

STUDENT DISCRIMINATION COMPLAINT PROCEDURES

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If any person believes that the Wauwaukee 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 Title II of 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 their concern by reporting the relevant information to an appropriate District official and/or, to the extent eligible, by submitting a complaint that serves to initiate 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 and other types of non-student-related discrimination complaints to the extent authorized or directed 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 and processing of complaints. (Note: The District requires an oral complaint to be documented in writing as a condition of starting a formal investigation and determination of the allegations under these complaint procedures.)

It is also permissible to report a concern about possible discrimination to an appropriate District official that is not intended as a "complaint," but that is intended (1) to notify appropriate District officials of information about possible student discrimination, (2) to seek assistance related to possible discrimination for one or more persons, and/or (3) to request that the District consider a particular change or other response to the concern. The District's expectation is that, upon

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receiving any such report, the District's designated nondiscrimination coordinators and other administrative officials will appropriately respond to the report, with the goals of preventing, identifying, and preventing the recurrence of any prohibited discrimination.

A. COORDINATION WITH THE DISTRICT'S TITLE IX GRIEVANCE PROCESS FOR ALLEGATIONS OF TITLE IX SEXUAL HARASSMENT

As required by the federal Title IX regulations, the District will use its separately-adopted Title IX "grievance process" to address "formal complaints" of "sexual harassment," as those terms are defined in the federal regulations (see 34 C.F.R. §106.30). The District's Title IX grievance process is documented in 413/513 Rule 1, and it is available on the District's website. Regarding the Title IX grievance process:

1. If a complaint or other report of possible sex-based **harassment** could have been pursued as a formal complaint of Title IX sexual harassment under the District's Title IX grievance process but the complaining party elects not to do so, then the District is not under any automatic obligation to process the report of sex-based harassment using the general nondiscrimination complaint procedures defined above. However, even if the District does not initiate the use of its Title IX grievance process or the general complaint procedures defined below, the District will still fulfill any applicable legal obligations to appropriately respond to the reported information.
2. The District is not required to use the general nondiscrimination complaint procedures defined below to further address any report, complaint, allegation, or basis for a finding of potential misconduct or liability that reaches a determination or that is otherwise resolved through the separate Title IX grievance process. However, such determination or resolution may be subject to an appeal to DPI by the complainant as the District's determination of the complaint for purposes of Chapter PI 9.

B. 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.

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. Reports may also be made via an online reporting tool if available. 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.

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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.

C. 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

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.

2. **Formal Processing and Investigation of a Complaint under these Procedures to be Based on a Written Statement.** Although a complaint may initially be made orally, the formal complaint procedures listed below shall be initiated based on a written statement of the complaint that documents the relevant claims/allegations. The written statement may be a statement that was submitted by a complainant (or a complainant's legally-authorized representative, such as a parent) or a statement that is prepared by a District-designated nondiscrimination coordinator or a designee that documents an oral complaint. If necessary, the written statement may be amended during the process, or the District may otherwise inform the parties of any clarifications of or changes to the claims or allegations under investigation.

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As needed, the Compliance Officer or a designee may, without bias or favoritism and without serving as an advocate, seek confirmation of what is being alleged or request additional details or clarifications.

3. **Initial Processing and Investigation.** Upon receiving or documenting a written statement of the 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. The Compliance Officer or a designee shall provide the person making the complaint with a written acknowledgement of receipt within 21 days of receiving or documenting the written statement 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 re-direct 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(s).
 - 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.
4. **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 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

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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.

5. **Requests for Reconsideration, Final District Action, and Appeals to DPI.** If any actual party to the complaint is dissatisfied with the initial administrative determination of the complaint, they 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 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.
6. **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 decision on reconsideration will normally be issued within ninety (90) calendar days of the District's receipt of the complaint.

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- 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.

D. 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-4 above—such as dismissal for egregious abuse of process) is subject to the reconsideration and appeal steps identified in Section C-3(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.

E. 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 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.

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F. 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 4 through 5 in Section C*], above.

G. 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-4*] of the procedures listed above. To the extent the Board issues the resolution required in [*Section C-4*], the Board shall respond to any request for reconsideration of that resolution that may be submitted under [*Section C-5*].

H. 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.

I. 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. See <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>. OCR complaints originating in Wisconsin are generally processed by OCR's regional office located in Chicago.

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Office for Civil Rights
Chicago Office
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604

Telephone: (312) 730-1560
Facsimile: (312) 730-1576; TDD: 800-877-8339
Email: OCR.Chicago@ed.gov }

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.

J. 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.

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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.

K. 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 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.

L. Standard Behavior Reporting Procedures

District staff are expected to inform the appropriate administrator or the District's nondiscrimination coordinator for student matters as soon as they are aware of a concern.

Upon receiving a report, the District will promptly and thoroughly investigate the matter. The investigation will be conducted by designated administrators and will include interviews with the complainant, the alleged perpetrator, and any witnesses. If the District receives a report of harassment, the District will make an initial assessment of whether the allegations being made, if true, would constitute a violation of Policy 411 or 411.1. If the District determines that the allegations, even if true, are not a violation of District policy, or state or federal law, the District will determine whether additional investigation is reasonably likely to generate additional information supporting the charge being made, and will proceed accordingly. The purpose of this procedure is not to disqualify complaints but, instead, is meant to encourage meaningful reporting of usable information and assist corrective and responsive actions to maintain a safe and positive environment in the school community.

At the conclusion of this process, the appropriate administrator will communicate to the reporter and/or victims the general outcome in writing or email consistent with protecting the rights of all parties.

Cross References: WASB PRG 411 Sample Rule 3

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