

*Kenosha Unified School District  
School Board Policies  
Kenosha, Wisconsin  
Rules and Regulations*

POLICY 4111  
EMPLOYEE ANTI-HARASSMENT

The Kenosha Unified School District seeks to provide fair and equal employment opportunities and to maintain a professional work and academic environment comprised of people who respect one another and who believe in the district's high ideals. Harassment is a form of misconduct that undermines the integrity of the District's employment and academic relationships. All employees and students must be allowed to work and learn in an environment that is free from intimidation and harassment.

All new staff members will receive a copy of the employee anti-harassment policy and other anti-harassment educational information as a part of the initial employment process and at other times as appropriate and necessary.

Harassment or similar unacceptable activities based on a person's membership in a protected class that could become a condition of employment or a basis for personnel decisions, or which create a hostile, intimidating or offensive environment are specifically prohibited by the district. The District will vigorously enforce its prohibition against discriminatory harassment based on race, color, national origin or undocumented/immigration status (including limited English proficiency), marital or parental status, sexual orientation, transgender status, gender expression, gender identity and gender nonconformity (see, Policy 5110.2), physical, mental, emotional or learning disability and social, economic or family status, pregnancy, creed or religion, age, sex, genetic information or disability. Intimidation and harassment can arise from a broad range of physical, or verbal or non-verbal behaviors for the purpose of creating an intimidating, hostile or offensive work or educational environment. This may occur staff to staff, student to staff, or staff to student, regardless of the individuals' genders. This may also include non-employees, such as school board members, outside contractors or members of the community (e.g., speakers/presenters, participants on opposing athletic teams, parents/guardians, etc.).

Behaviors may include but are not limited to the following:

- physical, sexual or mental abuse;
- offensive, threatening or derogatory comments to any person, either directly or indirectly, based on the person's membership in any protected class;
- insults or slurs based upon a person's real or perceived legally protected characteristics including age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer's premises during nonworking hours, declining to attend

a meeting or to participate in any communication about religious matters or political matters, transgender status, gender expression, gender identity and gender nonconformity or any other basis protected by law;

- unwelcome sexual advances, propositions, invitations, solicitations and flirtations;
- kissing, patting, pinching, touching, or other unwelcome physical contact;
- harassing behavior toward a subordinate staff member, regardless of whether such conduct creates a hostile work environment;
- demands for sexual favors, accompanied by implied or overt promises of preferential treatment and/or threats that concerning an individual's employment or academic status may be adversely affected;
- consensual sexual relationships that lead to favoritism of a subordinate staff member with whom the superior is sexually involved and where such favoritism results in an adverse employment action for another staff member or otherwise creates a hostile work environment;
- sexual comments about a person's body/dress/appearance, jokes or, innuendos, sexually degrading language, unwelcome suggestive or insulting sounds or whistles;
- display of sexually offensive materials, objects, literature, audio recordings or videos in the work or educational environment that are not curriculum related;
- sex-oriented name-calling or bullying;
- inappropriate staring at another individual or touching of their clothing, hair, or body;
- asking personal questions about another individual's sex life or sharing remarks about one's own sexual activities or sexual history;
- repeatedly asking out any person who has stated that they are not interested;
- obscene telephone calls, text messages, or social media postings;
- communicating with students and/or parents/guardians via email, text message, websites, social media, or visiting their home for non-educational purposes;
- giving gifts, money, or showing preferential treatment to students for no legitimate educational purpose;
- showing or watching pornography in the work or educational environment;
- inappropriate boundary invasions of personal space or personal life; and
- non-sexual questions or comments about a person's body, genitals or anatomy.

Romantic or sexual relationships between staff members and students are prohibited. Any staff member who engages in sexual conduct with a student may also be guilty of a crime and any information regarding such instances will be reported to law enforcement.

Sexual relationships between staff members, where one has supervisory responsibilities over the other, are firmly discouraged as they are suspect. Such relationships have an inherent possibility of being construed as sexual harassment because the consensual aspect of the relationship may be the result of implicit or explicit duress caused by uncertainty regarding consequences of non-compliance.

These activities are offensive and are inappropriate in a school atmosphere and in the workplace. This is a serious issue not just for the District but also for each individual in the District. It is the responsibility of the administration and all staff members to ensure that these prohibited activities do not occur. A staff member or supervisor may be held individually liable as a harasser and subject to the same penalties that may be imposed upon employers under state or federal law.

Any staff member who engages in harassment or similar unacceptable behavior or retaliates against another individual because the individual made a report of such behavior or participated in an investigation of a claim of harassment or similar unacceptable behavior, is subject to immediate discipline, up to and including termination. Any staff member who witnesses or otherwise becomes aware of harassment or similar unacceptable behavior has an affirmative duty to report said conduct to their supervisor, or to the administration.

Any person who believes that he or she has been the subject of prohibited harassment or similar unacceptable behavior or retaliation should report the matter immediately to the Office of Human Resources or the Superintendent or their designee. All such reports will be investigated promptly and will be kept confidential within the bounds of the investigation and the law. Staff members are prohibited from knowingly making false statements or knowingly submitting false information to any report, complaint, investigation, or informal or formal resolution process undertaken in relation to acts of harassment.

## GENERAL PROVISIONS

The following shall apply to all procedures contained in this Rule.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, or harassment based on one or more of the other protected characteristics.

“Complaint officer” shall be responsible for organizing any informal resolution process, facilitating any investigation, and/or following the formal grievance process needed in response to a harassment complaint, including designating the investigator(s), if different from the complaint officer.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, or harassment based on one or more of the other protected characteristics.

“Title IX Coordinator” means the designated individual who shall be responsible for implementing and facilitating compliance with the Title VII and Title IX sexual harassment laws and guidelines and shall also be the designated recipient of reports concerning sexual harassment. The Title IX Coordinator shall designate the complaint officer for sexual harassment complaints.

The Chief Human Resource Officer (CHRO) shall be designated as the Title IX Coordinator. Contact information for the Title IX Coordinator shall be provided in staff and student handbooks as well as on the District's website. The District shall also provide students, parents/legal guardians, staff members, unions, and the District's vendors with notice of the Title IX Coordinator's contact information.

Other Available Remedies:

Nothing in these procedures shall preclude persons from filing a complaint directly, or on appeal, with designated agencies as authorized by state and federal laws (e.g., U.S. Office of Civil Rights, Equal Rights Division of the Department of Workforce Development, or the U.S. Equal Employment Opportunity Commission) and/or with courts having proper jurisdiction.

Maintenance of Records:

Staff members shall be informed of the District's employee anti-harassment policy annually. The policy will be posted on the District's website. The District's Title IX Coordinator shall be responsible for ensuring that the District maintains adequate records of complaints filed under the District's employee anti-harassment and sexual harassment complaint procedures and for directing the timely preparation of annual or other reports and evaluations regarding nondiscrimination initiatives and compliance that the District is required to conduct and/or provide to the Department of Public Instruction.

HARASSMENT - General

"Harassment" means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against an employee based on one or more of the student's protected characteristics that:

- A. Places a person in reasonable fear of harm to their person or damage to their property;
- B. Has the effect of substantially interfering with a person's performance, opportunities, or benefits; or
- C. Has the effect of substantially disrupting the orderly operation of a school.

"Protected Characteristics" means a person's age, race, color, national origin or undocumented/immigration status (including limited English proficiency), ancestry, religion, creed, pregnancy, marital status, parental status, sexual orientation, transgender status, physical, mental, emotional or learning disability, genetic information, and social, economic or family status.

Harassment on the basis of sex is governed by Title VII and Title IX and requires additional procedures set forth in the Sexual Harassment section of this Rule.

Complaint:

All incidents of harassment should be reported to the Chief Human Resources Officer (CHRO), verbally or in writing. Any person may report such incidents to the CHRO in person, by mail, electronic mail, electronic submission or by using the contact information provided. All staff members and school officials who observe incidents of harassment shall report such incidents. If the incident involves the CHRO, the report should be made to the District Superintendent.

Due to the sensitivity surrounding a complaint of harassment, timelines are flexible; however, every effort should be made to file the complaint within thirty (30) calendar days of the conduct occurring.

To begin the formal complaint process, the complainant shall present in writing the specific nature of the alleged harassment and corresponding date; names of those who may have witnessed the alleged harassment; and, the name, address and phone number of the complainant. Upon receipt of a harassment complaint, the CHRO or their designee shall be the complaint officer. If the report involves the CHRO, the Superintendent or their designee shall be the complaint officer. The complaint may be dictated to the complaint officer and signed by the complainant upon review of the written complaint. The complaint officer shall acknowledge in writing the receipt of the complaint. The complainant's wishes with respect to whether the District investigates reported conduct will be respected subject to applicable law.

Informal Resolution Process:

The District will allow the parties to attempt a resolution of a complaint on an informal basis that does not involve a full investigation or determination of responsibility. Both parties must provide voluntary, informed, written consent to attempt informal resolution. Prior to agreeing to a resolution, either party may withdraw from the informal resolution process and resume the formal grievance process with respect to the complaint.

If the parties provide written consent to the informal resolution process, the complaint officer or their designee will facilitate a meeting between the parties. If the parties resolve the matter, the complaint officer or their designee shall prepare a written statement outlining the resolution. If no resolution is reached, the complaint officer will proceed with an investigation of the allegations contained in the complaint.

Investigation:

The complaint officer or their designee shall thoroughly and impartially investigate the harassment complaint. Investigators may be staff members or independent contractors.

The complaint officer shall notify the respondent that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of the employee anti-harassment policy and this rule shall be provided to the respondent at that time. The respondent will also be notified of the opportunity to submit a written statement.

Although certain cases may require additional time, the complaint officer will attempt to complete an investigation into the allegations of harassment within a reasonably prompt time frame, not to exceed 30 days. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the complaint officer; and,
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the complaint officer.

At the conclusion of the investigation, the complaint officer shall prepare and deliver a written report to the Superintendent that summarizes the relevant evidence gathered during the investigation and provides recommendations based on the evidence and the definition of harassment as provided in this policy and State and Federal law as to whether the complainant has been subjected to harassment. The complaint officer may consult with the school board attorney before finalizing the report to the Superintendent.

If a complainant believes that there is undue delay, they may notify the CHRO or designee and ask for clarification as to when the investigation will be completed.

#### Dismissal:

If, after notice and an investigation, the complaint officer uncovers information that could or must result in dismissal of the formal complaint, the complaint officer shall provide that information to the Superintendent. The Superintendent must dismiss any formal complaint or allegation therein if:

- the alleged conduct does not constitute harassment, or
- the alleged conduct did not occur against a person in the United States.

The Superintendent may also dismiss a complaint or allegation therein if:

- the complainant informs the CHRO or designee in writing that the complainant desires to withdraw the formal complaint or allegation therein, or
- specific circumstances prevent the District from gathering evidence to reach a determination.

The Superintendent shall provide notice to both parties of any dismissal and the reasons for the dismissal. Notwithstanding the dismissal of a complaint, the District may take any action in response to alleged misconduct under the District's code of conduct policy or other applicable policy.

Supportive measures:

The complaint officer shall consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation, including a change of work assignment or schedule for the complainant and/or respondent.

Interim Measures:

If, upon an analysis of the allegations, the safety issues, and other risks involved, the complaint officer determines that the allegations raise an immediate threat to the physical health or safety of any individual, the District may take emergency action during the investigation period, including removal of the respondent from an education program or activity, or the placement of the respondent on administrative leave if the respondent is a staff member. Such emergency action may not be made without prior notice to the respondent and an opportunity to challenge the decision immediately following the action.

Decisions:

Upon receipt and review of the investigative report, the Superintendent shall make a written determination as to whether the harassment allegations are substantiated by the facts and evidence. A copy of the written decision shall be provided to both parties. The decision of the Superintendent shall be final, subject to the appeal process set forth below.

Sanctions:

Any remedial action shall be aimed at stopping the alleged harassment and may include discipline of the respondent, up to and including termination of their employment.

Confidentiality:

The District will respect a complainant's request for confidentiality or request not to pursue an investigation, subject to applicable law, and 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. Any non-party interviewed as part of the investigation is expected to maintain confidentiality and is expected not to disclose any information they learn during the course of the investigation.

Retaliation:

There shall be no retaliation against any person targeted by harassment or any person who reports an alleged act of harassment, nor against any person who participates in the investigation. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The District will take appropriate action against any staff member who engages in retaliatory behavior.

Appeal:

If the investigation results in disciplinary action, the staff member subject to discipline is entitled to file a grievance pursuant to Board Policy 4271.

If the complainant is unsatisfied with the disposition of the complaint, the complainant may take further action with the Office of Civil Rights, the U.S. Equal Employment Opportunity Commission, the ERD or the Department of Public Instruction, as appropriate.

SEXUAL HARASSMENT

Definitions

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it adversely affects one’s employment or effectively denies a person equal access to the District’s education program or activity; or
- (3) “Sexual assault”, “dating violence”, “domestic violence”, or “stalking” as defined by relevant federal law.

“Supportive measures” means individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to protect safety or deter sexual harassment.

Complaints

Staff who believe they have been sexually harassed by another District staff member or a non-employee are entitled to use the informal and/or formal complaint processes outlined below. Initiating a complaint will not adversely affect employment unless the complainant does so



maliciously or with knowledge that it is false. The Title IX Coordinator or their designee shall be the complaint officer and is responsible for responding to harassment complaints. If a complaint involves the Title IX Coordinator, the Superintendent or their designee shall be the complaint officer for that complaint and will be responsible for responding to the harassment claim. The complaint officer or their designee shall be responsible for investigating formal complaints. Investigator(s) may be District staff members or independent contractors. Due to the sensitivity surrounding a complaint of sexual harassment, timelines are flexible; however, every effort should be made to file the complaint within thirty (30) calendar days of the conduct occurring.

Sexual harassment may be reported to the Title IX Coordinator by the complainant or by any third party with knowledge of the alleged conduct that constitutes sexual harassment. Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without filing a formal complaint, and explain to the complainant the process for filing a formal complaint.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, electronic mail, electronic submission, or by using the provided contact information. The complainant shall state the specific nature of the harassment and corresponding date; names of those who may have witnessed the alleged harassment; and the name, address and phone number of the complainant. An oral complaint may be dictated to the Title IX Coordinator and signed by the complainant upon review of the written complaint, or signed by the Title IX Coordinator.

The District will allow a complainant the opportunity to resolve discrimination or harassment complaint on an informal basis, if the complainant asks to do so. Upon such request by the complainant, the supervisor (or person designated by the Superintendent if no supervisor is available) will facilitate a meeting between the complainant and the alleged harasser/discriminator. If the parties resolve the matter, the supervisor shall prepare a written statement outlining the resolution. If the complainant is not satisfied with the outcome of the meeting, the supervisor must notify the Title IX Coordinator of the informal review so the Title IX Coordinator may formally investigate the complaint.

To begin the formal complaint process, the complainant shall present in writing the specific nature of the harassment and corresponding date; names of those who may have witnessed the alleged harassment, and the name, address and phone number of the complainant. The complaint may be dictated to the complaint officer and signed by the complainant upon review of the written complaint. The complaint officer shall acknowledge in writing the receipt of the complaint.

Supportive Measures:

The Title IX Coordinator shall coordinate and implement supportive measures for the complainant and the respondent designed to ensure equal access to the District's education programs and activities, protect the safety of all parties, protect the district's educational environment, and/or deter sexual harassment. Such measures may include, but are not limited to, counseling the parties involved, modifying schedules, providing escort services on campus, mutually restricting contact between the parties, changing work locations, providing leaves of absence, increasing security or monitoring of appropriate campus locations, and similar measures. Any supportive measures provided shall be confidential except where such confidentiality would impair the District's ability to provide such measures.

The complaint officer shall consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation, including a change of work assignment or schedule for the complainant and/or harasser. Such supportive measures may be taken on a temporary basis at any point after a report of harassment has been made. No temporary changes shall be disciplinary to either the complainant or the respondent. No disciplinary sanctions may be taken against the respondent of a formal complaint before concluding an informal resolution process or the formal grievance process, except that interim measures may be taken as allowed by this Rule.

Interim Measures:

If, upon an analysis of the allegations, the safety issues, and other risks involved, the complaint officer determines that the allegations raise an immediate threat to the physical health or safety of any individual, the District may take emergency action during the investigation period, including removal of the respondent from an education program or activity, or the placement of the respondent on administrative leave if the respondent is a staff member. Such emergency action may not be made without prior notice to the respondent and an opportunity to challenge the decision immediately following the action.

Notice:

Upon the filing of a complaint, the complaint officer shall provide written notice of the complaint to the complainant and the respondent that provides the respondent sufficient time to prepare a response and includes a description of the allegations including, to the extent known, the identity of the parties involved, the alleged conduct, and the date and location of the alleged incident.

The following shall apply during the investigation and shall be included in the written notice to the parties:

- the respondent is presumed not responsible for the alleged conduct and a determination of responsibility is made at the conclusion of the grievance process;

- each party may have an advisor of their choice, who may but is not required to be an attorney;
- the District shall provide each party, and their advisors, if applicable, with any evidence directly related to the allegations, in electronic format or hard copy, and provide at least ten (10) days for the parties to inspect, review, and respond to the evidence; and
- every person is prohibited from knowingly making false statements or knowingly submitting false information during the grievance process.

The complaint officer, within a reasonable period of time, shall thoroughly investigate the complaint and take all reasonable steps necessary to ensure that any allegations of sexual harassment are promptly remedied and that no district staff members are subject to workplace harassment in violation of this policy. This will include an interview with the complainant, respondent, any witnesses who may reasonably be expected to have relevant information, and consideration of documentation or other evidence presented by the complainant, respondent or witnesses. Notices shall be provided to both parties prior to holding any interviews, meetings or hearings during the investigation. The burden of gathering evidence and the burden of proving the allegations in the complaint rests at all times with the District. Both parties shall have an equal opportunity to present facts, expert and lay witnesses, and other evidence. During the investigation, no restrictions may be placed on either party regarding discussing the formal complaint, the allegations, or the investigation with others. However, no person may intimidate, coerce or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation or proceeding under this Rule. The District will respect the privacy of all involved in a manner consistent with legal obligations under state and federal law but cannot guarantee confidentiality. The Title IX Coordinator, complaint officer, investigators, and decision-makers shall all be free from bias or conflicts of interest in responding to, investigating, dismissing and making determinations regarding the allegations contained in formal complaints.

All complaints shall be investigated within 30 days. This deadline may be extended for good cause, but it will always be completed in a timely manner without any undue delay. If a complainant believes that there is undue delay, they may notify the Title IX Coordinator and ask for clarification as to when the investigation will be completed.

Any non-party interviewed as part of the investigation is expected to maintain confidentiality and is expected not to disclose any information they learn during the course of the investigation.

The complaint officer and/or investigator shall provide both parties with all facts, witness testimony and other evidence collected in either electronic or hard copy format. The parties shall have ten (10) calendar days to inspect, review and respond to the evidence. After receiving the parties' responses, if any, the complaint officer and/or investigator shall prepare an investigative report that fairly summarizes all relevant facts and evidence, and provides a recommendation regarding responsibility for the allegations.

Decisions:

A copy of the investigative report shall be provided to each party and to the decision-maker, who shall be the Superintendent. If the Superintendent is acting as the complaint officer, the Superintendent shall designate another person as the decision-maker.

Prior to reaching a determination regarding responsibility for the allegations in the formal complaint, and at least ten (10) calendar days after a copy of the investigative report has been provided to each party, both parties shall have an opportunity to submit written, relevant questions to the decision-maker that a party wants asked of any party or witness. The decision-maker shall obtain responses to any appropriate/relevant questions from the appropriate party or witness. Answers to submitted questions shall be provided to each party and additional time will be provided for limited follow-up questions from each party. Pursuant to the rape shield protections provided under relevant law, questions and evidence regarding a complainant's prior sexual behavior shall be deemed irrelevant at all times during the formal grievance process unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

The decision-maker shall review the investigative report and any additional facts uncovered through the parties' questions under a preponderance of the evidence standard. Under the preponderance of the evidence standard, the evidence submitted must show that it is more likely than not that the alleged conduct occurred and more likely than not that the respondent is responsible. The decision-maker may consult with legal counsel prior to issuing a final decision.

The decision-maker shall issue a written decision regarding responsibility for the alleged conduct contained in the formal complaint that includes findings of fact, conclusions about whether the alleged conduct occurred, the rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and any supportive measures that will be provided to the complainant. The decision-maker shall provide the parties with the written decision simultaneously along with information about how to file an appeal. Any remedial action will be aimed at stopping the alleged harassment and may include discipline of the respondent, up to and including termination of their employment.

Dismissals:

If, after notice and an investigation, the complaint officer uncovers information that could or must result in dismissal of the formal complaint, the complaint officer shall provide that information to the decision-maker. The decision-maker must dismiss any formal complaint or allegation therein if:

- the alleged conduct does not constitute sexual harassment, or
- the alleged conduct did not occur against a person in the United States.

The decision-maker may also dismiss a formal complaint or allegation therein if:

- the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegation therein, or
- specific circumstances prevent the District from gathering evidence to reach a determination.

The decision-maker shall provide notice to both parties of any dismissal and the reasons for the dismissal. Notwithstanding the dismissal of a formal complaint for purposes of Title IX, the District may take any action in response to alleged misconduct under the District's code of conduct policy or other applicable policy.

#### Appeals:

If the decision of the decision-maker results in disciplinary action, the staff member subject to discipline is entitled to file a grievance pursuant to Policy 4271.

Either party may appeal the dismissal of a formal complaint or the determination regarding responsibility for allegations in a formal complaint by writing to the Title IX Coordinator. An appeal may be filed for one or more of the following reasons:

- a procedural irregularity that affected the outcome of the matter,
- new evidence that was not reasonably available at the time the dismissal or determination regarding responsibility was made that could affect the outcome of the matter, or
- a conflict of interest or bias existed on the part of the Title IX Coordinator, the investigator, or decision-maker that affected the outcome of the matter.

If an appeal is filed, the District shall provide written notice of the appeal to both parties and an equal opportunity for both parties to submit a written statement supporting or challenging the decision being appealed. The school board shall be the decision-maker on all appeals. A written decision of the appeal shall be provided simultaneously to both parties within 30 days and shall state the rationale for the decision.

Nothing in these procedures shall preclude persons from filing a complaint directly, or on appeal, with designated agencies as authorized by state and federal laws (e.g., U.S. Office of Civil Rights, Equal Rights Division of the Department of Workforce Development, U.S. Equal Employment Opportunity Commission) and/or with courts having proper jurisdiction.

Training:

The District shall provide training for all staff members on identifying and reporting sexual harassment. Additional training on sexual harassment investigations, grievance processes and appeals shall be provided to the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. Records of all training materials shall be maintained for seven (7) years and be made available to the public on the District's website.

Recordkeeping:

The District shall maintain records of all sexual harassment complaints, investigations, and actions, as well as any supportive measures taken. Such records shall include all material required under relevant law and be maintained for seven (7) years.

LEGAL REF: Wisconsin Statutes

Sections 111.31-111.395 (Fair employment standards – employment discrimination)

118.195 (Handicapped teacher discrimination)

118.20 (teacher discrimination, including sexual harassment).

Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (Race, color, national origin discrimination; general employment discrimination)

Title IX, Education Amendments of 1972 (Sex discrimination)

Section 504, Rehabilitation Act of 1973 (Handicap discrimination)

Age Discrimination Act of 1975 (Age discrimination)

Age Discrimination in Employment Act of 1967 (Age discrimination)

Pregnancy Discrimination Act (Pregnancy, childbirth or related medical conditions discrimination)

Immigration Control and Reform Act of 1986 (Citizenship discrimination)

Americans with Disabilities Act of 1990, as amended by the ADA (Disability discrimination)

Civil Rights Act of 1991 (Penalties for discrimination law violations)

Equal Employment Opportunities Commission Guidelines (29 C.F.R. – Part 1604.11) (Employee sexual harassment)

CROSS REF.: 4110 Equal Employment Opportunity and Affirmative Action Employee Handbook

ADMINISTRATIVE REGULATIONS: None

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October 28, 2014

August 28, 2018

RULE 4111  
ANTI-HARASSMENT

## **POLICY 5110.1**

### **STUDENT EQUAL OPPORTUNITY, NON DISCRIMINATION AND ANTI- HARASSMENT**

No student may be denied admission to, be denied participation in, be denied the benefits of, or be discriminated against in any curricular, extracurricular, student services, recreational or other program or activity because of the student's sex, race, ancestry, creed, religion, color, pregnancy, marital or parental status, sexual orientation, national origin or undocumented/immigration status (including limited English proficiency), marital or parental status, transgender status, (including gender expression, gender identity and gender nonconformity (see, Policy 5110.2), social, economic or family status or physical, mental, emotional or learning disability or handicap in accordance with Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972 and Sections 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. Harassment on any of these bases is also prohibited. Decisions relative to classes or activities based on a student's individual performance or needs is not considered to be discriminatory.

Pursuant to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, students with disabilities shall not be discriminated against on the basis of their disability and they shall be provided with a free appropriate public education regardless of the nature or severity of their disability. Students may be considered disabled under this policy even if they are not covered under the District's special education policies and procedures.

Students with disabilities may also require reasonable accommodations. Requests for accommodations shall be made in writing and approved by the building principal after consultation with Administration. Accommodations may include, but not necessarily be limited to, exclusion from participation in an activity, alternative assignments, and make up opportunities for coursework missed due to religious observances. Any accommodations granted under this policy shall be provided to students without prejudicial effect.

The District encourages informal resolution of complaints under this policy. A formal complaint procedure shall also be available to address allegations of violations that cannot be resolved informally.

Annually, the District shall provide public notice of this policy, the name and address of the designated employee to receive complaints and the complaint procedures. Student nondiscrimination statements shall also be included in staff and student handbooks, course selection handbooks and other published materials distributed to the public describing school activities and opportunities. This policy and its complaint procedure shall be published annually through the student information system or through direct email publication.

Any complaint regarding the interpretation or application of the District's student nondiscrimination- related policies shall be processed in accordance with the following procedures.



PLEASE NOTE:

Discrimination complaints involving federal law violations (sex, race, color, national origin, handicap or disability) may be made directly at any time to the U.S. Office for Civil Rights - Region V, 401 South State Street, Chicago IL 60605-1292 and a student is not obligated to follow these complaint procedures for such complaints.

GENERAL PROVISIONS

The following shall apply to all procedures contained in this Rule.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute discrimination, sexual harassment, or harassment based on one or more of the other protected characteristics.

“Complaint officer” shall be responsible for organizing any informal resolution process, facilitating any investigation, and/or following the formal grievance process needed in response to a harassment complaint, including designating the investigator(s), if different from the complaint officer.

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute discrimination, sexual harassment, or harassment based on one or more of the other protected characteristics.

“Title IX Coordinator” means the designated individual who shall be responsible for implementing and facilitating compliance with Title IX sexual harassment laws and guidelines and shall also be the designated recipient of reports concerning sexual harassment. The Title IX Coordinator shall designate the complaint officer for sexual harassment complaints.

The Chief Human Resource Officer (CHRO) shall be designated as the Title IX Coordinator. Contact information for the Title IX Coordinator shall be provided in staff and student handbooks as well as on the District’s website. The District shall also provide students, parents/legal guardians, and staff members with notice of the Title IX Coordinator’s contact information.

Maintenance of Records:

Students shall be informed of the District’s non-discrimination and anti-harassment policy annually. The policy will be posted on the District’s website. The District’s Title IX Coordinator shall be responsible for ensuring that the District maintains adequate records of complaints filed under the District’s employee anti-harassment and sexual harassment complaint procedures and for directing the timely preparation of annual or other reports and evaluations regarding

nondiscrimination initiatives and compliance that the District is required to conduct and/or provide to the Department of Public Instruction.

### DISCRIMINATION - General

“Discrimination” means to be treated differently on the basis of one’s protected characteristics of the failure to accommodate one’s disability.

“Harassment” means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student based on one or more of the student’s protected characteristics that:

- A. Places a person in reasonable fear of harm to their person or damage to their property;
- B. Has the effect of substantially interfering with a person’s performance, opportunities, or benefits; or
- C. Has the effect of substantially disrupting the orderly operation of a school.

“Protected Characteristics” means a person’s age, race, color, national origin or undocumented/immigration status (including limited English proficiency), ancestry, religion, creed, pregnancy, marital status, parental status, sexual orientation, transgender status, physical, mental, emotional or learning disability, genetic information, and social, economic or family status.

Harassment on the basis of sex is governed by Title IX and requires additional procedures set forth in the Sexual Harassment section of this Rule.

### Complaint:

All incidents of discrimination or harassment should be reported to the Chief Human Resources Officer (CHRO), verbally or in writing. Any person may report such incidents to the CHRO in person, by mail, electronic mail, electronic submission or by using the contact information provided. All staff members and school officials who observe incidents of harassment shall report such incidents. If the incident involves the CHRO, the report should be made to the District Superintendent.

Due to the sensitivity surrounding a complaint of discrimination or harassment, timelines are flexible; however, every effort should be made to file the complaint within thirty (30) calendar days of the conduct occurring.

To begin process, the complainant shall present in writing the specific nature of the alleged discrimination or harassment and corresponding date; names of those who may have witnessed the

alleged discrimination or harassment; and, the name, address and phone number of the complainant. Upon receipt of a discrimination or harassment complaint, the CHRO or their designee shall be the complaint officer. If the report involves the CHRO, the Superintendent or their designee shall be the complaint officer. The complaint may be dictated to the complaint officer and signed by the complainant upon review of the written complaint. The complaint officer shall acknowledge in writing the receipt of the complaint. The complainant's wishes with respect to whether the District investigates reported conduct shall be respected subject to applicable law.

Informal Resolution Process:

The District will allow the parties to attempt a resolution of a complaint on an informal basis that does not involve a full investigation or determination of responsibility. Both parties must provide voluntary, informed, written consent to attempt informal resolution. Prior to agreeing to a resolution, either party may withdraw from the informal resolution process and resume the formal grievance process with respect to the complaint.

If the parties provide written consent to the informal resolution process, the complaint officer or their designee will facilitate a meeting between the parties. If the parties resolve the matter, the complaint officer or their designee shall prepare a written statement outlining the resolution. If no resolution is reached, the complaint officer will proceed with an investigation of the allegations contained in the complaint.

Investigation:

The complaint officer or their designee shall thoroughly and impartially investigate the discrimination or harassment complaint. Investigators may be staff members or independent contractors.

The complaint officer shall notify the respondent that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of the this policy and this rule shall be provided to the respondent at that time. The respondent will also be notified of the opportunity to submit a written statement.

Although certain cases may require additional time, the complaint officer will attempt to complete an investigation into the allegations of harassment within a reasonably prompt time frame, typically no later than thirty (30) days. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the complaint officer; and,

- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations, as determined by the complaint officer.

At the conclusion of the investigation, the complaint officer shall prepare and deliver a written report to the Superintendent that summarizes the relevant evidence gathered during the investigation and provides recommendations based on the evidence and the definition of discrimination or harassment as provided in this policy and State and Federal law as to whether the complainant has been subjected to discrimination or harassment. The complaint officer may consult with the school board attorney before finalizing the report to the Superintendent.

If a complainant believes that there is undue delay, they may notify the CHRO and ask for clarification as to when the investigation will be completed.

Dismissal:

If, after notice and an investigation, the complaint officer uncovers information that could or must result in dismissal of the formal complaint, the complaint officer shall provide that information to the Superintendent. The Superintendent must dismiss any formal complaint or allegation therein if the alleged conduct does not constitute discrimination or harassment. The Superintendent may also dismiss a complaint or allegation therein if:

- the complainant informs the CHRO in writing that the complainant desires to withdraw the formal complaint or allegation therein, or
- specific circumstances prevent the District from gathering evidence to reach a determination.

The Superintendent shall provide notice to both parties of any dismissal and the reasons for the dismissal. Notwithstanding the dismissal of a complaint, the District may take any action in response to alleged misconduct under the District's code of conduct policy or other applicable policy.

Supportive measures:

The complaint officer shall consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination, harassment or retaliation, including a change of schedule for the complainant and/or respondent.

Interim Measures:

If, upon an analysis of the allegations, the safety issues, and other risks involved, the complaint officer determines that the allegations raise an immediate threat to the physical health or safety of

any individual, the District will take emergency action during the investigation period, including suspension of the respondent from an education program or activity, or the placement of the respondent on administrative leave if the respondent is a staff member. Such emergency action may not be made without prior notice to the respondent and an opportunity to challenge the decision immediately following the action.

Decisions:

Upon receipt and review of an investigative report, the Superintendent shall make a written determination as to whether the discrimination or harassment allegations are substantiated by the facts and evidence. A copy of the written decision shall be provided to both parties. The decision of the Superintendent shall be final subject to the appeal procedures set forth below.

Sanctions:

Any remedial action shall be aimed at stopping the alleged discrimination or harassment and will include discipline of the respondent, up to and including expulsion of students or termination of employment for staff.

Confidentiality:

The District will respect a complainant's request for confidentiality or request not to pursue an investigation, subject to applicable law, and 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. Any non-party interviewed as part of the investigation is expected to maintain confidentiality and is expected not to disclose any information they learn during the course of the investigation.

Retaliation:

There shall be no retaliation against any person targeted by discrimination or harassment or any person who reports an alleged act of discrimination or harassment, nor against any person who participates in the investigation. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The District will take appropriate action against any person who engages in retaliatory behavior.

Appeal:

If the investigation results in disciplinary action, a staff member subject to discipline is entitled to file a grievance pursuant to Board Policy 4271.

Either party may appeal the dismissal of a formal complaint or the determination regarding responsibility for allegations in a formal complaint by writing to the Title IX Coordinator.

An appeal may be filed for one or more of the following reasons:

- a procedural irregularity that affected the outcome of the matter,
- new evidence that was not reasonably available at the time the dismissal or determination regarding responsibility was made that could affect the outcome of the matter,
- a conflict of interest or bias existed on the part of the Title IX Coordinator, the investigator, or decision-maker that affected the outcome of the matter, or
- a student may appeal if they believe the investigator's conclusion was erroneous or the resulting disciplinary action was unjust.

If an appeal is filed, the District shall provide written notice of the appeal to both parties and an equal opportunity for both parties to submit a written statement supporting or challenging the decision being appealed. The school board shall be the decision-maker on all appeals. A written decision of the appeal shall be provided simultaneously to both parties and shall state the rationale for the decision.

Nothing in these procedures shall preclude persons from filing a complaint directly, or on appeal, with designated agencies as authorized by state and federal laws (e.g., U.S. Office of Civil Rights, Department of Public Instruction) and/or with courts having proper jurisdiction.

## SEXUAL HARASSMENT

### Definitions

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

- (1) Someone is conditioning the provision of an aid, benefit, or service of the school District on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it adversely affects one's education or effectively denies a person equal access to the school district's education program or activity; or
- (3) “Sexual assault”, “dating violence”, “domestic violence”, or “stalking” as defined by relevant federal law.

“Supportive measures” means individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to protect safety or deter sexual harassment.

### Complaints

Anyone who believes they have been sexually harassed is entitled to use the informal and/or formal complaint processes outlined below. Initiating a complaint will not adversely affect employment unless the complainant does so maliciously or with knowledge that it is false. The Title IX Coordinator or their designee shall be the complaint officer and is responsible for responding to harassment complaints. If a complaint involves the Title IX Coordinator, the Superintendent or their designee shall be the complaint officer for that complaint and will be responsible for responding to the harassment claim. The complaint officer or their designee shall be responsible for investigating formal complaints. Investigator(s) may be District staff members or independent contractors. Due to the sensitivity surrounding a complaint of sexual harassment, timelines are flexible; however, every effort should be made to file the complaint within thirty (30) calendar days of the conduct occurring.

Sexual harassment may be reported to the Title IX Coordinator by the complainant or by any third party with knowledge of the alleged conduct that constitutes sexual harassment. Upon receiving a report of sexual harassment, the Title IX Coordinator shall promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without filing a formal complaint, and explain to the complainant the process for filing a formal complaint.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, electronic mail, electronic submission, or by using the provided contact information. The complainant shall state the specific nature of the harassment and corresponding date; names of those who may have witnessed the alleged harassment; and the name, address and phone number of the complainant. The oral complaint may be dictated to the Title IX Coordinator and signed by the complainant upon review of the written complaint, or signed by the Title IX Coordinator.

The District will allow a complainant the opportunity to resolve discrimination or harassment complaint on an informal basis, if the complainant asks to do so. Upon such request by the complainant, a person designated by the Superintendent will facilitate a meeting between the complainant and the alleged harasser/discriminator. If the parties resolve the matter, the facilitator shall prepare a written statement outlining the resolution. If the complainant is not satisfied with the outcome of the meeting, the facilitator must notify the Title IX Coordinator of the informal review so the Title IX Coordinator may formally investigate the complaint.

To begin the formal complaint process, the complainant shall present in writing the specific nature of the harassment and corresponding date; names of those who may have witnessed the alleged

harassment, and the name, address and phone number of the complainant. The complaint may be orally dictated to the complaint officer and signed by the complainant upon review of the written complaint. The complaint officer shall acknowledge in writing the receipt of the complaint.

Supportive Measures:

The Title IX Coordinator shall coordinate and implement supportive measures for the complainant and the respondent designed to ensure equal access to the District's education programs and activities, protect the safety of all parties, protect the District's educational environment, and/or deter sexual harassment. Such measures may include, but are not limited to, counseling the parties involved, modifying schedules, providing escort services on campus, mutually restricting contact between the parties, increasing security or monitoring of appropriate campus locations, and similar measures. Any supportive measures provided shall be confidential except where such confidentiality would impair the District's ability to provide such measures.

The complaint officer shall consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation, including a change of schedule for the complainant and/or harasser. Such supportive measures may be taken on a temporary basis at any point after a report of harassment has been made. No temporary changes shall be disciplinary to the complainant. Other interim measures may be taken as allowed by this Rule.

Interim Measures:

If, upon an analysis of the allegations, the safety issues, and other risks involved, the complaint officer determines that the allegations raise an immediate threat to the physical health or safety of any individual, the District will take emergency action during the investigation period, including suspension of the respondent from an education program or activity, or the placement of the respondent on administrative leave if the respondent is a staff member. Such emergency action may not be made without prior notice to the respondent and an opportunity to challenge the decision immediately following the action.

Notice:

Upon the filing of a complaint, the complaint officer shall provide written notice of the complaint to the complainant and the respondent that provides the respondent sufficient time to prepare a response and includes a description of the allegations including, to the extent known, the identity of the parties involved, the alleged conduct, and the date and location of the alleged incident.

The following shall apply during the investigation and shall be included in the written notice to the parties:



- the respondent is presumed not responsible for the alleged conduct and a determination of responsibility is made at the conclusion of the grievance process;
- each party may have an advisor of their choice;
- the District shall provide each party, and their advisors, if applicable, with any evidence directly related to the allegations, in electronic format or hard copy, and provide at least ten (10) days for the parties to inspect, review, and respond to the evidence; and
- the District's prohibits knowingly making false statements or knowingly submitting false information during the investigation process.

The complaint officer, within a reasonable period of time not to exceed 30 days, shall thoroughly investigate the complaint and take all reasonable steps necessary to ensure that any allegations of sexual harassment are promptly remedied and that no students are subject to harassment in violation of this policy. This will include an interview with the complainant, respondent, any witnesses who may reasonably be expected to have relevant information, and consideration of documentation or other evidence presented by the complainant, respondent or witnesses. Notices shall be provided to both parties prior to holding any interviews, meetings or hearings during the investigation. The burden of gathering evidence and the burden of proving the allegations in the complaint rests at all times with the District. Both parties shall have an equal opportunity to present facts, expert and lay witnesses, and other evidence. During the investigation, no restrictions may be placed on either party regarding discussing the formal complaint, the allegations, or the investigation with others. However, no person may intimidate, coerce or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in an investigation or proceeding under this policy. The District will respect the privacy of all involved in a manner consistent with legal obligations under state and federal law but cannot guarantee confidentiality. The Title IX Coordinator, complaint officer, investigators, and decision-makers shall all be free from bias or conflicts of interest in responding to, investigating, dismissing and making determinations regarding the allegations contained in formal complaints.

All complaints shall be investigated within 30 days. This deadline may be extended for good cause, but it shall always be completed in a timely manner without any undue delay. If a complainant believes that there is undue delay, they may notify the Title IX Coordinator and ask for clarification as to when the investigation will be completed.

Any non-party interviewed as part of the investigation is expected to maintain confidentiality and is expected not to disclose any information they learn during the course of the investigation.

The complaint officer and/or investigator shall provide both parties with all facts, witness testimony and other evidence collected in either electronic or hard copy format. The parties shall have ten (10) calendar days to inspect, review and respond to the evidence. After receiving the parties' responses, if any, the complaint officer and/or investigator shall prepare an investigative

report that fairly summarizes all relevant facts and evidence, and provides a recommendation regarding responsibility for the allegations.

Decisions:

A copy of the investigative report shall be provided to each party and to the decision-maker, who shall be the Superintendent. If the Superintendent is acting as the complaint officer, the Superintendent shall designate another person as the decision-maker.

Prior to reaching a determination regarding responsibility for the allegations in the formal complaint, and at least ten (10) calendar days after a copy of the investigative report has been provided to each party, both parties shall have an opportunity to submit written, relevant questions to the decision-maker that a party wants asked of any party or witness. The decision-maker shall obtain responses to any appropriate, relevant questions from the appropriate party or witness. Answers to submitted questions shall be provided to each party and additional time will be provided for limited follow-up questions from each party. Pursuant to the rape shield protections provided under relevant law, questions and evidence regarding a complainant's prior sexual behavior shall be deemed irrelevant at all times during the formal grievance process unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent.

The decision-maker shall review the investigative report and any additional facts uncovered through the parties' questions under a preponderance of the evidence standard. Under the preponderance of the evidence standard, the evidence submitted must show that it is more likely than not that the alleged conduct occurred and more likely than not that the respondent is responsible. The decision-maker may consult with legal counsel prior to issuing a final decision.

The decision-maker shall issue a written decision regarding responsibility for the alleged conduct contained in the formal complaint that includes findings of fact, conclusions about whether the alleged conduct occurred, the rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and any supportive measures that will be provided to the complainant. The decision-maker shall provide the parties with the written decision simultaneously along with information about how to file an appeal. Any remedial action shall be aimed at stopping the alleged harassment and may include discipline of the respondent, up to and including termination of their employment or expulsion of a student.

Dismissals:

If, after notice and an investigation, the complaint officer uncovers information that could or must result in dismissal of the formal complaint, the complaint officer shall provide that information to the decision-maker. The decision-maker must dismiss any formal complaint or allegation therein

if the alleged conduct does not constitute sexual harassment. The decision-maker may also dismiss a formal complaint or allegation therein if:

- the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegation therein, or
- specific circumstances prevent the District from gathering evidence to reach a determination.

The decision-maker shall provide notice to both parties of any dismissal and the reasons for the dismissal. Notwithstanding the dismissal of a formal complaint for purposes of Title IX, the District may take any action in response to alleged misconduct under the District's code of conduct policy or other applicable policy.

#### Appeals:

If the decision of the decision-maker results in disciplinary action, the staff member subject to discipline is entitled to file a grievance pursuant to Policy 4271. Either party may appeal the dismissal of a formal complaint or the determination regarding responsibility for allegations in a formal complaint by writing to the Title IX Coordinator.

An appeal may be filed for one or more of the following reasons:

- a procedural irregularity that affected the outcome of the matter,
- new evidence that was not reasonably available at the time the dismissal or determination regarding responsibility was made that could affect the outcome of the matter,
- a conflict of interest or bias existed on the part of the Title IX Coordinator, the investigator, or decision-maker that affected the outcome of the matter, or
- a student may appeal if they believe the investigator's conclusion was erroneous or the resulting disciplinary action was unjust.

If an appeal is filed, the District shall provide written notice of the appeal to both parties and an equal opportunity for both parties to submit a written statement supporting or challenging the decision being appealed. The school board shall be the decision-maker on all appeals. A written decision of the appeal shall be provided simultaneously to both parties and shall state the rationale for the decision.

Nothing in these procedures shall preclude persons from filing a complaint directly, or on appeal, with designated agencies as authorized by state and federal laws (e.g., U.S. Office of Civil Rights, Department of Public Instruction) and/or with courts having proper jurisdiction.

Proposed 5110.1  
August 2020

Training:

The District shall provide training for all students and staff members on identifying and reporting sexual harassment. Additional training on sexual harassment investigations, grievance processes and appeals shall be provided to the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process. Records of all training materials shall be maintained for seven (7) years and be made available to the public on the District's website.

Recordkeeping:

The District shall maintain records of all sexual harassment complaints, investigations, and actions, as well as any supportive measures taken. Such records shall include all material required under relevant law and be maintained for seven (7) years.

LEGAL REF.: Wisconsin Statutes

Section 118.13 [Student discrimination prohibited]

Wisconsin Administrative Code

PI 9 [Student nondiscrimination policies/discrimination complaint procedures required]

PI 41 [Accommodating a student's religious beliefs policy required]

Title IX, Education Amendments of 1972 [Sex discrimination prohibited]

Title VI, Civil Rights Act of 1964 [Race, color and national origin discrimination prohibited]

Section 504 of the Rehabilitation Act of 1973 [Handicap discrimination prohibited]

Americans with Disabilities Act of 1990 [Disability discrimination prohibited]

Individuals with Disabilities Education Act [Accommodating needs of disabled children]

CROSS REF.: 3280, Student Fees, Fines and Charges (currently 3250, 3411, 6120.1 — paragraph two)

5111, Bullying

5341, Released Time for Religious Instruction

5440, Married Students and School-Age Parents

6233, Holiday/Religious Observances

6330, Privacy Rights in District Programs

6421, Programs for Students with Disabilities

6810, Teaching about Controversial Issues

Proposed 5110.1  
August 2020

Section 504 Educational Program Plan  
*Special Education Program and Procedure Manual*

ADMINISTRATIVE REGULATIONS: None

AFFIRMED: September 24, 1991

REVISED:        March 22, 1994  
                      November 28, 1995  
                      July 10, 2001

December 10, 2019

**Policy 5110.2**

**NONDISCRIMINATION GUIDELINES RELATED  
TO STUDENTS WHO ARE TRANSGENDER  
AND STUDENTS NONCONFORMING  
TO GENDER ROLE STEREOTYPES**

The following guidelines relate to students who are transgender and students who do not conform to gender role stereotypes. This guideline serves two important purposes. First, significant portions of the guidelines facilitate compliance with the District's legal obligations. Under many circumstances, an individual's transgender or gender nonconforming status serves as a basis for legal rights and protections. Second, even where specific actions may not be required by applicable law, these guidelines are intended to further the District's local goals concerning the creation and maintenance of positive and supportive environments that appropriately provide for the education, safety, and welfare of all students.

**SCOPE**

These guidelines are intended to apply to students on all District grounds, in all District buildings, and in all District educational environments, including any property or vehicle owned, leased or used by the school district. This includes public transportation used by District students to go to or from school. Educational environments include, but are not limited to, non-District buildings or grounds used in connection with school-sponsored activities. While the guidelines established in this rule provide important direction to District employees, students, school families, and other persons, the guidelines do not anticipate every situation that might occur with respect to students who are transgender or gender nonconforming. When an issue or concern arises that is not adequately addressed by these guidelines arise, an individual may ask the Title IX coordinator for clarification. Any such request will be assessed on an individualized basis with consultation with parents/guardians where appropriate, and a response shall be provided within fifteen (15) after being presented to the Title IX coordinator.

**GUIDELINES**

**1. Definitions.**

The definitions below are not intended to label students but rather to assist in understanding these guidelines and the expectations of staff in complying with District policies and legal requirements. Students might or might not use these terms to describe themselves.

- a. **Agender:** A term that describes a person who does not identify with any gender.
- b. **Cisgender:** A term that describes a person whose gender identity aligns with the sex assigned to them at birth.
- c. **Coming Out:** The process in which a person first acknowledges, accepts and appreciates their sexual orientation or gender identity and begins to share that with others.
- d. **Gender:** A person's internal sense of self as male, female, both or neither (gender identity), as well as one's outward presentation and behaviors (gender expression). Gender norms vary among cultures and over time.
- e. **Gender-expansive:** An umbrella term used for individuals that broaden their own culture's commonly held definitions of gender, including expectations for its expression, identities, roles, and/or other perceived gender norms. Gender-expansive individuals include those with transgender and non-binary identities, as well as those whose gender in some way is seen to be stretching society's notions of gender.
- f. **Gender Expression:** How a person expresses their gender through outward presentation and behavior. This includes, for example, a person's clothing, hairstyle, body language and mannerisms. **Gender Fluid:** People who have a gender or genders that change. Gender fluid people move between genders, experiencing their gender as something dynamic and changing, rather than static.
- g. **Gender Identity:** An internal, deeply felt sense of being male, female, a blend of both or neither— how individuals perceive themselves and what they call themselves. One's gender identity can be the same as or different from their sex assigned at birth.
- h. **Gender Spectrum:** The broad range along which people identify and express themselves as gendered beings or not. **Genderqueer:** People that typically reject the binary categories of gender, embracing a fluidity of gender identity. People who identify as "genderqueer" may see themselves as being both male and female, neither male nor female or as falling completely outside these categories.
- i. **Gender Transition:** The process by which some people strive to more closely align their outward identity with the gender they know themselves to be. To affirm their gender identity, people may go through different types of transitions.

**j. • Social transition: This can include a name change, change in pronouns, and/or change in gender expression (appearance, clothes, or hairstyle).**

**k. • Legal transition: The process of updating identity documents, such as birth certificates and drivers' licenses, to reflect a person's authentic gender and name.**

**l. • Medical transition: For adolescents in the early stages of puberty, this may include the use of puberty blockers to pause puberty. Medical supports may also include gender-affirming hormones to foster secondary sex characteristics (such as breasts, facial hair, and laryngeal prominence, or an "Adam's apple") that are aligned with the teen's gender identity. Some adults may undergo gender-affirmation surgeries.**

**m. LGBTQ+: An acronym for lesbian, gay, bisexual, transgender, queer and/or questioning. Additions to this acronym can include A, for "asexual" or "ally," and I, for "intersex."**

**n. Non-binary: An umbrella term for gender identities that are not necessarily boy/man or girl/woman. People who identify their gender as non-binary may feel they have more than one gender, don't identify with a specific gender, or something else altogether.**

**o. Outing: Exposing someone's sexual orientation or gender identity to others without their permission.**

**p. Queer: A term some people use to identify themselves with a flexible and inclusive view of gender and/or sexuality. Also used interchangeably with LGBTQ+ to describe a group of people such as "queer youth." It is also seen in academic fields, such as queer studies or queer theory. Historically it has been used as a negative term for LGBTQ+ people. Some people still find the term offensive while some embrace the term as an identity.**

**q. Sexual Orientation: Describes a person's emotional, romantic, or sexual attraction to other people. Some examples of sexual orientations are gay, lesbian, bisexual, asexual or pansexual.**

**r. Sex Assigned at Birth: This is generally determined by external genitalia at birth— female, male, or intersex.**

**s. Transgender or Trans: A term used to describe people who identify as a different gender from the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation; transgender people may identify as straight, gay, lesbian, bisexual, etc.**



**t. Transphobia: The fear or hatred of, or discomfort with, transgender people.**

**2. Discrimination, Harassment and Bullying.**

The District prohibits all forms of discrimination against any transgender student or any student who does not conform to gender role stereotypes. Further, existing District policies that prohibit the harassment and bullying of students apply to any such actions that are based on a student's actual or perceived transgender status or gender nonconformity. This includes ensuring that any incident or complaint of discrimination, harassment, or bullying is given prompt attention, including taking appropriate corrective and/or disciplinary action. Complaints alleging discrimination, harassment or bullying based on a person's actual or perceived transgender status or gender nonconformity are to be handled in the same manner as other discrimination, harassment, or bullying complaints. See Policy 5110.1 and Policy 5111.

**3. Student Privacy, Names and Pronouns, and Official School Records.**

Certain records and personally-identifiable information related to the student's gender status or biological sex may be protected not only as an education record, but also as a confidential medical or patient health care record. The District further recognizes that a student may have a strong individual interest in maintaining the privacy of transgender status or their gender nonconforming presentation at school. Accordingly, in addition to adhering to all legal standards of confidentiality, school personnel with knowledge of any student's transgender status or gender nonconforming presentation are expected to treat that information as being particularly sensitive, even internally among school staff and school officials. District employees are expected to refer any questions they may have about student privacy and possible disclosures of a student's transgender or gender nonconforming status to the Chief of School Leadership. The District strongly encourages transgender and gender nonconforming students and their families to maintain ongoing communication with the school employees who are working directly with the student in order to address, among other issues, relevant privacy concerns and privacy preferences.

When referring to students at school and in connection with school activities, school personnel will normally use the student's legal name and the pronouns that correspond to the student's biological sex assigned at birth. However, an adult student or the parent/guardian of a minor student may determine the name and gender pronouns that school employees should use to address the student at school and in connection with school-related activities. A court-ordered name change or medical treatment or medical procedure is not required to initiate such a request. Upon being informed that a student (an adult student or a minor student's parents who have consented to the minor's choice) intends

to regularly use a particular name and/or prefers to be addressed using particular pronouns that correspond to the student's gender identity, school personnel are expected to respect that decision.

The District's approach of respecting a student's decision to regularly use a name and the pronouns that correspond to the student's gender identity is not a commitment to change all existing school records in order to reflect those preferences. Further, there may be situations where the District is required to use or report the legal name or biological sex of the student as that data is reflected in the District's official records. The extent to which official records of the District are modified will depend on a case-by-case evaluation of the information that the District receives, and the type(s) of school records affected by the information that is received. For example, when a student legally changes their name and that change is sufficiently substantiated, the District will issue a high school transcript under the student's new legal name.

#### **4. Restroom and Locker Room Accessibility.**

In most cases, a student who is transgender will be permitted to access the men's/women's segregated restrooms that correspond to the gender identity that the student consistently asserts at school and in other social environments. Any student who has a need or desire for increased privacy, regardless of the underlying reason, may be provided with access to a single-access restroom where such a facility is reasonably available, but no student shall be required to use such a restroom because of the student's transgender or gender nonconforming status.

If a transgender student makes any request regarding the use of locker rooms or any similar type of changing area, the request shall be assessed on a case-by-case basis with the goals of: (a) facilitating the transgender student's access to the District's physical education curriculum and other relevant programs; (b) ensuring adequate student privacy and safety; and (c) minimizing stigmatization of the transgender student. The physical layout of the facility and the degree of undress required when changing for the applicable activity are examples of factors that will be considered in making the arrangements. There is no absolute rule that, in all cases, will require a transgender student to access and use only the locker rooms and other changing areas that correspond to the biological sex that the student was assigned at birth. Requests regarding the use of locker rooms or any similar type of changing area should be addressed to the building principal. The building principal shall inform the Title IX coordinator of the request and the principal and Title IX coordinator shall consult with the Superintendent to develop a response that addresses how the use of locker rooms or any similar type of changing area will be established for that student in that building. The response shall be provided within fifteen (15) school days. This deadline may be extended for good cause with notice to the requestor.

Any student who has a need or desire for increased privacy, regardless of the underlying reason, may be provided (to the extent reasonably available) with a reasonable alternative changing area (for example, a nearby restroom stall with a door, an area separated by a curtain, a physical education teacher's office in the

locker room, or a nearby single-access restroom) or provided with an alternative changing schedule. Any alternative arrangement should be provided in a way that gives adequate consideration to relevant privacy concerns.

These guidelines related to restrooms and changing areas generally assume that a student has a special concern or is in some way uncomfortable with consistently using the facilities that correspond to the biological sex that the student was assigned at birth. However, all students have the option of consistently accessing the facilities that correspond to the biological sex that the student was assigned at birth. Accordingly, the District's willingness to address individualized concerns and requests that relate to restroom and changing area access does not mean that any student is required to establish an individualized arrangement or plan with the school.

**5. Participation in Physical Education Classes and Sports Activities.**

A student who is transgender shall be permitted to participate in physical education classes and intramural sports in a manner consistent with the gender identity that the student regularly asserts at school and in other social environments.

Students who are transgender shall be permitted to participate in interscholastic athletics in a manner consistent with the requirements and policies of the Wisconsin Interscholastic Athletics Association (WIAA).

**6. Dress Codes.**

Within the constraints of the District's dress code policy and dress codes adopted by the school, students may dress in accordance with their gender identity. School personnel shall not enforce a dress code more strictly against transgender and gender nonconforming students than other students.

**7. Overnight Accommodations.**

Occasionally school-sponsored activities include overnight trips that require lodging in hotels or other overnight accommodations. Generally room assignments for such accommodations will require that students of one gender are not permitted to room with students of another gender. Room assignments will be made based upon the biological sex of the student as that data is reflected in the District's official records. Requests regarding alternative lodging arrangements should be addressed to the building principal. The building principal shall inform the Title IX coordinator of the request and the principal and Title IX coordinator shall consult with the Superintendent to develop a response to the request. Anyone making such a request must be aware that the District is limited in regard to information that it can disclose about a student, and that such limitations may affect the ability to provide alternative arrangements. The District will give consideration to parental

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input from all students' parents. The response shall be provided in a timely fashion without any undue delay.

**REVIEWED:**

**POLICY 5111  
BULLYING**

The Kenosha Unified School District strives to provide a safe, secure and respectful learning environment for all students and staff members in District buildings, on District grounds, on vehicles transporting students to or from school, and at school-sponsored activities on or off school grounds. Bullying has a harmful social, physical, psychological, and academic impact on bullies, victims and witnesses, and is prohibited by the District.

Bullying is prohibited on all District grounds, in all District buildings, and in all District educational environments, including any property or vehicle owned, leased or used by the school district. This includes public transportation used by District students to go to or from school. Educational environments include, but are not limited to, non-District buildings or grounds used in connection with school-sponsored activities.

“Bullying” is defined as deliberate or intentional behavior using words or actions, intended to cause fear, intimidation or harm. Bullying involves an imbalance of power – the person bullying has more social or physical power than the person being bullied. Bullying also most often involves repeated behaviors -repeated over time toward the same person or group of people. Bullying may be motivated by an actual or perceived distinguishing characteristic, including, but not limited to: age, sex, race, religion, national origin or undocumented/immigration status (including limited English proficiency), ancestry, creed, color, pregnancy, marital or parental status, sexual orientation, transgender status, gender expression, gender identity and gender nonconformity (see, Policy 5110.2), or physical, mental, emotional or learning disability and social, economic or family status.

Bullying can manifest itself in conduct that is:

- Physical (e.g., hitting, punching, or kicking);
- Verbal or written conduct (e.g., threatening or intimidating language, teasing, or name-calling);
- Indirect (e.g., spreading rumors, intimidation through gestures, or social exclusion; and
- Cyber. Cyber bullying can occur through technology like email, chat rooms, instant messaging, websites, text messages, digital applications or social media. Cyber bullying can take place at school or outside of school if it impacts student learning while at school or under school supervision.

- Hate acts (e.g., a prejudice-motivated act which occurs when a perpetrator targets a victim because of their membership (or perceived membership) in a certain social group or race.)

The conduct identified above is not intended and should not be construed as an exhaustive or comprehensive listing of conduct/behavior that may be deemed bullying by the District. If any student or staff member believes that bullying is occurring on any basis they should seek to invoke the protections of this policy.

All District staff members who observe or are informed of bullying must report it in writing to the building principal or assistant principal. All other persons who are aware of bullying in the District are encouraged to report the conduct to the building principal or assistant principal. Upon receipt of a bullying report, the building principal or assistant principal will investigate the allegations. All reports of bullying shall be taken seriously, properly investigated and documented. If an act of bullying implicates harassment in violation of Policy 4111 (Employee Anti-Harassment) or Policy 5110.1 (Student Equal Opportunity And Non Discrimination In Education), the building principal or assistant principal shall provide notice of the bullying complaint to the Chief Human Resource Officer (CHRO) so that the processes provided for in those Policies can be instituted.

The District prohibits retaliation against individuals who report or participate in an investigation of bullying. Individuals engaging in prohibited retaliatory behavior are subject to disciplinary action.

If it is determined that bullying or retaliatory conduct occurred, the school district administration shall take disciplinary action, including but not limited to: counseling, detention, suspension, expulsion and/or referral to law enforcement officials for possible legal action as appropriate. Student support staff will provide support services for all students involved in the incident as deemed necessary and appropriate.

This policy shall be distributed annually to all students enrolled in the District, their parents and/or guardians and District staff members through the student information system or direct emails. The policy will also be distributed to organizations having cooperative agreements with the District and will be available to anyone upon request.

5111 August Version, clean.

LEGA

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REF.: Wisconsin Statutes Sections

118.01(2)(d)8

118.02 (9t) Instructional Programs

118.13 Special observance days

118.46 (2) Student discrimination, including harassment,

120.13 (1) prohibited

Wisconsin Administrative Code

PI 9, Wisconsin Administrative Code (Rules implementing student  
nondiscrimination

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a

w

CROSS REF.: )

Title IX, Educational Amendments of 1972 (Sex discrimination,  
including sexual

harassment,  
prohibited)

2810, Incident Reporting

4111, Employee Harassment

5473, Student Suspensions

5474, Student Expulsions

5475, Students with Disabilities

5540, Abused/Neglect

ADMINISTRATIVE REGULATIONS: None

AFFIRMED: January 11, 1994

REVISED: October 8, 1996  
January 29, 2002  
February 22, 2011  
July 22, 2014

4843-4287-3015, v. 1