

Policy

BOARD OF EDUCATION
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NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATION OPPORTUNITY

The Board is committed to providing an equal educational opportunity for all students in the District.

The Board does not discriminate on the basis of any characteristic protected under State or Federal law including, but not limited to sex, (including sex stereotypes, sex characteristics, or gender identity), race, color, religion, national origin, ancestry, creed, pregnancy or related conditions, marital status, parental status, sexual orientation, or physical, mental, emotional, or learning disability, or any other legal protected category. ("Protected Classes") in any of its student program and activities.

This Policy establishes the following processes and procedures to investigate all allegations of discrimination, other than sex discrimination covered by Policy 2262 – Nondiscrimination on the Basis of Sex in Education Programs or Activities. All allegations regarding sex discrimination shall be processed in accordance with Policy 2266.

The District will identify, evaluate, and provide a free appropriate public education to students with disabilities who are determined eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 (Section 504).

The District's educational programs include the academic and nonacademic setting. Each qualified student with a disability shall be educated with students without disabilities to the maximum extent appropriate. In the nonacademic setting, a student with a disability shall participate with students without disabilities to the maximum extent appropriate.

Notice of the Board's policy on nondiscrimination and the identity of the District's Compliance Officer(s) (see below) will be published on the District's website, posted throughout the District, and included in the District's recruitment statements or general information publications.

Principal's Responsibilities

Each Principal shall verify that the procedures used with students and parents for selection of and participation in any part of the District's academic, co-curricular, or extra-curricular programs do not discriminate on the basis of the Protected Classes covered by this Policy.

District Administrator's Responsibilities

In furtherance of the aforesaid goals of this Policy, the Board directs the District Administrator to:

A. Curriculum Content

- Review current and proposed courses of study and textbooks to detect any bias based upon Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict those Protected classes toward the development of human society.

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- Provide that necessary programs are available for students with limited use of the English language.
- B. Staff Training
 - Develop an ongoing program of staff training and in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program.
- C. Student Access
 - Review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice except as may be permitted under State and Federal regulations.
 - Verify that facilities are made available in a non-discriminatory fashion, in accordance with Board Policy 7510 – Use of District Facilities, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or other youth group listed in Title 36 of the United States Code as patriotic society;
 - Verify that the educational programs of this District are accessible to all students; (All programs need to be designed and scheduled so the location or nature of the facility or area will not deny an otherwise qualified student with a disability the opportunity to participate in the academic or other school programs on the same basis as students without disabilities.)
 - Require that service animals for students who require this type of assistance shall be permitted access to all facilities, programs, and events of the District.
- D. District Support
 - Require that like aspects of the District program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment and related matters.
- E. Student Evaluation
 - Verify that tests, procedures, and guidance and counseling materials, which are designed to evaluate student progress, rate, aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated, or stereotyped on the basis of the Protected Classes.

Definitions

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

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Complainant: is the individual who alleges, or is alleged, to have been subjected to unlawful discrimination/retaliation, regardless of whether the person files a formal complaint or is pursuing an informal resolution to the alleged discrimination/retaliation.

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

Military status: refers to a person’s status in the uniformed services, which includes the performance of duty on a voluntary or involuntary basis in a uniformed service, including active duty, active duty for training, initial active duty for training, inactive duty for training, and full-time National Guard duty. It also includes the period of time for which a person is absent from school for the purpose of an examination to determine the fitness of the person to perform any duty listed above.

Respondent: is the individual who has been alleged to have engaged in unlawful discrimination/retaliation, regardless of whether the Reporting Party files a formal complaint or is seeking an informal resolution to the alleged discrimination/retaliation.

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

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

The District Administrator shall publicize the name of the Compliance Officer(s) (individual “CO” and collectively “COs”) who is/are responsible for coordinating the District’s efforts to comply with the applicable Federal and State laws and regulations, including the District’s duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or equal access. The COs also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), is provided to students, their parents, staff members, and the general public.

The District Administrator shall attempt annually to identify children with disabilities, ages 3-22, who reside in the District but do not receive public education.

In addition, the District Administrator shall establish procedures to identify students with Limited English Proficient, including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation,
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and exit guidelines and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing on an annual basis.

It is the policy of the District that no person be denied admission to any public school in this District or be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, student service, recreational or other program.

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

The District shall provide appropriate educational services or programs for students who have been identified as having a handicap or disability, regardless of the nature or severity of the handicap or disability. The District shall also provide for the reasonable accommodation of a student's sincerely held religious beliefs with regard to examinations and other academic requirements. Requests for religious accommodations shall be made in writing and approved by the building principal.

Reporting Procedures

Students and District employees are required, and all other members of the District community and Third Parties are encouraged to promptly report suspected violations of this Policy to an administrator, supervisor, or other District employee or official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with a District's CO within two (2) days.

Members of the District community, which includes students or Third Parties, who believe they have been discriminated/retaliated against in violation of this Policy are entitled to utilize the complaint process set forth below. Allegations involving sex discrimination should be reported and shall be processed under Policy 2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities.

Initiating a complaint, will not adversely affect the Complainant's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known, and potential witnesses are available.

If during an investigation of alleged bullying, in accordance with Policy 5517.01 - Bullying, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a Protected Class covered by this Policy, the Principal shall report the act to one of the COs, who shall investigate the

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allegation in accordance with this Policy. While the CO investigates the allegation, the Principal shall suspend the Policy 5517.01 investigation to await the CO's written report. The CO shall keep the principal informed of the status of the Policy 2260 investigation and provide the Principal with a copy of the resulting written report.

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

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

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

District Compliance Officers

The Board designates the following individuals to serve as the District's Compliance Officers:

Lori Smits
Director of Special Education
(920) 779-7900 Ext. 13111
246 N Olk Street
Hortonville WI 54944
lorismits@hasd.org

Thomas Ellenbecker
Director of Human Resources
(920) 799-7900 Ext. 13108
246 N Olk Street
Hortonville WI 54944
thomasellenbecker@hasd.org

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

1. On the School District's website
2. In staff and student handbooks.
3. In the School District Annual Report to the public.

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4. School District's calendar.

A CO will be available during regular school/work hours to discuss concerns related to student discrimination in educational opportunities under this policy.

Investigation and Complaint Procedure

A CO shall investigate any complaints brought under this policy. Throughout the course of the process as described herein, the CO should keep the parties reasonably informed of the status of the investigation and the decision-making process.

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

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

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further loss of educational opportunity, including but not limited to a change of work assignment or class schedule for the Complainant, tentative enrollment in a program, or other appropriate action. In making such a determination, the CO should consult the Complainant to assess whether the individual agrees with the proposed action. If the Complainant is unwilling to consent to the proposed change, the CO still may take whatever actions are deemed appropriate in consultation with the District Administrator.

As soon as appropriate in the investigation process, the CO will inform the Respondent that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.

All investigations shall be commenced by the CO or designee as soon as practicable upon receipt of a complaint and concluded as expeditiously as feasible, in consideration of the circumstances, while taking measures to complete a thorough investigation. The complaining party shall be notified in writing or receipt of the complaint within forty-five (45) days of the complaint and shall reach a determination concerning the complaint within ninety (90) days of receipt, unless additional time is agreed to by the complaining party.

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The investigation will include:

- A. Interviews with the Complainant;
- B. Interviews with Respondent;
- C. Interviews with any other witnesses who reasonably may be expected to have any information relevant to the allegations, as determined by the CO;
- D. Consideration of any documentation or other evidence presented by the Complainant, Respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the CO.

If, at any time before or during the investigation the conduct alleged, if proven, may be considered sex discrimination per Board Policy 2262 – Nondiscrimination on the Basis of Sex in Education Programs or Activities, the CO will refer the matter to a Title IX Coordinator to process the complaint under Board Policy 2266.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the District Administrator which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definitions of this Policy, as well as in State and Federal law as to whether the Complainant has been denied access to educational opportunities on the basis of one of the protected classifications, based on a preponderance of evidence standard. The CO or designee's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved.

The CO may consult with the Board's attorney during the course of the investigatory process and/or before finalizing the report to the District Administrator.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may, in consultation with the District Administrator or Board President, if the matter involves the District Administrator, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within five (5) days of receiving the report of the CO or designee, the District Administrator or designee either must issue a written decision regarding whether the charges have been substantiated or request further investigation. A copy of the District Administrator or the designee's final decision will be delivered to both the Complainant and Respondent. The District Administrator or the designee may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process.

If the District Administrator or the designee requests additional investigation, the District Administrator or the designee must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation,

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the District Administrator or the designee must issue a final written decision as described above. The decision of the District Administrator or the designee shall be final.

If the Complainant feels that the decision does not adequately address the complaint they may appeal the decision to the State Superintendent of Public Instruction by submitting a written request to the Wisconsin Department of Public Instruction, Pupil Nondiscrimination Program, or by contacting the DPI Pupil Nondiscrimination Program at (608) 267-9157.

The Board reserves the right to investigate and resolve a complaint or report of regardless of whether the member of the School District community or third party chooses to pursue the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board.

The parties may be represented, at their own cost, at any of the above-described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights, the filing of charges with local law enforcement, or the filing of a civil action in court. Use of this internal complaint process is not a prerequisite to the pursuit of other remedies.

Additional School District Action

If the evidence suggests that any conduct at issue violates any other policies of the Board, is a crime, or requires mandatory reporting under the Children's Cod (Sec. 48.981, Wis. Stat.), the CO or District Administrator shall take such additional actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.

Privacy/Confidentiality

The District will make reasonable efforts to protect the privacy of any individuals involved in the investigation process. Confidentiality cannot be guaranteed, however. Additionally, the Respondent must be provided the Complainant's identity.

During the course of an investigation, the Compliance Officer(s) or designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose any information that is learned or during the course of the investigation.

Remedial Action and Monitoring

If warranted, appropriate remedial action shall be determined and implemented on behalf of the Complainant, including but not limited to counseling services, reinstatement of leave taken because of

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the discrimination, the opportunity to complete assignments missed due to absences related to the discrimination, or other appropriate action.

The Board may appoint an individual, who may be a District employee, to follow up with the Complainant to ensure no further discrimination or retaliation has occurred and to take action to address any reported occurrences promptly.

Sanctions and Disciplinary Action

The Board shall vigorously enforce its prohibitions against discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct.

While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of any relevant codes of conduct.

When imposing discipline, the District Administrator shall consider the totality of the circumstances involved in the matter, including the ages and maturity level of any student involved. In those cases where discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies.

Where the Board becomes aware that a prior disciplinary action has been taken against the Respondent, all subsequent sanctions imposed by the Board and/or District Administrator shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

Retaliation

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

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation covered by this Policy may be filed according to the internal complaint process set forth above.

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Education and Training

In support of this policy, the Board promotes preventative educational measures to create greater awareness of discriminatory practices. The District Administrator shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

Retention of Investigatory Records and Materials

All public records created as a part of an investigation will be maintained by the Compliance Officer(s) in accordance with the Board's records retention policy (see Policy # 8310). Any records which are considered student records in accordance with the State or Federal law will be maintained in a manner consistent with the provisions of the law.

The CO are responsible for overseeing retention of all records that must be maintained pursuant to this policy. All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:

- All written reports/allegations/complaints/statements;
- Narratives of all verbal reports, allegations, complaints, and statements collected;
- A narrative of all actions taken by District personnel;
- Any written documentation of actions taken by District personnel or individuals contracted or appointed by the Board to fulfill its responsibilities;
- Narratives of, notes from, or audio, video, or digital recordings of witness statements;
- All documentary evidence;
- E-mails, texts, or social media posts pertaining to the investigation;
- Contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- Written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- Dated written determinations to the parties;
- Dated written descriptions of verbal notifications to the parties;
- Written documentation of any supportive measures offered and/or provided to Complainant and/or Respondent, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- Documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

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- Copies of the Board policy and/or procedures/guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of the policy (e.g., Student Code of Conduct and/or Employee Handbooks);
- Copies of any documentation that memorializes any formal or informal resolutions to the alleged discrimination or harassment;
- Documentation of any training provided to District personnel related to this policy, including but not limited to, notification of the prohibitions and expectations of staff set forth in this policy and the role and responsibility of all District personnel involved in enforcing this policy, including their duty to report alleged violations of this policy and/or conducting an investigation of an alleged violation of this policy: **(REMEMBER: documentation of training should be maintained regardless of whether there is an investigation of an alleged violation of this policy. It is best practice to maintain a log of all staff members who participate in a training, along with the date, time and location of the training, and a copy of the materials reviewed and/or presented during the training.)**

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

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

The individual may also at any time, contact the U.S. Department of Education, Office for Civil Rights, Cleveland Office, 600 Superior Avenue East, Suite 750, Cleveland, Ohio 44114-2611; Telephone: (216) 522-4970; Fax: (216) 522-2573; TDD: (216) 522-4944; E-mail: ocr.cleveland@ed.gov; Web: <http://www.ed.gov.ocr>.

Legal References:

118.13 Wis. Stats.

P.I. 9, 41, Wis. Adm. Code

Fourteenth Amendment, U.S. Constitution

20 U.S.C. 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C., 7905, Boys Scouts of America Equal Access Act

29 U.S.C. 794, Section 504 of the Rehabilitation Act of 1973, as amended

42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

42 U.S.C. 2000 et seq., Civil Rights Act of 1964

42 U.S.C., 200ff et seq., The Genetic Information Nondiscrimination Act

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

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29 C.F.R. Part 1635, The GINA Regulations

34 C.F.R. Part 110, The Age Discrimination Act Regulations

Guidelines for Vocational Education Programs, Department of Education, Office for Civil Rights, March 21, 1979

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