~ ~~_____~~ ~~[INSERT # OF DAYS]~~ days to respond to the evidence or the description of the evidence unless the Title IX Coordinator approves a party’s written request for more time. If the Title IX Coordinator approves such a request, both parties will be afforded an equal amount of time to submit their response. ~~[DRAFTING NOTE: Neola recommends the Board limits the amount of time the parties have to review the evidence/description of the evidence to five (5) days so the matter can proceed in a timely manner to Determination.]~~

- C. **Determination** – After the parties either submit responses to the evidence/description of the evidence, or the deadline for submitting such responses expires, the Title IX Coordinator, or designated decision-maker, will consider the relevant and otherwise not impermissible evidence and issue a determination as to whether sex discrimination occurred. The determination shall be issued within ~~ten (10)~~ ~~_____~~ ~~[INSERT # OF DAYS]~~ days of the deadline for the parties to submit responses to the evidence/description of the evidence (–) unless the (X) District Administrator (–) Title IX Coordinator ~~[END OF OPTION]~~ approves an extension of time, which must be communicated in writing to the parties ~~[END OF OPTION]~~. ~~[DRAFTING NOTE: Neola recommends the Determination ordinarily be issued within ten (10) days of the date when the parties have to submit their responses to the evidence/description of the evidence. If the decision-maker is someone other than the Title IX Coordinator, upon written request from the decision-maker, the Title IX Coordinator should be permitted to approve a reasonable extension of time for the Determination to be issued. If the Title IX Coordinator is the decision-maker: upon written request from the Title IX Coordinator, the District Administrator should be permitted to approve a reasonable extension of time for the Determination to be issued. In either situation, the administrator granting the extension should communicate to the parties the new deadline along with a rationale for the extension.]~~
- D. **Appeal** – A party filing an appeal of the Title IX Coordinator’s decision to dismiss a complaint (x), or the Determination, ~~[END OF OPTION]~~ must do so within ~~five (5)~~ ~~_____~~ ~~[INSERT # OF DAYS]~~ days of receiving the Dismissal (X) or Determination ~~[END OF OPTION]~~. ~~[DRAFTING NOTE: Neola recommends the Board allow limited appeals based on the Determination. See DRAFTING NOTE below in the appeal section, which further discusses when a board “has” to allow appeals, as opposed to under which circumstances a board could decide not to allow appeals on the Determination.]~~

The Title IX Coordinator, or the District Administrator if the Title IX Coordinator is the individual requesting an extension, may approve reasonable extensions of the preceding timeframes on a case-by-case basis for good cause with notice to the parties.

The District will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties shall not engage in retaliation, including against witnesses.

The Title IX Coordinator, or designated decision-maker, shall objectively evaluate all evidence that is relevant and not otherwise impermissible — including both inculpatory and exculpatory evidence. Credibility determinations shall not be based on a person’s status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- A. evidence that is protected under a privilege recognized by Federal or State law (–) or evidence provided to a confidential employee ~~[END OF OPTION]~~, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality; ~~[DRAFTING NOTE: The Board should only select the preceding OPTION if it has designated confidential employee(s)]~~
- B. a party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the

District obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and

- C. evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent shall not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude a determination that sex-based harassment occurred.

Notice of Allegations:

Upon initiation of the Board's grievance procedures, the Title IX Coordinator shall notify the parties of the following:

- A. the Board's Title IX grievance procedures ~~(X)~~ and informal resolution process ~~[END OF OPTIONS]; [DRAFTING NOTE: Neola encourages the Board to include an informal resolution process.]~~
- B. sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- C. retaliation is prohibited; and
- D. the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If the Title IX Coordinator, or designated investigator, provides the parties with a description of the evidence, any party may request access to the relevant and not otherwise impermissible evidence. The Title IX Coordinator will provide the requesting party with the relevant and not otherwise impermissible evidence in a timely manner.

Should the Title IX Coordinator decide, at any point, to investigate allegations that are materially beyond the scope of the initial written notice, the Title IX Coordinator will provide a supplemental written notice describing the additional allegations to be investigated.

Dismissal of a Complaint:

The Title IX Coordinator may dismiss a complaint of sex discrimination if:

- A. the District is unable to identify the respondent after taking reasonable steps to do so;
- B. the respondent is not participating in the District's education program or activity and is not employed by the Board;
- C. the complainant voluntarily withdraws any or all the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- D. the District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.

~~[DRAFTING NOTE: While the 2024 Title IX regulations do not require notification of the dismissal to be provided in writing, Neola recommends that the Title IX Coordinator document the dismissal in writing — i.e., Neola recommends the board selects Option 1.]~~

~~[SELECT OPTION 1 OR OPTION 2]~~

[OPTION 1]

Upon dismissal, the Title IX Coordinator will promptly notify, in writing, the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also simultaneously notify, in writing, the respondent of the dismissal and the basis for the dismissal.

~~[END OF OPTION 1]~~

~~[OR]~~

~~[] [OPTION 2]~~

~~Upon dismissal, the Title IX Coordinator will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.~~

~~[END OF OPTION 2]~~

The Title IX Coordinator will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- A. procedural irregularity that would change the outcome;
- B. new evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- C. the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the Title IX Coordinator will:

- A. notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- B. implement appeal procedures equally for the parties;
- C. ensure that the appeal decision-maker did not take part in an investigation of the allegations or dismissal of the complaint;
- D. ensure that the appeal decision-maker has been trained consistent with the 2024 Title IX regulations **(X)** See AG 2264 **~~[END OF OPTION]~~**;
- E. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- F. notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

- A. offer supportive measures to the complainant as appropriate;
- B. if the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- C. take other prompt and effective steps, as appropriate, to ensure that sex discrimination does not continue or recur within the District's education program or activity.

~~[DRAFTING NOTE: Neola encourages the Board to select the following option so the Title IX Coordinator can choose in appropriate circumstances to offer the parties the opportunity to participate in an informal resolution process, or to honor the parties' request to use an informal resolution process, to end the sex discrimination, prevent its recurrence, and remedy its effects.]~~

X [OPTIONAL LANGUAGE: INFORMAL RESOLUTION PROCESS]**Informal Resolution Process:**

In lieu of resolving a complaint through the Board's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The District will not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

~~[END OF OPTIONAL LANGUAGE: INFORMAL RESOLUTION PROCESS]~~**Adding Allegations and/or Consolidating Complaints:**

If, in the course of an investigation, the District decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the original Notice of Allegations provided or that are included in a complaint that is consolidated, the Title IX Coordinator will notify the parties of the additional allegations.

Investigation:

The District will provide for an adequate, reliable, and impartial investigation of complaints.

The burden is on the District — not on the parties — to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Title IX Coordinator, or the designated investigator and/or decision-maker, will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Title IX Coordinator, or the designated investigator and/or decision-maker, will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- A. the District will provide the parties with an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence;

If the Title IX Coordinator, or designated investigator, provides a description of the evidence, the Title IX Coordinator, or designated investigator, will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

- B. the District will provide a reasonable opportunity to the parties to respond to the evidence or the accurate description of the evidence; and

- C. the District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

~~[DRAFTING NOTE: If the investigator and decision maker are two (2) separate persons, the Board may select OPTION 1 or OPTION 2, or refrain from addressing this topic in the policy.]~~

~~[] [OPTION 1]~~

~~As part of the Investigation, the investigator () may () is encouraged to [END OF OPTION] include in the investigator's notes/file the investigator's opinion about each party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one (1) or more allegations of sex discrimination.~~

~~[END OF OPTION 1]~~**~~[] [OPTION 2]~~**

~~The investigator should refrain from including in the investigator's notes/file the investigator's opinion about each party's or witness's credibility since the assessment of credibility is solely the responsibility of the decision maker.~~

~~[END OF OPTION 2]~~**~~[END OF OPTIONS]~~**

If the investigator and decision-maker are two (2) separate individuals, the decision-maker will have an opportunity to question the parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one (1) or more allegations of sex discrimination.

If the investigator and the decision-maker are the same person, the decision-maker will have an opportunity to question the parties and witnesses in individual meetings as part of the investigation.

~~**[DRAFTING NOTE: The Board may select either, both, or neither of the following options. The Board should consult with its Legal Counsel to assess whether to offer any of these options.]**~~

Before concluding the Investigation, the investigator (~~()~~ will () may ~~[END OF OPTION]~~ allow each party to propose/submit in writing relevant questions that the party wants asked of any party or witness and

~~**[DRAFTING NOTE: SELECT OPTION 1, OPTION 2, OR OPTION 3. Neola does not have an opinion as to whether the Board selects OPTION 1 or OPTION 2 but has reservations about OPTION 3. The Board should consult with its Legal Counsel before selecting OPTION 3.]**~~

~~() [OPTION 1]~~

~~the investigator will review any questions submitted by the parties and ask those questions of the specific party or witness that the investigator determines – in the investigator's sole discretion – may lead to probative evidence that will assist the decision-maker in determining whether sex discrimination occurred. The investigator's decision to ask or not ask a specific question proposed by a party is not subject to review. Any questions asked must be relevant and not otherwise impermissible.~~

~~**[END OF OPTION 1]**~~

~~**{OR}**~~

~~() [OPTION 2]~~

~~the investigator will ask the relevant and not otherwise impermissible questions of the specific party or witness during one (1) or more individual meetings, including follow-up meetings, with the party or witness.~~

~~**[END OF OPTION 2]**~~

~~**{OR}**~~

~~() [OPTION 3]~~

~~the investigator will ask the relevant questions that are not otherwise impermissible, provide each party with the answers, and allow for additional, limited follow-up relevant questions from each party. () The investigator will explain to the party proposing the question(s) any decision to exclude a question as not relevant.~~

~~**[END OF OPTION 3]**~~

~~**[END OF OPTIONS]**~~

After the parties have an opportunity to review the relevant and not otherwise impermissible evidence, or an accurate description of this evidence, the decision-maker (~~()~~ will () may

~~**[DRAFTING NOTE: Select OPTION 1, OPTION 2, OPTION 3, OR OPTION 4. While Neola does not have an opinion as to whether the Board selects OPTION 1 or OPTION 2, it does not recommend the Board select OPTION 3 or OPTION 4, without consulting with its Legal Counsel.]**~~

~~**() [OPTION 1]**~~

~~allow each party to propose/submit in writing relevant questions that the party wants asked of any party or witness and the decision-maker will review any relevant and not otherwise impermissible questions submitted by the parties and ask those questions of the specific party or witness that the decision-maker determines – in the decision-maker's sole discretion – may lead to probative evidence that will assist the decision-maker in determining whether sex discrimination occurred. The decision-maker's decision to ask or not ask a specific question proposed by a party is not subject to review. Any questions asked must be relevant and not otherwise impermissible.~~

~~[END OF OPTION 1]~~

~~[OR]~~

~~() [OPTION 2]~~

~~allow each party to propose/submit in writing relevant questions that the party wants asked of any party or witness and the decision maker will ask the relevant and not otherwise impermissible questions of the specific party or witness during one (1) or more individual meetings, including follow up meetings, with the party or witness.~~

~~[END OF OPTION 2]~~

~~[OR]~~

~~() [OPTION 3]~~

~~allow each party to propose/submit in writing relevant questions that the party wants asked of any party or witness and the decision maker will ask the relevant questions that are not otherwise impermissible, provide each party with the answers, and allow for additional, limited follow up relevant questions from each party. () The decision maker will explain to the party proposing the question(s) any decision to exclude a question as not relevant. [END OF OPTION]~~

~~[END OF OPTION 3]~~

~~[OR]~~

~~() [OPTION 4]~~

~~provide each party with an audio or audiovisual recording or transcript of the investigator's interviews of the parties and witnesses with enough time for the parties to have a reasonable opportunity to propose/submit in writing follow up questions, and the decision maker~~

~~() will review any follow up questions submitted and ask those relevant and not otherwise impermissible follow up questions of the specific party or witness that the decision maker determines—in the decision maker's sole discretion—may lead to probative evidence that will assist the decision maker in determining whether sex discrimination occurred. The decision maker's decision to ask or not ask a specific follow up question proposed by a party is not subject to review. Any questions asked must be relevant and not otherwise impermissible.~~

~~() will ask the relevant and not otherwise impermissible follow up questions of the specific party or witness during one (1) or more individual meetings.~~

~~[END OF OPTION 4]~~

~~[END OF OPTIONS]~~

Determination of Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Title IX Coordinator or designated decision-maker will:

- A. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. **[DRAFTING NOTE: Pursuant to the 2024 Title IX regulations, the Board may only use the "clear and convincing" evidence standard of proof if it uses that standard of proof in all other comparable proceedings (i.e., when assessing the merits of allegations presented pursuant to complaints filed under the Board's general nondiscrimination and antiharassment policies—see Policy 1422/Policy 3122/Policy 4122—Nondiscrimination and Equal Employment Opportunity, Policy 1632/Policy 3362/Policy 4362—Employee Anti-Harassment, Policy 2260—Nondiscrimination and Access to Equal Educational Opportunity, Policy 2260.01—Section 504/ADA Prohibition Against Discrimination Based on Disability, Policy 5517—Student Anti-Harassment, Policy 8913—Section 504/ADA Prohibition Against Disability Discrimination in Employment.) Neola expects it will be a rare situation when a board chooses to use a clear and convincing standard of proof. If the Board is unsure whether it meets the criteria to be able to use the "clear and convincing standard," it should consult with its Legal Counsel.]** This standard of proof requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If

the decision-maker, applying the applicable standard, is not persuaded by the relevant and not otherwise impermissible evidence that sex discrimination occurred, regardless of the quantity of the evidence, the decision-maker will not determine that sex discrimination occurred.

- B. Notify the parties, in writing, of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal.
- C. Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- D. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 1. coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;
 2. coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 3. take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.
- E. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- F. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

~~**[DRAFTING NOTE: As addressed above, the Board must offer an appeal if the Title IX Coordinator dismisses a complaint in the Evaluation stage (i.e., prior to commencing an investigation). While a board may elect not to offer an appeal from the determination of whether sex discrimination occurred, Neola recommends the Board include an appeal process. If the Board includes an appeal process, the appeal process must be, at a minimum, the same appeal process the Board offers in all other comparable proceedings, including proceedings relating to other discrimination complaints. Neola intends to update its nondiscrimination, antiharassment, and Section 504/ADA policies to provide for appeal procedures that are comparable to that which is included in the following option.]**~~

~~**[X] [OPTIONAL LANGUAGE]**~~

Appeal of Determinations:

If a party disagrees with the decision-maker's determination as to whether sex discrimination occurred, the party may file an appeal. Appeals must be submitted, in writing, within **five (5)** ~~**(INSERT # OF DAYS)**~~ days of the appealing party's receipt of the Determination.

A party may appeal a Determination on the following bases:

- A. procedural irregularity that would change the outcome;
- B. new evidence that would change the outcome and that was not reasonably available when the Determination was made; and
- C. the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

~~**[DRAFTING NOTE: The Board may insert additional grounds on which an appeal may be filed.]**~~

- D. ~~**()**~~ the recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the sex discrimination).
- E. ~~**() [OTHER]**~~ _____.

[X] The complainant may not challenge the ultimate disciplinary sanction/consequence that is imposed. ~~**[END OF OPTION]**~~

If a party appeals the decision-maker's determination, the Title IX Coordinator will:

- A. notify the parties of any appeal;
- B. implement appeal procedures equally for the parties;
- C. designate an appeal decision-maker, who will be a person who did not conduct the Investigation or render the Determination, and is appropriately trained **(X)**, as set forth in AG 2264 **[END OF OPTION]**;

1. ~~() the Title IX Coordinator will designate the District Administrator to be the appeal decision maker, provided the District Administrator has not been otherwise involved in the grievance procedures (i.e., did not serve as the investigator, decision maker, or informal resolution process facilitator) and is appropriately trained; [END OF OPTION]~~
2. **(X)** in designating an appeal decision-maker, the Title IX Coordinator will work with the Board to identify and appoint an independent third party to serve as the appeal decision-maker – this individual shall be considered to be the Board's designee and will submit the appeal decision to the Board who will promptly adopt it as written and forward it to the Title IX Coordinator who will send it simultaneously to the parties; **[END OF OPTION]**

[DRAFTING NOTE: The preceding options are offered for those districts where the District Administrator or Board typically serves as the appeal decision maker; with respect to Title IX, it is Neola's opinion that it is not feasible for the Board to serve as the decision maker for a number of reasons, not the least of which is the mandatory training requirements.]

3. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the decision-maker's determination;
4. provide the appeal decision-maker with the relevant and not otherwise impermissible evidence along with the accurate description of the relevant evidence (if one was prepared and shared with the parties), any responses the parties submitted to the investigator related to the evidence and/or the description of the evidence (if one was prepared), and the decision-maker's determination; and
5. notify the parties, in writing, of the result of the appeal and the appeal decision-maker's rationale for the outcome.

[END OF OPTIONAL LANGUAGE]

Parties Provided a Reasonable and Equal Opportunity to Make a Statement in Support of, or Challenging, the Determination

~~**[DRAFTING NOTE: The Board must select OPTION 1, OPTION 2, or OPTION 3]**~~

[X] [OPTION 1]

When a party files an appeal, the party must set forth the reason for the appeal, and the other party will have ~~five~~ **(5)** ~~[INSERT # OF DAYS]~~ days to provide the appeal decision-maker with a statement in support of their position. Once the decision-maker receives the statement (or the deadline for filing such a statement expires), the appeal decision-maker will have ~~ten (10)~~ **(10)** ~~[INSERT # OF DAYS]~~ days to issue a decision on the appeal.

[END OF OPTION 1]

{OR}

~~**[] [OPTION 2]**~~

~~After a party files an appeal, both parties will have ~~_____~~ **[INSERT # OF DAYS]** days to submit to the appeal decision maker a statement in support of their position that they want the appeal decision maker to consider in rendering a decision. Once the decision maker receives each parties' statement, or the timeline for submitting such statements expires, the appeal decision maker will have ~~_____~~ **[INSERT # OF DAYS]** days to issue a decision on the appeal.~~

~~**[END OF OPTION 2]**~~

~~**{OR}**~~

[] [OPTION 3]

~~When a party files an appeal, the appeal decision maker shall establish a timeline for each party to submit a statement in support of their position that they want the appeal decision maker to consider in rendering a decision. Once the decision maker receives the parties' statements, or the timeline established by the appeal decision maker for submitting such statements expires, the appeal decision maker will have _____ [INSERT # OF DAYS] days to issue a decision on the appeal.~~

[END OF OPTION 3]**[END OF OPTIONS]**

[DRAFTING NOTE: With respect to the timelines listed in the preceding options, Neola suggests any appeals should be filed within five (5) days of the parties receiving written notice of the Dismissal or Determination. Neola further suggests that the timeline for submitting a statement in OPTION 1 be equivalent to the timeframe in which an appeal has to be filed, and the timeline for submitting a statement in OPTION 2 be five (5) days. Finally, Neola suggests the appeal decision maker have ten (10) days from receipt of the statements to issue a decision.]

No new or additional evidence may be submitted during the appeal process.

The appeal decision-maker shall determine the outcome of the appeal based on the appeal decision-maker's independent review of the record (i.e., the relevant and not otherwise impermissible evidence, the feedback the parties provided to the investigator and/or decision-maker based on their review of the relevant evidence and any description of the relevant evidence that was prepared and shared with the parties, and the decision-maker's written determination) and the appeal decision-maker's application of the law and Board policy to the facts in the record. The appeal decision-maker must give due deference and due weight to the decision-maker's factual findings and credibility determinations and should not overturn them unless non-testimonial extrinsic evidence in the record justifies a contrary conclusion or unless the record read in its entirety compels a contrary conclusion. Generally, the appeal decision-maker is expected to uphold the decision-maker's determination unless the appeal decision-maker determines the decision-maker's determination is unlawful, unreasonable, or against the manifest weight of the evidence. Every reasonable presumption must be made in favor of the decision-maker's determination.

The appeal decision-maker shall

[DRAFTING NOTE: The Board must select either OPTION 1 or OPTION 2 unless the Board appointed an independent third party to serve as the Board's appeal decision maker, in which case the Board should select OPTION 3.]

() [OPTION 1]

~~simultaneously notify the parties, in writing, of the result of the appeal and the rationale for the outcome.~~

[END OF OPTION 1]**[OR]****() [OPTION 2]**

~~notify the Title IX Coordinator, in writing, of the result of the appeal and the rationale for the outcome. The Title IX Coordinator will then simultaneously notify the parties, in writing, of the result of the appeal and the appeal decision maker's rationale for the outcome.~~

[END OF OPTION 2]**[OR]****(X) [OPTION 3]**

submit the appeal decision to the Board who will promptly adopt it as written and forward it to the Title IX Coordinator who will send it simultaneously to the parties. The appeal decision shall set forth the result of the appeal and the appeal decision-maker's rationale for the outcome.

[END OF OPTION 3]

[END OF OPTIONS]

Supportive Measures:

The District will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the District's education program or activity or provide support during the Board's grievance procedures or during the informal resolution process. For allegations of sex discrimination other than sex-based harassment or retaliation, the District's provision of support measures does not require the District, Board employees, or any other person authorized to provide aid, benefit, or service on the District's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

The Title IX Coordinator shall determine appropriate supportive measures on a case-by-case basis. Supportive measures may vary depending on what the Title IX Coordinator deems to be reasonably available. Supportive measures may include, but are not limited to: counseling; extensions of deadlines or other course-related adjustments; school/campus escort services; increased security and monitoring of certain areas of the campus (including school buildings and facilities); restrictions on contact between the parties; leaves of absence; changes in class, work, or extra-curricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs related to sex-based harassment; (X) referral to Employee Assistance Program **[END OF OPTION]**; and other similar measures.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties and/or the District's educational environment, or to provide support during the Board's grievance procedures or the informal resolution process.

The District will not impose such measures for punitive or disciplinary reasons.

The Title IX Coordinator may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures, or at the conclusion of the informal resolution process, or the District may continue them beyond that point.

The District will provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the Title IX Coordinator's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures as set forth in the Key Definitions section of this policy.

A party may seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The District will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the District's education program or activity, or as otherwise permitted pursuant to the 2024 Title IX regulations.

If the complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator shall consult with one (1) or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one (1) or more members, as appropriate, of the student's Section 504 team, if any, to determine how to comply with the requirements of the IDEA and/or Section 504, in the implementation of supportive measures.

The District Administrator may place an employee respondent on administrative leave from employment responsibilities during the pendency of the Board's grievance procedures.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions, which may include:

For Students

A. Informal Discipline

1. (X) writing assignments;

2. changing of seating or location;
3. pre-school, lunchtime, after-school ~~[END OF OPTIONS]~~ detention;
4. in-school discipline;
5. ~~Saturday school.~~

B. Formal Discipline

1. suspension of bus riding/transportation privileges;
2. removal from co-curricular and/or extra-curricular activity(ies), including athletics;
3. emergency removal;
4. suspension for up to five (5) school days;
5. suspension for up to fifteen (15) consecutive school days if a notice of expulsion hearing has been sent;
6. suspension for up to ten (10) consecutive school days for each incident if the student is eligible for special education services under Chapter 115, Wis. Stats.;
7. expulsion;
8. permanent exclusion from co-curricular and/or extra-curricular activity(ies), including athletics or current class enrollment; and
9. any other sanction authorized by the Student Code of Conduct.

For Employees

- A. oral or written warning;
- B. written reprimands;
- C. required counseling;
- D. required training or education;
- E. demotion;
- F. suspension with pay;
- G. suspension without pay;
- H. termination and any other sanction authorized by any applicable Board Policy and/or Employee/Administrator Handbook.

The District may also provide remedies, which may include disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation and implement appropriate remedies in compliance with applicable due process procedures, whether statutory or contractual.

With respect to student respondents, the Title IX Coordinator will notify the District Administrator of the recommended remedies (including disciplinary sanctions/consequences), 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. 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 ("Section 504"), and their respective implementing regulations.

~~**[DRAFTING NOTE: The Board should review applicable policy(ies)/administrative guidelines/employee handbooks to determine whether changes are needed to establish timelines associated with the imposition of discipline as a result of possible delays caused by the Board's obligation to follow the grievance procedures.]**~~

Discipline of an employee will be implemented in accordance with Federal and State law, Board policy, and applicable provisions of any relevant employee handbooks.

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 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 initiating a disciplinary process against a person for a code of conduct violation that does not involve sex discrimination but arises out of the same facts and circumstances as a complaint or information reported about possible sex discrimination, for the purpose of interfering with the exercise of any right or privilege secured by Title IX constitutes retaliation. Peer retaliation is also prohibited. Retaliation against a person for making a 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 District shall initiate its grievance procedures upon receiving any complaint alleging retaliation.

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 that sex discrimination occurred, 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 complaint of sex discrimination, 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 regulations, 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 related to the investigation and determination of whether sex discrimination occurred).

Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution ~~(-X)~~ and the principles of academic freedom as set forth in any Board policy or employee handbook. ~~[END OF OPTION]~~. In no case will a respondent be found to have committed sex discrimination based on expressive conduct that is protected by the First Amendment ~~(X)~~ and/or the principles of academic freedom specified in any Board policy or employee handbook. ~~[END OF OPTION]~~.

Training

All employees, investigators, decision-makers, facilitators of informal resolution process, the Title IX Coordinator(s) and designees, and other persons who are responsible for implementing the Board's grievance procedures or have the authority to modify or terminate supportive measures shall receive training related to their duties under Title IX and this Policy. The training shall be provided promptly upon hiring or change of position that alters their duties under Title IX or this policy, and annually thereafter. The training shall not rely on sex stereotypes.

Training materials must be made available for inspection upon request by members of the public.

Recordkeeping

The District shall maintain for a period of seven (7) calendar years the following records:

- A. for each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures followed and the resulting outcome;

- B. for each notification that the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX, including notifications under 34 C.F.R. § 106.44(c)(1) or (2), records documenting the actions the District took to meet its obligations under 34 C.F.R. §106.44; and
- C. all materials used to provide the required training.

Outside Appointments, Dual Appointments, and Delegations

The Board retains 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, appeal decision-maker, or facilitator of the informal resolution process.

The Board also retains discretion to appoint two (2) or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, appeal decision-maker, and facilitator of the informal resolution process.

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, appeal decision-maker, and facilitator of the informal resolution process to any suitably qualified individual and such delegation may be rescinded by the District Administrator at any time.

~~**[DRAFTING NOTE: The following option expressly sets forth authority that the Board has regardless of whether it is included in this policy, but is offered for those boards of education that may want to affirmatively communicate to/address these issues for readers of this policy.]**~~

Discretion in Application

The Board retains 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 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 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.

~~**[END OF OPTION]**~~

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

42 U.S.C. 2000e et seq.

OCR's Revised Sexual Harassment Guidance (2001)

Last Modified by Coleen Frisch on June 26, 2024