

# STUDENT DISCRIMINATION COMPLAINT PROCEDURES

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If any person believes that the Waunakee Community School District has inadequately complied with section 118.13 of the state statutes and the statute's implementing regulations or any of the federal nondiscrimination laws (including but not limited to Title VI, Title IX, Section 504, and the Americans with Disabilities Act), or if any person believes that a student has in some other way been unlawfully discriminated against on the basis of sex, sexual orientation, race, color, national origin, ancestry, religion, creed, age, pregnancy, parental or marital status, any physical, learning, mental or emotional disability, or any other legally-protected status or classification, then the person may attempt to resolve his/her complaint or concern by using either, or both of (1) the District's informal dispute resolution options, if available; or (2) the District's formal complaint procedures, as established in this Rule. As further explained below, the District may redirect certain complaints to be processed under different procedures.

The complaint procedures defined below may also be used to address other types of student-related complaints to the extent authorized by any Board policy or District rule/procedure. However, an appeal to the Department of Public Instruction (DPI) may not always be available when the complaint procedures are used for such other purposes.

Any person participating in the resolution of a report or complaint of possible prohibited discrimination who has concerns about safety, the availability and maintenance of an appropriate school-related environment, or retaliation should discuss those concerns with a District-designated nondiscrimination coordinator as early as possible in the process. Such concerns may be raised even prior to initiating the complaint procedure.

When a District nondiscrimination coordinator or an authorized designee is notified of any report or complaint of alleged discrimination under these procedures (including a report or complaint of retaliation prohibited by a nondiscrimination law and/or District policy), the District shall consider (and any person involved in the matter may affirmatively request consideration of) any interim measures that should be taken while the report or complaint is being resolved. Such interim measures may include, for example, safety planning or other steps that might be taken to protect any person and to ensure equal access to the District's education programs and activities.

Within these procedures, a report to an appropriate District official of conduct that reasonably may constitute prohibited student discrimination (or retaliation) will be treated as a "complaint" when an eligible person has made an oral or written request to an appropriate District official that objectively can be understood as a request for the District to investigate and make a determination about the alleged discrimination or retaliation. The procedures below further address the filing of complaints.

## **A. OPTIONS AND PROCEDURES FOR INFORMAL RESOLUTION**

The District strongly encourages, but does not require, the informal resolution of complaints and concerns regarding the implementation and monitoring of the laws, regulations, and local policies that facilitate the provision of equal educational opportunities and that prohibit discrimination against students.

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To pursue informal means of resolving a complaint or concern, a person may initially contact either the appropriate school principal or the District's nondiscrimination coordinator for student matters, whose full position title and contact information is provided below in Section C-1 of these procedures. If an individual initially contacts a school principal regarding informal resolution of a student discrimination matter, the school principal shall involve a District-designated nondiscrimination coordinator in determining the District's response.

In contacting the District to initiate an informal process, it will be very helpful if the individual contacting the District expressly states (1) that they would like to explore informal means of reporting possible discrimination or addressing a complaint or concern prior to initiating a formal complaint; and (2) that their report, complaint, or concern involves a potential violation of particular laws or District policies.

Informal methods for attempting to resolve a complaint or concern may include the scheduling of meetings among relevant parties; meetings or communications mediated by an administrator or other individual selected by the District who was not directly involved in the issue; or, following a presentation and initial assessment of the issue(s), the offering of one or more options for changes to be made in the relevant circumstances. If a report of possible student discrimination has been made by an individual (e.g., an uninvolved witness) who is not a person who would qualify as an actual, aggrieved party in interest to the alleged discrimination, then an option for informal resolution of the report may include a commitment by the District to attempt to contact the actual party in interest regarding the report and the available options for addressing the relevant circumstances.

## **B. FORMAL DISCRIMINATION COMPLAINT PROCEDURES**

1. ***Filing a Complaint.*** A complaint arising under the state or federal laws identified in this rule, or under the Board's equal educational opportunities and student nondiscrimination policy, may be filed as provided in Board Policy 413/513. In addition, it is always sufficient to file a written complaint that concerns possible student discrimination directly with the office of the Special Education Director, who serves as a District-designated nondiscrimination coordinator for student matters. The same employee is also a District-designated coordinator for purposes of Title IX, Section 504, the Americans with Disabilities Act, and the Age Discrimination Act. The contact information for the student nondiscrimination coordinator (also referred to below as the "Compliance Officer" is as follows:

Special Education Director and Student Nondiscrimination Coordinator  
Waunakee Community School District  
905 Bethel Circle  
Waunakee, WI 53597  
608-849-2000  
tiffanyloken@waunakee.k12.wi.us

**Written complaints are strongly preferred to help avoid ambiguity and miscommunication.** A District form that can be used to submit a complaint of student discrimination is available at [<https://www.waunakee.k12.wi.us/board/policies>] and can also be obtained upon request from the main administrative office in any District school.

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As needed, the Compliance Officer or a designee shall, without bias or favoritism and without serving as an advocate, seek confirmation of what is being alleged or request additional details or clarifications. Applicable documentation of the complaint may be created/updated as needed. This provision does not preclude the possibility of later changes to the scope of the allegations covered by a complaint.

2. **Initial Processing and Investigation.** Upon receiving such a complaint, the Compliance Officer shall initially issue an acknowledgement of receipt, determine whether the issues presented are properly amenable to resolution through the student discrimination complaint procedures, and, if so, undertake or arrange for an investigation of the issues raised by the complaint.
  - a. Receipt of the complaint shall be acknowledged on or before 21 days of the District's receipt of the complaint.
  - b. If the Compliance Officer determines, after obtaining the approval of the District Administrator, that the complaint (or a portion thereof) does not present an issue that can be addressed through this complaint procedure, then the District may redirect the complaint to another internal procedure, to the extent applicable. Within ten (10) days of receiving notice of any decision that the complaint (or a portion thereof) is not amenable to an investigation and/or determination on the merits through these procedures (including a District-initiated dismissal of the complaint for a lawful reason), the complainant may request that the District Administrator reconsider that determination. Upon receiving any adverse response to the request for reconsideration that constitutes a final determination, the complainant may appeal the determination to the Department of Public Instruction within thirty (30) days, as further identified below.
  - c. Any investigation shall be conducted by a person who the District determines is not identified within the complaint as a party who is allegedly responsible for, or who was directly involved in, the underlying issue or incident.
  - d. In all cases that proceed to an investigation stage, either the Compliance Officer or an assigned investigator shall speak or correspond personally with the complainant in order to provide an opportunity for the complainant to provide such information and evidence as the complainant wishes to present. Prior to reaching a determination pursuant to an investigation conducted under these procedures that any known alleged responsible party personally engaged in discrimination, violated District policies or rules, or committed other misconduct related to the allegations, the investigator shall make reasonable efforts to provide such individual respondent(s) with an equivalent opportunity. This paragraph does not prohibit additional investigative interviews of the parties or other persons.
3. **Determination after an Investigation.** Following an investigation, either the investigator, the Compliance Officer, the District Administrator, or a separate designee approved by the District Administrator or School Board shall issue the initial administrative determination of the complaint and, in a manner consistent with applicable student

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records laws, issue a written determination to the complainant and any other appropriate parties indicating the extent to which the complaint was or was not substantiated and including such other information as may be appropriate under the circumstances. Depending on factors such as the authority of the person assigned to make the initial determination of the complaint, the specific nature of the allegations, and the application of confidentiality laws, a determination that any allegation of discrimination, retaliation, or other misconduct or violation has been substantiated (in whole or in part) may or may not identify specific remedies for the aggrieved party, disciplinary sanctions, or other consequences (or recommendations for such actions). For example, it may be necessary or appropriate in some cases for the determination to include the conclusion that a person responsible for substantiated discrimination or any other misconduct or violation shall be referred to appropriate District officials for follow-up decisions based on the determination.

4. **Requests for Reconsideration, Final District Action, and Appeals to DPI.** If any actual party in interest to the complaint is dissatisfied with the initial administrative determination of the complaint, he/she may file a request within ten (10) days of receipt of the determination asking the District Administrator to review the file and reconsider the determination.
  - a. If a party requests reconsideration, he/she shall identify the basis for the request with ~~reasonably~~ reasonable specificity. Subject to the overall time limitations described below, the District Administrator shall issue a decision on reconsideration within thirty (30) days of the District Administrator's receipt of the request. At the District's discretion, additional fact-finding may occur at this stage.
  - b. To the extent an actual party in interest to a complaint is notified of any specific remedies, sanctions, or consequences as part of the written determination received by that party, only the intended beneficiary of a remedy (or such person's representative) may request reconsideration through these procedures of the specific remedies applicable to that party. Similarly, only the person on whom a sanction or other consequence has been imposed (or such person's representative) may request reconsideration through these procedures that is based on a direct challenge to the specific type or severity of the sanction(s)/consequence(s).
  - c. A decision on reconsideration is a final District determination of the complaint. The decision will include appropriate information about a complainant's right under Chapter PI 9 to appeal an adverse determination to DPI.
    - i. Appeals to DPI may be mailed to the Department of Public Instruction, Pupil Nondiscrimination Program, P.O. Box 7841, Madison, WI 53707.
    - ii. Any appeal to DPI must be filed within thirty (30) days of the date of the school District's final action on the complaint.
5. **Timelines and Extensions.** Generally, the initial administrative determination following an investigation will be reported to the complainant and to other appropriate parties within approximately sixty (60) calendar days of the District's receipt of the complaint, and any

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decision on reconsideration will normally be issued within ninety (90) calendar days of the District's receipt of the complaint.

- a. The administrator who is managing the complaint process is encouraged to keep the actual parties of interest to the complaint (including any alleged victim/target or any alleged responsible party) apprised of the status of the complaint.
- b. The District and the parties involved may mutually agree to a further extension of the overall 90-day time period. If mutual agreement to extend the time period cannot be obtained and good cause for an extension exists, the District may contact DPI and request express permission to unilaterally extend the overall 90-day time period.
- c. A party may request a reasonable extension of a deadline that is applicable to the parties under these procedures, and the District may approve such requests, in whole or in part, upon a determination that there is good cause for the request and that extending the deadline will not be unduly prejudicial to the District or to the parties. The District does not have authority to extend regulatory deadlines for initiating an appeal to DPI.

## **C. DEADLINE FOR THE INITIAL FILING OF A COMPLAINT**

There is no absolute deadline for the initial filing of a complaint under these procedures. The District always has an interest in being made aware of potential concerns with student discrimination and other student issues permitted to be raised through these complaint procedures. However, a person with a complaint or concern involving a student matter is encouraged to notify the District of the issue or to file a formal complaint as soon as reasonably possible after the occurrence of the relevant events. Any gap in filing or otherwise pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of possible remedies and resolutions that are reasonably available. Notwithstanding the lack of a single, fixed deadline, the District Administrator shall have authority to determine that any complaint that is filed more than 300 days after the occurrence of the incident in question, or after the last occurrence of an ongoing/recurring incident of alleged discrimination, will not be processed through these procedures for lack of timeliness (although the District Administrator may follow-up on the issues presented through other means if appropriate). A decision that the complaint is untimely (or any other dismissal of a complaint prior to issuing the determination identified in Section C-3 above—such as dismissal for egregious abuse of process) is subject to the reconsideration and appeal steps identified in Section C-2(b) above.

Complainants should also be aware that courts and external agencies may have specific filing or notice deadlines that are tied to the date of the alleged violation, rather than the date that a party initiates or completes any District-established complaint process.

## **D. SPECIAL PROCEDURE FOR COMPLAINTS INVOLVING THE DESIGNATED FILING OFFICER**

In the event that a complaint to be filed under these procedures concerns the actions of or decisions made directly by the filing officer designated in Section C-1 of the above-listed procedures, the complainant may instead file the complaint in writing at the District's main administrative office, directed to the attention of the District Administrator, who shall adjust

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the roles performed in the process so that the filing officer is neither managing, investigating, nor determining the District's administrative response to the complaint.

## **E. SPECIAL PROCEDURE FOR COMPLAINTS INVOLVING THE DISTRICT ADMINISTRATOR**

In the event that a complaint to be filed under these procedures concerns the actions of or decisions made directly by the District Administrator, the complainant may file the complaint in writing at the District's main administrative office, directed to the attention of the Board President, who shall work with District legal counsel in order to process the complaint. If the Board President and District legal counsel determine that the District Administrator may not be sufficiently impartial, or that it is in the best interests of the District to avoid the appearance of any such partiality, then the Board President, with notice to the other members of the Board, shall designate District legal counsel or another non-employee investigator as the complaint manager for purposes of processing and investigating the complaint up to the point of reaching and issuing a resolution on the complaint. After completion of the investigation in such a case, the Board shall meet and assess the findings and outcome of the investigation, make and issue the resolution of the complaint, and perform the role of the District Administrator in steps 3 through 4 in Section C, above.

## **F. SPECIAL PROCEDURES FOR COMPLAINTS WHERE A PROPOSED ADMINISTRATIVE RESOLUTION REQUIRES A CHANGE IN BOARD POLICY OR INVOLVES THE PAYMENT OF DISTRICT FUNDS**

In the event that the District determines at any stage of processing the complaint that the most appropriate resolution of a complaint requires either a change in Board policy or any payment of District funds to a complainant or other aggrieved person, the District Administrator shall present the complaint, the investigative findings, and the proposed resolution to the Board. The Board shall then determine and issue the resolution that is required in Section C-3 of the procedures listed above. To the extent the Board issues the resolution required in Section C-3, the Board shall respond to any request for reconsideration of that resolution that may be submitted under [ ].

## **G. VOLUNTARY WITHDRAWAL OF A COMPLAINT**

Where the complainant voluntarily withdraws a complaint due to a satisfactory resolution of the issues, mootness, or any other reason, the District is not required to continue to process the complaint. However, in certain circumstances, the District may choose to continue to follow-up on issues or concerns identified in the withdrawn complaint through other means or processes.

## **H. FILING COMPLAINTS WITH THE OFFICE FOR CIVIL RIGHTS OF THE U.S. DEPARTMENT OF EDUCATION AND OTHER EXTERNAL AGENCIES OR THE COURTS**

Nothing within these locally-established complaint resolution procedures shall preclude individuals from filing a discrimination complaint or request for enforcement directly with the U.S. Department of Education's Office of Civil Rights ("OCR"), as authorized by federal law. Such complaints may be filed with OCR as further described on the U.S. Department of Education's website.

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A complaint or suit may also be filed with another external governmental agency or court. Such agencies and courts independently determine the timeliness of a complaint or suit and the extent to which any given complaint or suit falls within their realm of authority. Such actions may be taken in lieu of or in addition to filing a complaint under the District's local procedures.

## **I. CONFIDENTIALITY**

Complainants who have specific concerns about confidentiality in connection with a complaint should arrange to discuss those concerns at the time they file their complaint.

The District cannot assure complainants or other aggrieved parties or alleged victims that a complaint can be processed without disclosing the identity of persons involved in the events/issues to the extent reasonably necessary to investigate and process the complaint. For example, in most cases, it is not possible to fully process and investigate a complaint without revealing the identity of the person(s) who has filed the complaint to individuals being questioned about the issues/events identified in the complaint.

All complainants are given further notice by this section that, in some situations, the allegations of a complaint will compel an investigation or other follow-up activity by the District in a manner that necessitates the direct or indirect disclosure of the identity of a complainant against his/her wishes, even when the complainant seeks to "withdraw" the complaint.

At the same time, it would be wholly inappropriate for District employees who may be involved in the complaint resolution process to violate lawful confidentiality directives or any applicable confidentiality requirements established in state or federal law, such as by inappropriately disclosing information from student records when no lawful exception to confidentiality applies. District policy also prohibits District employees, other agents of the District, and students who are involved in the complaint resolution process from engaging in acts of harassment or retaliation against any aggrieved party, complainant, or other person involved in the complaint resolution process. Any violations of the District's conduct expectations related to the complaint resolution process subject the violator to appropriate disciplinary action.

The District will also carefully assess its legal obligations under the public records law before the District would disclose any sensitive and personally-identifiable complaint-related information in response to a request for records.

An example of a complaint that may be able to be processed without regard to the identity of the complainant is a complaint that raises a question as to the legality of a District-wide or school-wide policy or practice of general applicability that affects many students, and that can be adequately assessed without reference to any particular student, family, or incident.

## **J. SEPARATE COMPLAINT PROCEDURE – SPECIAL EDUCATION**

Discrimination complaints relating to the identification, evaluation, educational placement or the provision of free appropriate public education of a student with a disability shall be

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processed in accordance with established appeal procedures outlined in the District's Special Education Handbook, or as outlined in the District's Section 504 Handbook, as may be applicable.

## Cross References:

WASB PRG 411 Sample Rule 3

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