

STUDENT HARASSMENT BASED ON A LEGALLY-PROTECTED STATUS

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Waunakee Community School District

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This policy addresses prohibited harassment of students that is based on, or that occurs because of, a student's legally-protected status, including harassment that is based on a student's sex (including any non-conformance with sex or gender-based stereotypes), sexual orientation, race, color, national origin, ancestry, religion, creed, pregnancy, marital or parental status, any physical, mental, emotional or learning disability, or any other legally-protected status or classification. The District prohibits and will intervene to respond to reports, complaints, or other sufficient notice of any such harassment not only because of the District's legal obligations, but also because such conduct is detrimental to the educational environment and to the well-being of students.

Defining and Identifying Harassment Based on a Legally-Protected Status

Although different state and federal laws establish different standards to define conduct that does (or does not) constitute prohibited student harassment, prohibited harassment under this policy generally includes behavior (or any course of conduct) affecting one or more students that is based, in whole or in part, on a legally-protected status or classification and that:

1. Substantially interferes with a student's school performance;
2. Substantially interferes with a student's ability to participate in or benefit from any District activity or program; or
3. Creates an intimidating, hostile, or offensive environment within any District school, activity, or program.

As specifically defined and prohibited under the federal Title IX regulations (see [34 C.F.R. §106.02](#)), sex-based harassment means sexual harassment and other harassment on the basis of sex, including conduct within any District program or activity that either (1) involves a District employee, agent of the District, or other person with a District-authorized role who conditions the provision of an aid, benefit, or service of the District on a student's participation in unwelcome sexual conduct; (2) is unwelcome sex-based conduct that, based on the totality of the circumstances, creates a hostile environment; **or** (3) constitutes sexual assault, stalking, dating violence, or domestic violence as those terms are further defined under the Title IX regulations. Under the federal Title IX regulations, harassment on the basis of sex includes harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

In addition:

- The person responsible for the prohibited harassment may be another student, a District employee, a non-employee acting as an agent or contractor of the District, or another person who is present in, or who engages in conduct that sufficiently impacts, the educational environment or the applicable District program or activity.
- A student can be a victim of and adversely affected by harassing conduct even when he/she is not the direct target of the harassment.
- Harassment is defined primarily by the characteristics and effects of the behavior, and such considerations can outweigh any asserted lack of specific intent to harass. The effects of the

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relevant conduct are normally evaluated from the perspective of a reasonable person in the position of the student victim.

Nothing in this policy limits the District's discretion or authority to intervene with respect to conduct (or alleged conduct) affecting a student that, although not determined to constitute proven unlawful harassment, either (1) could contribute to a finding of unlawful harassment if the behavior or course of conduct were to continue; (2) violates any other policy or specific conduct rule or directive established by the District; (3) causes a substantial disruption within any District program or activity; or (4) endangers the health, safety, or property of a student.

Finally, conduct may occur (or be reported or alleged) that would constitute prohibited harassment under this policy except that the conduct lacked a sufficient connection to a District program or activity or otherwise occurred outside the scope of the District's rule-making, investigatory, or disciplinary authority. In such a situation, the District may still work with the victim (or alleged victim) to provide interventions or supports that address any school-connected consequences that relate to the conduct (or alleged conduct).

Examples of Prohibited Conduct

Some examples of prohibited conduct that could constitute unlawful harassment or directly contribute to the creation of an unlawful intimidating, hostile, or offensive educational environment under this policy include any of the following:

- Multiple, repeated, or severe verbal or written comments that insult, degrade, or stereotype a student or group of students because of any legally-protected status or classification. This might include the use of slurs, epithets, name calling, ridicule, mockery, insults, or put-downs.
- Conduct that endangers a student's health, safety, or property, such as an assault, a threat, or attempted intimidation, that occurs because of a person's legally-protected status.
- Posting, displaying, or circulating any written or graphic materials, sound or video recordings, or any electronic or other materials, symbols, or objects that attack, mock, belittle, or show hostility toward a student or group of students based on a legally-protected status.

Additional examples of conduct that may constitute or directly contribute to a finding of unlawful sexual harassment include, but are not limited to, the following: (1) unwelcome comments that are lewd or sexually-suggestive (including sexual innuendo or offensive language of a sexual nature); (2) unwelcome physical contact or other unwarranted intrusions within an individual's personal space that occur because of a person's sex; (3) persisting in romantic advances or making requests for romantic involvement after being informed that such attention is unwelcome; (4) the implicit or explicit making of any demands or any unwanted requests for sexual activity; (5) the display or distribution of sexually-explicit content that lacks a sufficiently legitimate purpose; or (6) any verbal, written, graphic, or physical conduct or communication that attacks, mocks, belittles, or shows hostility toward a student due to the student's sex, gender, sexual orientation, or lack of conformity to sex or gender-based stereotypes.

Applicability of Nondiscrimination Policies; Reports of Complaints of Harassment

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Unlawful harassment that is based on a legally-protected status is a form of discrimination. As a result, Board Policy 413/513 (Nondiscrimination in District Programs, Activities and Operations) and Board Policy 411 (Student Nondiscrimination and Equal Educational Opportunities) apply in full to this policy. In addition, the District's expectations for employees to appropriately report their knowledge of incidents or allegations of prohibited discrimination (including unlawful harassment) to an appropriate administrator apply to incidents/allegations of student harassment that are known to an employee.

Any person may report a concern or allegation of prohibited student harassment that is based on a legally-protected status to any of the District's nondiscrimination and equal opportunity coordinators. The report or complaint may be submitted to a designated coordinator (1) in person (whether verbally or in writing), (2) by U.S. mail, (3) by telephone, or (4) by electronic mail. Other methods that result in the coordinator actually receiving the report or complaint are also acceptable. Board Policy 413/513 identifies and provides contact information for designated coordinators, including identifying the primary coordinator for any student discrimination matter.

Reports and complaints of possible student harassment under this policy will be processed and resolved as set forth in the rules and procedures adopted under Board Policy 413/513 and Board Policy 411.

Legal References:

Wisconsin Statutes

[Section 118.13](#) [student nondiscrimination]

[Section 947.013](#) [harassment prohibited]

Wisconsin Administrative Code

[PI 9](#) [student nondiscrimination; policy/procedure/notice required]

Federal Laws

See the federal references for Policy 411-Student Nondiscrimination and Equal Educational Opportunity

Cross References:

WASB PRG 411.1 Sample Policy 2

411, Student Nondiscrimination and Equal Educational Opportunity

411-Rule (1), Student Discrimination/Harassment Complaint Procedure

413/513, Nondiscrimination in District Programs, Activities and Operations

447.3, Student Suspension

447.4, Student Expulsion

447.5, Student Discipline Suspension/Expulsion of Students with Disabilities

454, Child Abuse and Neglect

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