Verona Area School District Administrative Rules

Section: Students

507.1 – Nondiscrimination on the Basis of Sex

Last Updated: August 1, 2024

Formerly Board Policy 411.1

(Aligned with OE 10: Learning Environment/Student Behavior)

Introduction

The Verona Area School District does not discriminate on the basis of sex and prohibits sex discrimination in any educational program or activity that it operates, as required by Title IX of the Education Amendments Act of 1972, including employment and admission. The Verona Area School District is committed to maintaining an education and work environment that is free from discrimination based on sex, including sexual harassment.

Pursuant to its Title IX obligations, the District is committed to eliminating sex discrimination, and will take prompt and effective action to end such discrimination. Students and employees who commit sexual harassment are subject to the full range of disciplinary sanctions set forth in this policy. Third parties who engage in sexual harassment are also subject to the disciplinary sanctions listed in this policy. The District will provide persons who have experienced sex discrimination, including sexual harassment, supportive measures as appropriate to restore or preserve access to the District's educational programs and activities.

Coverage

This policy applies to sex discrimination that occurs within the District's educational programs and activities and that is committed by a District employee, student, third-party vendor or contractor, guest, or other members of the school community. This policy may also apply to conduct occurring outside of the District's programing if the conduct creates a hostile environment within the District's educational programing or activities. Such misconduct may also be prohibited by student handbooks, other district Administrative Rules, applicable state and/or federal laws, and/or Employee/Administrator Handbook(s).

Definitions

Words used in this policy shall have those meanings defined herein; words not defined herein shall be construed according to their plain and ordinary meanings.

Sexual Harassment: "Sexual Harassment" is a form of sex discrimination and means sex-based harassment and other harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

> *Quid pro quo harassment* - An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

Hostile Environment Harassment - Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the complainant's ability to access the District's education program or activity;
(ii) The type, frequency, and duration of the conduct;
(iii) The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
(iv) The location of the conduct and the context in which the conduct occurred; and
(v) Other sex-based harassment in the District's education program or activity; or

Specific Offenses - which include:
(i) Sexual assault, meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
(ii) Dating violence, meaning violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim;
(iii) Domestic violence, meaning felony or misdemeanor crimes committed by a person who: Is a current or former spouse or intimate partner of the victim, or a person similarly situated to a spouse of the victim; is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; shares a child in common with the victim; commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws; or
(iv) Stalking meaning, engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

Complainant: "Complainant" means any individual who has a right to make a complaint of sex discrimination, including complaints of sex-based harassment, and request that the District investigate and make a determination about alleged discrimination under Title IX. Specifically, a "complainant" may be:

- a student or employee of the Verona Area School District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX;
- a person other than a student or employee of the Verona Area School District who is alleged to have been subjected to conduct the could constitute sex discrimination under Title IX at the time when that individual was participating or attempting to participate in the Verona Area School District's education program or activity;
- a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- the Title IX Coordinator(s) when a complaint is absent from or withdrawn by the individuals above and the alleged conduct presents an imminent and serious threat to someone's safety or health or prevents the district from ensuring equal access to an educational program or activity due to the sex of the alleged victim.

For complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of the Verona Area School District
- Any person other than a student or employee who was participating or attempting to participate in the district's educational program or activity at the time of the alleged sex discrimination.

Respondent: “Respondent” means an individual who is alleged to to be the perpetrator of conduct that could constitute sex discrimination.

Complaint: “Complaint” means an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

Supportive Measures: “Supportive measures” means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

(1) Restore or preserve that party’s access to the recipient’s education program or activity, including measures that are designed to protect the safety of the parties or the recipient’s educational environment; or

(2) Provide support during the recipient’s grievance procedures or during an informal resolution process.

Supportive measures may include but are not limited to counseling, extension of deadlines and other course-related adjustments, restrictions on contact, and alternative security arrangements.

Education Program or Activity: “Education program or activity” refers to all operations of the District over which the District exercises substantial control, including in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, and community engagement, and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the Board. It also includes events and circumstances that take place off-school property/grounds if the District exercises substantial control over both the Respondent and the context in which the sex discrimination occurs.

Third Parties: "Third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District property).

Inculpatory Evidence: “Inculpatory evidence” is evidence that tends to establish a Respondent’s responsibility for alleged sex discrimination.

Exculpatory Evidence: “Exculpatory evidence” is evidence that tends to clear or excuse a Respondent from allegations of sex discrimination.

Day(s): Unless expressly stated otherwise, the term “day” or “days” as used in this policy means business day(s) (i.e., a day(s) that the District office is open for normal operating hours, Monday – Friday, excluding State- recognized holidays),

Eligible Student: “Eligible student” means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education.

Confidential Employee: School nurses or other healthcare providers when administering health care services covered under mandatory reporting exceptions outlined in Wis. Stat. § 48.981.

Title IX Coordinator

The District designates and authorizes the following individual to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

Nathaniel Edwards - Director of Compliance and Policy
700 North Main Street, Verona, WI 53593
Office: 608-845-4314
edwardsn@verona.k12.wi.us

The Title IX Coordinator shall report directly to the District Administrator. Questions about this policy should be directed to the Title IX Coordinator.

The District Administrator shall notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, District employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District of the following information:

> *The Verona Area School District does not discriminate on the basis of sex in its education program or activity and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to employment. The District’s Title IX Coordinator(s) is/are:*

Nathaniel Edwards - Director of Compliance and Policy
700 North Main Street, Verona, WI 53593
Office: 608-845-4314
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Any inquiries about the application of Title IX and its implementing regulations to the District may be referred to the Title IX Coordinator, the Assistant Secretary for the U.S. Department of Education’s Office for Civil Rights, or both.

> *The District has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in this policy (Nondiscrimination on the Basis of Sex in Education Programs or Activities), which is available on the District’s website. The grievance process and procedures specifically address how to report or file a complaint of sex discrimination*

and how the District will respond.

The District Administrator shall also prominently display the Title IX Coordinator's contact information – including Name(s) and/or Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this policy on the District's website and in each handbook or catalog that the District makes available to applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, District employees, and all unions or professional organizations holding collective bargaining or professional agreements.

Grievance Process

The District is committed to promptly and equitably resolving complaints alleging sex discrimination. The District's response to allegations of sex discrimination will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, and following this grievance process before the imposition of any disciplinary sanctions or other actions, other than supportive measures, against the Respondent.

The Title IX Coordinator, along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

If a determination of responsibility for sex discrimination is made against the Respondent, the District will provide remedies to the Complainant. The remedies will be designed to restore or preserve equal access to the District's education program or activity. Potential remedies include, but are not limited to, individualized services that constitute supportive measures. Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

The Process described herein relates exclusively to complaints brought under this policy. The District will continue to handle complaints subject to the District's other nondiscrimination and anti-harassment policies, including: Administrative Rule 507 – Equal Educational Opportunities, 507P(1) – Procedure for Student Discrimination Complaints, Administrative Rule 210 – Equal Employment Opportunities, 210P – Procedure for Employee Equal Employment Opportunity Complaints, and Administrative Rule 286 – Harassment.

Report of Sexual Discrimination/Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's contact information listed above, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Reports may be made at any time (including during non-business hours), by using the telephone number(s) or electronic mail address(es), or by mail to the office address(es), listed for the Title IX Coordinator(s).

Non-confidential employees are required to report allegations of sex discrimination, including sexual harassment, promptly to the Title IX Coordinator. Confidential employees are required to notify individuals of their confidential status if the individual shares information related to sex discrimination and sharing that information with the Title IX Coordinator would violate legally

imposed obligations of confidentiality. Confidential employees should notify the possible complainant of the contact information of the Title IX Coordinator, how to make a complaint, and how the Title IX Coordinator could offer supportive measures.

Reports can be made orally or in writing and should be as specific as possible. The person making the report should, to the extent known, identify the alleged victim(s), perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s).

If a report involves allegations of sex discrimination by or involving the Title IX Coordinator, the person making the report should submit it to the District Administrator, or another District employee who, in turn, will notify the District Administrator of the report. The District Administrator will then serve in place of the Title IX Coordinator for purposes of addressing that report of sex discrimination.

The District does business with various vendors, contractors, and other third parties who are not students or employees of the Board. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the District retains the right to limit any vendor's, contractor's, or third party's access to school grounds for any reason. The District further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

A person may file criminal charges simultaneously with filing a formal complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

Any allegations of sexual misconduct/sexual activity not involving sexual harassment will be addressed through the procedures outlined in District Administrative Rules, the applicable Student Code of Conduct, or Employee/Administrator Handbook(s).

Because the District is considered to have knowledge of sex discrimination or allegations of sex discrimination if any non-confidential District employee has such knowledge, and because the District must take specific actions when it has notice of sex discrimination or allegations of sex discrimination, a non-confidential District employee who has independent knowledge of or receives a report involving allegations of sex discrimination and/or sexual harassment must notify the Title IX Coordinator within two (2) days of learning the information or receiving the report. The District employee must also comply with mandatory reporting responsibilities pursuant to Wis. Stat. § 48.981 and Rule 521 – Reporting Child Abuse/Neglect, if applicable.

If the District employee's knowledge is based on another individual bringing the information to the District employee's attention and the reporting individual submitted a written or oral complaint to the District employee, the District employee must provide the complaint to the Title IX Coordinator. If a District employee fails to report an incident of sexual harassment of which the District employee is aware, the District employee may be subject to disciplinary action, up to and including termination.

When a report of sex discrimination is made, the Title IX Coordinator shall promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes

with respect to supportive measures and/or informal resolution, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

Emergency Removal: Subject to limitations and/or procedures imposed by state and/or federal law, the District may remove a student Respondent from its education program or activity on an emergency basis after conducting an individualized safety and risk analysis. The purpose of the individualized safety and risk analysis is to determine whether the student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies removal. If the District determines the student Respondent poses such a threat, it will so notify the student Respondent and the student Respondent will have an opportunity to challenge the decision immediately following the removal. In determining whether to impose emergency removal measures, the Title IX Coordinator shall consult related District policies, including but not limited to Rule 504 – Assignment of Students to Schools, Rule 530 – Student Conduct and Discipline, and Rule 540 – Student Suspension/Expulsion.

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements.

For all other Respondents, including other members of the School District community and Third Parties, the District retains broad discretion to prohibit such persons from entering onto its school grounds and other properties at any time and for any reason, whether after receiving a report of sexual harassment or otherwise.

Timeline

The District will seek to conclude the grievance process within ninety (90) calendar days of receipt of the complaint, followed by the appeal process which shall be processed in a timely manner.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility. The timeline, however, may be subject to a temporary delay of the grievance process or a limited extension for good cause with notice to the Complainant and the Respondent of the delay or extension and the reasons for the action, except for any complaint covered by other Administrative Rules, Wis. Stat. § 118.13 and Wis. Admin Code Ch. PI 9. However, an investigation may still proceed as required under this policy. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; and the need for language assistance or an accommodation of disabilities. The Title IX Coordinator will provide the parties with reasonable updates on the status of the grievance process. Upon receipt of a complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

- Notice of the Board's grievance process, including any informal resolution processes;
- Notice of the allegations of misconduct that potentially constitutes sex discrimination as defined in this policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident if known, the conduct allegedly constituting sex discrimination, and the date and location of the alleged incident, if known. The written notice must:
    - include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
    - inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
    - inform the parties of any provision in the Student Code of Conduct, this policy, and/or Employee/Administrator Handbook that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If during the course of the investigation, the Title IX Coordinator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the Title IX Coordinator will decide whether to investigate the additional allegations; if the Title IX Coordinator decides to include the new allegations as part of the investigation, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Dismissal of a Complaint

The District shall investigate the allegations in a complaint unless:

- The District is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the District's education program or activity and is not employed by the District
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the District will make reasonable efforts to clarify the allegations with the complainant.

If one of the preceding circumstances exist, the Title IX Coordinator shall dismiss the formal complaint. If the Title IX Coordinator dismisses the formal complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, District Administrative Rules, and/or Employee/Administrator Handbook.

The Title IX Coordinator may dismiss a complaint, or any allegations therein, if at any time during the investigation:

- a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- the Respondent is no longer enrolled in the District or employed by the District; or
- specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

If the Title IX Coordinator dismisses a formal complaint or allegations therein, the Title IX Coordinator must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.

Consolidation of Complaints

The Title IX Coordinator may consolidate complaints as to allegations of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sex discrimination arise out of the same facts or circumstances.

Where a grievance process involves more than one Complainant or more than one Respondent, references in this policy to the singular ‘‘party,’’ ‘‘Complainant,’’ or ‘‘Respondent’’ include the plural, as applicable.

Informal Resolution Process

Under no circumstances shall a Complainant be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, to waive any right to an investigation and adjudication of a complaint of sex discrimination. Similarly, no party shall be required to participate in an informal resolution process.

The Title IX Coordinator may offer to the parties an informal resolution process. If the parties mutually agree to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may be used at any time prior to resolving a complaint.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process.

During the pendency of the informal resolution process, the investigation and adjudication processes that would otherwise occur are stayed and all related deadlines are suspended.

The informal resolution process is not available to resolve allegations that include a student complainant and an employee respondent.

Investigation

In conducting the investigation of a complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility is on the District, not the parties.

In making the determination of responsibility, the Title IX Coordinator is directed to use the preponderance of the evidence standard. The Title IX Coordinator is charged with considering the totality of all available evidence, from all relevant sources.

The District is not permitted to access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the party provides the District with voluntary, consent to do so; if a student party is not an eligible student, the District must obtain the voluntary, consent of a parent.

Similarly, the Title IX Coordinator may not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege in writing.

As part of the investigation, the parties have the right to:

- present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The District may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

The District establishes the following restrictions, which apply equally to both parties, regarding the extent to which an advisor may participate in the proceedings: the advisor may observe the grievance proceedings, but may not take any action that impairs the ability to investigate the complaint.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, Title IX Coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least ten (10) days to submit a written response, which the Title IX Coordinator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the Title IX Coordinator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party's advisor, if any, for their review and written response.

Determination of Responsibility

After the Title IX Coordinator sends the investigative report to the parties, they will afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The Title IX Coordinator must explain to the party proposing the question of any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

***Written Determination*:** The Title IX Coordinator will issue a written determination regarding responsibility. To reach this determination, the Title IX Coordinator must apply the preponderance of the evidence standard.

The written determination will include the following content:

- Identification of the allegations potentially constituting sex discrimination pursuant to this policy;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.
- Findings of fact supporting the determination;
- Conclusions regarding the application of the applicable code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the Title IX Coordinator is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District's education program or activity should be provided by the District to the Complainant(s); and
- The procedures and permissible bases for the Complainant(s) and Respondent(s) to appeal.

Informal or formal disciplinary sanctions/consequences may be imposed on a student Respondent who is determined responsible for violating this policy (i.e., engaging in sexual harassment).

If the Title IX Coordinator determines the student Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the Title IX Coordinator will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Rule 504 – Assignment of Students to Schools, Rule 530 – Student Conduct and Discipline, and Rule 540 – Student Suspension/Expulsion. The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

Disciplinary sanctions/consequences may be imposed on an employee Respondent who is

determined responsible for violating this policy including but not limited to (i.e., engaging in Sexual Harassment):

- oral or written warning;
- written reprimands;
- performance improvement plan;
- required counseling;
- required training or education;
- demotion;
- suspension with pay;
- suspension without pay;
- termination, and any other sanction authorized by any applicable Employee/Administrator Handbook.

If the Title IX Coordinator determines the employee Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the Title IX Coordinator will recommend appropriate remedies, including disciplinary sanctions/consequences. The Title IX Coordinator will notify the District Administrator and/or Director of Human Resources of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable due process procedures, whether statutory or contractual.

The discipline of an employee will be implemented in accordance with federal and state law, and District policy.

The following disciplinary sanctions/consequences may be imposed on a non-student/non-employee member of the School District community or Third Party determined responsible for violating this policy (i.e., engaging in sexual harassment):

- oral or written warning;
- suspension or termination/cancellation of the District's contract with the third-party vendor or contractor;
- mandatory monitoring of the third-party while on school property and/or while working/interacting with students;
- restriction/prohibition on the third-party's ability to be on school property; and
- any combination of the same.

If the Title IX Coordinator determines the third-party Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including the imposition of sanctions. The Title IX Coordinator will notify the District Administrator of the recommended remedies, so appropriate action can be taken.

The Title IX Coordinator will provide the written determination to the parties simultaneously.

In ultimately imposing a disciplinary sanction/consequence, the District Administrator or designee will consider the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.

The District's resolution of a complaint ordinarily will not be impacted by the fact that criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

At any point in the grievance process and procedures, the District may involve local law enforcement and/or file criminal charges related to allegations of sexual harassment that involve a sexual assault.

The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appeal

Both parties have the right to file an appeal from a determination regarding responsibility or from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, on the following bases:

- Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures).
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The Title IX Coordinator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant(s) or Respondent(s) that affected the outcome of the matter.
- The recommended remedies (including disciplinary sanctions/consequences) are unreasonable in light of the findings of fact (i.e., the nature and severity of the sex discrimination).

Any party wishing to appeal the Title IX Coordinator's determination of responsibility, or the Title IX Coordinator's dismissal of a formal complaint or any allegations therein, must submit a written appeal to the Title IX Coordinator within five (5) days after receipt of the determination of responsibility or the Title IX Coordinator's dismissal of a complaint or any allegations therein.

Nothing herein shall prevent the District Administrator from imposing any remedy, including disciplinary sanction, while the appeal is pending.

As to all appeals, the Title IX Coordinator will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

The decision-maker for the appeal shall not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal. The decision-maker(s) for the appeal shall not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant(s) or Respondent(s) and shall receive the same training as the Title IX Coordinator.

Both parties shall have a reasonable, equal opportunity to submit a written statement in support of,

or challenging, the outcome.

The parties' written statements in support of, or challenging, the determination of responsibility must be submitted within five (5) days after the Title IX Coordinator provides notice to the non-appealing party of the appeal.

The decision-maker(s) for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result. The original decision-maker's(s') determination of responsibility will stand if the appeal request is not filed in a timely manner or the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination. The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties. The written decision will be issued within five (5) days of when the parties' written statements were submitted.

The determination of responsibility associated with a complaint, including any recommendations for remedies/disciplinary sanctions, becomes final when the time for filing an appeal has passed or, if an appeal is filed, at the point when the decision-maker(s) for the appeal's decision is delivered to the Complainant and the Respondent. No further review beyond the appeal is permitted.

Retaliation

Neither the District nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, constitutes retaliation. Retaliation against a person for making a report of sex discrimination, filing a complaint, or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed according to the grievance procedures set forth above.

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy shall not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex

discrimination, any Respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA's regulations, and state law under Wis. Stat. § 118.12, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder (i.e., the District's obligation to maintain confidentiality shall not impair or otherwise affect the Complainant's and Respondent's receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility).

Application of the First Amendment

The District will construe and apply this policy consistent with the First Amendment to the U.S. Constitution. In no case will a Respondent be found to have committed sexual harassment based on expressive conduct that is protected by the First Amendment.

Training

The District's Title IX Coordinator, other decision-maker(s), or person(s) designated to facilitate an informal resolution process, must receive training on:

- the definition of sexual harassment as that term is used in this policy;
- the scope of the District's education program or activity;
- how to conduct an investigation and implement the grievance process, appeals and informal resolution processes, as applicable; and
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All District employees must be trained concerning their legal obligation to report sex discrimination to the Title IX Coordinator. This training will include practical information about how to identify and report sexual harassment.

Recordkeeping

As part of its response to alleged violations of this policy, the District shall create, and maintain for a period of seven (7) calendar years, records of any actions, including any supportive measures, taken in response to a report or complaint of sex discrimination. In each instance, the District shall document the basis for its conclusion and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If the District does not provide a Complainant with supportive measures, then the District will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

The District shall maintain for a period of seven (7) calendar years the following records pursuant to Wis. Stat. § 19.21(6):

- Each sex discrimination investigation including any determination regarding responsibility, any disciplinary sanctions recommended and/or imposed on the Respondent(s), and any remedies provided to the Complainant(s) designed to restore or preserve equal access to the District's education program or activity;

- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

The District will make the training materials available upon request for inspection by members of the public.

Outside Appointments, Dual Appointments, and Delegations

The District retains the discretion to appoint suitably qualified persons who are not District employees to fulfill any function of the District under this policy, including, but not limited to, Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The District also retains the discretion to appoint two (2) or more persons to jointly fulfill the role of Title IX Coordinator, investigator, decision-maker, decision-maker for appeals, facilitator of informal resolution processes, and advisor.

The District Administrator may delegate functions assigned to a specific District employee under this policy, including but not limited to the functions assigned to the Title IX Coordinator, decision-maker for appeals, facilitator of informal resolution processes, and advisor, to any suitably qualified individual and such delegation, may be rescinded by the District Administrator at any time.

Discretion in Application

The District retains the discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the District's interpretation or application differs from the interpretation of any specific Complainant and/or Respondent.

Despite the District's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the District retains the discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy are not contractual in nature, whether in their own right or as part of any other express or implied contract. Accordingly, the District retains the discretion to revise this policy at any time, and for any reason. The District may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

LEGAL REF.: Sections 19.21(6) Wisconsin Statutes
118.25
120.13
948.02
20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972
20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEA)
42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964
42 U.S.C. 2000d et seq.
42 U.S.C. 2000e et seq.
42 U.S.C. 1983
34 C.F.R. Part 106
20 U.S.C. 1092(F)(6)(A)(v)
34 U.S.C. 12291(a)(10)
34 U.S.C. 12291(a)(8)
34 U.S.C. 12291(a)(30) OCR's Revised Sexual Harassment Guidance (2001)

CROSS REF.: Rule 418 - Social-Emotional Learning and Well-Being
Rule 471 - Student Internet Safety/Appropriate Use
Rule 500 - School Admissions
Rule 504 - Assignment of Students to Schools
Rule 507 - Equal Educational Opportunities
Rule 507P(1) - Procedures for Student Discrimination Complaints
Rule 507P(2) - Procedure for Non-Discrimination Related to Transgender and Nonconforming to Gender Role Stereotypes
Rule 530 - Student Conduct and Discipline
Rule 531 - Classroom Code of Conduct