

Shared Key Interests

1. Advance student learning, achievement, and success by keeping it at the heart and as the filter for our decision making.

2. Utilize research-based curricula that reflects 21st Century themes and applications and are responsive to the needs and potential of all students, preparing them for a global society.

3. Provide real-life, diverse learning opportunities with practical applications in the classroom and beyond.

4. Inform and engage the community in shaping educational strategy and formulating responses to change.

5. Attract, retain, and develop a high quality, diverse, creative, and innovative workforce of leaders.

6. Provide safe, secure, flexible, inviting, and well-maintained environments that nurture student well-being and enhance teaching and learning.

7. Identify, integrate, and expand technology to foster adaptability and maximize learning for all.

8. Foster mutually beneficial partnerships and collaborations that expand learning opportunities and resources.

Wausau School District

Board of Education Meeting Agenda

In Compliance with the Wisconsin Open Meeting Law

Public Notice s.19.84 (3)
Exemptions s.19.85

James Bouché, President
Jennifer Paoli, Clerk

A Education/Operations Committee Meeting of the BOARD OF EDUCATION will be held in the **Nicholson Board Room, 415 Seymour Street, Wausau, Wisconsin 54403 at 5:00 PM on Monday, September 23, 2024.**

- I. Call to Order
- II. Approve the Minutes
- III. EXCELLENCE IN ACTION: Stettin Elementary
- IV. Public and Student Comment
- V. Present District ACP Plan (**Action Requested**)
- VI. Follow-up Discussion Title IX Policy
- VII. Elementary Task Force Update
- VIII. Referendum Construction Bid Update
- IX. Adjourn

NOTICE POSTED: Wednesday, September 18, 2024, at 3:00 pm

By: _____

NOTICE SENT TO:

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The Wausau School District does not discriminate on the basis of race, age, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex (including transgender status, change of sex, or gender identity), or physical, mental, emotional, or learning disability ("Protected Classes")

Minutes of REGULAR MEETING

The Board of Education Wausau School District

DRAFT

A Education/Operations Committee Meeting of the Board of Education of the Wausau School District was held Monday, August 26, 2024, beginning at 5:00 PM in the Nicholson Board Room, 415 Seymour Street, Wausau, Wisconsin 54403.

Present: James Bouche; Sarah Brock; Jon Creisher; Pat McKee; Jennifer Paoli; Joanna Reyes; Jane Rusch; Cory Sillars; and Lance Trollop.

I. Call to Order

The meeting was called to order at 5:00 pm.

II. Approve the Minutes

Jennifer Paoli moved to approve the minutes of June 24, 2024, seconded by Lance Trollop. The motion carried 9-0.

III. Public and Student Comment

There was none.

IV. Legal Expenses Summary for 2023-2024

Josh Viegut, Assistant Superintendent of Operations presented a summary report presenting all legal counsel expenses incurred during 2023-2024. The report is broken down by law firm and by type of legal advice sought.

V. Approve List of Legal Firms (Action Requested)

Jane Rusch moved to approve the attached list of law firms the Board and the District shall access for legal services deemed necessary by the Superintendent of Schools or his/her designee, seconded by Cory Sillars. The motion carried 9-0.

VI. Set Annual Meeting Date and Location (Action Requested)

Joanna Reyes moved to approve Monday, September 23, 2024, as the date for the 2024-2025 Budget Hearing and Annual Meeting. The meeting will be held at 6:00 in the Nicholson Board Room at the Longfellow Administration Center, beginning with the Budget Hearing followed by the Annual Meeting, seconded by Jennifer Paoli. The motion carried 9-0.

VII. Share Equalized Value Estimates

Prior to October 1, only equalized valuations from municipalities are available. In order to project property value changes by school district, an assumption must be made that all property values in any given municipality change in a uniform manner. With this assumption, the District's property value is projected to increase 9.98% for 2024-25 mill rate calculation purposes. Certified property value will not be available until

October 1; the given projected property value will be used for the initial budget and during the annual meeting.

VIII. Recommendation for 2024-2025 Budget (**Action Requested**)

Jon Creisher moved to recommend to the full Board of Education a preliminary 2024-2025 General Fund budget of \$118,625,616 for expenses and \$117,141,590 fir revenue, for presentation at the Annual Meeting and Budget Hearing on September 23, 2024, seconded by Sarah Brock. The motion carried 8-1.

IX. Recommendation for 2024-2025 Tax Levy (**Action Requested**)

Sarah Brock moved to recommend to the full Board of Education, a projected tax levy of \$45,763,554 for presentation at the Annual Meeting and Budget Hearing on September 23, 2024, seconded by Lance Trollop. The motion carried 9-0.

X. Construction Update

Nick Anderson of Nexus, gave a brief update on the status of the construction projects throughout the District.

Cale Bushman welcomed Ralph Williams to the District as the Interim Director of Technology and shared with the Board that the teachers are back in the classrooms as of today.

XI. Adjourn

Jennifer Paoli moved to adjourn, seconded by Pat McKee. The motion carried at 5:34 pm.

Respectfully Submitted,

Jennifer Paoli,
Board Clerk

JP:cp

Academic Career Planning



Life Ready

Jon Winter
CTE Coordinator WSD

Purpose Statement: I strive to lead with humility, collaboration and resilience. I believe in a progressive community that aims to be the best at getting better. Strong CTE programs deliver both professional skills and technical skills that create a competitive advantage in our community. Above all else, I value love, trust, and risk to make this world a better place.

ACP is a Wisconsin Requirement



Must be:

- Compliant with PI 26 (E4E)
- Approved by your school board
- Annually renewed
- Posted to your district website
- Developed with community Stakeholders



Should be:

- Readable
- Actionable
- Goal-oriented and benchmarked
- Integrated with other district plans and initiatives.



Should NOT be:

- The old E4E plans
- Dusty and forgotten on a shelf
- Difficult to find or navigate on the district's website

Required components of ACP

Labor Market Information

Post Secondary Education and Workforce Preparation

Professional Development for Staff

Family Engagement

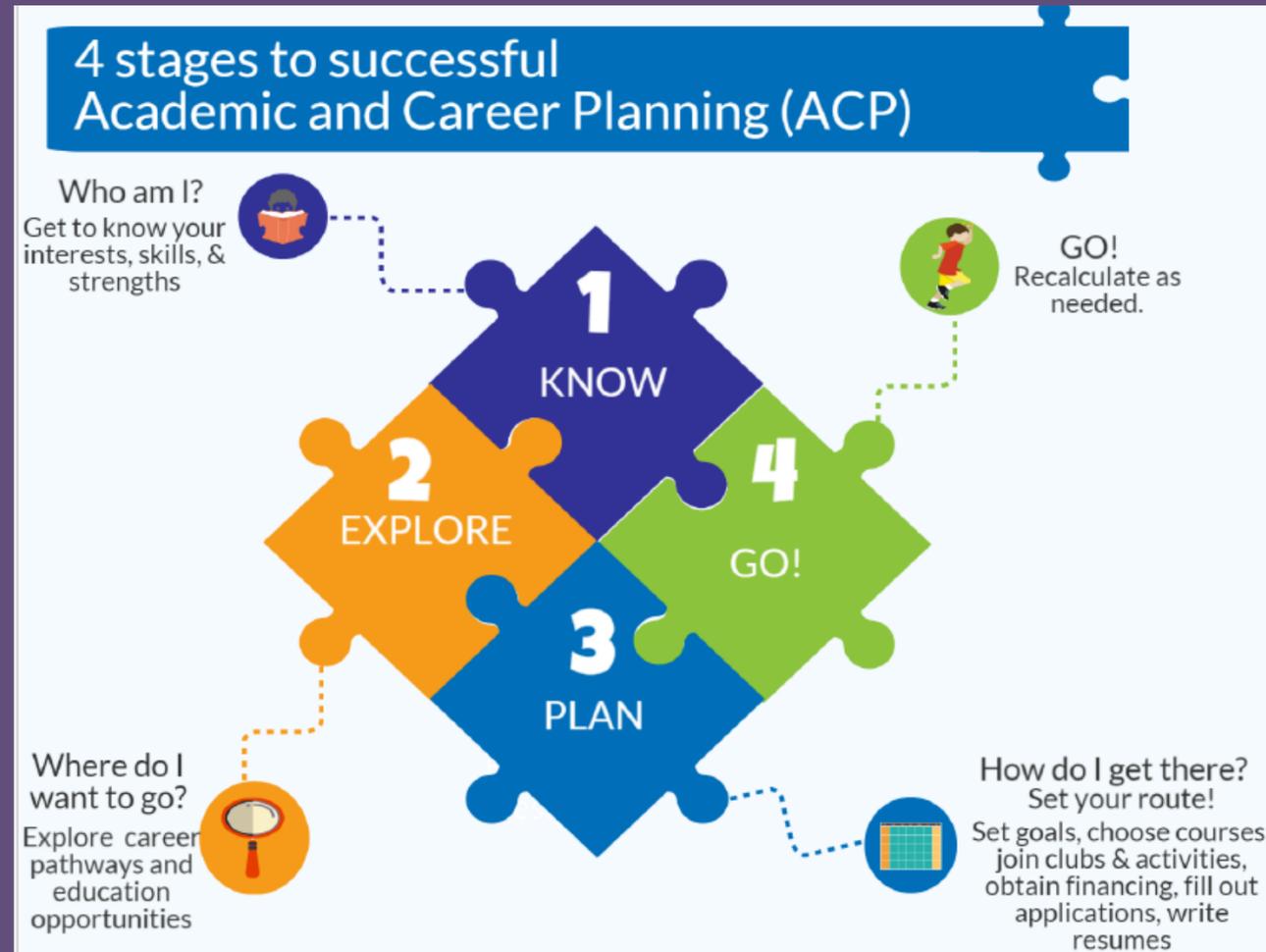
Community Partnerships

ACP Curriculum, Support and Services -Standards

Formal Process with Future Goals - The ACP Plan

Access to ACP Software Tool

New Updates from WI ACP



- New WI Career Readiness Standards are out
- Districts are crosswalking SEL and ACP standards
- Revised ACP guides for districts
- CESA Trainings

District's are required to provide academic and career planning services to pupils enrolled in grades 6-12 as part of the E4E statute.

The purpose of ACP services is to assist pupils with planning and preparing for opportunities after graduating from high school that may include post secondary or training that leads to careers.

WISCONSIN STANDARDS FOR
Career Readiness



Wisconsin Department of Public Instruction
Jill K. Underly, PhD, State Superintendent

Wisconsin's New Career Readiness Standards

3 Strands:

- Career Ready
- Learning Ready
- Life Ready

Current snapshot of ACP in WSD

2023-24...

- Regrouped as a district ACP team and attended a workshop at CESA 9 last February
- High school departments worked on Labor Market Information and scope and sequence in 2024 under Deb Foster.
- Hosted national speaker Mark Perna in February for Professional Development
- Currently working on developing a new WSD ACP plan in 2024-25.



What's New with ACP?

The screenshot shows the Wausau School District website. At the top left is the Wausau School District logo with the tagline "EDUCATING FOR THE FUTURE ONE CHILD AT A TIME". To the right of the logo is the text "Wausau School District" and navigation links for "STAFF", "FAMILIES", and "STUDENTS". Below this is a dark navigation bar with links for "ABOUT WSD", "SCHOOLS", "FACILITIES", "DEPARTMENTS", "PROGRAMS" (highlighted), "E-FLYERS", and "FOUNDATION". Under "PROGRAMS", there are sub-links: "Academic Career Planning", "Academic Career Planning", "Assessment", "G2M Out-of-School Learning", "Gifted Education", "Leader in Me®", "Newcomer Center", "O.N.E. Volunteer Network", "Resolution of Commendation Program", and "Summer Learning 2024".

The main content area has a breadcrumb trail: "HOME > PROGRAMS > ACADEMIC CAREER PLANNING". Below this is the "ACP" logo with the text "WISCONSIN ACP Academic and Career Planning". To the right of the logo is the heading "Academic & Career Planning" and a photo of four diverse students holding large puzzle pieces. Below the photo is the text: "All students in grades 6-12 are developing Academic and Career Plans guided by parents, teachers, and counselors. This plan is a step-by-step process that leads students through a series of tasks that provide direction".

The bottom section of the page contains the text: "The purpose of Education for Employment (E4E) planning is to detail and document how the Wausau School District supports our students with career awareness and exploration as well as career preparation, planning, and decision making. The mission of the Wausau School District is to advance student learning, achievement, and success. Accordingly, the WSD provides opportunities for every student to connect with learning that is relevant to their personal academic, social, and career goals."

NEW WEBSITE

WSD ACP Website

Future Work

Continue growing our WSD ACP team

Finalize the 2024-25 ACP/E4E Plan for Board Approval

Review feedback from Professional Learning Day

Meet with CESA 9 Career & Life Ready Coordinator

Mapping out SEL & Career Readiness Standards within our classroom

Expand tools for students & staff

Mark Perna's Career Tree's

Xello Lessons

Increase Family & Community Engagement

Thank you!

Book	Policy Manual
Section	2000 Program
Title	NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2264
Status	Active
Adopted	July 8, 2024

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 and AG 2266. 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.

NONDISCRIMINATION

Overview:

The Board of the Wausau School District (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.

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.

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.

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, extracurricular 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.

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. A student who is pregnant or experiencing related conditions shall receive comparable treatment to those with temporary medical conditions.

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 extracurricular activity unless:

- A. the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- B. the District requires such certification of all students participating in the class, program, or extracurricular 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 extracurricular 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.

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)

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

Tabatha A Gundrum, Director of Human Resources
 415 Seymour St.
 Wausau, WI 54403
 titleIX@wausauschools.org
 715-261-0500

The Title X Coordinator may delegate specific duties to one (1) or more designees.

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 the Board's Legal Counsel until the matter in which the District Administrator is a party is concluded.

Questions about this policy and Policy 2266 and AG 2264 and AG 2266 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.

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.

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 grievances 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.

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 and AG 2264, or Policy 2266 and AG 2266, 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, after consulting with the Board's Legal Counsel, 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.

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, which are detailed in AG 2264.

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, 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.

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 approval of the District Administrator secure one (1) or more independent third parties to serve as the investigator and/or decision-maker. Similarly, the Title IX Coordinator has authority, in consultation with and approval of the District Administrator 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 fifteen (15) days of receiving 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 forty-five (45) 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 and the District Administrator and will thereafter keep the parties and the District Administrator informed of the status of the matter on a regular basis. 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) 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.
- 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) days of the deadline for the parties to submit responses to the evidence/description of the evidence unless the District Administrator approves an extension of time, which must be communicated in writing to the parties
- D. **Appeal** – A party filing an appeal of the Title IX Coordinator’s decision to dismiss a complaint must do so within five (5) days of receiving the Dismissal.

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, unless the person to whom the privilege is owed has voluntarily waived the privilege.
- 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 and 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.

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.

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 See AG 2264;
- 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.

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.

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.

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.

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 may 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.

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. 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.

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) 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.

The complainant may not challenge the ultimate disciplinary sanction/consequence that is imposed.

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, as set forth in AG 2264;
 - 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;
 - 2. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the decision-maker's determination;
 - 3. 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
 - 4. notify the parties, in writing, of the result of the appeal and the appeal decision-maker's rationale for the outcome.

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

When a party files as appeal, the party must set forth the reason for the appeal, and the other party will have five (5) days to provide the appeal decision-maker a statement in support of their position. Once the decision-maker receives each parties' statement (or the deadline for filing such a statement expires), the appeal decision-maker will have ten (10) days to issue a decision on the appeal.

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

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 extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs related to sex-based harassment; referral to Employee Assistance Program; 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. writing assignments;
2. changing of seating or location;
3. pre-school, lunchtime, after-school detention;
4. in-school discipline

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.

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. In no case will a respondent be found to have committed sex discrimination based on expressive conduct that is protected by the First Amendment.

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.

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.

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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)

Book	Policy Manual
Section	Archived Materials 7/8/24
Title	NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2264
Status	
Adopted	July 8, 2024

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 Wausau _____ School District (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 basis 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. **(x)** 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. ~~(-) 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 ~~AC 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)

[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:

Tabatha Gundrum, Director of Human Resources _____
(Name and/or School District Title)

415 Seymour Street, Wausau, WI 54403 _____
(Office Address)

titleIX@wausauschools.org _____
(Email Address)

715-261-0500 _____
(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.]~~

~~[] [DESIGNATION OF A SECOND TITLE IX COORDINATOR]~~

(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}**~~

X] 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.}**~~

{X } 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 **(X)** 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 **(X)** 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. **(X)** 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, (x) 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.

~~**[x 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 ~~(-x)~~, in consultation with **(x)** and with the approval of **[END OF OPTION]** the District Administrator ~~or (-) 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 **(x)** and approval of **[END OF OPTION]** the District Administrator ~~or (-) Board (-) 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 fifteen (15) _____ **[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 forty-five (45)_____ ~~[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 (**x**) 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 (**-**), or the Determination, ~~[END OF OPTION]~~ must do so within five (5) _____ ~~INSERT # OF DAYS]~~ days of receiving the Dismissal (**-**) 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]~~

[x] [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 basis:

- 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}**

[x] 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 **(x)** 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.}~~

(x) {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 basis 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 basis:

- 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. **(X)** 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. ~~()~~ 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.}~~**
- provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the decision-maker's determination;
 - 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)_____ ~~{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}~~

~~[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. 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 ~~(**←**) 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 ~~(**←**) 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.]~~

x] 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)

Book	Policy Manual
Section	2000 Program
Title	NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES (The Board's Policy and Grievance Procedures for Responding to Sexual Harassment Alleged to Have Occurred Prior to 8/1/2024)
Code	po2266
Status	Active
Adopted	November 9, 2020
Last Revised	July 8, 2024

2266 – NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES (The Board’s Policy and Grievance Procedures for Responding to Sexual Harassment Alleged to Have Occurred Prior to 8/1/2024)

Effective August 1, 2024, this policy shall only pertain to reports or formal complaints of Sexual Harassment that are based on conduct alleged to have occurred on or before July 31, 2024.

Introduction

The Board does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Board prohibits sexual harassment that occurs within its education programs and activities. When the District has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Board is committed to eliminating sexual harassment and will take appropriate action when an individual is determined responsible for violating this policy. Members of the School District community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. Third parties who engage in sexual harassment are also subject to the disciplinary sanctions listed in this policy. The Board will provide persons who have experienced Sexual Harassment ongoing supportive measures as reasonably necessary to restore or preserve access to the District’s education programs and activities.

Coverage

This policy applies to sexual harassment that occurs within the District’s education programs and activities and that is committed by a Board employee, student, Third Party vendor or contractor, guest, or other members of the school community.

This policy does not apply to sexual harassment that occurs off school grounds, in a private setting, and outside the scope of the Board’s education programs and activities; such sexual misconduct/sexual activity may be prohibited by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws and/or Employee/Administrator Handbook(s) if committed by a Board employee.

Consistent with the U.S. Department of Education’s implementing regulations for Title IX, this policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in the District’s education programs or activities. Sexual harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by other applicable Board policies and administrative guidelines, applicable State and/or Federal laws and/or Employee/Administrator Handbook(s) if committed by a Board employee.

Complaints alleging sexual harassment and/or discrimination on the basis of sex are also covered by and subject to the investigation procedures in Board Policy 5517 - Student Anti-Harassment. Complaints not covered by this policy may still be governed by and subject to the procedures in Policy 5517 - Student Anti-Harassment.

Definitions

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

Sexual Harassment: "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A Board employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (often called "*quid pro quo*" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).
 1. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
 - a. *Rape* is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - b. *Sodomy* is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - c. *Sexual Assault with an Object* is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
 - d. *Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - e. *Incest* is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.
 - f. *Statutory Rape* is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by 948.02 or 948.09, Wis. Stats. or whose status as a student prohibits such sexual contact per 948.095, Wis. Stats.
 - g. *Other Sexual Contact* includes the intentional emission of bodily fluids on the complainant, or at the direction of the Respondent, for the purposes of sexual gratification as defined in Wis. Stat. § 940.225(5)(b).
 - h. *Consent* refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.
 - i. *Incapacitated* refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.

2. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:
 - a. A current or former spouse or intimate partner of the victim;
 - b. A person with whom the victim shares a child in common;
 - c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
 - e. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.
3. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
4. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – 1) fear for the person's safety or the safety of others; or 2) suffer substantial emotional distress.

Complainant: "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: "Formal complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation(s) of sexual harassment. At the time of filing a formal complaint with the District, a Complainant must be participating in or attempting to participate in the District's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or a party to the formal complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Actual Knowledge: "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator, or any District official who has authority to institute corrective measures on behalf of the Board, or any Board employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. This standard is not met when the only District official with actual knowledge is the Respondent. Imputation of knowledge-based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

Supportive Measures: "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations), leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), referral to Employee Assistance Program, and other similar measures.

Education Program or Activity: "Education program or activity" refers to all operations of the District over which the Board exercises substantial control, including in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, and community engagement, and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Board. It also includes events and circumstances that take place off-school property/grounds if the Board exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.

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

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

Inculpatory Evidence: "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.

Exculpatory Evidence: "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.

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

Eligible Student: "Eligible student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

Title IX Coordinator(s)

The Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

Tabatha A Gundrum
 Director of Human Resources
 715-261-0521
 415 Seymour Street, Wausau, WI 54403
 tgundrum@wausauschools.org

The Title IX Coordinator shall report directly to the District Administrator except when the District Administrator is a Respondent. In such matters, the Title IX Coordinator shall report directly to the Board President. Questions about this policy should be directed to the Title IX Coordinator.

The District Administrator shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the following information:

The Board of the Wausau School District does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District's Title IX Coordinator(s) is/are:

*Tabatha A Gundrum
 Director of Human Resources
 715-261-0521
 415 Seymour Street, Wausau, WI 54403
 tgundrum@wausauschools.org*

Any inquiries about the application of Title IX and its implementing regulations to the District may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process that provides for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process is included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: <https://www.boarddocs.com/wi/waus/Board.nsf/Public>. The grievance process specifically addresses how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the District will respond.

The District Administrator shall also prominently display the Title IX Coordinator's(s') contact information – including Name(s) and/or Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this policy on the District's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements.

Grievance Process

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The District's response to allegations of sexual harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this grievance process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for sexual harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

The Process described herein relates exclusively to complaints brought under this Policy. The District will continue to handle complaints subject to the District's other nondiscrimination and anti-harassment policies, including: Policy 5517 - Student Anti-Harassment; Policy 5517.01 - Bullying; Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity; Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.

Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s).

Board employees are required, and other members of the School District community and Third Parties are encouraged, to report allegations of sex discrimination or sexual harassment promptly to the/a Title IX Coordinator or to any Board employee, who will, in turn, notify the/a Title IX Coordinator. alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of sexual harassment by or involving the Title IX Coordinator, the person making the report should submit it to the other Title IX Coordinator, or another Board employee who, in turn, will notify the District Administrator of the report. The other Title IX Coordinator shall determine who will serve in place of the Title IX Coordinator for purposes of addressing that report of sexual harassment.

The Board does business with various vendors, contractors, and other Third Parties who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or Third Party Respondent may have under this policy, the Board retains the right to limit any vendor's, contractor's, or Third Party's access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or Third Party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a formal complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of sexual misconduct/sexual activity not involving sexual harassment will be addressed through the procedures outlined in Board policies and/or administrative guidelines, the applicable Student Code of Conduct, or Employee/Administrator Handbook(s).

Because the Board is considered to have actual knowledge of sexual harassment or allegations of sexual harassment if any Board employee has such knowledge, and because the Board must take specific actions when it has notice of sexual harassment or allegations of sexual harassment, a Board employee who has independent knowledge of or receives a report

involving allegations of sex discrimination and/or sexual harassment must notify the/a Title IX Coordinator promptly after learning the information or receiving the report. The Board employee must also comply with mandatory reporting responsibilities pursuant to Wis. Stat. 48.981 and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board employee’s knowledge is based on another individual bringing the information to the Board employee’s attention and the reporting individual submitted a written complaint to the Board employee, the Board employee must provide the written complaint to the Title IX Coordinator.

If a Board employee fails to report an incident of sexual harassment of which the Board employee is aware, the Board employee may be subject to disciplinary action, up to and including termination.

When a report of sexual harassment is made, the Title IX Coordinator shall promptly of the Title IX Coordinator’s receipt of the report of Sexual Harassment) contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by State and/or Federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purposes of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related District policies, including Policy 5120 - Assignment within District; Policy 5605 - Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, and Policy 5611 – Due Process Rights.

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements.

For all other Respondents, including other members of the School District community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of sexual harassment or otherwise.

Formal Complaint of Sexual Harassment

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above. If a formal complaint involves allegations of sexual harassment by or involving the Title IX Coordinator, the Complainant should submit the formal complaint to the other Title IX Coordinator who will then proceed with the grievance process with respect to that formal complaint.

The Complainant’s wishes with respect to whether a formal complaint is filed will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

When the Title IX Coordinator receives a formal complaint or signs a formal complaint, the District will follow its grievance process, as set forth herein. Specifically, the District will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of sexual harassment or submitting a false formal complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct and the Employee/Administrator Handbook.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Timeline

The District will seek to conclude the grievance process within ninety (90) calendar days of receipt of the formal complaint, followed by the appeal process which shall be processed in a timely manner.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action, except that any complaint covered by Policy 5517 - Student Anti-Harassment as well must comply with the timelines in that Policy, however, an investigation may still proceed as required under this Policy. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or an accommodation of disabilities. The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process.

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must:
 1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
 3. inform the parties of any provision in the Student Code of Conduct, this policy, and/or Employee/Administrator Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

The District shall investigate the allegations in a formal complaint *unless* the conduct alleged in the formal complaint:

- A. would not constitute sexual harassment (as defined in this policy) even if proved;
- B. did not occur in the District's education program or activity; or
- C. did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator *shall* dismiss the formal complaint. If the Title IX Coordinator dismisses the formal complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee/Administrator Handbook.

The Title IX Coordinator *may* dismiss a formal complaint, or any allegations therein, if at any time during the investigation:

- A. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- B. the Respondent is no longer enrolled in the District or employed by the Board; or
- C. specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the Title IX Coordinator dismisses a formal complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

Informal Resolution Process

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a formal complaint of sexual harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a formal complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Board employee or another adult member of the School District community or Third Party sexually harassed a student.

The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent.

Investigation of a Formal Complaint of Sexual Harassment

In conducting the investigation of a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the District, not the parties.

In making the determination of responsibility, the decision-maker(s) is (are) directed to use the preponderance of the evidence standard. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

The District is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the

provision of treatment to the party, unless the party provides the District with voluntary, written consent to do so; if a student party is not an eligible student, the District must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.
- C. Whether a person is allowed to audio record or video record any meeting or grievance proceeding will be consistent with the procedures established in Board Policy 2461 – Recording of IEP Team Meetings.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator(s) and decision-maker(s) must provide a minimum of one (1) days' notice with respect to investigative interviews and other meetings.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the Title IX Coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to the decision-maker(s) issuing a determination regarding responsibility.

Determination of Responsibility

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the question of any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Determination regarding responsibility: The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the preponderance of the evidence standard.

The written determination will include the following content:

- A. Identification of the allegations potentially constituting sexual harassment pursuant to this policy;
- B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and
- F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

Informal or formal disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in sexual harassment).

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, Policy 5610.02 – In-School Discipline, and Policy 5611 – Due Process Rights. The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

Disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy including but not limited to (i.e., engaging in Sexual Harassment):

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

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual. If the District Administrator is the Respondent, the Title IX Coordinator will notify the Board President of the recommended remedies for consideration and, if necessary and appropriate, implementation in compliance with applicable due process procedures, whether statutory or contractual.

The discipline of an employee will be implemented in accordance with Federal and State law, and Board policy.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District community or Third Party determined responsible for violating this policy (i.e., engaging in sexual harassment):

- A. oral or written warning;

- B. suspension or termination/cancellation of the Board's contract with the Third Party vendor or contractor;
- C. mandatory monitoring of the Third Party while on school property and/or while working/interacting with students;
- D. restriction/prohibition on the Third Party's ability to be on school property; and
- E. any combination of the same.

If the decision-maker(s) determines the Third Party Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including the imposition of sanctions. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately, imposing a disciplinary sanction/consequence, the District Administrator (or the Board when the District Administrator is the Respondent) will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances. If the Respondent is a Member of the Board, that member of the Board shall be excluded from any determination regarding the imposition of a disciplinary sanction/consequence by the remaining Board members.

The District's resolution of a formal complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process, the District Administrator may involve local law enforcement and/or file criminal charges related to allegations of sexual harassment that involve a sexual assault.

The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appeal

Both parties have the right to file an appeal from a determination regarding responsibility or from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.

The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker(s)'s determination of responsibility, or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein.

Nothing herein shall prevent the District Administrator (or the Board when the District Administrator is the Respondent) from implementing appropriate remedies, excluding disciplinary sanctions, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within five (5) days after the Title IX Coordinator provides notice to the non-appealing party of the appeal.

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

The determination of responsibility associated with a formal complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. No further review beyond the appeal is permitted.

Retaliation

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA's regulations, and State law under Wis. Stat. § 118.12, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).

Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment.

Training

The District's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. the definition of sexual harassment (as that term is used in this policy);
- B. the scope of the District's education program or activity;

- C. how to conduct an investigation and implement the grievance process, appeals and informal resolution processes, as applicable; and
- D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All Board employees will be trained concerning their legal obligation to report sexual harassment to the Title IX Coordinator. This training will include practical information about how to identify and report sexual harassment.

Recordkeeping

As part of its response to alleged violations of this policy, the District shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If the District does not provide a Complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

The District shall maintain for a period of seven (7) calendar years the following records pursuant to Wis. Stat. § 19.21(6):

- A. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The District will make its training materials publicly available on its website.

Outside Appointments, Dual Appointments, and Delegations

The Board retains the discretion to appoint suitably qualified persons who are not Board employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

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

The District Administrator may delegate functions assigned to a specific Board employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual and such delegation, may be rescinded by the District Administrator at any time.

Discretion in Application

The Board retains the discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains the discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right or as part of any other express or implied contract. Accordingly, the Board retains the discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

T.C. 11/14/22

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Legal

19.21(6), Wis. Stats.

120.13, Wis. Stats.

948.01 et. seq., Wis. Stats.

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)

Book	Policy Manual
Section	Archived Materials 7/8/24
Title	Revised Policy - Special Update - Title IX - June 2024 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES (The Board's Policy and Grievance Procedures for Responding to Sexual Harassment Alleged to Have Occurred Prior to 8/1/2024)
Code	po2266
Status	
Adopted	November 9, 2020
Last Revised	July 8, 2024

Revised Policy - Special Update - Title IX

2266 – **NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES (The Board’s Policy and Grievance Procedures for Responding to Sexual Harassment Alleged to Have Occurred Prior to 8/1/2024)**

Effective August 1, 2024, this policy shall only pertain to reports or formal complaints of Sexual Harassment that are based on conduct alleged to have occurred on or before July 31, 2024.

Introduction

The Board does not discriminate on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, and is required by Title IX of the Education Amendments Act of 1972, and its implementing regulations, not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. **~~[DRAFTING NOTE: In the new 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); thus, 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 officially need to include “admission and” in the preceding sentence (and where that phrase is used throughout this policy); Neola, however, has elected to include it because all K-12 schools “enroll” students and often the term “enroll” is viewed as synonymous with the term “admit.” Since K-12 schools cannot discriminate when enrolling students into the education programs or activities that they operate, it seems appropriate to include the term “admission.”]~~** The Board is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

The Board prohibits sexual harassment that occurs within its education programs and activities. When the District has actual knowledge of sexual harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent.

Pursuant to its Title IX obligations, the Board is committed to eliminating sexual harassment and will take appropriate action when an individual is determined responsible for violating this policy. Members of the School District community who commit Sexual Harassment are subject to the full range of disciplinary sanctions set forth in this policy. Third Parties who engage in sexual harassment are also subject to the disciplinary sanctions listed in this policy. The Board will provide persons who have experienced Sexual Harassment ongoing supportive measures as reasonably necessary to restore or preserve access to the District’s education programs and activities.

Coverage

This policy applies to sexual harassment that occurs within the District's education programs and activities and that is committed by a Board employee, student, Third Party vendor or contractor, guest, or other members of the school community.

This policy does not apply to sexual harassment that occurs off school grounds, in a private setting, and outside the scope of the Board's education programs and activities; such sexual misconduct/sexual activity may be prohibited by the Student Code of Conduct if committed by a student, or by Board policies and administrative guidelines, applicable State and/or Federal laws (**x**) and/or Employee/Administrator Handbook(s) ~~[End of Option]~~ if committed by a Board employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to sexual harassment that occurs outside the geographic boundaries of the United States, even if the sexual harassment occurs in the District's education programs or activities. Sexual harassment that occurs outside the geographic boundaries of the United States is governed by the Student Code of Conduct if committed by a student, or by other applicable Board policies and administrative guidelines, applicable State and/or Federal laws (**x**) and/or Employee/Administrator Handbook(s) ~~[End of Option]~~ if committed by a Board employee.

Complaints alleging sexual harassment and/or discrimination on the basis of sex are also covered by and subject to the investigation procedures in Board Policy 5517 - Student Anti-Harassment. Complaints not covered by this policy may still be governed by and subject to the procedures in Policy 5517 - Student Anti-Harassment.

Definitions

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

Sexual Harassment: "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- A. A Board employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (often called "*quid pro quo*" harassment);
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- C. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)A(v), or "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).
 1. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, and the "nonforcible" sex offenses of incest and statutory rape. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
 - a. *Rape* is the carnal knowledge of a person (i.e., penetration, no matter how slight, of the genital or anal opening of a person), without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - b. *Sodomy* is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - c. *Sexual Assault with an Object* is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.
 - d. *Fondling* is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
 - e. *Incest* is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.

- f. *Statutory Rape* is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by 948.02 or 948.09, Wis. Stats. or whose status as a student prohibits such sexual contact per 948.095, Wis. Stats.
- g. **(X)** *Other Sexual Contact* includes the intentional emission of bodily fluids on the complainant, or at the direction of the Respondent, for the purposes of sexual gratification as defined in 940.225(5)(b), Wis. Stats.
- h. *Consent* refers to words or actions that a reasonable person would understand as agreement to engage in the sexual conduct at issue. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent. **~~[DRAFTING NOTE: The Title IX regulations do not require the Board to adopt a particular definition of "consent," but it is advisable to adopt a definition because "consent" is an element of each of the first four terms listed above. Since there are a number of different definitions of consent from which to choose, the Board should consult its local legal counsel concerning selecting a specific definition of consent that represents its position on the topic; the investigator(s) and decision-maker(s) will then uniformly apply the adopted definition.]~~**
- i. *Incapacitated* refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep. **~~[DRAFTING NOTE: Depending on the definition of "consent" that the Board adopts, it may be necessary to define "incapacitated" in the policy. If it is not defined in the policy, it should certainly be defined in the Administrative Guideline; even if defined in the policy, the Administrative Guideline provides an opportunity to expand on the concept of "consent" and what the Board means by the term "incapacitated."]~~**
2. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:
- A current or former spouse or intimate partner of the victim;
 - A person with whom the victim shares a child in common;
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
 - Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.
3. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
4. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

Complainant: "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent: "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: "Formal complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation(s) of sexual harassment. At the time of filing a formal complaint with the District, a Complainant must be participating in or attempting to participate in the District's education program or activity. A "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the

formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or a party to the formal complaint and must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Actual Knowledge: "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator, or any District official who has authority to institute corrective measures on behalf of the Board, or any Board employee. The mere ability or obligation to report Sexual Harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator. This standard is not met when the only District official with actual knowledge is the Respondent. Imputation of knowledge-based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

Supportive Measures: "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school/campus escort services, mutual restrictions of contact between the parties, changes in work locations), leaves of absence, increased security and monitoring of certain areas of the campus (including school buildings and facilities), **(x)** referral to Employee Assistance Program **[End of Option]**, and other similar measures.

Education Program or Activity: "Education program or activity" refers to all operations of the District over which the Board exercises substantial control, including in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, and community engagement, and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Board. It also includes events and circumstances that take place off-school property/grounds if the Board exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.

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

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

Inculpatory Evidence: "Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.

Exculpatory Evidence: "Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.

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

Eligible Student: "Eligible student" means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

Title IX Coordinator(s)

The Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations: ~~**[DRAFTING NOTE: Neola suggests the Board consider appointing both a male and a female Title IX Coordinator. The Board must list either the Name or Title of the Title IX Coordinator, while the Board may list both the Name and Title, Neola suggests that the Board consider only listing the Title in this policy (so it does not need to revise/amend its policy whenever there is a change in the actual person(s) holding the designated position(s)), but list both the Name and Title in the requisite postings (e.g., website) and publications (e.g., handbooks) (-) and in the Administrative Guideline.]**~~

Tabatha Gundrum _____
(Name)

Director of Human Resources _____
(School District Title)

715-261-0521 _____
(Telephone Number)

415 Seymour Street, Wausau, WI 54403 _____
(Office Address)

tgundrum@wausauschools.org _____
(District-issued E-mail Address)

(Name)

(School District Title)

(Telephone Number)

(Office Address)

(District issued E-mail Address)

The Title IX Coordinator shall report directly to the District Administrator except when the District Administrator is a Respondent. In such matters, the Title IX Coordinator shall report directly to ~~[] the Board Attorney x]~~ Board President ~~[]~~ _____ **[END OF OPTIONS]**. Questions about this policy should be directed to the Title IX Coordinator.

The District Administrator shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the following information:

The Board of the Wausau _____ School District does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District's Title IX Coordinator(s) is/are:

Tabatha Gundrum
Director of Human Resources
715-261-0521
415 Seymour Street, Wausau, WI 54403
tgundrum@wausauschools.org
~~NAME(S)~~

~~TITLE(S)~~

~~PHONE NUMBER(S)~~

~~OFFICE ADDRESS(ES)~~

~~EMAIL ADDRESS(ES)~~

Any inquiries about the application of Title IX and its implementing regulations to the District may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted a grievance process that provides for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process is included in Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, which is available at: <https://www.boarddocs.com/wi/waus/Board.nsf/Public> _____ ~~insert the~~

~~**web address at which Policy 2266 can be found, or insert a hyperlink tied to the title of the policy**~~. The grievance process specifically addresses how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the District will respond. ~~**[DRAFTING NOTE: The above information could be utilized as the notice on the District's website, in each handbook, included on applications for admission, job applications, or any other place in which the District Administrator is required to prominently display a Title IX notification.]**~~

The District Administrator shall also prominently display the Title IX Coordinator's(s') contact information – including Name(s) and/or Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this policy on the District's website and in each handbook or catalog that the Board makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, Board employees, and all unions or professional organizations holding collective bargaining or professional agreements.

Grievance Process

The Board is committed to promptly and equitably resolving student and employee complaints alleging Sexual Harassment. The District's response to allegations of sexual harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this grievance process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for sexual harassment is made against the Respondent, the Board will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

The Process described herein relates exclusively to complaints brought under this Policy. The District will continue to handle complaints subject to the District's other nondiscrimination and anti-harassment policies including: Policy 5517 - Student Anti-Harassment; Policy 5517.01 - Bullying; Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity; and Policy 2260.01 - Section 504/ADA Prohibition Against Discrimination Based on Disability.

Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail using the Title IX Coordinator's(s') contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s). ~~()~~ Anonymous reports may be submitted using ~~[]~~ the online reporting form posted at _____ ~~[insert the web address for the reporting form, or insert a hyperlink tied to the phrase "online reporting form"]~~ ~~[OR] []~~ the hotline reporting number _____ ~~[insert phone number]~~. ~~**[DRAFTING NOTE: Inclusion of this optional language is not recommended, however, it is recommended that the Title IX Coordinator(s) be trained on evaluation of anonymous reports to determine if sufficient information is provided so as to proceed under either this Policy or another related policy.]**~~

Board employees are required, and other members of the School District community and Third Parties are encouraged, to report allegations of sex discrimination or sexual harassment promptly to the/a Title IX Coordinator or to any Board employee who will, in turn, notify the/a Title IX Coordinator. ~~**[DRAFTING NOTE: All Board employees are mandatory reporters pursuant to the Title IX regulations. Existing policy, however, also requires students and Board members to report any information they have concerning allegations of sex discrimination or sexual harassment. Neola suggests that the Board continue this additional requirement in this policy, along with the language encouraging other individuals to make such reports; this will coincide with similar requirements that are imposed on Board members and students in other nondiscrimination and anti-harassment policies. If the Board decides it does not want to go beyond the scope of the regulations for purposes of this policy, it should replace the first sentence of this paragraph with either of the following: "Board employees are required to report allegations of sex discrimination or sexual harassment promptly to the Title IX Coordinator." OR "Board employees are required, and other members of the School District community and Third Parties are encouraged, to report allegations of sex discrimination or sexual harassment promptly to the/a Title IX Coordinator or to any Board employee, who in turn will notify the/a Title IX Coordinator."]**~~ Reports can be made

orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of sexual harassment by or involving the Title IX Coordinator, the person making the report should submit it to the ~~() District Administrator~~ (X) other Title IX Coordinator ~~[END OF OPTIONS]~~, or another Board employee who, in turn, will notify the (X) District Administrator ~~() other Title IX Coordinator [END OF OPTIONS]~~ of the report. The ~~() District Administrator~~ (X) other Title IX Coordinator ~~[END OF OPTIONS]~~ shall determine who will serve in place of the Title IX Coordinator for purposes of addressing that report of sexual harassment. ~~[DRAFTING NOTE: If the District Administrator is the Title IX Coordinator, substitute () _____ () Board Attorney () Board President in place of District Administrator.]~~

The Board does business with various vendors, contractors, and other Third Parties who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or Third Party Respondent may have under this policy, the Board retains the right to limit any vendor's, contractor's, or Third Party's access to school grounds for any reason. The Board further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or Third Party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a formal complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of sexual misconduct/sexual activity not involving sexual harassment will be addressed through the procedures outlined in Board policies (x) and/or administrative guidelines, ~~[END OF OPTION]~~ the applicable Student Code of Conduct, (x) or Employee/Administrator Handbook(s) ~~[END OF OPTION]~~.

Because the Board is considered to have actual knowledge of sexual harassment or allegations of sexual harassment if any Board employee has such knowledge, and because the Board must take specific actions when it has notice of sexual harassment or allegations of sexual harassment, a Board employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or sexual harassment must notify the/a Title IX Coordinator within two (2) days of learning the information or receiving the report. ~~[DRAFTING NOTE: The regulations do not specify within how many days the Board employee must notify the Title IX Coordinator of receiving a report of sexual harassment; Neola suggests "two (2) days". Alternatively, the Board could make this language more open-ended—e.g., " * * * must immediately/promptly notify the/a Title IX Coordinator of such information or report."]~~ The Board employee must also comply with mandatory reporting responsibilities pursuant to 48.981, Wis. Stats. and Policy 8462 – Student Abuse and Neglect, if applicable. If the Board employee's knowledge is based on another individual bringing the information to the Board employee's attention and the reporting individual submitted a written complaint to the Board employee, the Board employee must provide the written complaint to the Title IX Coordinator.

If a Board employee fails to report an incident of sexual harassment of which the Board employee is aware, the Board employee may be subject to disciplinary action, up to and including termination.

When a report of sexual harassment is made, the Title IX Coordinator shall promptly (i.e., within two (2) days) ~~[DRAFTING NOTE: The regulations do not define "promptly" or otherwise specify within how many days the contact has to be made; Neola suggests "two (2) days" of the Title IX Coordinator's receipt of the report of Sexual Harassment.]~~ contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by State and/or Federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purpose of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related District policies, including Policy 5120 - Assignment within District; Policy 5605 - Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, and Policy 5611 – Due Process Rights. ~~[DRAFTING NOTE: The Board may substitute "District Administrator" or "Title IX Coordinator" in place of "District" in the first sentence. Alternatively, the District Administrator could designate, through the~~

~~administrative guideline, one or more administrators, including the Title IX Coordinator, to make emergency removal decisions after conducting the individualized safety and risk analysis. In Wisconsin, emergency removals may only be imposed in the manner delineated in 120.13, Wis. Stats. Additionally, emergency removals must be conducted in compliance with the Individuals with Disabilities Education Improvement Act and/or Section 504 of the Rehabilitation Act of 1973.]~~

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements.

For all other Respondents, including other members of the School District community and Third Parties, the Board retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of sexual harassment or otherwise.

Formal Complaint of Sexual Harassment

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information set forth above () and by _____ **[DRAFTING NOTE: The Board may set forth additional method(s) by which a formal complaint may be filed (e.g., online portal submission)]**. If a formal complaint involves allegations of sexual harassment by or involving the Title IX Coordinator, the Complainant should submit the formal complaint to the () District Administrator, who will designate another person to serve in place of the Title IX Coordinator for the limited purpose of implementing the grievance process with respect to that formal complaint (x) the other Title IX Coordinator who will then proceed with the grievance process with respect to that formal complaint. **[END OF OPTIONS]. [DRAFTING NOTE: If the District Administrator is the Title IX Coordinator, substitute () _____ () Board Attorney () Board President in the preceding sentence in place of District Administrator.**

The Complainant's wishes with respect to whether a formal complaint is filed will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

When the Title IX Coordinator receives a formal complaint or signs a formal complaint, the District will follow its grievance process, as set forth herein. Specifically, the District will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

It is a violation of this policy for a Complainant(s), Respondent(s), and/or witness(es) to knowingly making false statements or knowingly submitting false information during the grievance process, including intentionally making a false report of sexual harassment or submitting a false formal complaint. The Board will not tolerate such conduct, which is a violation of the Student Code of Conduct (x) and the Employee/Administrator Handbook. **[DRAFTING NOTE: The Board should confirm/verify that its Student Code of Conduct and any Employee/Administrator Handbook(s) include a prohibition against intentionally making a false report, submitting a false formal complaint, or making a false statement or submitting false information during a Title IX grievance process. Such misconduct should be a sanctionable offense pursuant to the Student Code of Conduct and Employee/Administrator Handbook(s).]**

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Timeline

The District will seek to conclude the grievance process within ninety (90) calendar days of receipt of the formal complaint, followed by the appeal process which shall be processed in a timely manner. **[DRAFTING NOTE: The Title IX regulations do not specify a deadline for completing the grievance process; Neola suggests ninety (90) calendar days based on the requirements found in PI 9 relative to investigations pursuant to 118.13, Wis. Stats. and Policy 5517 – Student Anti-Harassment.]**

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action, except that any complaint covered by Policy 5517 - Student Anti-Harassment as well must comply with the timelines in that Policy, however, an investigation may still proceed as required under this Policy. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or an accommodation of disabilities. **[DRAFTING NOTE: The Board should consult with its local legal counsel on a case-**

~~by case basis to determine whether there may be other reasons/good cause for a delay or extension of time—e.g., the complexity and severity of the matter, or school breaks.} (X)~~ The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process ~~{END OF OPTION}.~~

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- A. Notice of the Board's grievance process, including any informal resolution processes;
- B. Notice of the allegations of misconduct that potentially constitutes sexual harassment as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The written notice must:
 1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence;
 3. inform the parties of any provision in the Student Code of Conduct (**x**), this policy, (**x**) and/or Employee/Administrator Handbook ~~{DRAFTING NOTE: While the Title IX regulations only reference "code of conduct" Neola suggests that the Board reference other applicable documents that expressly prohibit an individual from making false statements or knowingly submitting false information as part of the grievance process}~~ that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

~~{DRAFTING NOTE: The Title IX regulations do not define "upon receipt" or otherwise specify within how many days the notice must be sent; Neola suggests the Title IX Coordinator send the notice within "two (2) days" of receipt of the formal complaint; this suggestion is memorialized in the corresponding administrative guideline. Please note, however, that it could be argued that the notice should be sent sooner. Regardless, the Title IX Coordinator should have a template notice form available that can be quickly completed with the requisite information after receipt of the formal complaint.}~~

If during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the investigator should investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Formal Complaint

The District shall investigate the allegations in a formal complaint *unless* the conduct alleged in the formal complaint:

- A. would not constitute sexual harassment (as defined in this policy) even if proved;
- B. did not occur in the District's education program or activity; or
- C. did not occur against a person in the United States.

If one of the preceding circumstances exist, the Title IX Coordinator *shall* dismiss the formal complaint. If the Title IX Coordinator dismisses the formal complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, (**x**) and/or Employee/Administrator Handbook.

The Title IX Coordinator *may* dismiss a formal complaint, or any allegations therein, if at any time during the investigation () or hearing: ~~{DRAFTING NOTE: The Board may, but need not, provide for a hearing before the decision-maker(s) reaches a determination of responsibility under this policy. Neola suggests that the Board not provide for a hearing, but if the Board will permit hearings, they should select this option. See sub-heading Determination of Responsibility for more detail regarding hearings.}~~

- A. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;

- B. the Respondent is no longer enrolled in the District or employed by the Board; or
- C. specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the Title IX Coordinator dismisses a formal complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one (1) Respondent, or by more than one (1) Complainant against one (1) or more Respondents, or by one (1) party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Where a grievance process involves more than one (1) Complainant or more than one (1) Respondent, references in this policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

~~**[DRAFTING NOTE: The Board may adopt provisions, rules, or practices other than those required by the Title IX regulations as part of its grievance process for handling formal complaints of sexual harassment, provided they apply equally to both parties and do not violate the language in the regulations. The Board should discuss this option with its local legal counsel.]**~~

Informal Resolution Process

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a formal complaint of sexual harassment. Similarly, no party shall be required to participate in an informal resolution process.

If a formal complaint is filed, the Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice disclosing:

- A. the allegations;
- B. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; and
- C. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint.

Before commencing the informal resolution process, the Title IX Coordinator shall obtain from the parties their voluntary, written consent to the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that a Board employee (**x**) or another adult member of the School District community or Third Party ~~**[END of OPTION]**~~ sexually harassed a student. ~~**[DRAFTING NOTE: The Title IX regulations prohibit the use of an informal resolution process when the allegations involve a Board employee sexually harassing a student; Neola suggests that it also may not be appropriate to use informal resolution processes when a Third Party is alleged to have sexually harassed a student. Since this is not a requirement, it is offered as an option. If the optional language is not selected, the Board retains the discretion to use informal resolution processes as may be determined appropriate by the Title IX Coordinator on a case-by-case basis.]**~~

(X) The informal resolution process is not available to resolve allegations involving a sexual assault involving a student Complainant and a student Respondent. ~~{DRAFTING NOTE: While this language is not required by the Title IX regulations, Neola suggests the Board select this option because of the severity of this type of sexual harassment.}~~

Investigation of a Formal Complaint of Sexual Harassment

In conducting the investigation of a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the District, not the parties.

In making the determination of responsibility, the decision-maker(s) is (are) directed to use the **(X)** preponderance of the evidence standard ~~(-)~~ clear and convincing evidence standard **[END OF OPTIONS]**. The decision-maker(s) is charged with considering the totality of all available evidence, from all relevant sources.

~~{DRAFTING NOTE: Neola suggests the Board adopts the “preponderance of the evidence standard.” The preponderance of the evidence standard is an equitable standard of proof and the legal standard by which most civil lawsuits, including civil rights claims, are adjudicated in the United States. This standard requires the decision-maker(s) to determine that there is a greater than fifty percent (50%) likelihood (i.e., it is more probable/likely than not) that the Respondent engaged in the alleged sexual harassment.~~

~~The “clear and convincing evidence standard,” on the other hand, is a higher standard of evidence, in which the District would need to show to the decision-maker(s) that the truth of the allegations is highly probable (i.e., that the contention is substantially more likely to be true than untrue). Some argue that using the clear and convincing standard may skew the playing field toward the Respondent by enhancing protection for the Respondent at the expense of the Complainant.~~

~~The same standard of evidence must be applied for formal complaints against students as is applied to formal complaints against employees, and the same standard of evidence must be used for all formal complaints of sexual harassment. The Board should discuss this option with its local legal counsel.}~~

The District is not permitted to access, consider, disclose, or otherwise use a party’s records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional’s or paraprofessional’s capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the District with voluntary, written consent to do so; if a student party is not an eligible student, the District must obtain the voluntary, written consent of a parent.

Similarly, the investigator(s) and decision-maker(s) may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- A. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- B. have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.
- C. ~~(-)~~ The District establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings.

Limit the advisor from:

1. ~~questioning the other party,~~
-
2. ~~answering questions on behalf of any party, and~~
-
3. ~~disrupting the investigation process.~~

~~{DRAFTING NOTE: The Board should consult with its local legal counsel concerning any restrictions it may want to place on an advisor’s participation in the proceedings, including rules of decorum. This~~

topic is also addressed in AG 2266.]

- D. Whether a person is allowed to audio record or video record any meeting or grievance proceeding will be consistent with the procedures established in Board Policy 2461 – Recording of IEP Team Meetings.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, ~~[DRAFTING NOTE: Select this option if the Board permits hearings.]~~ investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The investigator(s) and decision-maker(s) must provide a minimum of (1) days' notice with respect to investigative interviews and other meetings ~~()~~ and days' notice with respect to hearings ~~[End of Option]. [DRAFTING NOTE: The Board should consult with its local legal counsel concerning whether to set a minimum amount of advance notice—i.e., define "sufficient time"—Neola suggests a minimum of three (3) days' advance notice for hearings and one (1) day's advanced notice for investigative interviews and other meetings.]~~

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the investigator ~~()~~ Title IX Coordinator ~~[END OF OPTIONS]~~ will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. ~~[DRAFTING NOTE: The Board should select the following option if it provides for a hearing before the decision maker] ()~~ The District will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination. ~~[END OF OPTION]~~

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response. The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to ~~[DRAFTING NOTE: Select one of the following two options. The Board should select the second option if it is providing a hearing or permitting the decision-maker(s) to decide whether to conduct a hearing on a case-by-case basis.]~~

the decision-maker(s) issuing a determination regarding responsibility.

~~() a hearing or the decision-maker(s) issuing a determination regarding responsibility.~~

Determination of Responsibility

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility. The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s).

~~[DRAFTING NOTE: The Board may, but need not, provide for a hearing before the decision-maker(s) reaches a determination of responsibility. Neola suggests that the Board not provide for a hearing. If the Board decides not to provide for a hearing, the Board should select OPTION 1; if the Board elects to provide a hearing or to provide the decision-maker(s) with the discretion to conduct a hearing on a case-by-case basis, the Board should select OPTION 2. Additionally, if the Board operates a vocational program (see the Drafting Note contained in the first paragraph for the definition of "vocational program"), Neola suggests that the Board consult its local legal counsel concerning whether it must provide for a live hearing related to formal complaints involving parties associated with the vocational program. If the Board determines with its legal counsel, that it must provide for a live hearing is should select Option E of Option 2, at least with respect to formal complaints involving parties involved in the vocational program (i.e., it does not need to provide for a live hearing for its regular K-12 education programs and activities that it operates.)~~

X] [OPTION 1]

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers,

and allow for additional, limited follow-up questions from each party. The decision-maker(s) must explain to the party proposing the question of any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

~~**[END OF OPTION 1 – NOTE: If Option 1 is selected proceed to [END OF OPTION 2] and commence with Determination Regarding Responsibility**~~

~~**[] [OPTION 2 – NOTE: Option 2 is inclusive of all Letter Options (A) – (E)]**~~

~~After the investigator sends the investigative report to the parties and the decision maker(s), and prior to the decision maker(s) issuing a determination of responsibility, the decision maker(s) () may () will [END OF OPTIONS] conduct a hearing.~~

~~**[DRAFTING NOTE: Select Option A or Option B. If the Board selects "may," it should select Option A; if it selects "will," it should select Option B.]**~~

~~**[] [Option A]**~~

~~If the decision maker(s) decides not to conduct a hearing, the decision maker(s) will state in writing the reason for not conducting a hearing and provide that explanation to the parties. Additionally, before the decision maker(s) reaches a determination regarding responsibility, the decision maker(s) will afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.~~

~~If the decision maker(s) elects to conduct a hearing, the hearing will proceed as follows:~~

~~**[End of Option A]**~~

~~**[] [Option B]**~~

~~The hearing will proceed as follows:~~

~~**[End of Option B]**~~

~~**[DRAFTING NOTE: Select Option C or Option D or Option E; Neola suggests Option C. The Board should discuss this option with its local legal counsel.]**~~

~~**[] [Option C]**~~

~~At the hearing, the decision maker(s) will allow each party or each party's advisor to submit relevant questions to the decision maker(s) who will ask the questions to the other party and any witnesses. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Only relevant cross-examination and other questions, including follow-up questions and questions challenging credibility, will be permitted. Such cross-examination and questioning at the live hearing shall be conducted orally and in real time.~~

~~() If a party does not have an advisor present at the live hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.~~

~~**[End of Option C]**~~

~~**[] [Option D]**~~

~~Prior to commencing the hearing, the decision maker(s) will decide whether to allow each party's advisor to ask questions directly of the other party and any witnesses, or instead to have the questions submitted to the decision maker(s) who will ask the other party and any witnesses the questions.~~

~~If the decision maker(s) permits each party's advisor to ask the other party and any witnesses relevant questions and follow up questions, including questions challenging credibility, such cross examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. If the decision maker(s) permit each party's advisor to ask questions directly to the other party and any witnesses, the decision maker(s) shall not restrict the extent to which advisors may participate in the hearing.~~

~~If, on the other hand, the decision maker(s) decides to have each party's advisor (or the party, if the party does not have an advisor) submit relevant questions to the decision maker(s), the decision maker will ask the questions to the other party and any witnesses. Such cross examination at the hearing will be conducted orally and in real time by the decision maker(s) based upon questions submitted by a party's advisor or the party.~~

~~Only relevant cross examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.~~

~~If the decision maker(s) permits the parties' advisors to ask the questions directly, and a party does not have an advisor present at the live hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to conduct cross examination on behalf of that party.~~

~~() If the decision maker(s) decides not to have the parties' advisors ask the questions directly, and a party does not have an advisor present at the hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to submit questions on behalf of that party.~~

~~{End of Option D}~~

~~{ } {Option E}~~

~~At the live hearing, the decision maker(s) shall permit each party's advisor to ask the other party and any witnesses all relevant questions and follow up questions, including those challenging credibility. Such cross examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally; notwithstanding anything to the contrary in this policy, the decision maker shall not restrict the extent to which advisors may participate in the hearing.~~

~~Only relevant cross examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a cross examination or other question, the decision maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.~~

~~() If a party does not have an advisor present at the live hearing, the District will provide, without fee or charge to that party, an advisor of the District's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.~~

~~{End of Option E}~~

~~Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.~~

~~Hearings may be conducted with all parties physically present in the same geographic location or, at the discretion of the () decision maker(s) () Title IX Coordinator(s) **[END OF OPTIONS]**, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the request of either party, the decision maker shall provide for the hearing to occur with the parties located in separate rooms with technology enabling the decision maker(s) and parties to simultaneously see and hear the party or witness answering questions. The District will create an audio or audiovisual recording, or transcript, of any hearing and make it available to the parties for inspection and review.~~

~~{END OF OPTION 2}~~

Determination regarding responsibility: The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must apply the (**x**) preponderance of the evidence standard () clear and convincing evidence standard **[END OF OPTIONS]**. **[DRAFTING NOTE: Be sure to select the evidence standard selected previously (i.e., above).]**

The written determination will include the following content:

- A. Identification of the allegations potentially constituting sexual harassment pursuant to this policy;
- B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, [and] methods used to gather other evidence, ~~() and hearings held; [DRAFTING NOTE: The Board should only select this option if it permits hearings.]~~
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the applicable code of conduct to the facts;
- E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker(s) is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and
- F. The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

[X] [OPTION 1]

Informal or formal disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in sexual harassment).

[END OF OPTION]

[] [OPTION 2]

~~Disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in sexual harassment) including but not limited to:~~

A. Informal Discipline

1. ~~() writing assignments;~~
2. ~~() changing of seating or location;~~
3. ~~() pre-school, () lunchtime, () after-school 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.

[END OF OPTION]

If the decision-maker(s) determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy 5605 – Suspension/Expulsion of Students with Disabilities, Policy 5610 – Suspension and Expulsion, ~~() Policy 5610.01 – Alternative Expulsion Hearing Procedure~~ **[END OF OPTION]**, Policy 5610.02 – In-School Discipline, and Policy 5611 – Due Process Rights. The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

Disciplinary sanctions/consequences may be imposed on an employee Respondent who is determined responsible for violating this policy including, but not limited to (i.e., engaging in Sexual Harassment):

- A. **(X)** oral or written warning;
- B. **(X)** written reprimands;
- C. **(X)** performance improvement plan;
- D. **(X)** required counseling;
- E. **(X)** required training or education;
- F. ~~()~~ demotion;
- G. **(X)** suspension with pay;
- H. **(X)** suspension without pay;
- I. **(X)** termination, and any other sanction authorized by any applicable Employee/Administrator Handbook.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual. If the District Administrator is the Respondent, the Title IX Coordinator will notify the ~~() Board Attorney~~ **(X) Board President** **[END OF OPTIONS]** of the recommended remedies for consideration and, if necessary and appropriate, implementation in compliance with applicable due process procedures, whether statutory or contractual. **[DRAFTING NOTE: The Board should review applicable policy(ies)/administrative guidelines/employee handbooks to determine whether changes are needed to stated timelines related to the imposition of discipline as a result of possible delays caused by the Board's obligation to follow this grievance process.]**

The discipline of an employee will be implemented in accordance with Federal and State law, and Board policy.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District community or Third Party determined responsible for violating this policy (i.e., engaging in sexual harassment):

- A. **(X)** oral or written warning;
- B. **(X)** suspension or termination/ cancellation of the Board's contract with the Third Party vendor or contractor;
- C. **(X)** mandatory monitoring of the Third Party while on school property and/or while working/interacting with students;
- D. **(X)** restriction/prohibition on the Third Party's ability to be on school property; and
- E. **(X)** any combination of the same.

If the decision-maker(s) determines the Third Party Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including the imposition of sanctions. The Title IX Coordinator will notify the District Administrator of the recommended remedies so appropriate action can be taken.

The decision-maker(s) will provide the written determination to the Title IX Coordinator who will provide the written determination to the parties simultaneously.

In ultimately imposing a disciplinary sanction/consequence, the District Administrator (or the Board when the District Administrator is the Respondent) will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances. If the Respondent is a member of the Board, that member of the Board shall be excluded from any determination regarding the imposition of a disciplinary sanction/consequence by the remaining Board members.

The District's resolution of a formal complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process, the District Administrator may involve local law enforcement and/or file criminal charges related to allegations of sexual harassment that involve a sexual assault.

The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appeal

Both parties have the right to file an appeal from a determination regarding responsibility or from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.

~~[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 sexual harassment);~~
- E. ~~() _____~~

(X) The Complainant(s) may not challenge the ultimate disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker(s)'s determination of responsibility, or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the decision-maker(s)'s determination of responsibility or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein. **~~[DRAFTING NOTE: Neola suggests that the deadline for submitting a written appeal be set at "within five (5) days" of the appealing party's receipt of the decision-maker's(s) determination of responsibility.]~~**

Nothing herein shall prevent the District Administrator (or the Board when the District Administrator is the Respondent) from implementing appropriate remedies, excluding disciplinary sanctions, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker(s) for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator(s). The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as required of other decision-makers.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. ~~[DRAFTING NOTE: Select OPTION 1, OPTION 2, OPTION 3, or OPTION 4.]~~

~~[] [OPTION 1] The decision maker(s) for the appeal shall determine when each party's written statement is due. [END OF OPTION 1]~~

[X] [OPTION 2] The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within five (5)_____ days after the Title IX Coordinator provides notice to the non-appealing party of the appeal. [END OF OPTION 2]

~~[] [OPTION 3] The appealing party's written statement must be submitted within _____ days after the Title IX Coordinator receives notice of the appeal. The other party's written statement must be submitted within _____ days after the Title IX Coordinator provides that party a copy of the appealing party's written statement. () The appealing party will have _____ days to submit a rebuttal to the other party's written statement. [DRAFTING NOTE: Neola does not suggest that the Board select this extra option.] [END OF OPTION 3]~~

~~[] [OPTION 4] Specifically, the appealing party must submit with the notice of appeal a written statement challenging the determination of responsibility. The nonappealing party shall have up to _____ days after receipt of the appealing party's written statement to submit a written statement in support of the determination of responsibility. [END OF OPTION 4]~~

~~[DRAFTING NOTE: Neola suggests that the deadline for both parties to submit a written statement pursuant to OPTION 2 be set at "within five (5) days" of the Title IX Coordinator providing notice to the non-appealing party of the appeal.]~~

~~**If the Board selects OPTION 3, Neola suggests that the party's respective written statements be submitted within three (3) days of the triggering event (i.e., submission of the notice of appeal for the appealing party, and receipt of the appealing party's written statement for the nonappealing party), and if the Board selects the extra option in OPTION 3, Neola suggests the appealing party only have two (2) days after receipt of the non-appealing party's written statement to submit the rebuttal. Alternatively, in order to expedite the appeal, the Board could select OPTION 4 and require the appealing party to submit their written statement challenging the determination of responsibility at the same time they submits a notice of appeal. The nonappealing party would then be permitted to submit a written statement in support of the determination of responsibility within the same number of days that the appealing party had to submit the notice of appeal/statement challenging the determination of responsibility (e.g. three or five days, depending on the appeal deadline selected above.)**~~

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5)_____ days of when the parties' written statements were submitted. ~~[DRAFTING NOTE: Neola suggests that the deadline for the decision-maker(s) of the appeal to issue the final decision be set at "within five (5) days" of the date the parties submitted their written statements, or the date a last written statement is submitted pursuant to Option 3 or Option 4.]~~

The determination of responsibility associated with a formal complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. (x) No further review beyond the appeal is permitted. **[END OF OPTION]**

Retaliation

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation () and/or hearing ~~[DRAFTING NOTE: Select this option if the Board permits hearings.]~~, **[END OF OPTION]** 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 process set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA's regulations, and State law under 118.12, Wis. Stats., 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).

Application of the First Amendment

The Board will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected by the First Amendment.

Training

The District's Title IX Coordinator, along with any investigator(s), decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- A. the definition of sexual harassment (as that term is used in this policy);
- B. the scope of the District's education program or activity;
- C. how to conduct an investigation and implement the grievance process ~~()~~ that includes hearings, **[DRAFTING NOTE: Select this option if the Board permits hearings.]** appeals and informal resolution processes, as applicable; and
- D. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All Board employees will be trained concerning their legal obligation to report sexual harassment to the Title IX Coordinator. This training will include practical information about how to identify and report sexual harassment.

~~**[DRAFTING NOTE: While the Title IX regulations do not specifically require this training, it is critical that the Board train all of the employees concerning this legal obligation since the Board will be considered to have "actual knowledge" of Sexual Harassment if any Board employee has notice of such conduct.]**~~

Recordkeeping

As part of its response to alleged violations of this policy, the District shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If the District does not provide a Complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

The District shall maintain for a period of seven (7) calendar years the following records pursuant to 19.21(6), Wis. Stats.:

- A. Each sexual harassment investigation including any determination regarding responsibility ~~()~~ and any audio or audiovisual recording or transcript that is made of any hearing ~~[DRAFTING NOTE: Select this option if the Board permits live hearings.]~~, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's

education program or activity;

B. Any appeal and the result therefrom;

C. Any informal resolution and the result therefrom; and

D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The District will make its training materials publicly available on its website. ~~() If a person is unable to access the District's website, the Title IX Coordinator will make the training materials available upon request for inspection by members of the public.~~

Outside Appointments, Dual Appointments, and Delegations

The Board retains the discretion to appoint suitably qualified persons who are not Board employees to fulfill any function of the Board under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

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

The District Administrator may delegate functions assigned to a specific Board employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual and such delegation, may be rescinded by the District Administrator at any time.

~~**[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.]**~~

[X] Discretion in Application

The Board retains the discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the Board's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the Board's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the Board retains the discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right or as part of any other express or implied contract. Accordingly, the Board retains the discretion to revise this policy at any time, and for any reason. The Board may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

19.21(6), Wis. Stats.

~~118.25, Wis. Stats.~~

120.13, Wis. Stats.

948.01 et. seq., Wis. Stats.

~~948.02, Wis. Stats.~~

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)

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Legal

19.21(6), Wis. Stats.

120.13, Wis. Stats.

948.01 et. seq., Wis. Stats.

20 U.S.C. 1092(F)(6)(A)(v)

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

OCR's Revised Sexual Harassment Guidance (2001)

Book	Policy Manual
Section	2000 Program
Title	NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	po2264
Status	Active
Adopted	July 8, 2024

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 and AG 2266. 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.

NONDISCRIMINATION

Overview:

The Board of the Wausau School District (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.

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.

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.

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, extracurricular 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.

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.
2. 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. A student who is pregnant or experiencing related conditions shall receive comparable treatment to those with temporary medical conditions.

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 extracurricular activity unless:

- A. the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- B. the District requires such certification of all students participating in the class, program, or extracurricular 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 extracurricular 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.

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)

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

Tabatha A Gundrum, Director of Human Resources
415 Seymour St.
Wausau, WI 54403
titleIX@wausauschools.org
715-261-0500

The Title X Coordinator may delegate specific duties to one (1) or more designees.

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 the Board’s Legal Counsel until the matter in which the District Administrator is a party is concluded.

Questions about this policy and Policy 2266 and AG 2264 and AG 2266 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.

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.

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.

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 and AG 2264 , or Policy 2266 and AG 2266, 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 , after consulting with the Board’s Legal Counsel, 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.

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, which are detailed in AG 2264.

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, 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.

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 approval of the District Administrator secure one (1) or more independent third parties to serve as the investigator and/or decision-maker. Similarly, the Title IX Coordinator has authority, in consultation with and approval of the District Administrator 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 fifteen (15) days of receiving 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 forty-five (45) 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 and the District Administrator and will thereafter keep the parties and the District Administrator informed of the status of the matter on a regular basis. 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) 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.
- 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) days of the deadline for the parties to submit responses to the evidence/description of the evidence unless the District Administrator approves an extension of time, which must be

communicated in writing to the parties

- D. **Appeal** – A party filing an appeal of the Title IX Coordinator’s decision to dismiss a complaint must do so within five (5) days of receiving the Dismissal.

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, unless the person to whom the privilege is owed has voluntarily waived the privilege.
- 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 and 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.

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.

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 See AG 2264;

- 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.

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.

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.

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.

~~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 may 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.~~

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. 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.

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) 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.

The complainant may not challenge the ultimate disciplinary sanction/consequence that is imposed.

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, as set forth in AG 2264;
 - 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;
 - 2. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the decision-maker's determination;
 - 3. 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
 - 4. notify the parties, in writing, of the result of the appeal and the appeal decision-maker's rationale for the outcome.

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

~~When a party files an appeal, the party must set forth the reason for the appeal, and the other party will have five (5) days to provide the appeal decision-maker a statement in support of their position. Once the~~

~~decision-maker receives each parties' statement (or the deadline for filing such a statement expires), the appeal decision-maker will have ten (10) days to issue a decision on the appeal.~~

After a party files an appeal, both parties will have five (5) days to submit to the appeal decisionmaker 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 five (5) days to issue a decision on the appeal.

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

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 extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs related to sex-based harassment; referral to Employee Assistance Program; 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. writing assignments;~~
- ~~2. changing of seating or location;~~
- ~~3. pre-school, lunchtime, after-school detention;~~
- ~~4. in-school discipline~~

~~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.~~

Suspension, expulsion or any other discipline allowed by the student code of conduct, Board policy or state or federal law.

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.~~

Suspension, termination or any other discipline allowed by the employee handbook, Board policy or state or federal law.

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.

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. In no case will a respondent be found to have committed sex discrimination based on expressive conduct that is protected by the First Amendment.

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.

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.

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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)



To: Board of Education, Wausau School District
From: Mark Roffers, AICP, Planning Consultant
Date: September 17, 2024
Re: Progress Update on Elementary Facilities Planning Effort

This memo is intended as an update on the efforts of the Elementary Facility Plan Citizen Task Force in fulfilling its charge. In summary, that charge is to recommend one or two preferred elementary school facility options by the end of 2024, including advice on whether the number of elementary schools in the District should be reduced and if so, then how, where, and when.

As reflected on the attached project timeline, the Task Force has now met four times, with the fifth meeting planned for Wednesday. Over the summer, the Task Force gained knowledge to help fulfill its charge. We also shared that charge and option evaluation criteria—both of which the Board had approved for the Task Force to use.

The Task Force has generally been focused on its charge. We have been asked on a few occasions whether the Task Force may consider options that shift 5th graders to middle schools. In response, we have noted that adjusting middle schools is not within the Board's charge. We have also shared challenges with school capacity and configuration, educational programming, and social development that would result. We welcome any Board reaffirmation, adjustment, or questioning of this guidance.

At its September 11th meeting, the Task Force appeared to generally come together on a future facility option that would close two or perhaps three elementary schools. Specific schools were not (yet) discussed. A number of members and small groups discussed phasing of closures, and a few broached the possibility of building a replacement school as part of a consolidation plan. We will spend the September 25th meeting securing the Task Force's broad direction and identifying other components of a facility recommendation that the Task Force wants to pursue further, before beginning our discussion of specific schools to consider for closure/consolidation.

There has been discussion at most Task Force meetings on early childhood education and care, including related to 4K and the potential for wrap-around care at schools. At the next meeting, we will learn whether this idea has traction among a number of Task Force members or just a few. Before then, we intend to provide the Task Force with a bit more background on the subject and on realistic options. We are also attempting to reconcile interest in wrap-around care with the Task Force's charge, and will welcome any Board guidance on this matter.

I have a prior meeting commitment Monday evening, so unfortunately will not be able to attend the Board meeting. The Board can share any input with the District's administrative team. I will attend the October 14th meeting to provide a further update, answer questions, and get direction as needed.



Wausau School District

Project Timeline Enrollment Projections and Facility Planning

PROJECT PHASES AND TASKS	2024												2025	
	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN			
Phase 1 - Detailed Long Range Enrollment Projections														
Task 1.1: Assemble Data and Base Mapping														
Task 1.2: Analyze Housing and Community Growth and Change														
Task 1.3: Map District Schools, Attendance Areas, and Neighborhoods														
Task 1.4: Analyze Demographic and Housing Conditions and Trends														
Task 1.5: Project Housing Unit Growth														
Task 1.6: Project Resident and Total Student Enrollment Change														
Task 1.7: Prepare Projections Report and Presentation					7/10									
Task 1.8: Phase 1 Interaction and Project Management with District Staff & Officials														
Phase 2 - Facility Options Analysis and Guidance														
Task 2.1: Assist with Initial Process Steps														
Task 2.2: Support Task Force and Staff Meetings				6/12		8/21	9/11	9/25	10/9	10/30	11/13	12/4		
Task 2.3: Establish, Map, and Evaluate Different School Facility Options														
Task 2.4: Refine, Map, and Evaluate Preferred School Facility Option														
Task 2.5: Phase 2 Interaction and Project Management with District Staff & Officials														

Agendas for Wausau School District Elementary Facility Plan Citizen Task Force meetings are generally intended as follows:

- 6/12 - Welcome, introductions, orientation, procedures, norms, initial input and questions
- 7/10 - Student enrollment projections; school building capacities and conditions; delivery and options for 4K programming
- 8/21 - Educational policy & programming overview; financial & transportation overview; review of facility option evaluation criteria
- 9/11 & 9/25 - Consider broad closure/consolidation scenarios and complete initial screen of candidate schools
- 10/9 to 11/13 - Presentation, evaluation, and narrowing of different specific elementary school facility options
- 12/4 - Recommendation to Board on preferred facility option(s)

Amended: 9/17/24



2022 REFERENDUM BUDGET SUMMARY UPDATE

BIDDING

- Includes Horace Mann & Montessori bid information

2022 Capital Referendum Budgets (9.23.24)			
Location	Original Budget	Design Budget	Bid Budget
East Athletics Phase 1	3,714,000	4,346,200	4,069,948
East Athletics Phase 2			
Franklin Elementary	761,000	913,000	913,000
GD Jones Elementary	198,000	248,000	258,590
Grant Elementary	2,068,000	2,585,000	2,585,000
Hawthorn Hills Elementary (bldg)	690,000	700,000	538,950
Hawthorn Hills Elementary (site)	1,926,000	44,000	44,000
Hewitt-Texas Elementary	133,000	166,000	166,000
Horace Mann MS	7,119,000		
Horace Mann (Montessori)	5,000,000	12,900,000	11,528,184
John Marshall Elementary	565,000	706,000	706,000
John Muir Middle School	34,794,000	34,307,800	36,790,953
Lincoln Elementary	214,000	268,000	268,000
Maine Elementary	141,000	176,000	241,376
Rib Mountain Elementary	158,000	198,000	198,000
Riverview Elementary	1,465,000	1,665,000	1,920,288
School Forest	4,243,000	5,043,000	5,478,788
South Mountain Elementary	4,873,000	4,873,000	4,873,000
Stettin Elementary School	3,462,000	3,767,286	3,462,000
Thomas Jefferson Elementary	902,000	1,082,000	1,110,847
West High School	28,395,000	29,895,000	31,088,437
West Athletics Phase 1	2,733,627	1,563,300	1,963,267
West Athletics Phase 2	1,633,373	2,200,000	2,009,874
West Community Room/Bleacher Storage			1,221,000
Total	119,800,000	122,665,040	125,484,790
Projected Interest Earnings	8,000,000		
Over/(under) Including Interest Earnings		(5,134,960)	(2,315,210)