

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, color, 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. To the extent encompassed by the applicable laws, discrimination based on "sex" can include any unlawful discrimination that is based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity.

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 on the basis of sex in any education program or activity includes, but is not limited to, discrimination affecting students and discrimination in District employment. Inquiries

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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.

Designation and Authorization of Nondiscrimination Coordinator(s)

Any questions concerning the District's nondiscrimination and equal opportunities 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><u>Tiffany Loken</u> <u>Special Education Director</u> <u>905 Bethel Circle</u> <u>Waunakee, WI 53597</u> <u>608-849-2000</u> <u>tiffanyloken@waunakee.k12.wi.us</u></p>	<p>The staff member holding the following position serves as the District's designated Equal Employment Opportunities Coordinator, with a primary focus on employment-related matters:</p> <p><u>Brian Grabarski</u> <u>Human Resources Director</u> <u>905 Bethel Circle</u> <u>Waunakee, WI 53597</u> <u>608-849-2000</u> <u>briangrabarski@waunakee.k12.wi.us</u></p>
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1. Retaining their primary area of focus in either employment or student/non-employment matters, the role of the nondiscrimination and equal opportunity coordinators identified above includes serving as District-designated:
 - Title IX Coordinators (regarding prohibited sex discrimination)
 - Section 504 and Americans with Disabilities Act Coordinators (i.e., for disability rights and disability-based discrimination issues).
 - Federal Age Discrimination Act Coordinators.
2. The District's nondiscrimination and equal opportunity coordinators have responsibility for coordinating the District's efforts to implement this policy and to adhere to applicable nondiscrimination laws, including coordinating the District's response to any complaint or report alleging noncompliance with, or acts in violation of, any of those laws. Although each of the nondiscrimination and equal opportunity coordinators identified above has a primary area of focus (i.e., either in employment matters or in student/non-employment matters), those divisions are not absolute and each coordinator may need to be directly involved in a matter that is outside of their primary area of focus, such as when a matter is affected by a conflict of interest or when the coordinator who would normally be more directly involved is temporarily absent or otherwise unavailable.

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3. 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.
4. The following apply to the District's designated Title IX Coordinators:
 - The Human Resources Director, is designated as the District's lead Title IX Coordinator who has ultimate oversight responsibility for coordinating the District's efforts to comply with Title IX and the federal Title IX regulations, including monitoring the District's consistent compliance with its Title IX responsibilities.
 - Any Title IX Coordinator other than the lead Title IX Coordinator is a secondary Title IX Coordinator. Any secondary Title IX Coordinator, as well as and any designee performing specific duties on behalf of any Title IX Coordinator, shall keep the lead Title IX Coordinator reasonably informed of pending Title IX matters, including the receipt of reports of possible unlawful sex discrimination and the initiation, ongoing status, and resolution of any Title IX-related complaint or investigation.

District Responses to Information, Reports, and Complaints about Unlawful Discrimination

Applicable laws require the District, the District's designated nondiscrimination and equal opportunity coordinators, and all District employees to be responsive to known information about possible unlawful discrimination or prohibited retaliation. The Board's general expectations for responding to such information include the following:

1. Any time the District has knowledge of conduct that reasonably may constitute unlawful discrimination or prohibited retaliation occurring within the District's programs, activities, or operations, the District—primarily through the District's designated nondiscrimination and equal opportunity coordinators and the Board's other administrative-level and supervisory agents—will respond promptly and effectively in a manner that is consistent with District policies and procedures and with the specific obligations that are defined in applicable state and federal nondiscrimination laws.
 - a. Some of the District's legal duties and obligations apply based solely on the District having sufficient notice of the conduct, even if no complaint is ever submitted/pursued.
 - b. When a District-designated Title IX Coordinator has been notified of conduct that reasonably may constitute sex discrimination or prohibited retaliation under Title IX, the Title IX Coordinator must perform, or ensure that another authorized agent of the District who is acting as a designee performs, all applicable Title IX Coordinator duties specified in the Title IX regulations, including the duties specified in section 106.44(f) of the regulations.
2. All District employees are required to notify one of the District's designated nondiscrimination and equal opportunity coordinators when the employee has information about conduct that reasonably may constitute unlawful discrimination (or any related acts of prohibited retaliation) within the District's programs, activities, or operations. As a limited exception, an

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employee is strongly encouraged, but not strictly obligated, to report information about an incident or situation in which the employee, but not any student, was personally subject to conduct that reasonably may constitute unlawful discrimination or prohibited retaliation against that employee.

- a. If an employee has information concerning possible sex discrimination in violation of Title IX, the employee shall fulfill the obligation described in the previous paragraph by notifying a District Title IX Coordinator of the information.
- b. In a situation in which the employee believes the appropriate coordinator would have a conflict of interest, such as in a situation where the coordinator is alleged to have personally engaged or participated in prohibited conduct, the employee shall directly notify the District Administrator of the relevant information.

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.

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. *In addition, in some situations, such as under the federal Title IX regulations, applicable law and District policies may require the District's designated nondiscrimination and equal opportunity coordinators or other agents of the District to take other specific actions in response to such a complaint.*
2. For other "reports" of possible unlawful discrimination or 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 complaint/grievance procedures), the following apply:
 - a. The District is **not** required to (but may choose to) initiate District-established complaint/grievance procedures based on the person's report.
 - b. If the information reported by such a person could reasonably constitute unlawful discrimination or retaliation, then the expectation is that the District—usually through a designated nondiscrimination coordinator—will at least respond to the information/allegations(s) in a prompt and reasonable manner that is calculated to further determine whether unlawful discrimination may be occurring and, if so, to take

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prompt and effective steps intended to ensure that any discrimination is ended and does not recur. In addition, in some situations, such as under the federal Title IX regulations, applicable law may require a designated nondiscrimination coordinator or other agents of the District to take specific actions in response to being notified of conduct or other reported information or allegations that could reasonably constitute unlawful discrimination.

Any Person May Report Discrimination to the District

The District is committed to the appropriate resolution of any complaint or other report that alleges or otherwise presents information to the District about conduct, or about a District policy or practice, that may reasonably constitute (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, unless otherwise specified by a state or federal law, any person (including a person who is not claiming to have been personally harmed/victimized by the alleged conduct or challenged policy) may report information about or, if eligible, submit a complaint alleging possible prohibited discrimination or prohibited retaliation as follows:

1. To either of the District's designated nondiscrimination and equal opportunity coordinators, using the contact information provided 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 the applicable nondiscrimination 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.

When a report of possible unlawful discrimination or retaliation is not submitted in person directly to one of the District's designated nondiscrimination and equal opportunity coordinators, the person submitting the report is strongly encouraged to contact the District to confirm that their report was actually received as intended.

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The District's designated nondiscrimination and equal opportunity coordinators shall make reasonable efforts to identify barriers to reporting conduct that may constitute unlawful discrimination within any District program or activity. The coordinators shall also take reasonable steps to attempt to address such barriers, including notifying the District Administrator of any specific recommendations that would require Board or administrative approval.

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 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 complaints of possible unlawful sex discrimination (including sex-based harassment) or prohibited retaliation under Title IX, which are instead subject to the dismissal and appeal provisions of the grievance procedures 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. Any actual party in interest to the allegations raised by a complaint (i.e., a person alleged to have been subjected to or alleged to be responsible for prohibited conduct) may appeal a decision to dismiss the complaint under the previous paragraph to the District Administrator. Or, if the District Administrator authorized the initial decision to dismiss the complaint, 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, 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.

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Retaliation Prohibited

No official, employee, or agent of the District, student, or any other person over whom the District exercises some authority 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 this policy or any other District nondiscrimination policy. This non-retaliation provision does **not** preclude the District from (1) requiring an employee or other authorized agent of the District to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing; or (2) imposing consequences for an employee's or agent's refusal to cooperatively participate or otherwise assist in such matters.

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 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

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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)]
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]
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

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42 U.S.C. §12111 et seq.	regulations at 28 C.F.R. Part 42, Subpart C] [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 citizenship status; implementing regulations at 28 C.F.R. Part 44]
42 U.S.C. §2000gg et seq.	[Pregnant Workers Fairness Act; implementing regulations at 29 C.F.R. Part 1636]

Cross References:

WASB PRG 113 Sample Policy 1

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