

**MISSION STATEMENT**

*Working together with home and community we are dedicated to providing the best education for every student, enabling each to be a thoughtful, responsible contributor to a changing world.*

**AGENDA**

July 31, 2024

**SPECIAL BOARD OF EDUCATION MEETING**

**LOCATION:** Thomas A. Lenk Educational Services Center, 510 Peach Street, Wisc. Rapids, WI 54494  
Conference Room A/B

**TIME:** 5:00 p.m.

- I. Call to Order
- II. Roll Call
- III. Discussion and Possible Action to Approve of Additions and Revisions to the Following Board Policies for Second Reading:
  - A. Board Policy 411.24 (NEW Policy) – Nondiscrimination on the Basis of Sex in Education Programs or Activities (Attachment A)
  - B. Board Policy 411.24 Rule (NEW Policy) – Nondiscrimination on the Basis of Sex in Education Programs or Activities (Attachment B)
  - C. Board Policy 411.11 – Sexual Harassment and Nondiscrimination in District Programs, Activities, and Operations (Attachment C)
  - D. Board Policy 411.11 Rule (1) – Procedure for District Response to Alleged Sexual Harassment Under Title IX (Attachment D)
  - E. Board Policy 411.11 Rule (2) – Expectations for Employees to Report Discrimination and Harassment (Attachment E)
- IV. Adjourn

## **411.24 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 411.11. 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 411.24 - Nondiscrimination on the Basis of Sex in Education Programs or Activities and 411.11 – Sexual Harassment and Nondiscrimination in District Programs, Activities, and Operations are frequently referenced herein and shall only be referred to by the policy number. As identified in Policy 411.11, 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 Wisconsin Rapids 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** mean: 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.

**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** mean: 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.

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 444 – Married Students/School-Age Parents

**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.

In accordance with the Fair Labor Standards Act (FLSA), 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.

## **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:

Director of Human Resources  
Wisconsin Rapids School District  
510 Peach Street  
Wisconsin Rapids, WI 54494  
715-424-6710  
[titleixcoordinator@wrps.net](mailto:titleixcoordinator@wrps.net)

Director of Pupil Services  
Wisconsin Rapids School District  
510 Peach Street  
Wisconsin Rapids, WI 54494  
715-424-6724  
[titleixasstcoordinator@wrps.net](mailto:titleixasstcoordinator@wrps.net)

The Board designates the Director of Human Resources as the coordinator who is ultimately responsible for oversight over the Board's compliance with its responsibilities under Title IX.

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

The Title IX Coordinator shall report directly to the Superintendent except when the Superintendent 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 President until the matter in which the Superintendent is a party is concluded.

Questions about this policy and Policy 411.11 – Sexual Harassment and Nondiscrimination in District Programs, Activities, and Operations 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 Superintendent 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 Superintendent 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.

## **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 411.11 involving conduct alleged to have occurred prior to August 1, 2024, are subject to the grievance procedures outlined in Policy 411.11.

Under all circumstances, the Title IX Coordinator shall offer and coordinate supportive measures, as appropriate, in accordance with Policy 411.11 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 411.11. 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 411.11, so that the parties receive all of the due process to which they are entitled.

**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.

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 411.24, 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 the Superintendent or Board President (as appropriate), 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 the Superintendent or Board President (as appropriate), 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 10 business 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 30 business 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 Superintendent and will thereafter keep the parties and the Superintendent 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 business 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 10 business days of the deadline for the parties to submit responses to the evidence/description of the evidence unless the Title IX Coordinator 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, or the Determination, must do so within five business days of receiving the Dismissal or Determination.

The Title IX Coordinator, or the Superintendent 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 or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- 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
- 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.

### **Questioning the Parties and Witnesses:**

As part of the Investigation, the investigator is encouraged to 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.

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.

**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 business 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;
  - 1. the Title IX Coordinator will designate the Superintendent to be the appeal decision-maker, provided the Superintendent 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 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 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 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.

### **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; 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 Superintendent 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:

1. Students: Full range of discipline, including suspension or expulsion, as set forth in the Student Code of Conduct, Board Policy, and state and federal laws, as applicable
2. Employees: Full range of discipline, including suspension or termination/contract non-renewal, as set forth in the Employee Handbook, Board Policy, and state and federal laws, as applicable

The District may also provide remedies, which may include disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent 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 Superintendent 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 443 – Student Conduct; Policy 443 Rule – Code of Classroom Conduct; Policy 447 – Student Discipline; Policy 447 Rule – Student Discipline Procedures; Policy 447.2 – Student Suspension and Expulsion.

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 upon 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 Superintendent 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 Superintendent 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.

© Neola 2024

LEGAL REF: 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)

CROSS REF: 411, Student Nondiscrimination and Anti-Harassment  
411 Exhibit 1, Complaint Form  
411.11, Sexual Harassment and Nondiscrimination in District Programs, Activities, and Operations  
411.11 Rule 1, Procedure for District Response to alleged Sexual Harassment Under Title IX  
411.11 Rule 2, Expectations for Employees to Report Discrimination and Harassment  
444, Married Students/School-Age Parents  
447, Student Discipline  
447 Rule, Student Discipline Procedures  
447.2, Student Suspension and Expulsion  
511, Nondiscrimination and Equal Employment Opportunity  
511.5, Employee Anti-Harassment  
511.5 Exhibit 1, Employee Harassment Complaint Form

Approved: *July 31, 2024*

**NEW POLICY RULE – Second Reading**

**411.24 RULE NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES**

This guideline provides additional information about the District’s procedures for addressing allegations of sex discrimination, including sex-based harassment, which occurs on or after August 1, 2024. Allegations of sex-based harassment that occurred on or before July 31, 2024, shall be addressed pursuant to Policy 411.11 and 411.11 Rule. All information below supplements Board Policy 411.24 – Nondiscrimination on the Basis of Sex in Education Programs or Activities. To the extent there is a conflict between these guidelines and Policy 411.24, the policy controls. Throughout this guideline, 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).” Additionally, in this guideline, unless the context otherwise requires, words importing the singular include the plural and vice versa.

Except as authorized by the 2024 Title IX regulations, no person shall, on the basis of sex, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any academic, extra-curricular, or other education program or activity operated by the District.

In the limited circumstances when Title IX permits different treatment or separation on the basis of sex, the District shall not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than *de minimis* harm, except as otherwise permitted under Title IX. Pursuant to the 2024 Title IX regulations, adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person’s gender identity subjects a person to more than *de minimis* harm on the basis of sex.

Policy 411.24 applies to all sex discrimination occurring under the District’s education program or activity in the United States. Conduct that occurs under the District’s education program or activity includes, but is not limited to, conduct that is subject to the District’s disciplinary authority.

The District is obligated to address sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurs outside the District’s education program or activity, or outside the United States.

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

- A. quid pro quo harassment; or
- B. hostile environment harassment; or
- C. specific offenses (namely, sexual assault, dating violence, domestic violence, or stalking). (See Policy 411.24 for the complete definitions of these offenses.)

The following conduct – if objectively offensive and 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) – may constitute sex-based harassment:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact;
- C. threats or insinuations implying that a person's conditions of education or employment may be adversely affected by not submitting to sexual advances;
- D. unwelcome sexual verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; unwelcome sexually degrading language, profanity, jokes, or innuendoes;
- E. sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings, or literature;
- F. unwelcome and inappropriate touching, patting, or pinching;
- G. asking about, or talking about, sexual fantasies, sexual preferences, or sexual activities;
- H. speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; and
- J. leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.

The preceding list serves only to provide examples of potential sex-based harassment and is not meant to be an exhaustive or exclusive list of such prohibited conduct. Additionally, any expressive conduct described above that entails speech protected by the First Amendment to the U.S. Constitution does not constitute sex discrimination for purposes of Title IX.

Sexual assault, for purposes of Policy 411.24, refers to any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent (e.g., due to the person's age, intellectual or other disability, or use of drugs or alcohol).

The Title IX Coordinator will ordinarily serve as both the investigator and decision-maker but may, under certain circumstances, appoint a person to serve as both the investigator and decision-maker; a person to serve as the investigator and a separate person to serve as the decision-maker; or a person(s) to serve as the investigator and/or decision-maker.

The Title IX Coordinator may appoint a third party to serve as an investigator, decision-maker, appeal decision-maker, or informal resolution facilitator.

It is critical that the Title IX Coordinator, and any investigator, decision-maker, or person designated to facilitate an informal resolution, does not have a conflict of interest or bias for or against complainants and respondents generally or any individual complainant(s) or respondent(s).

The Title IX Coordinator shall confirm in writing that the Coordinator does not have a conflict of interest or bias for or against complainants and respondents generally. Additionally, the Coordinator shall confirm in writing – after learning the name(s) of the specific complainant(s) and respondent(s) - that the



Coordinator does not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

When a person is assigned to conduct an investigation and/or to serve as a decision-maker, the investigator and the decision-maker shall confirm in writing that they do not have a conflict of interest or bias for or against complainants and respondents generally. The investigator and/or decision-maker shall also – after learning the name(s) of the specific complainant(s) and respondent(s) – confirm in writing that they do not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

In appropriate circumstances, the Title IX Coordinator may appoint/assign a person to facilitate an informal resolution process. The facilitator must confirm in writing that the facilitator does not have a conflict of interest or bias for or against complainants and respondents generally, and does not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

Within two (2) days of learning of the identity of the investigator, decision-maker, and/or facilitator of the informal resolution process, the complainant(s) and/or respondent(s) may submit a written objection to the Title IX Coordinator concerning the investigator, decision-maker, and/or facilitator of the informal resolution process based upon an actual or perceived conflict of interest or bias for or against complainants and/or respondents generally or either party to the complaint. The objecting party must explain the basis for the contention that the investigator, decision-maker, and/or facilitator of the informal resolution process has a conflict of interest or is biased and submit any substantiating evidence. Within two (2) days of receiving the written objection, the Title IX Coordinator or Superintendent (if the Title IX Coordinator is the person alleged to have a conflict of interest or bias) will decide whether to replace the investigator, decision-maker, and/or facilitator of the informal resolution process and notify the parties, in writing, of the decision, including the reasons for it.

## **NOTICE OF NONDISCRIMINATION**

The District shall provide a notice of nondiscrimination to students; parents, guardians, or other authorized legal representatives of elementary and secondary school students; employees; and applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the District.

The District's notice of nondiscrimination shall include the following elements:

- A. a statement that 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;
- B. a statement that inquiries about the application of Title IX to the District may be referred to the District Title IX Coordinator(s), to the Office for Civil Rights, or to both;
- C. the name or title, office address, email address, and telephone number of the District's Title IX Coordinator(s);
- D. how to locate the Board's nondiscrimination policy and grievance procedures; and

- E. how to report information about conduct that may constitute sex discrimination under Title IX, and how to make a complaint of sex discrimination under Title IX and Policy 411.24.

The District's *Notice and Statement of Nondiscrimination* can be found on the District website at: [www.wrps.org](http://www.wrps.org).

The District shall prominently include all elements of its notice of nondiscrimination on its 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.

Alternatively, the District may – due to the format or size of a publication – include a statement in such publication that the District prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the Title IX Coordinator(s), and provide the location of the District's notice of nondiscrimination on its website.

Under no circumstances will the District distribute a publication stating that it treats applications, students, or employees differently on the basis of sex, except as such treatment is permitted under Title IX.

## **GENERAL RESPONSIBILITIES**

All students and Board employees share responsibility for avoiding, discouraging, and reporting sex discrimination.

The Title IX Coordinator(s) shall be available during regular school/work hours to discuss Title IX questions, including questions related to sex discrimination, and assist employees, students, parents/guardians/other authorized legal representatives with a legal right to act on behalf of a complainant, and other members of the school community to access Policy 411.24 and implement the grievance procedures and other protections included in the policy.

Any member of the school community may provide information to the Title IX Coordinator(s) concerning conduct that reasonably may constitute sex discrimination under Title IX. Such information may be submitted in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s)' published contact information, or by any other means (oral or written) that results in the Title IX Coordinator receiving the information. Information may be provided at any time (including during non-work hours).

All Board employees are required to provide the Title IX Coordinator(s) with notification of conduct that reasonably may constitute sex discrimination under Title IX.

When a Board employee notifies the Title IX Coordinator of suspected sex discrimination, the employee is required to report all known details about the alleged sex discrimination including: (1) the name of the alleged respondent; (2) the person who experienced the alleged sex discrimination (i.e., the complainant); (3) other persons involved in the alleged sex discrimination; and (4) any other relevant facts, such as date, time, and location. Failure to provide such notification may result in discipline, up to and including suspension or termination of employment.

Upon receiving a notification of suspected sex discrimination, the Title IX Coordinator will provide the appropriate notice to the complainant, discuss supportive measures with the complainant, and explain the

grievance procedures. The Title IX Coordinator will also inform the complainant that the Title IX Coordinator is available to assist the complainant in filing a complaint if that is what the complainant wants to do. The Title IX Coordinator will further explain to the complainant that Federal law includes protections against retaliation and that the District will not only take steps to prevent retaliation, but also take strong responsive action if it occurs.

When it comes to allegations of stalking, the Title IX Coordinator will inform the complainant that it is important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of sex discrimination investigations, not just those involving sex-based harassment.

## **TITLE IX EMERGENCY REMOVAL**

If a complaint involves a student respondent, the Title IX Coordinator will determine whether the circumstances warrant consideration of emergency removal of the student respondent.

If the Title IX Coordinator decides that the situation calls for possible emergency removal of the student respondent, the Title IX Coordinator will direct the Principal to convene a team of educators and other appropriate staff members (e.g., school psychologist, guidance counselor, mental health counselor, etc.) to conduct an individualized safety and risk analysis. The team will be tasked with determining whether the student respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination that justifies removal.

If the team determines the student respondent poses such a threat, it will recommend to the Principal that the District implement a Title IX Emergency Removal (i.e., remove the student respondent from the school premises). If the Principal agrees with the recommendation, the Principal will notify the student respondent and remove the student respondent from the school premises based on the team's determination that the student respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination. The student respondent will have an opportunity to challenge the team's recommendation and the Principal's corresponding decision to remove the student respondent immediately following the implementation of the removal. The challenge may be filed directly with the Superintendent or by following the due process procedures outlined in Policy 443 – Student Conduct; Policy 443 Rule – Code of Classroom Conduct; and Policy 447.2 – Student Suspension and Expulsion.

A student respondent who is removed from school pursuant to a Title IX Emergency Removal is still entitled to be educated, just not in the student's regular school setting. The Superintendent, in consultation with the Principal and other relevant educators, will determine where and how to educate the student.

If the student respondent who is subject to a Title IX Emergency Removal is a student with a disability, the Title IX Coordinator will consult with one (1) or more members of the student's IEP or Section 504 team before the student is emergency removed. If the duration of the Title IX Emergency Removal is expected to exceed ten (10) school days, or the student has already been excluded from school for ten (10) or more school days in the school year in which the Title IX Emergency Removal is going to take place, the student's IEP or Section 504 Team shall meet to conduct a manifestation determination review. If the Title IX Emergency Removal is determined to be a manifestation of the student's disability, the student will be returned to the student's regular educational placement, subject to (1) the IEP or Section 504 Team determining with input from the student's parent to change, temporarily, the student educational

placement; or (2) the District implementing an interim alternative educational setting for the student in accordance with Federal and State law.

## **PROCEDURES APPLICABLE TO TITLE IX COORDINATOR WHEN INITIATING A COMPLAINT OF SEX DISCRIMINATION**

A complainant, or a person who has a right to make a complaint on behalf of a complainant (e.g., a parent, guardian, or other authorized representative with the legal right to act on behalf of the complainant), may file a complaint with the Title IX Coordinator.

Additionally, after making a fact-specific determination that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person(s), or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. The Title IX Coordinator shall consider, at a minimum, the following factors when making the above-specified determination:

- A. the complainant's request not to proceed with initiation of a complaint;
- B. the complainant's reasonable safety concerns regarding the initiation of a complaint;
- C. the risk that additional acts of sex discrimination would occur if a complaint were not initiated;
- D. the severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- E. the age and relationship of the parties, including whether the respondent is a Board employee;
- F. the scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- G. the availability of evidence to assist a decision-maker in determining whether sex discrimination occurred; and
- H. whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

If the Title IX Coordinator decides to initiate a complaint, the Title IX Coordinator shall notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

The Title IX Coordinator must balance the student complainant's request that a complaint not be initiated with the District's obligation to provide a safe and discrimination-free environment for all students.

Even when the Title IX Coordinator initiates the complaint, the Title IX Coordinator is not a complainant; the complainant remains the individual who is alleged to be the victim of conduct that could constitute sex discrimination.

Upon receipt of a complaint, the District will follow its Grievance Procedures and undertake an objective evaluation of all relevant evidence (that is not otherwise impermissible) – including both inculpatory and

exculpatory evidence. Eyewitness testimony, video and/or audio recordings, photographs, documents, emails, texts, and other forms of physical evidence can all serve as relevant evidence in an investigation. Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness. The respondent is presumed not responsible for the alleged conduct until a decision is made at the conclusion of the grievance procedures that sex discrimination occurred.

## **GRIEVANCE PROCEDURES**

The District's grievance procedures are detailed in Policy 411.24. The goal of the grievance procedures is to secure a prompt and equitable resolution to 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 is prohibited by Title IX.

### **Impact of Criminal Investigations**

If there is an ongoing criminal investigation involving the conduct/incident that is the subject of the complaint, the Title IX Coordinator will seek to implement the Board's grievance procedures in a manner that does not unduly impact the criminal investigation. As appropriate and in accordance with State and Federal law, the Title IX Coordinator and/or the District-assigned investigator (if applicable) will consider whether information can be shared among the criminal investigators and the District-assigned investigator so that the complainant is not unnecessarily required to give multiple statements about an alleged traumatic event. If the investigation includes forensic evidence, the Title IX Coordinator, or the District-assigned investigator (as applicable), may consult with a school resource officer, local law enforcement or a forensic expert to ensure that the District-assigned investigator is correctly interpreting the evidence.

While the District will not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation, it may temporarily delay the investigation while the police are gathering evidence and actively investigating. During this delay in the Title IX investigation, the Title IX Coordinator will implement supportive measures. The Title IX Coordinator will remain in contact with local law enforcement officials and provide reasonable updates to the parties on the status of the matter and inform the parties when the school resumes its investigation.

If the District's investigation is delayed due to an ongoing criminal investigation, the Title IX Coordinator will promptly resume and complete the investigation once the District learns that law enforcement has completed its evidence-gathering stage of the criminal investigation. The District will not unreasonably delay its investigation or the determination of whether sex discrimination occurred until the ultimate outcome of the criminal investigation or the filing of any charges. The District will work with its school resource officer(s), local law enforcement and local prosecutor's office to learn when the evidence-gathering stage of the criminal investigation is complete.

### **Modification to Timeframes and Extensions**

After evaluating a complaint and deciding to investigate it, the Title IX Coordinator may determine the standard timeframe is unreasonable based on one (1) or more of the factors (i.e., grounds) listed below. If any of the listed factors are present in the case, the Title IX Coordinator may modify the "standard" grievance procedures timeframe – at the onset of the Investigation – by notifying, in writing, the parties of a revised timeframe and the reason(s) for the modification.

Likewise, a party or other individual participating in the grievance procedures may request an extension of an event, deadline, or stage(s) of the grievance process by submitting, in writing, to the Title IX

Coordinator, or the Superintendent if the requesting party is the Title IX Coordinator, the proposed length of the extension and the reason for the requested extension. The Title IX Coordinator, or the Superintendent if the Title IX Coordinator is the individual requesting an extension, may approve reasonable extensions of the timeframes set forth in Policy 411.24 on a case-by-case basis for good cause with notice to the parties. In considering and deciding whether to approve or deny the requested extension, the Title IX Coordinator, or the Superintendent (if applicable), shall balance the reason(s) proffered for the extension with the District's need to complete a comprehensive, fair, and prompt Investigation and Determination of the merits of the complaint.

The Title IX Coordinator, or the Superintendent if the Title IX Coordinator is the individual requesting an extension, may approve reasonable extensions of the timeframes associated with a specific stage of the grievance procedures. The Title IX Coordinator's, or the Superintendent's (as applicable), decision on whether to grant a requested extension shall be provided, in writing, simultaneously to both parties. If the request is approved, the decision will set forth the new, extended date by which a certain action, event, or stage(s) of the grievance procedures must be completed by, and the reason the extension was granted.

The following is an illustrative, not exhaustive, list of reasonable grounds for granting an extension of time:

- A. The nature and scope of the claims: If the claims involve multiple incidents of alleged wrongdoing or misconduct, and/or the claims allegedly occurred over an extended period, and/or the claims will require a nuanced analysis of the facts and application of the appropriate legal standards, the Investigation and/or Determination stages may require more than the standard allotment of time.
- B. The complexity of the case: If the investigation involves multiple parties, numerous witnesses, or a significant volume of evidence to review, an extension may be necessary to conduct a thorough and fair investigation.
- C. Unavailability of key parties or witnesses: If critical individuals are temporarily unavailable due to illness, travel, or other unforeseen circumstances, or have limited availability to participate in the Investigation, an extension may be granted to allow for their participation.
- D. Concurrent law enforcement investigation: If there is an ongoing criminal investigation related to the conduct alleged to constitute sex discrimination, an extension may be appropriate to avoid interfering with law enforcement proceedings or to coordinate the sharing of information.
- E. Academic Breaks or Holidays: Extensions may be granted if the investigation overlaps with scheduled breaks (e.g., winter, spring, or summer) or other periods when school is not in session (e.g., holidays, calamity days) to ensure all parties have adequate opportunity to participate.
- F. Accommodations for disabilities: If any of the parties involved have a disability that requires additional time or resources to fully participate in the investigation, an extension may be necessary to provide appropriate accommodations.
- G. New evidence or allegations: If substantial new evidence comes to light or new allegations are raised during the course of the investigation, an extension may be needed to properly address and incorporate this information and/or to consolidate issues/complaints/cases.

- H. Procedural delays: Unforeseen procedural issues, such as the need to replace an investigator due to a conflict of interest or the requirement to provide translation services, may necessitate an extension.
- I. Other factors unique to the situation.

### **Informal Resolution Process**

The Title IX Coordinator has the discretion to offer informal resolution in appropriate circumstances. Specifically, any time prior to a Determination that sex discrimination occurred, the Title IX Coordinator may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary or secondary school student or such a process would conflict with Federal, State, or local law. An offer to the parties to participate in an informal resolution process may be made any time after the Title IX Coordinator receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made.

The Title IX Coordinator may also decline to offer an informal resolution despite one (1) or more of the parties' wishes. For example, the Title IX Coordinator may decline to allow informal resolution when the Title IX Coordinator determines that the alleged conduct would present a future risk of harm to others.

If the Title IX Coordinator offers the parties an opportunity to participate in an informal resolution process, the Title IX Coordinator must, to the extent necessary, also 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.

Under no circumstances shall the Title IX Coordinator require or pressure the parties to participate in an informal resolution process.

Prior to commencing an informal resolution process, the Title IX Coordinator shall obtain the parties' voluntary consent, in writing, to the informal resolution process; the parties' agreement to engage in the informal resolution process shall not require a waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

Before initiation of the informal resolution process, the Title IX Coordinator must provide to the parties written notice that explains: (a) the allegations; (b) the requirements of the informal resolution process; (c) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the District's grievance procedures; (d) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations; (e) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (f) what information the District will maintain and whether and how the District could disclose such information for use in the District's grievance procedures if grievance procedures are initiated or resumed.

The facilitator for the informal resolution process shall not be the same person as the investigator, decision-maker, or appeal decision-maker (if applicable) in the District's grievance procedures as applied to any party to the informal resolution process. Further, any person designated by the Title IX Coordinator

to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent.

Any person facilitating an informal resolution process must receive the training specified below.

If the Title IX Coordinator offers the parties an informal resolution process, and the parties voluntarily consent to participate in the informal resolution process, the following is a non-exhaustive list of potential terms that may be included in an informal resolution agreement: (1) restrictions on contact; and (2) restrictions on the respondent's participation in one (1) or more of the District's education programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the District's grievance procedures that sex discrimination occurred.

### **Off-Campus Sex-Based Harassment**

The District is required to investigate a complaint that involves conduct that occurred in the District's education program or activity, even if the conduct occurred off school property. The District's education program or activity includes locations, events, and circumstances in the United States over which the Board exercises substantial control over the respondent and the context in which the sex discrimination occurs. The Title IX Coordinator shall determine whether any alleged off-campus sex-based harassment occurred in an education program or activity. If it did, the grievance procedures shall apply and be implemented in the same manner as with an on-campus complaint. Whether the alleged misconduct occurred in this context may not always be apparent from the initial complaint, so the Title IX Coordinator may need to gather additional information to make such a determination. Off-campus education programs and activities include school-sponsored field trips, athletic team travel, and school club events.

Upon receipt of a complaint, the Title IX Coordinator will confirm whether the alleged conduct falls within the scope of Policy 411.25, including whether the conduct, as reported, constitutes, or could constitute, sex discrimination, and whether the incident(s) occurred within the context of the District's education program or activity. If the Title IX Coordinator determines the conduct did not occur in the context of the District's education program or activity, or could not constitute sex discrimination even if investigated, the Title IX Coordinator will dismiss the complaint but may refer the matter to the Principal to consider whether the alleged misconduct, while not a Title IX violation, may still constitute a violation of the Student Code of Conduct or involve the creation of an impermissible hostile or discriminatory environment that is prohibited under the Board's other nondiscrimination and/or anti-harassment policies.

### **Role of Family Members and Advisors**

All parties are entitled to consult with family members, confidential resources, and advisors during the grievance procedures. A party may not select a person who is identified as or may be called as a witness to serve as an advisor, with the exception of a parent/guardian/ other authorized legal representatives of elementary and secondary students.

The parties are expected to notify, in advance (i.e., two (2) days before the event), the Title IX Coordinator, investigator, and/or decision-maker (as applicable) of the identity of family members and/or advisors who may accompany them at a meeting or interview.

Family members and advisors are expected to conduct themselves in a professional and ethical manner, with integrity and in good faith.



Family members and advisors are subject to the same rules, regardless of whether they are an attorney or not. The Title IX Coordinator, the investigator, and the decision-maker shall have discretion to determine whether advisors may be permitted to present on behalf of the complainant or respondent in a meeting or interview. Under no circumstances would a parent/guardian be prevented from doing so. Any limitations placed on the advisors shall apply to the advisors for all parties. If it is determined the advisors are not permitted to present on behalf of the complainant or respondent, the advisor should request or wait for a break in the meeting/interview before interacting with District officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the meeting/interview. Advisors may request breaks, as needed, in order to confer with their advisees.

Family members and advisors are prohibited from interfering with the investigation or the grievance process. If a family member or an advisor acts in a disruptive manner or outside the role at a meeting/interview, the District official in charge of the meeting/interview will warn the family member or advisor. If the advisor continues to disrupt the meeting/interview or act in an unprofessional manner, the District official in charge of the meeting/interview will ask the advisor to leave and will dismiss the advisor from the meeting/interview. If a family member continues to disrupt the meeting/interview or act in an unprofessional manner, the District official in charge of the meeting/interview may adjourn the meeting/interview until the family member agrees to act appropriately. A meeting/interview will typically continue after the advisor is excused. The Title IX Coordinator will subsequently decide whether the original advisor will be permitted to return or will need to be replaced by a different advisor.

For the District to share documentation related to the allegations pertaining to a student with the student party's advisor, the Eligible Student or the student party's parent/guardian must provide written consent authorizing such sharing.

The Title IX Coordinator will notify family members and advisors that consistent with the 2024 Title IX regulations, they are required to maintain the privacy of the parties and witnesses, including all records shared with them by the District during the grievance process. Pursuant to FERPA, the records may not be shared with third parties, disclosed publicly, or used for purposes unrelated to the grievance process. Nothing herein, however, shall restrict the ability of the parties to obtain and present evidence, including by speaking with witnesses (subject to the non-retaliation provisions of Policy 411.24), consulting with family members, confidential resources, or advisors, or otherwise prepare for or participate in the grievance procedures.

If a family member or an advisor is unable to attend a meeting in person, the District official in charge of the meeting will attempt to arrange for the family member or advisor to participate by telephone, video, and/or virtual meeting. However, an advisor's inability to attend a meeting will ordinarily not excuse or prevent the meeting from occurring.

If a party is a Board employee entitled to a union representative, the Board employee may be accompanied by a union representative and/or personal representative (e.g., attorney) at any meeting/interview or hearing.

## **Remedies**

If the decision-maker determines the respondent engaged in sex discrimination in violation of Policy 411.25, the District will take prompt and effective steps to end the sex discrimination, eliminate the hostile environment, prevent its recurrence, and remedy its effects. The decision-maker's written determination should recommend to the Title IX Coordinator and the Superintendent appropriate

remedies that may include, but are not limited to:

- A. providing an escort for the complainant to move safely between classes and activities;
- B. ensuring the complainant and respondent do not share classes or extracurricular activities (e.g., re-arranging schedules at the complainant's request);
- C. moving the respondent or complainant to another school within the District;
- D. providing medical, counseling, and academic support services to the complainant and/or respondent;
- E. affording/arranging for the complainant to have extra time to complete or re-take classes or exams without academic penalty (e.g., the complainant is provided extensions on due dates for papers, assignments, quizzes, tests, etc.);
- F. reviewing disciplinary proceedings/actions against the complainant to see if there is a causal connection between the sex-based harassment and the misconduct that may have resulted in the complainant being disciplined;
- G. initiating evaluations including a functional behavior assessment, development/revision of a behavior intervention plan, or amendments to an individualized education program/Section 504 Plan under the Individuals with Disabilities Education Improvement Act ("IDEA") or Section 504 of the Rehabilitation Act of 1973 ("Section 504");
- H. imposing disciplinary sanctions/consequences, up to and including expulsion or permanent exclusion on a student respondent and termination on an employee respondent; and
- I. ordering other global remedies such as:
  1. training or re-training employees;
  2. developing and distributing materials on sex discrimination;
  3. conducting sex discrimination prevention programs; and/or
  4. conducting climate checks/surveys.

## **DISTRICT'S RESPONSIBILITIES WITH RESPECT TO A STUDENT'S PREGNANCY OR RELATED CONDITIONS**

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 provide the student with voluntary reasonable modifications to the Board's policies, practices, or procedures because of pregnancy or related conditions, as follows:

- A. the reasonable modifications to the Board's policies, practices, or procedures for a student because of pregnancy or related conditions shall be provided on an individualized and voluntary basis depending on the student's needs when necessary to prevent discrimination and ensure equal access to the District's education program or activity unless the Board can demonstrate that making the modification would fundamentally alter the nature of the District's education program or activity;

- B. the Title IX Coordinator shall effectively implement, coordinate, and document the District's reasonable modification to its policies, practices, or procedures for a student because of pregnancy or related conditions; and
- C. said reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (e.g., access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures;
- D. 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.

- E. 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.

## **CONFIDENTIALITY**

The District will not disclose personally identifiable information obtained in the course of complying with the 2024 Title IX regulations, except in the following circumstances:

- A. when the District has obtained prior written consent from a person with the legal right to consent to the disclosure;
- B. when the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- C. to carry out the purposes of the 2024 Title IX regulations, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the District's education program or activity;
- D. as required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- E. to the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 C.F.R. part 99.

## **TRAINING**

The persons listed below shall receive training related to their duties under Title IX promptly upon hiring and changes of position that alters their duties under Title IX, and annually thereafter. The training shall not rely on sex stereotypes.

### **All Employees**

All Board employees shall be trained on:

- A. the District's obligation to address sex discrimination in its education program or activity;
- B. the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and
- C. all applicable notification and information requirements set forth in the 2024 Title IX regulations:
  1. When a Board employee is notified by a student, or a person who has a legal right to act on behalf of the student, of the student's pregnancy or related conditions, the employee must promptly provide the student, or the person who has a legal right to act on behalf of the student, with the Title IX Coordinator's contact information and inform the student/person that the Title IX Coordinator(s) can coordinate specific action to prevent sex discrimination and ensure the student's equal access to the District's education program or activity.
  2. All Board employees must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

### **Investigators, Decision-Makers, and Other Persons Who Are Responsible for Implementing the District's Grievance Procedures or Have the Authority to Modify or Terminate Supportive Measures**

In addition to the training required for all Board employees, all investigators, decision-makers, and other persons who are responsible for implementing the Board's grievance procedures, or have the authority to modify or terminate supportive measures, shall be trained on the following topics to the extent related to their responsibilities:

- A. the District's responsibility to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, and to comply with 34 C.F.R. § 106.44 of the 2024 Title IX regulations to address sex discrimination in its education program or activity;
- B. the Board's grievance procedures;
- C. how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias; and
- D. the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

## **Facilitators of Informal Resolution Process**

In addition to the training required for all Board employees, all facilitators of the informal resolution process shall be trained on the rules and practices associated with the District's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

## **Title IX Coordinator and Designees**

In addition to the training required for all Board employees, all investigators, decision-makers, and other persons who are responsible for implementing the Board's grievance procedures, or have the authority to modify or terminate supportive measures, and all facilitators of informal resolution process, the Title IX Coordinator(s) and their designees shall be trained on their specific responsibilities to prevent sex discrimination in the District's education programs or activities (see 34 C.F.R. §§ 106.8(a) & (f), 106.40(b)(3), and 106.44(f) & (g)), the District's recordkeeping system and the recordkeeping requirements set forth in the 2024 Title IX regulations (see 34 C.F.R. § 106.44(f)), and any other training necessary to coordinate the District's compliance with Title IX.

The District will periodically review the efficacy of its Title IX training programs.

## **RETALIATION**

Federal law strictly prohibits retaliation against a complainant, respondent, or witness. The Title IX Coordinator will inform the complainant, respondent, and other individuals who participate in the District's grievance procedures of this prohibition and direct the complainant to report any retaliation, including peer retaliation, whether by students, Board employees, or other members of the school community, that is directed toward the complainant. Upon learning of alleged retaliation, the Title IX Coordinator will initiate the District's grievance procedures.

## **CONTACT INFORMATION FOR THE OFFICE OF CIVIL RIGHTS**

Individuals may submit questions or file complaints relating to Title IX with the U.S. Department of Education's Office for Civil Rights at any time. The OCR's regional office in Chicago, Illinois has jurisdiction for all of Wisconsin:

Chicago Office  
Office for Civil Rights  
U.S. Department of Education  
John C. Kluczynski Federal Building  
230 S. Dearborn Street, 37th Floor  
Chicago, IL 60604  
Telephone: 312-730-1560  
FAX: 312-730-1576; TDD: 800-877-8339  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

## **RECORDKEEPING**

The Title IX Coordinator is responsible for overseeing the retention of all records that must be maintained pursuant to Title IX and Policy 411.24. The District will maintain, for a period of at least seven (7) years, the following records:

- A. For each complaint of sex discrimination, records documenting the informal resolution process and the grievance procedures, 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, records documenting the actions the District took to meet its obligations under the 2024 Title IX regulations.
- C. All materials used to provide training required by the 2024 Title IX regulations. The District will make these training materials available upon request for inspection by members of the public.

All investigators, decision-makers (including appeal decision-makers), and facilitators of informal resolution processes shall provide to the Title IX Coordinator all documents, electronically stored information ("ESI"), and electronic media created and/or received as part of their work associated with the grievance procedures and/or informal resolution process.

Board employees, to the extent they have any of the following records, are directed to provide them to the Title IX Coordinator in a timely manner so they can be appropriately retained as required by the 2024 Title IX regulations:

- A. documents pertaining to each complaint reasonably alleging sex discrimination, including any documents related to an investigation conducted pursuant to the Board's grievance procedures (e.g., audio or audiovisual recording or transcript that is made of any interview, 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 resulting outcome;
- C. any informal resolution and the resulting outcome;
- D. all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- E. all written notifications, allegations, complaints, statements, and responses pertaining to an alleged violation of Policy 411.24;
- F. any narratives that memorialize oral notifications, allegations, complaints, statements, and responses pertaining to an alleged violation of Policy 411.24;
- G. any documentation that memorializes the actions taken by Board employees or third parties contracted or appointed by the Board to fulfill its responsibilities related to the grievance procedures and/or the District's response to an alleged violation of Policy 411.24;
- H. written witness statements;
- I. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- J. e-mails, texts, or social media posts that directly relate to, or constitute evidence pertaining to, an alleged violation of Policy 411.24 (i.e., not after-the-fact commentary about or media coverage of the conduct/incident);

- K. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- L. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of Policy 411.24;
- M. written descriptions of evidence and decisions as to whether sex discrimination occurred (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of Policy 411.24;
- N. documentation of any supportive measures offered and/or provided to complainants and/or respondents, including no contact orders issued to the parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- O. documentation of all actions taken, both individual and systemic, to stop sex discrimination (including sex-based harassment), prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- P. copies of the Board's nondiscrimination policy and/or grievance procedures, including 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 Policy 411.24 (e.g., Student Code of Conduct and/or Employee/Administrator Handbooks);
- Q. copies of any documentation that memorializes the outcome of any informal resolution process;
- R. documentation of any training provided to Board employees related to Policy 411.24 including, but not limited to, notification of the prohibitions and expectations of staff set forth in the policy and the role and responsibility of all Board employees related to enforcement of Policy 411.24, including their duty to report alleged violations of the policy and/or conducting an investigation and/or making a determination of whether sex discrimination occurred as alleged in a complaint;

Under no circumstances should an employee destroy any of the preceding records without express consent from the Title IX Coordinator.

The documents, ESI, and electronic media retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321 ) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media created or received as part of an investigation or proceeding related to the determination of whether sex discrimination occurred shall be retained in accordance with Policy 823 – Access to Public Records and affiliated Resolution Regarding Procedures for Release of Public Records and Property, Policy 525 – Personnel Records, and Policy 347 – Student Records for not less than seven (7) calendar years, but longer if otherwise required by the District's records retention schedule.

© Neola 2024

APPROVED: July 31, 2024

## **411.11 SEXUAL HARASSMENT AND NON-DISCRIMINATION IN DISTRICT PROGRAMS, ACTIVITIES, AND OPERATIONS**

**NOTE: This policy rule 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. Please refer to Policy 411.24 and 411.24 Rule for allegations of misconduct occurring on August 1, 2024 or thereafter.**

The Wisconsin Rapids School District prohibits all forms of unlawful discrimination against students, employees, and other persons in all aspects of the District’s programs, activities, and operations. The term “unlawful discrimination” encompasses any unlawful policy, practice, conduct, or other unlawful denial of rights, benefits, or privileges that is based on any legally-protected status or classification (e.g., race, national origin, sex, disability, religion, etc.). Various state and federal laws establish the actions that do (and do not) constitute unlawful discrimination with respect to each protected status or classification. Where applicable, unlawful harassment that is based on a legally-protected status is one form of unlawful discrimination.

The District requires and will enforce nondiscrimination in a manner that is consistent with applicable constitutional provisions and with the rights and obligations that are established under all applicable state and federal civil rights laws, including but not limited to the current provisions of the following federal laws, which jointly serve to identify and protect the rights of students, employees, and other persons:

- Title IX of the Education Amendments of 1972 (sex discrimination);
- Section 504 of the Rehabilitation Act (disability discrimination);
- The Americans with Disabilities Act (including both the employment-related provisions of the ADA as well as Title II of the ADA, which broadly prohibits discrimination on the basis of disability in state and local government services);
- Titles IV and VI of the Civil Rights Act of 1964 (addressing discrimination based on race, color, national origin, sex, or religion);
- The Age Discrimination Act of 1975 (age discrimination);
- The nondiscrimination provisions of the Elementary and Secondary Education Act;
- The civil rights provisions associated with the District’s participation in federal nutrition programs.

There are a significant number of additional state and federal nondiscrimination laws that are not listed above that further establish the rights of students and/or employees. In recognition of such laws, the District maintains additional nondiscrimination policies and rules that specifically and uniquely cover students and all aspects of employment and personnel administration within the District.

### **Special Statement Regarding Sex Discrimination under Title IX**

In compliance with the federal Title IX statutes and the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations (“the federal Title IX regulations”), the District does not unlawfully discriminate on the basis of sex in any education program or activity that the District operates. Title IX’s requirement not to discriminate in any education program or activity extends to District students, certain admissions processes, and District employment. Inquiries regarding how Title IX and the federal Title IX regulations apply to the District may be referred to the District’s Title IX Coordinator (as designated below), to the Assistant Secretary for Civil Rights at the U.S. Department of Education, or to both.

Under this policy, “sexual harassment” in violation of Title IX means conduct on the basis of sex that satisfies one or more of the following:



- 1) An employee of the District conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- 2) 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
- 3) "Sexual assault," "dating violence," "domestic violence," and "stalking" as all are defined by Title IX and the Title IX regulations.

**Designation and Authorization of Nondiscrimination Coordinator(s)**

Any questions concerning the District's nondiscrimination and equal opportunities policies, the application of any nondiscrimination law to the District, or the District's discrimination-related reporting and complaint procedures should be directed to the Director of Human Resources, who is also designated as the District's Title IX Coordinator. The contact information for this position is as follows:

Director of Human Resources\*  
Wisconsin Rapids School District  
510 Peach Street  
Wisconsin Rapids, WI 54494

\*(Note that a staff directory is available on the WRPS webpage at [www.wrps.org](http://www.wrps.org) or by calling the District main office.)

In his/her capacity as a Title IX Coordinator, the above-identified individual is authorized to coordinate the District's efforts to comply with the District's responsibilities under Title IX and the federal Title IX regulations.

**Any Person May Submit a Complaint or Report of Discrimination to the District**

The District is committed to the appropriate resolution of complaints and reports that allege (1) unlawful discrimination or a violation of a District nondiscrimination policy, including any form of prohibited harassment that is based on a legally-protected status; or (2) any type of retaliation that is prohibited by a nondiscrimination law or a District nondiscrimination policy.

Accordingly, except as otherwise required by law, any person (including a witness or other person who has not been harmed/victimized by the alleged conduct or challenged policy) may report a concern or allegation of prohibited discrimination or prohibited retaliation to the Director of Human Resources / Title IX Coordinator, using the contact information provided above and any of the following methods:

- 1) By U.S. mail, by electronic mail, or by telephone, at any time; or
- 2) By any other means that results in the Director of Human Resources / Title IX Coordinator actually receiving the person's verbal or written report, including by submitting the report to the Director of Human Resources / Title IX Coordinator in person (e.g., at an arranged meeting or when the coordinator is otherwise reasonably available during normal working hours).

As an exception to the above reporting procedure, if the report or complaint identifies the Director of Human Resources/ Title IX Coordinator as a person responsible for the alleged prohibited conduct, or if the Director of Human Resources / Title IX Coordinator is affected by a conflict of interest or otherwise unavailable, then the person making the report may submit it to the Director of Pupil Services either in

person, by mail, by telephone, or by electronic mail. The contact information for the Director of Pupil Services is as follows:

Director of Pupil Services\*  
School District of Wisconsin Rapids  
510 Peach Street  
Wisconsin Rapids, WI 54494

\*(Note that a staff directory is available on the WRPS webpage at [www.wrps.org](http://www.wrps.org) or by calling the District main office.)

Individuals submitting a report or complaint of prohibited discrimination under this policy are strongly encouraged to contact the District to confirm that their report was received as intended. Except as provided below regarding formal complaints of Title IX sexual harassment or as otherwise required by any law, a report or complaint received under this policy will be processed according to the discrimination complaint procedures that the District has established under its student nondiscrimination policies or under its equal employment opportunities policies, as applicable to the facts and circumstances. For reports or complaints of alleged discrimination that are neither student matters nor employment matters, the District will normally process the matter under the complaint procedures that apply to students.

#### **Filing a Formal Complaint of Title IX Sexual Harassment**

An individual who is alleged to be the victim of conduct that could constitute sexual harassment under Title IX (i.e., a Title IX “complainant”), or a parent or guardian who has a legal right to act on behalf of such an individual, may file a “formal complaint” of “sexual harassment,” as those terms are defined above and in the Title IX regulations.

No Title IX complainant is obligated to file a formal complaint, but a qualifying formal complaint is necessary for the District to start an investigation of Title IX sexual harassment allegations using the District’s formal Title IX grievance process. Even in the absence of a formal complaint that initiates the formal grievance process, the District still has legal obligations to respond to allegations of Title IX sexual harassment whenever the District has sufficient notice of the allegations (i.e., from any source). Whether a complaint is formalized, the District will promptly respond, in a manner not deliberately indifferent, when it has actual knowledge of real or alleged sexual harassment in one of its educational programs or activities.

All of the following apply to a formal complaint of Title IX sexual harassment:

- 1) At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the District (including through employment).
- 2) The formal complaint must be in the form of a document or an electronic submission (e.g., an electronic mail message or a file attached to an email) that:
  - a. Alleges sexual harassment against a respondent (if the identity of the respondent is not known, it is not necessary to identify the respondent by name);
  - b. Requests that the District investigate the allegation(s) of sexual harassment; and
  - c. Contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

The formal complaint must normally be filed with the District's Title IX Coordinator by submitting the document or electronic submission either in person, by U.S. mail, or by electronic mail, using the District-designated contact information listed above in this policy. However, if the formal complaint identifies the Title IX Coordinator as a respondent (i.e., a person reported as a perpetrator of the alleged sexual harassment), or if the Title IX Coordinator is affected by a conflict of interest or is otherwise unavailable, then the complainant may file the document or electronic submission directly with the Director of Pupil Services, either in person, by mail, or by electronic mail using the contact information provided above.

When a formal complaint is not filed in person, complainants are strongly encouraged to contact the District to confirm that their complaint was actually received as intended.

If a complainant files a formal complaint of Title IX sexual harassment, or if a Title IX Coordinator signs such a formal complaint on behalf of the District, then:

- 1) The formal complaint must be resolved according to the federal regulations and District processes that specifically apply to such formal complaints; and
- 2) Unless otherwise directed by the School Board or this policy, the District Superintendent or his/her administrative-level designee is expected to designate and assign qualified individuals to perform the roles that are defined for District agents within the District's grievance process for formal complaints of Title IX sexual harassment. In addition:
  - a. The District Superintendent may assign one or more of the roles to a qualified individual who is not an employee of the District, including an outside attorney or other contracted service provider with notice to the Board.
  - b. The Title IX Coordinator and the District Superintendent shall ensure that the individual(s) assigned to perform such roles have completed any training required by the federal Title IX regulations.
  - c. If the District determines that a person assigned to such a role is unavailable, disqualified by a conflict of interest or bias, or otherwise unable to perform the responsibilities of the role, the administration shall assign another qualified individual to perform the role.
  - d. The Board or a person designated by the Board shall assign such roles with respect to any formal complaint in which the District Superintendent is alleged to be the perpetrator of conduct that could constitute Title IX sexual harassment. The Title IX Coordinator and the District Superintendent shall inform the Board of any such need to assign the roles.

Filing a formal complaint of Title IX sexual harassment is one way to report such harassment. However, if a Title IX complainant or other person is not eligible to file a qualifying formal complaint, or if they choose not to do so, the person may still submit a report of the allegations to the District as further described above within this policy (i.e., a report that is not a formal complaint for purposes of Title IX). Moreover, any report of conduct that could constitute sexual harassment under Title IX that causes the District to have actual knowledge of the relevant conduct/allegations requires an appropriate response by the District, even if the reporting procedures defined in this policy were not followed and even if no formal complaint has been or ever is filed.

### **Deadline for Filing an Initial Report or Complaint**

There is no absolute deadline for the initial filing of a report or complaint of discrimination under this policy. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, or retaliation. However, any person who has a complaint or concern involving such a matter is encouraged to notify the District or pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. A material gap in pursuing a complaint or concern can affect the ability to thoroughly investigate the matter, and a delay may also limit the range of remedies and resolutions that are reasonably available.

The following apply to any report or complaint of discrimination that has been filed under this policy, except for formal complaints of Title IX sexual harassment (which are instead subject to the dismissal and appeal provisions of the grievance process that the District has adopted for such complaints):

- 1) At least one of the following administrators, acting in consultation as needed with District legal counsel, must authorize the dismissal or other alternative disposition of a report or complaint due to a lack of timeliness: District Superintendent; Director of Human Resources; Director of Pupil Services; or Director of Curriculum.
- 2) Any actual party in interest to the allegations raised by the report or complaint (i.e., any alleged victim or any person alleged to be responsible for the discrimination) may appeal a decision authorized under the previous paragraph to the District Superintendent. Or, if the District Superintendent authorized the initial decision, the party may request reconsideration.

### **Confidentiality of Reports and Complaints**

Although absolute confidentiality cannot be assured, the District will maintain the confidentiality of discrimination reports and complaints to the extent required by any applicable law, and the District will otherwise make efforts to maintain confidentiality where non-disclosure does not interfere with the District's ability to appropriately process and respond to the report or complaint. Nonetheless, investigating a matter often involves disclosing (directly or indirectly) the identity of persons involved in the particular events/issues. Individuals who have specific concerns about confidentiality should arrange to discuss those concerns with the District as early as possible in the process.

### **Retaliation Prohibited**

No official, employee, or agent of the District or any other person may intimidate, threaten, coerce, or unlawfully discriminate against any individual (1) for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or (2) because the individual has made a report or complaint, or testified, assisted, participated, or exercised a legal right to refuse to participate in any manner in an investigation or proceeding conducted under the this policy or any other District nondiscrimination policy.

### **Prohibition on Bad Faith Conduct/Abuse of Process**

To the extent permitted by law, the District prohibits and reserves authority to appropriately address and impose consequences for bad-faith conduct by individuals who make a report or complaint, testify, assist, or participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy. For example, the District may impose lawful consequences for making a materially false statement in bad faith in the course of any proceeding that is conducted under this

policy or any other District nondiscrimination policy. Examples of abuse of process include, but are not limited to, the pursuit of allegations that the complaining party knows to be wholly frivolous or the use of dilatory tactics that have the purpose or reasonably foreseeable result of unreasonably interfering with a prompt and equitable resolution of alleged discrimination or retaliation.

### **Consequences for Violations**

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

In addition, any employee or authorized agent of the District who, considering the duties, responsibilities, and expectations established for his/her position/role, fails to reasonably respond to complaints or reports of alleged discrimination or retaliation, or who otherwise fails to reasonably act on their knowledge of a possible violation of a nondiscrimination law or a District nondiscrimination policy, is also subject to possible disciplinary action. The District may establish specific guidelines and expectations for employees and other authorized agents of the District to take appropriate action with respect to such knowledge through rules adopted as written administrative procedures, provisions within the employee handbook, and/or through other means.

### **Nondiscrimination Notices; Dissemination of Policy and Complaint/Reporting Procedures**

The District Superintendent and the District's designated nondiscrimination coordinators share joint responsibility for ensuring that the District prepares and issues, on a timely basis, all legally-required general notices of (1) the rights of students, employees, and other persons under the state and federal nondiscrimination laws; (2) the District's nondiscrimination policies; and (3) applicable reporting and complaint procedures. Beyond meeting legal requirements and any local policy requirements, the administration is encouraged to further disseminate such information using such methods as the administration deems appropriate.

### **Maintenance of Complaint Records; Report Preparation**

The District Superintendent and the District's designated nondiscrimination coordinators share joint responsibility for ensuring that the District maintains adequate records of reports and complaints of discrimination and retaliation, including records of the District's response and disposition. Such records shall meet applicable legal requirements for documentation and records retention. The District Superintendent and the applicable coordinators shall also direct and oversee the timely preparation of all annual or other reports and evaluations regarding nondiscrimination initiatives/compliance that the District is required to provide to the Department of Public Instruction or to any other oversight entity.

LEGAL REF.:       Wis. Stat. Subch. III of Ch. 106  
                      Wis. Stat. Subch. II of Ch. 111  
                      Wis. Stat. § 118.13  
                      Wis. Stat. § 118.134  
                      Wis. Admin. Code P.I. 9, 41  
Federal Laws:  
                      8 U.S.C. § 1324b(a)  
                      20 U.S.C. § 1400 et seq.

20 U.S.C. § 1681 et seq.  
20 U.S.C. § 6312(e)(3)(D)  
29 U.S.C. § 621 et seq.  
29 U.S.C. § 794 et seq.  
42 U.S.C. § 2000d et seq.  
42 U.S.C. § 2000e et seq.  
42 U.S.C. § 12111 et seq.  
42 U.S.C. § 12131 et seq.

CROSS REF.: 411 – Student Non-Discrimination and Anti-Harassment  
411 Exhibit 1 – Complaint Form  
411.11 Rule (1) – Procedure for District Response to Alleged Sexual Harassment Under Title IX  
411.11 Rule (2) – Expectations for Employees to Report Discrimination and Harassment  
511 – Non-Discrimination and Equal Employment Opportunity  
511.5 – Employee Anti-Harassment  
511.5 Exhibit – Employee Anti-Harassment Complaint Form

APPROVED: January 11, 2021

**REVISED:** **July 31, 2024**

## **411.11 RULE (1) PROCEDURE FOR DISTRICT RESPONSE TO ALLEGED SEXUAL HARASSMENT UNDER TITLE IX**

**NOTE: This policy rule 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. Please refer to Policy 411.24 and 411.24 Rule for allegations of misconduct occurring on August 1, 2024 or thereafter.**

This procedure has been established to facilitate the District's compliance with requirements of the federal regulations issued under Title IX of the Education Amendments Act of 1972 ("Title IX"). Specifically, this rule establishes expectations and procedures for the prompt and equitable resolution of reports and complaints that allege unlawful sexual harassment, as defined by the Title IX regulations, within the District's education program and activities. The existence of this procedure, as a reflection of federal regulatory mandates, is not intended to suggest that sexual harassment is any more or any less serious, or any more or any less of a concern to the District, than harassment that is based on any other legally-protected status (e.g., race, national origin, disability, religion, etc.).

All District officials, District employees, and other persons acting as agents of the District must keep confidential the identity of (1) any individual who has made a report or complaint of sex discrimination that would be prohibited by Title IX, including any individual who has made a report or filed a formal complaint alleging Title IX sexual harassment; (2) any complainant (i.e., any individual who is alleged to be the victim of conduct that could constitute Title IX sexual harassment); (3) any individual who has been reported to be the perpetrator of conduct that could constitute sex discrimination under Title IX; (4) any respondent (i.e., any individual who has been reported to be the perpetrator of conduct that could constitute Title IX sexual harassment); and (5) any witness, except as may be required by law, permitted by the Family Educational Rights and Privacy Act, its implementing regulations, and Wis. Stat. § 118.125, and, or reasonably necessary to carry out the purposes of the federal Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under the federal Title IX regulations. It is important to note that, despite these requirements, Title IX requires disclosure of the accuser's identity to the accused.

### **Responding to Reports or Other Notice to the District of Title IX Sexual Harassment When No Formal Complaint Has Been Filed**

1. The following procedures apply any time that a District Title IX Coordinator determines that the District has actual notice of Title IX sexual harassment or allegations of Title IX sexual harassment, but no formal complaint of Title IX sexual harassment has been filed by a complainant or signed by a Title IX Coordinator:
2. A District Title IX Coordinator must promptly contact the complainant (i.e., the individual who is alleged to be the victim of conduct that could constitute sexual harassment) regarding supportive measures (see below) and regarding the process for filing a formal complaint. In consultation with other District officials as needed, a Title IX Coordinator will coordinate the identification, offering, and implementation of appropriate supportive measures for the complainant (see below).
3. A Title IX Coordinator or any administrator with knowledge of the relevant circumstances relating to the allegations of sexual harassment may, at any time, contact the District Superintendent or his/her administrative-level designee for the purpose of evaluating whether the District will initiate the removal of the respondent from the District's education program or activity on an emergency basis, under the limited circumstances, procedures, and standards identified in the federal Title IX regulations. Notwithstanding the foregoing, the Title IX Coordinator should not consult in this

regard with the District's decision-maker. Procedures and standards established under other laws or District policies may also need to be satisfied in connection with any such emergency removal.

4. If an eligible complainant elects to file a formal complaint of Title IX sexual harassment at any point, the formal complaint shall be processed as provided, below, within this rule.
5. If a complainant is not eligible to file a formal complaint of sexual harassment under Title IX, or chooses not to do so, a Title IX Coordinator is authorized to sign a formal complaint regarding the alleged conduct. The following apply to the discretionary decision to sign a formal complaint on behalf of the District:
  - a. The Title IX Coordinator may not delegate the determination in full to another agent or employee of the District. However, prior to making the determination, the Title IX Coordinator may consult, as needed, with appropriate persons, such as the District Superintendent, a District Director, or District legal counsel; provided, however, that the Title IX Coordinator should not consult in this regard with the District's decision-maker.
  - b. The primary reasons that a Title IX Coordinator would sign a Title IX complaint and initiate an investigation would be a determination, on behalf of the District, that the District's interests in safety and/or in potential sanctions for any respondent(s) make an investigation and determination of responsibility pursuant to a formal complaint reasonably necessary under the circumstances.
  - c. A Title IX Coordinator shall not sign a formal complaint against the wishes of a complainant if involving an unwilling complainant in the grievance process would be clearly unreasonable in light of the known circumstances.
  - d. If a Title IX Coordinator signs a formal complaint alleging Title IX sexual harassment, the complaint shall be processed as provided, below, within this rule.
  - e. Upon signing a formal complaint, the Title IX Coordinator does not become a complainant or a party to the complaint, and any complainant who is identified in relation to the allegations retains his/her status as a complainant in connection with the grievance process.
6. Nothing in this rule diminishes the District's obligations to respond to Title IX sexual harassment or allegations of Title IX sexual harassment in a prompt manner that is not deliberately indifferent in all circumstances in which the federal Title IX regulations deem the District to have actual knowledge of such harassment.

**Supportive Measures in Connection With Any Report, Formal Complaint,  
or Other Notice to the District of Title IX Sexual Harassment**

1. "Supportive measures" are expressly defined and further described in the definitions section of this rule (see below).
2. The District will provide supportive measures to complainants pursuant to the Title IX regulations. The District may provide supportive measures to a respondent, but it is not required to do so.
3. Any time a Title IX Coordinator becomes aware that the District has actual knowledge of Title IX sexual harassment or allegations of Title IX sexual harassment, the Title IX Coordinator shall:



- a. Promptly contact the complainant, if known, to:
    - i. Discuss the availability of supportive measures;
    - ii. Consider the complainant's wishes with respect to supportive measures;
    - iii. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
    - iv. Explain to the complainant the process for filing a formal complaint (if the complainant has not already filed a formal complaint about the conduct).
  - b. Coordinate the identification, offering, and implementation of supportive measures that the District provides to a complainant or respondent, including appropriate monitoring of the implementation process, coordinating potential modifications to the measures, and, as applicable, determining the appropriate time to end specific supportive measures.
4. All District officials, employees, and other persons acting as agents of the District must maintain as confidential any supportive measures provided to a complainant or respondent to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.
  5. The District is required to document any supportive measures that the District provides in response to a report or formal complaint of Title IX sexual harassment. Conversely, if the District does not provide a complainant with supportive measures for any reason, then the District is required to document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

### **Grievance Process for Handling Formal Complaints of Sexual Harassment Under Title IX**

This grievance process applies to formal complaints of Title IX sexual harassment. Except to the extent a formal complaint is dismissed (in whole or in part), the District is obligated to investigate a formal complaint of Title IX sexual harassment pursuant to this process. The District is further obligated to treat complainants and respondents equitably by:

1. Offering supportive measures to a complainant (see above).
2. Following this grievance process before imposing disciplinary sanctions or other punitive actions against a respondent for any alleged Title IX sexual harassment, subject to the allowances made in the federal Title IX regulations for implementing supportive measures, implementing an emergency removal, and placing an employee, while a formal complaint is pending, on administrative leave.
3. Providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent.
4. Requiring its agents to adhere to the additional requirements and standards set forth below.

### **Standards Applicable to District Agents Involved in the Grievance Process**

At the point that the Title IX Coordinator determines that a formal complaint involving allegations Title IX sexual harassment is pending, the Title IX Coordinator shall ensure that the District assigns the roles of complaint investigator, responsibility decision-maker, and appeal decision-maker on a timely basis, whether at the outset the process or during the process. All such individuals, whether or not District employees, must be appropriately trained to perform their role. The assigned roles shall be performed by different persons to the extent required by the federal Title IX regulations. The District may re-assign the roles or assign multiple qualified individuals to perform specific roles if deemed appropriate in a particular case.

All persons who are authorized to act as agents of the District in connection with the grievance process, including but not limited to any Title IX Coordinator, complaint investigator, decision-maker, or facilitator of an informal resolution process, are required to:

1. Engage in an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence.
2. Avoid making any credibility determinations based on a person's status as a complainant, respondent, or witness.
3. Be free from any conflict of interest that impermissibly inhibits the person's objectivity, impartiality, or independent and good-faith judgment.
4. Avoid exhibiting or applying any bias for or against complainants or respondents generally, or for or against an individual complainant or respondent.
5. Self-report any known pre-existing relationships (familial, social, etc.) to parties or material witnesses and any other known circumstances that relate to a formal complaint and that may reasonably cause the District to disqualify the person from performing a particular role as an agent of the District in the grievance process due to concerns with a conflict of interest or bias. Such a report may be made to a Title IX Coordinator or to the District Superintendent. Previous interactions with a complainant, respondent, or material witness in a professional capacity, standing alone and in the absence of other specific circumstances, would normally be insufficient to raise a material concern about a conflict of interest or bias.
6. Apply a presumption, throughout the course of performing their designated role(s), that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client privilege), unless the person holding such privilege has waived the privilege.
8. Refrain from accessing, considering, disclosing, or otherwise using 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 District obtains that party's voluntary, written consent to do so for purposes of the grievance process (if a party is under 18 years old, then the District must obtain the voluntary, written consent of a parent or guardian).

9. Maintain confidentiality with respect to the identities of persons involved in the grievance process to the extent required by 34 C.F.R. §106.71(a) (except as required to inform the respondent of the identity of the complainant or by any other applicable exception).
10. Avoid restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, except to the extent permitted or required by applicable law. This provision does not restrict the District or its agents from requiring the parties to a formal complaint (including their advisors) to refrain from disseminating certain evidence or other records to others, provided that any such requirement(s) must be lawful and must not unreasonably interfere with the purposes of this grievance process. In some situations, established law may independently prohibit any such dissemination of particular evidence/records.

### **The Main Procedural Steps of the Grievance Process**

Subject to the provisions, below, regarding (1) voluntary informal resolution processes, and (2) the dismissal of complaints or any individual allegations within a complaint, the following steps outline the main procedures of the grievance process.

#### **I. Notice of the Allegations, the Grievance Process, and Certain Rights**

Normally within 20 business days of receiving a formal complaint, and always at least 5 calendar days before a party will be required to appear for an initial investigative interview, a Title IX Coordinator or his/her designee shall provide all known parties (i.e., complainant(s) and respondent(s)) with written notice of the following:

1. The District's grievance process for formal complaints of Title IX sexual harassment, including a description of any informal resolution process.
2. Notice of the allegations potentially constituting sexual harassment as defined under the Title IX regulations, including sufficient details known at the time. Sufficient details include:
  - a. The identities of the parties involved in the incident(s), if known;
  - b. The conduct allegedly constituting sexual harassment under Title IX; and
  - c. The date and location of the alleged incident(s), if known.
3. The written notice must also:
  - a. Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
  - b. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany the party when the party attends any District meeting or proceeding that is part of the grievance process (including investigative interviews).

- c. Inform the parties that they will have the right to inspect and review the evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, as further provided under the Title IX regulations.
- d. Inform the parties that, by policy, the District prohibits a person from knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that were not included in the initial notice of allegations, the Title IX Coordinator or the complaint investigator, or a designee acting on their behalf, must provide written notice of the additional allegations to all parties whose identities are known.

## **II. Investigation of the Allegations**

An investigator assigned by the District will conduct an investigation of the allegations of which the parties have been notified (as provided in the previous step). The purpose of the investigation is to gather evidence.

The District has the burden of gathering evidence, both inculpatory and exculpatory, sufficient to reach a determination regarding responsibility. In addition, because the District has the burden of proof, the District bears the burden of conducting a balanced and sufficiently comprehensive investigation such that the burden of proof is not shifted to either of the parties to affirmatively put forth the evidence that would be necessary to either prove or defeat the allegations.

When conducting the investigation, an investigator will:

1. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any investigative interview or other meeting held as part of the investigation, with sufficient time for the party to prepare to participate.
2. Allow any party to be accompanied to any investigative interview or other meeting held as part of the investigation by one advisor of their choice. Under any circumstances where a parent or guardian has a legal right to act on behalf of a party (e.g., because the party is a minor), the party's parent or guardian may also accompany the party to any such meeting.
3. Conduct one or more investigative interviews of the complainant(s), the respondent(s), and such witnesses as the investigator determines may provide relevant evidence that is able to be considered and that is not unduly duplicative.
4. Offer each party an opportunity to identify fact and expert witnesses who the party believes should be interviewed as part of the investigation, along with the nature of the evidence that the party believes the witness may be able to provide. If the investigator declines to interview a witness identified by a party or is unable to interview a witness (e.g., because the witness is not willing to participate or is not reasonably available), the investigator shall document the reason for such decision or unavailability and, unless prohibited by law from doing so, provide the parties with such explanation upon request.
5. Consider such documentary and other evidence as a party may wish to proffer, except that no party or his/her advisor will be permitted to conduct direct, in-person questioning of another party or of any third-party witness at any interview or investigative meeting called by the District. If the investigator rules that any proffered evidence will not be accepted into the record of the

investigation, the investigator shall document the reason for such ruling; return the evidence to the party that offered it (in the case of physical evidence); and, unless prohibited by law from doing so, provide the parties with the reason the evidence was rejected upon request.

6. Accept such other evidence into the record as the investigator deems to be relevant and directly related to the pending allegations, recognizing that nothing prohibits an investigator from initially accepting evidence that may not be relevant.

After the investigator completes the process of gathering evidence:

1. An investigator, or a designee acting on his/her behalf, must send to each party and the party's advisor, if any, the evidence obtained from the investigation that is subject to inspection and review. Such evidence may be provided in an electronic format or as a hard copy, and consists of the evidence obtained as part of the investigation that is directly related to the pending allegations, including:
  - a. Both inculpatory or exculpatory evidence, whether obtained from a party or other source; and
  - b. Any such evidence upon which the District does not intend to rely in reaching a determination regarding responsibility.
2. Beginning from the date that the evidence is delivered to the parties, the investigator(s) must give the parties at least 10 calendar days to submit a written response to the evidence. Providing such a response is optional.
3. After receiving and giving due consideration to any timely written responses received from the parties, the investigator(s) shall complete an investigative report that fairly summarizes the relevant evidence.
  - a. In the report, the investigator may convey facts, observations, or impressions that address the credibility of particular persons or other evidence, but any such credibility assessments conveyed in the report are not binding on the decision-maker(s).
  - b. The report shall not advocate for a specific determination or outcome.
4. An investigator or his/her designee shall send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy.
5. Beginning from the date that the investigative report is delivered to the parties, the parties will be given at least 10 calendar days to provide a written response to the report, which response (if any) will become part of the record to be reviewed by the decision-maker. Providing such a response is optional.
6. If the investigator provides any additional opportunities to submit additional evidence, or to further respond to any statements, questions, or additional evidence, such additional opportunities must apply equally to both parties. At the discretion of the investigator, the investigative report may be amended or supplemented.
7. The investigator will forward the final investigative report and the complete investigative record to the District-designated decision-maker for a determination of responsibility.

### **III. Determinations of Responsibility**

A decision-maker assigned by the District will make a determination of responsibility with respect to the allegations of which the parties have been notified and that have been subject to investigation (as provided in the previous steps), based on an analysis of the relevant evidence. During this stage of the proceedings:

1. As early as the point at which the District provides the final investigative report to the parties, or shortly thereafter, an investigator, decision-maker, or designee acting on their behalf shall inform each party that they have the opportunity to submit written, relevant questions that the party wants asked of any party or witness prior to the determination of responsibility, subject to the following:
  - a. The notice of the opportunity to submit such questions shall identify a submission deadline and the allowable method(s) of submission. Beginning from the date that the notice is delivered, the District shall allow the parties at least 5 calendar days to submit any questions.
  - b. If any questions are submitted by the parties, the decision-maker shall either:
    - i. Pose the submitted questions to the relevant person(s) and provide each party with the answers; or
    - ii. Explain to the party proposing the questions any decision to exclude a question as not relevant or as otherwise impermissible in the context of this grievance process.
  - c. If any questions were submitted, posed, and answered as provided immediately above, then the decision-maker shall permit a limited opportunity for the parties to submit follow-up questions. Any such follow-up questions must be reasonably related to the initial question and answers and must not be unduly duplicative of other evidence that is already in the record.
    - i. The decision-maker shall identify a submission deadline for such follow-up questions, which shall be a minimum of 3 calendar days from the date that the parties are provided with the answers to the initial questions.
    - ii. The decision-maker shall either pose the follow-up questions and provide each party with the answers or explain any decision to exclude a question, in the same manner that applied to the initial questions.
2. In making determinations of responsibility with respect to the allegations addressed in the relevant investigative report, the decision-maker shall, in all cases, evaluate the available evidence and apply the “preponderance of the evidence” standard to determine whether any allegation has been substantiated and whether a party has committed any misconduct with respect to such allegation(s).
3. The decision-maker must issue a written determination regarding responsibility that includes all of the following:
  - a. Identification of the allegations potentially constituting sexual harassment under Title IX;

- 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 any other methods used to gather evidence;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the relevant legal standards and the District's code of conduct (i.e., any District policies or rules that apply to the party in question);
  - e. A statement of, and rationale for, the result as to each allegation, including all of the following:
    - i. A determination regarding responsibility;
    - ii. Any disciplinary sanctions the District imposes on the respondent or, in cases where a particular disciplinary sanction is beyond the direct authority of the decision-maker, a statement of the disciplinary sanction(s) that the decision-maker is recommending as an appropriate consequence;
    - iii. Whether the District will provide the complainant with any remedies designed to restore or preserve the complainant's equal access to the District's education program or activity; and
    - iv. The District's procedures and permissible bases for the complainant and respondent to file an appeal under this grievance process. If a formal complaint of Title IX sexual harassment also constitutes a complaint of pupil discrimination under Chapter PI 9 of the Wisconsin Administrative Code, the District may also use this notice to inform the complainant of their right to appeal any adverse final determination of their complaint under state law to the State Superintendent of Public Instruction, as well as the procedures for making such an appeal to DPI.
4. The decision-maker or a designee acting on his/her behalf must provide the written determination to the parties simultaneously.
  5. To the extent required by the Title IX regulations, disciplinary sanctions for Title IX sexual harassment and any remedies that could not be offered as supportive measures shall not be enforced until the determination of the complaint becomes final. The determination regarding responsibility becomes final, for District purposes, either:
    - a. If no appeal is filed, on the date on which an appeal would no longer be considered timely; or
    - b. If an appeal is filed, on the date that the District provides the parties with the written determination of the result of the appeal (see below).

***IV. Appeals Following a Determination of Responsibility***

1. A complainant or respondent may file an appeal following:
  - a. Receipt of the written determination regarding responsibility; and

- b. Receipt of notice of dismissal of a formal complaint or of any allegations within a complaint.
2. Any appeal filed by a party is strictly limited to one or more the following bases:
  - a. A procedural irregularity that affected the outcome of the matter.
  - 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.
  - c. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest in the case or a bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
  - d. A finding of fact that affected the outcome of the matter was clearly erroneous. If an appeal is raised on this basis, an appeal decision-maker will not overturn a finding of fact if the appeal-decision maker concludes that the responsibility decision-maker's account of the evidence is plausible in light of the entire record, even if the appeal decision-maker would have viewed or weighed the evidence differently.
3. An appeal must be filed in writing and submitted either in person, via U.S. mail, or via email to the Title IX Coordinator with a copy provided to the initial decision-maker. An appeal must be delivered to the District within 10 business days from the date the written determination or notice of dismissal is delivered to the party.
4. The notice of appeal submitted by a party must do all of the following:
  - a. Clearly identify the specific bases, from those listed above, on which the party is appealing; and
  - b. With reasonable specificity, state the factual basis for the appeal and the reasoning as to why the decision or dismissal being appealed from should be reversed or modified.
5. In connection with an appeal, a party may not introduce new evidence that is outside of the existing record of the complaint proceedings except as an offer of proof to support or refute a claimed conflict of interest or bias, or except in support of or in direct response to an appeal that is premised on a claim that the certain new evidence was not reasonably available at an earlier time.
6. Upon receiving a notice of appeal from a party, the Title IX Coordinator, District-designated appeal decision-maker, or a designee acting on their behalf shall promptly notify the other party (or parties), if known, that an appeal has been filed and provide a copy of the appeal to such other party (or parties).
7. The appeal decision maker will establish and inform all parties of a deadline for submitting any additional written statement the party may wish to submit in support of, or challenging, the original outcome on the grounds raised by any pending appeal. The deadline for such submissions shall be at least 5 calendar days following the date such notice is delivered to the parties.



8. An appeal decision maker shall deny an appeal that merely asserts that the District's decision is wrong (i.e., without identifying the applicable grounds for the assertion) or that fails to present a reasonably-developed argument in support of the appeal.
9. If the appeal decision-maker determines that there is a need to open the record to obtain and consider any additional evidence in order to resolve an appeal, the appeal decision-maker may offer additional equal opportunities for the parties to address and respond to any such new evidence if doing so is necessary to preserve the fairness of the proceedings.
10. The District may continue an ongoing investigation into a formal complaint during an appeal with respect to the dismissal of a complaint in part (i.e., dismissal of specific allegations). However, the investigation shall not be concluded until the appeal over the dismissed allegation(s) is decided.
11. The appeal decision-maker shall:
  - a. Issue a written decision describing the result of the appeal and the rationale for the result; and
  - b. Provide the written decision simultaneously to both parties.
12. The appeal decision-maker shall render the written decision within 10 business days of the deadline that he/she established for the receipt of the parties' written statements on appeal unless he/she communicates an extension of such timeframe, as further described below.

#### **Other Elements, Requirements, and Limitations of the Grievance Process**

**Supportive Measures During the Grievance Process.** The range of supportive measures potentially available to complainants and respondents during and in connection with this grievance process does not materially change based on the fact that a formal complaint of sexual harassment under Title IX is pending. Supportive measures, as described and defined elsewhere in this procedure, are available based on the District's actual knowledge of Title IX sexual harassment or allegations of Title IX sexual harassment, and the receipt of a formal complaint is one source of such knowledge. At the same time, supportive measures are intended to be individualized and context- sensitive. If the proceedings related to this grievance process create any changed circumstances or any special needs for a party, the party may contact a District Title IX Coordinator for the purpose of discussing potential modifications to supportive measures.

**Dismissals of Formal Complaints.** Upon receipt of a formal complaint that alleges or purports to allege Title IX sexual harassment and at other points in the grievance process while a formal complaint is pending, the District is responsible for evaluating whether, pursuant to the federal Title IX regulations, the complaint (1) must be dismissed (whether in whole or in part); or (2) may be dismissed (whether in whole or in part) as an exercise of District discretion. The District expects its Title IX Coordinator(s), complaint investigators, and decision-makers to promptly raise the issue of dismissal as needed.

1. **Mandatory Dismissal:** The District must dismiss a formal complaint (or specific allegations within the complaint), for purposes of Title IX and the District's Title IX grievance process, to the extent the conduct alleged in the complaint:
  - a. Even if proved, would not constitute sexual harassment as defined in the federal Title IX regulations; or

- b. Did not occur within the scope of the District’s education program or activity; or
  - c. Did not occur against a person in the United States.
2. Discretionary Dismissal: At any time during the investigation of a formal complaint and prior to the determination of responsibility, the District may dismiss a formal complaint, or any allegations therein, if:
- a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein and the Title IX Coordinator does not otherwise determine that the District’s interests in safety and/or in potentially sanctions for any respondent make continuing the investigation and making a determination of responsibility reasonably necessary under the circumstances;
  - b. The respondent is no longer enrolled in the District or employed by the District; or
  - c. The District determines that specific circumstances prevent the District from gathering evidence that is sufficient to reach a determination as to the formal complaint or any allegations therein.
3. Dismissal Procedures:
- a. At least one of the following administrators, acting in consultation as needed with District legal counsel, must authorize the dismissal of a formal complaint of Title IX sexual harassment or any individual allegations within such a complaint: District Superintendent, Director of Human Resources, Director of Pupil Services or the Director of Curriculum.
  - b. The Title IX Coordinator or a designee must promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to all parties (to the extent known).
  - c. A dismissal is an appealable decision to the extent identified elsewhere in this grievance process.

If a formal complaint or any allegation within a complaint is dismissed for purposes of Title IX, the District retains discretion to take action with the respect to the dismissed allegations under other District policies and procedures (e.g., if the alleged conduct could constitute discrimination other than Title IX sexual harassment or if the conduct could constitute a violation of any District policy or rule of conduct).

**Voluntary Informal Resolution of Formal Complaints**. To the extent permitted by the Title IX regulations, the District may offer and facilitate a strictly voluntary informal resolution process which attempts to resolve the allegations of a formal complaint of Title IX sexual harassment, in whole or in part, without a full investigation and adjudication. An informal resolution process may not be used in connection with allegations that a District employee sexually harassed a student.

In order to offer and attempt an informal resolution process, a formal complaint must have been filed. In addition, before conducting any informal resolution process, the District must:

- 1. Provide both parties with a written disclosure notice regarding the informal process, as further outlined in the federal Title IX regulations (see 34 C.F.R. §106.45(b)(9)(i)); and

2. Obtain each party's voluntary, written consent to participate in the informal resolution process.

As examples of informal processes that may be appropriate in some circumstances, the District's agents may: (1) offer to mediate a resolution between the parties identified in a formal complaint; or (2) explore the parties' willingness to voluntarily proceed without a full investigation and/or adjudication when the facts may be undisputed or where there may be an opportunity to reach stipulated facts.

If a voluntary informal resolution has not reached a conclusion within 10 business days of the date that the District received the consent of the parties, the District and the parties may mutually and voluntarily agree to extend the timeframe for attempting an informal resolution. In the absence of a mutual agreement to extend the timeframe, the District will provide reasonably prompt written notice to the parties that the informal process is being abandoned and that the District will resume the formal process.

**Disciplinary Sanctions.** After a determination that a party is responsible for Title IX sexual harassment through following this grievance process, the disciplinary sanctions that the District may impose will depend on the nature of the misconduct and the individual's then-current status as a student, employee, or other person connected to the District's education program or activity. Disciplinary sanctions that are issued or recommended as a result of a determination of responsibility for Title IX sexual harassment are intended as consequences for past misconduct and/or as a deterrent against any future sexual harassment. To the extent the District reaches a determination using this grievance process that a party engaged in conduct that was not Title IX sexual harassment but that did violate some other law or District policy or rule, this grievance process does not directly address the disciplinary consequences for such conduct, even though the District may impose disciplinary consequences for such conduct.

1. **Students:** The range of possible disciplinary sanctions or recommended sanctions for students includes but is not limited to suspension from school, expulsion from school, and disciplinary suspension of eligibility to participate in District-sponsored extracurricular activities. The District may also prohibit the student from being present on District property or at certain District-sponsored events or activities to an extent that exceeds actions that would be allowable as supportive measures. This provision does not modify any student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.
2. **Employees:** The range of possible disciplinary sanctions or recommended sanctions for employees includes but is not limited to a formal reprimand, an indefinite demotion or salary reduction, a disciplinary reassignment exceeding what may be allowed as a supportive measure, an unpaid suspension, contract nonrenewal, and termination of employment. At the District's discretion, such sanctions may be structured with or without special conditions, such as notice of a zero-tolerance policy for any prospective related violations, or a directive prohibiting the employee from being present on District property or at certain District-sponsored events or activities to an extent that exceeds actions that would be allowable as supportive measures.
3. **Other Persons:** The range of possible disciplinary sanctions or recommended sanctions for other persons includes but is not limited to suspension from or the termination of a District-authorized role (e.g., volunteer), termination or nonrenewal of contracts, and a directive prohibiting the individual from being present on District property or at certain District-sponsored events or activities to an extent that exceeds actions that would be allowable as supportive measures.

**Remedies to Benefit Complainants.** After a determination that a party to the grievance process was responsible for Title IX sexual harassment, the District may provide the complainant with remedies designed to restore or preserve equal access to the District's education program or activity, including

providing for a safe educational or working environment. Such remedies may include the continuation or addition of individualized accommodations, services, and interventions that could have been provided as “supportive measures” prior to the determination of responsibility. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

**Timeframes and Extensions.** The District normally intends to conclude the grievance process within 90 calendar days of the date that a formal complaint is filed or signed by a Title IX Coordinator, recognizing that in certain circumstances it may be practical to complete the process in less time, and in other circumstances the process may reasonably require more time.

Any party or witness may, for good cause, request (1) a temporary delay in the grievance process; (2) the rescheduling of an investigative interview or other meeting; or (3) a limited extension of a deadline that applies to the party. Any such request shall be submitted in writing to the investigator, decision-maker, or appeal decision-maker, given the applicable stage of the proceedings.

The investigator, decision-maker, or appeal decision-maker (as applicable) may grant such a request, and may also self-initiate such a delay, rescheduling, or extension, upon determining that there is good cause and that approving the request would not be unduly prejudicial to any of the parties or unreasonably extend the conclusion of the grievance process.

Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the complexity of the allegations; or the need for language assistance or accommodation of disabilities. In evaluating whether good cause exists with respect to a party's request, the District may take into account the party's history of requesting delays or extensions and the reasons for any such prior requests.

Although the agents of the District are expected to make reasonable efforts to accommodate the schedules of parties and witnesses, the District also may not, without good cause, deviate from its own designated timeframe for the grievance process.

Accordingly, the District retains discretion to grant a shorter delay or extension than was requested. Further, in some cases, the District may deny a scheduling request and, if necessary, proceed with the grievance process in the absence of a party, a party's advisor, a party's filing/response, or a witness.

If a formal complaint of Title IX sexual harassment also constitutes a complaint of pupil discrimination under Chapter PI 9 of the Wisconsin Administrative Code, and if a requested or contemplated delay/extension would prevent the District from reaching a determination of the complaint within 90 calendar days, the District's agents shall evaluate whether it is necessary or appropriate to request the parties' consent to the delay/extension.

The appropriate agent of the District or a designee shall provide the complainant and respondent with prompt written notice of any decision to delay the grievance process or grant an extension of a deadline. Such notice shall include the reason(s) for the action. To the extent a given deadline applies to multiple parties, any extension of the deadline automatically applies to all such parties.

**Voluntary Waivers of Timeframes.** In instances where this grievance process gives the parties a minimum period of time to prepare and submit a response or prepare for an interview or meeting, a party may voluntarily waive all or part of such period of time if the party communicates their voluntary waiver to the investigator or decision-maker (as applicable) in writing.

**Consolidation of Formal Complaints.** The District may consolidate formal complaints of Title IX sexual harassment where the allegations of sexual harassment in the different complaints arise out of the same facts or circumstances.

**Concurrent Investigation and Consideration of Multiple Potential Grounds for a Determination of Responsibility/Misconduct.** If the allegations set forth in a formal complaint of Title IX sexual harassment also constitute or fairly encompass allegations of conduct that could constitute (1) discrimination under a different law, or (2) a violation of a District policy or rule (including any District code of conduct that may be applicable to the respondent), or (3) any other established grounds for the imposition of possible disciplinary sanctions, then the District may, at its discretion, investigate the facts and circumstances related to such other legal or policy standards using this grievance process and apply the facts, as found through the investigation, to all potential grounds for a finding of responsibility/misconduct and possible discipline. Unless otherwise required by law, the investigation and determinations reached through this grievance process shall constitute sufficient processing of any such related, overlapping, or intertwined complaint(s), allegations, or charges that may arise out of the same facts or circumstances as the allegation(s) of Title IX sexual harassment.

In all cases involving such concurrent investigation and concurrent consideration of such additional complaint(s), allegations, or charges, the District's agents in the grievance process are responsible for giving the parties adequate notice of the scope of the allegations to be investigated and of the different grounds for a potential finding of liability/responsibility (e.g., federal law, state law, or a local policy or rule). The District's agents are also responsible for adequately identifying the specific basis for any determination of responsibility or finding of misconduct. For example, a decision-maker might conclude in a given case that the facts as found do not rise to the level of Title IX sexual harassment, but that the complaint is substantiated with respect to prohibited harassment as defined under Chapter PI 9 of the Wisconsin Administrative Code and under District policy.

**Restrictions on the Participation of Parties' Advisors.** An advisor of the party's choosing shall be permitted to accompany the party to any investigative interview or other meeting held in connection with this grievance process. However, no person who accompanies a party to a meeting or otherwise serves as an advisor to the party may unreasonably interfere with or unreasonably delay the District's investigation. Unreasonable interference by an advisor includes, for example:

Answering the District's questions on behalf of the party during an investigative interview, such that the District is denied the party's own, direct response.

Interrupting District questioning with the goal of prompting or suggesting responses for the party.

Interrupting District questioning in an attempt to conduct his/her own questioning of the party.

The District's agents in the grievance process may place further reasonable restrictions on the extent to which an advisor may participate in the proceedings, provided that such restrictions apply equally to both parties.

**Prohibition on Retaliation.** No official, employee, or agent of the District or 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 its implementing regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or any proceeding conducted under the auspices of the District's Title IX obligations.

Complaints alleging retaliation in violation of this provision may be filed according to the reporting and grievance procedures that the District has established for general complaints of unlawful discrimination based on sex and other legally-protected classifications.

**Prohibition on Bad Faith Conduct.** To the extent permitted by law, the District reserves authority to appropriately address and impose consequences for bad-faith conduct by individuals who make a report or complaint, testify, assist, or participate in any manner in a Title IX investigation or other Title IX proceeding. For example, the District may impose lawful consequences for making a materially false statement in bad faith in the course of any proceeding that is conducted under the auspices of the District's Title IX obligations.

### **Definitions**

Within the Title IX grievance process set forth in this rule:

- *Business days* means days that the main administrative office of the District is staffed, in person or virtually, for responding to regular business and public contacts. Business days never include Saturday or Sunday.
- The terms “*written*” or “*in writing*” include a notice or communication provided in hard copy format via hand delivery or via U.S. Mail to the address of record or in an electronic format via an email sent to an email address that has been issued by the District or that has been provided by the intended recipient.
- With respect to a communication sent by electronic mail, an email is deemed to be *delivered* when it was first electronically available to be accessed by the recipient, and delivery presumptively occurs on the same day as the email was sent. With respect to a communication sent by U.S. Mail, the communication is deemed *delivered* on (1) the date reflected on any confirmation of delivery or delivery receipt; or (2) three business days after the communication was sent by First Class Mail if no delivery confirmation was requested.

The following terms within this rule have the definitions specified in the federal Title IX regulations, including all applicable exclusions, exceptions, and clarifications of scope found in the federal regulations. Paraphrasing the applicable regulatory provisions:

- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, regardless of how the District gained actual knowledge of the alleged sexual harassment. Therefore, not every person who reports an allegation of Title IX sexual harassment is a complainant.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- *Actual knowledge* means notice of sexual harassment or allegations of sexual harassment to (1) the District's Title IX Coordinator; (2) any District official who has authority to institute corrective measures on behalf of the District; or (3) any employee of the District other than a respondent (i.e., in circumstances where the respondent is a District employee). “*Notice*” as used in this definition includes, but is not limited to, a report of sexual harassment to the District's Title IX Coordinator.

- *Education program or activity* includes any locations, events, or circumstances over which the District exercised substantial control over both (1) the respondent, and (2) the context in which the sexual harassment or alleged sexual harassment occurred.
- *Formal complaint* means a document filed by an eligible complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment under Title IX. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District. As used in this definition, the phrase “*document filed by an eligible complainant*” means a document or electronic submission (such as by electronic mail) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- “*Supportive measures*” or “*supportive measures under Title IX*” 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 of sexual harassment under Title IX or where no such 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 (1) protect the safety of all parties or the District’s educational environment, or (2) deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, additional supervision or planned accompaniment, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security, supervision, or monitoring of certain areas of school grounds, and other similar measures.
- “*Sexual harassment under Title IX*” and “*Title IX sexual harassment*” mean conduct on the basis of sex in any District education program or activity, occurring in the United States, that satisfies one or more of the following:
  1. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
  2. 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
  3. Any of the following, as defined under the Title IX regulations by reference to other federal statutes:
    - a. “sexual assault,” as defined in [20 U.S.C. 1092\(f\)\(6\)\(A\)\(v\)](#), to mean an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including but not limited to rape, sexual assault with an object, and groping.
    - b. “stalking,” as defined in [34 U.S.C. 12291\(a\)\(30\)](#).

- c. “dating violence,” as defined in [34 U.S.C. 12291\(a\)\(10\)](#).
  - d. “domestic violence,” as defined in [34 U.S.C. 12291\(a\)\(8\)](#).
- *Stalking*, as defined in 34 U.S.C. 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    1. fear for his or her safety or the safety of others; or
    2. suffer substantial emotional distress.
  - *Dating violence* as defined in 34 U.S.C. 12291(a)(10), means violence committed by a person-
    1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      - a. The length of the relationship;
      - b. The type of relationship; and
      - c. The frequency of interaction between the persons involved in the relationship.
  - *Domestic violence*, as defined in 34 U.S.C. 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the state’s domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under the state’s domestic or family violence laws.

LEGAL REF.: Wis. Stat. Subch. III of Ch. 106  
 Wis. Stat. Subch. II of Ch. 111  
 Wis. Stat. § 118.13  
 Wis. Stat. § 118.134  
 Wis. Admin. Code P.I. 9, 41

Federal Laws:

8 U.S.C. § 1324b(a)  
 20 U.S.C. § 1400 et seq.  
 20 U.S.C. § 1681 et seq.  
 20 U.S.C. § 6312(e)(3)(D)  
 29 U.S.C. § 621 et seq.  
 29 U.S.C. § 794 et seq.  
 42 U.S.C. § 2000d et seq.  
 42 U.S.C. § 2000e et seq.  
 42 U.S.C. § 12111 et seq.  
 42 U.S.C. § 12131 et seq.



CROSS REF.: 411 – Student Non-Discrimination and Anti-Harassment  
411 Exhibit 1 – Complaint Form  
411.11 Sexual Harassment and Non-Discrimination in District Programs, Activities,  
and Operations  
411.11 Rule (2) – Expectations for Employees to Report Discrimination and  
Harassment  
511 – Non-Discrimination and Equal Employment Opportunity  
511.5 – Employee Anti-Harassment  
511.5 Exhibit – Employee Anti-Harassment Complaint Form

APPROVED: January 11, 2021

**REVISED:** **July 31, 2024**

## 411.11 RULE (2) EXPECTATIONS FOR EMPLOYEES TO REPORT DISCRIMINATION AND HARASSMENT

**NOTE: This policy rule 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. Please refer to Policy 411.24 and 411.24 Rule for allegations of misconduct occurring on August 1, 2024 or thereafter.**

The guidelines and expectations established in this procedure apply to all District employees and to all non-employee authorized agents of the District who perform a compensated role for the District that requires a DPI license (e.g., licensed professionals working for the District in the capacity of contracted service provider). The District may further apply this rule to other non-employees who provide services to the District by including appropriate provisions in any applicable contract, memorandum of understanding, or other agreement, or by issuing any other sufficient notice or directives to such persons.

In the remainder of this rule:

1. “Agent” means any non-employee agent, contractor, or service-provider to whom the guidelines and expectations established in this procedure apply.
2. “District nondiscrimination policy” includes the following School Board policies:
  - 411 – Student Non-Discrimination and Anti-Harassment
  - 411 Exhibit 1 – Complaint Form
  - 411.11 – Sexual Harassment and Non-Discrimination in District Programs, Activities, and Operations
  - 411.11 Rule (1) – Procedure for District Response to Alleged Sexual Harassment Under Title IX
  - 511 – Non-Discrimination and Equal Employment Opportunity
  - 511.5 – Employee Anti-Harassment
  - 511.5 Exhibit 1 – Employee Harassment Complaint Form

### **Reporting Responsibilities**

Any employee or agent of the District who has knowledge of conduct by any other person that constitutes, or is reasonably suspected to constitute, discrimination in violation of law, a legal obligation of the District, or any District nondiscrimination policy, is responsible for promptly reporting such conduct. Similarly, an employee or agent who reasonably suspects that any District policy or District operating procedure discriminates against any person in violation of law, a legal obligation of the District, or any District nondiscrimination policy, is also responsible for promptly reporting that knowledge, claim, or concern.

The District’s established procedures for making a report or complaint of prohibited discrimination, or alleged discrimination, are found in the policies referenced above. Employees and agents of the District may, and generally should, use those established methods to satisfy the reporting obligations established in this rule. However, an employee or agent may also satisfy the reporting obligations established in this rule if they submit the relevant report directly to the: District Superintendent; Director of Human Resources; Director of Pupil Services; or Director of Curriculum & Instruction, provided that the person to whom the report is made is someone other than a person who is alleged to be responsible for the reported discrimination. Particularly if such a report was not submitted in person (e.g., it was submitted via mail or electronic mail), employees and agents are strongly encouraged to personally contact the intended recipient to confirm that the report was received as intended.

The obligation established in this Rule to report conduct by any other person that constitutes, or that is reasonably suspected to constitute, unlawful discrimination (including unlawful harassment) applies to such conduct occurring within any aspect of the District’s programs, activities, or operations and also applies regardless of:

Whether the person alleged to be responsible for the conduct is a student, an employee, a supervisor/administrator, a School Board member, or other person over whom the District exercises relevant authority, control, or responsibility;

1. Whether the person alleged to be the victim of the conduct is a student, an employee, or other person who is legally protected from the alleged discrimination;
2. How the employee or agent obtained their knowledge of the conduct or alleged conduct (e.g., as a direct witness to the conduct/incident, as a victim or target of the conduct, or after receiving a report or other relevant information from a third-party); and

Whether the employee or agent making the report considers (or does not consider) themselves to be an alleged victim or target of the conduct, or to have been otherwise harmed in some way by the conduct, except that an employee or agent who is an alleged victim of conduct that could constitute sexual harassment, as defined under [section 106.30](#) of the federal Title IX regulations, must report the complaint to the Title IX Coordinator. This report may or may not constitute a “formal complaint” of sexual harassment, as defined in section 106.30 of the federal Title IX regulations.

As further established in the Board’s nondiscrimination policies, an employee or agent is protected from any form of unlawful retaliation for making a good-faith report of known, alleged, or reasonably suspected discrimination under this rule.

The reporting obligations established in this Rule do not apply when the employee or agent has direct and certain knowledge that the relevant conduct or other allegations of unlawful discrimination have already been reported to at least the District Superintendent, Director of Human Resources, Director of Pupil Services, or Director of Curriculum & Instruction. For example, an employee or agent is not required to submit another report of the same conduct, incident, or allegation when they have knowledge that the District has already started an investigation into (or otherwise initiated an appropriate response to) the same matter.

To the extent applicable to the employee’s or agent’s position/role and to the facts of a specific situation, employees and agents of the District remain responsible for adhering to any other mandatory reporting requirements established under a District policy and/or under state or federal law (e.g., reports of child abuse or neglect, threats of school violence, or educator misconduct).

Due to the continuum of potentially problematic incidents and conduct that employees and agents may encounter, the District recognizes that there will be borderline situations where employees and agents will need to exercise reasonable professional judgment when deciding whether the situation should be further reported as possible discrimination under this rule.

APPROVED: January 11, 2021

**REVISED:** **July 31, 2024**