

NONDISCRIMINATION IN DISTRICT PROGRAMS, ACTIVITIES, AND OPERATIONS

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The Waunakee Community 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, sexual orientation, disability, religion, age, 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;

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 (see, for example, Policy 411 and Policy 411.1 within the District's policy manual) and all aspects of employment and personnel administration within the District (see, for example, Policy 511 and Policy 512).

Special Statement Regarding Sex Discrimination under Title IX

As mandated by the federal Title IX statutes and by the regulations set forth in Part 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 and prohibits all forms of unlawful sex discrimination in any education program or activity that the District operates. Title IX's requirement not to discriminate in any education program or activity includes, but is not limited to, discrimination affecting students, discrimination in District employment, and discrimination in certain admissions processes. Inquiries regarding how Title IX and the federal Title IX regulations apply to the District may be referred to a District Title IX Coordinator (as designated below), to the Assistant Secretary for Civil Rights at the U.S. Department of Education, or to both.

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Designation and Authorization of Nondiscrimination Coordinator(s)

Any questions concerning the District's nondiscrimination and equal opportunity policies, general policy compliance, the application of any nondiscrimination law to the District, or the District's reporting and complaint procedures may be directed to either of the District's nondiscrimination and equal opportunity coordinators:

<p>The staff member holding the following position serves as the District's designated Student Nondiscrimination Coordinator, with a primary focus on student matters and other non-employment-related matters:</p> <p>Tiffany Loken Special Education Director 905 Bethel Circle Waunakee, WI 53597 608-849-2000 tiffanyloken@waunakee.k12.wi.us</p>	<p>The staff member holding the following position serves as the District's designated Equal Employment Opportunity Coordinator, with a primary focus on employment-related matters:</p> <p>Brian Grabarski Human Resources Director 905 Bethel Circle Waunakee, WI 53597 608-849-2000 briangrabarski@waunakee.k12.wi.us</p>
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1. Retaining their primary area of focus as identified above, the role of the nondiscrimination and equal opportunity coordinators identified above includes serving as District-designated:
 - a. Title IX Coordinators (regarding prohibited sex discrimination).
 - b. Section 504 and Americans with Disabilities Act Coordinators (i.e., for disability rights and disability-based discrimination issues).
 - c. Federal Age Discrimination Act Coordinators.
2. The District's nondiscrimination and equal opportunity coordinators have responsibility for coordinating the District's efforts to (1) implement its nondiscrimination policies, and (2) comply with applicable nondiscrimination laws, including coordinating the District's response to any complaint or other report alleging noncompliance with, or acts in violation of, any of those laws and policies.
3. Although each of the nondiscrimination and equal opportunity coordinators identified above has a primary area of focus, those divisions are not absolute and each is recognized as a deputy of the other in the event that the normal, primary coordinator for a given matter is affected by a conflict of interest or temporarily absent or otherwise unavailable.
4. The District's nondiscrimination coordinator for student matters is also designated to receive any student discrimination complaints arising under section 118.13 of the state statutes and Chapter PI 9 of the Wisconsin Administrative Code.

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Any Person May Report Possible Discrimination to the District

The District is committed to the appropriate resolution of complaints and other reports that allege or identify (1) possible 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, unless otherwise specified by a state or federal law (e.g., for filing a formal complaint of sexual harassment under Title IX, as covered in a later section of this policy), any person (including a person who is not claiming to have been personally harmed/victimized by the alleged conduct or challenged policy) may report a concern or allegation of prohibited discrimination or prohibited retaliation as follows:

1. To any of the District's designated nondiscrimination and equal opportunity coordinators, using the contact information designated above and any of the following methods:
 - a. By in-person delivery (whether the report is made verbally or in writing);
 - b. By U.S. mail;
 - c. By telephone; or
 - d. By electronic mail.
2. By any other means that results in a designated coordinator actually receiving the person's verbal or written report. For example, a person may arrange to have an agent or other intermediary submit their report to a District-designated nondiscrimination or equal opportunity coordinator on their behalf.
3. If the report would identify one of the District's designated nondiscrimination or equal opportunity coordinators as being personally responsible for alleged discrimination or retaliation, then the report may be filed directly with the alternative position or the District Administrator either in person at 905 Bethel Circle, Waunakee, WI 53597 by U.S. mail addressed to 905 Bethel Circle, Waunakee, WI 53597; or by electronic mail sent to the District Administrator's District-issued email address.

Differentiating Complaints from other Reports of Possible Discrimination; District Response

Complaints. A report of possible unlawful discrimination or prohibited retaliation under this policy is to be treated as a "complaint" if (1) the report can be objectively understood as a request for the District to investigate and make a determination about alleged unlawful discrimination or prohibited retaliation under one of the District's anti-discrimination complaint/grievance procedures, **and** (2) the person making the report is authorized by law or by District policy to initiate the applicable complaint/grievance procedures. Although complaints may initially be presented to an appropriate District official orally, District procedures generally require discrimination complaints to be documented in writing as a condition of starting a formal investigation and reaching a determination of the allegations under District complaint procedures. Additional requirements also apply to the submission of formal complaints of sexual harassment that are subject to the federal Title IX regulations (see below).

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Other Reports. It is also permissible to report a concern about possible discrimination to an appropriate District official that is **not** a "complaint," but that is intended (1) to notify appropriate District officials of information about possible 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.

District Response. The Board's general expectations for responding to complaints and other reports of conduct that reasonably may constitute unlawful discrimination or prohibited retaliation include the following:

1. If a report constitutes a "complaint," then the complaint will be processed according to the anti-discrimination complaint/grievance procedures that the District determines are most applicable to the facts and circumstances. Such procedures may allow for the use of an informal resolution process in some circumstances.
 - a. 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.
 - b. In some situations, such as under the federal Title IX regulations, applicable law and/or District policies may require the District's designated nondiscrimination and equal opportunity coordinators or other agents of the District to take other actions in response to such a complaint.
2. For other "reports" of possible unlawful discrimination or prohibited retaliation (e.g., when the person reporting the information is **not** requesting an investigation and determination **or** when the person reporting the information is **not** authorized by law or District policy to use a complaint to initiate any of the District's formal complaint procedures), the following apply:
 - a. If the information reported by such a person could reasonably constitute unlawful discrimination or prohibited retaliation, the designated nondiscrimination coordinator or another authorized administrative official will (1) comply with any applicable requirements established by state or federal law (such as the federal Title IX regulations) or under District policies and procedures; and (2) more generally, take reasonable responsive measures, including but not limited to steps that are intended to end/prevent the recurrence of any unlawful discrimination or other misconduct that may be identified in relation to the reported information.
 - b. The District is **not** required to (but may choose to) self-initiate a complaint that is formally investigated and processed under applicable District complaint procedures.

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 the federal Title IX regulations (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

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harassment," as those terms are defined in 34 C.F.R. §106.30. 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).

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.
3. The formal complaint must be filed with a District Title IX Coordinator by submitting the document or electronic submission in person, by mail, or by electronic mail, using the District-designated contact information for the Coordinator (see 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 the formal complaint must be resolved according to the federal regulations and District processes that specifically apply to such formal complaints.

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

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There is no absolute deadline for the initial filing of a report or complaint of discrimination or retaliation 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 extent to which it is practical to 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 or retaliation 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: The District Administrator, the Special Education Director, the Human Resources Director, or the Executive Director of Operations.
2. An actual party in interest may, within 5 business days of being notified of a dismissal decision under the previous paragraph, submit a written request to the District Administrator asking for the District Administrator to review/reconsider such decision.

Employee Internal Reporting Expectations

Any District employee who has information about conduct or reported conduct occurring within the District's programs, activities, or operations that constitutes or that, if accurate/confirmed, reasonably may constitute unlawful discrimination prohibited under any applicable state law, federal law, and/or District nondiscrimination policy (including any prohibited harassment or retaliation) is responsible for promptly reporting such information. Similarly, an employee who has information indicating that a District policy or District operating procedure, in its actual or intended application, is unlawfully discriminating against or would unlawfully discriminate against any person is also responsible for promptly reporting that information. Reporting procedures and guidelines are as follows: An employee sufficiently satisfies this internal reporting obligation by promptly providing the relevant information to an appropriate District-designated nondiscrimination coordinator who is not affected by a known conflict of interest in the matter. In a situation such as when a particular coordinator is not available or the employee believes the particular coordinator would have a conflict of interest, the employee shall satisfy the reporting obligation by directly notifying a different nondiscrimination coordinator or the District Administrator of the relevant information.

1. This internal reporting obligation does not apply when the employee has direct and certain knowledge that the relevant information has already been reported to at least one of the District's designated nondiscrimination coordinators and/or the District Administrator.

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2. This internal reporting obligation will often require the exercise of judgment. The District's expectation is that employees will exercise such judgment in a manner that, under the relevant circumstances, reflects a reasonable person who holds the employee's particular position/role, including by obtaining supervisory guidance when the employee has recognized a situation as being potentially subject to the reporting obligation but is unsure how to fully assess or otherwise handle the specific situation.
3. District employees remain responsible for also 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). Satisfying this internal reporting obligation does **not** constitute compliance with external reporting mandates.

Confidentiality of Reports and Complaints

Although absolute confidentiality cannot be assured, the District will maintain the confidentiality of discrimination reports and complaints, and especially personally-identifiable information obtained in the course of responding to a report or complaint, to the extent required by 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 or otherwise responding to 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

Neither any official, employee or agent of the District, any student, nor any other person (for example, another individual with a connection to the District's programs and activities) 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 an enforceable legal right (if any such right is applicable) to refuse to participate in any manner in an investigation or proceeding conducted under 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

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of allegations that the complaining party knows to be wholly frivolous; improperly destroying, altering, or preventing appropriate access to relevant records or other evidence; 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 their 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.

Nondiscrimination Notices; Dissemination of Policy and Complaint/Reporting Procedures

The District Administrator and the District's designated nondiscrimination and equal opportunity 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 Administrator and the District's designated nondiscrimination and equal opportunity 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 Administrator 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 References:

Wisconsin Statutes

[Subch. III of Ch. 106](#)

[state equal rights programs, some of which can apply to school districts in at least some circumstances]

[Subch. II of Ch. 111](#)

[the state fair employment and nondiscrimination statutes, including specific prohibited bases of discrimination (sections [111.31](#) to [111.395](#))]

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Section 118.13	[student nondiscrimination; policy/procedures required]
Section 118.134	[race-based nicknames, logos, mascots]
Section 118.195	[discrimination against teachers with disabilities]
Section 118.20	[teacher/administrator discrimination prohibited]

Wisconsin Administrative Code

PI 9	[student nondiscrimination; policy, procedures, notices, and reporting required]
PI 41	[accommodating student religious beliefs; policy required]

Federal Laws

20 U.S.C. §1681 et seq.	[Title IX of the Education Amendments of 1972, as amended, prohibiting sex discrimination in federally-supported educational programs; implementing regulations at 34 C.F.R. Part 106 (August 14, 2020)]
20 U.S.C. §1400 et seq.	[The Individuals with Disabilities Education Act, providing for programs. Services, and rights for students with disabilities; implementing regulations at 34 C.F.R. Part 300]
20 U.S.C. §6312(e)(3)(D)	[addressing nondiscrimination in admission to federally-assisted education programs on the basis of surname or language-minority status]
42 U.S.C. §2000e et seq.	[Title VII of the Civil Rights Act of 1964, as amended, prohibiting employment discrimination based race, color, national origin, sex, pregnancy, and religion; implementing regulations at 29 C.F.R. Ch. XIV]
42 U.S.C. §2000d et seq.	[Title VI of the Civil Rights Act of 1964, as amended, prohibiting discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds; implementing regulations at 28 C.F.R. Part 42, Subpart C]
42 U.S.C. §2000gg et seq.	[Pregnant Workers Fairness Act; implementing regulations at 29 C.F.R. Part 1636]
42 U.S.C. §12111 et seq.	[The Americans with Disabilities Act, Title I, as amended, prohibiting employment discrimination based on a qualifying disability; implementing regulations at 29 C.F.R. Part 1602 and Part 1630]
42 U.S.C. §12131 et seq.	[The Americans with Disabilities Act, Title II, as amended, nondiscrimination based on disability by state and local governments; implementing regulations at 28 C.F.R. Part 35]
29 U.S.C. §794 et seq.	[Section 504 of the Rehabilitation Act of 1973, as amended, prohibiting discrimination based on a qualifying disability by recipients of federal funds; implementing regulations at 34 C.F.R. Part 104 , 28 C.F.R. Part 42, Subpart G , and 29 C.F.R. Part 1640]
42 U.S.C. §6101 et seq.	[the federal Age Discrimination Act, as applicable to federally assisted programs; implementing regulations at 34 C.F.R. Part 110]
29 U.S.C. §621 et seq.	[Age Discrimination in Employment Act, as amended; implementing regulations at 29 C.F.R. Parts 1625 to 1627]
8 U.S.C. §1324b(a)	[prohibiting employment discrimination based on national origin and certain types of citizenship status; implementing regulations at 28 C.F.R. Part 44]

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Cross References:

WASB PRG 113 Sample Policy 1
411, Student Nondiscrimination and Equal Educational Opportunity
411-Rule (1), Student Discrimination/Harassment Complaint Procedures
411.1, Student Harassment
511, Equal Opportunity Employment and Nondiscrimination
512, Sexual Harassment

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