

**STAFF NONDISCRIMINATION**

**I. EMPLOYMENT**

The School District of West De Pere is an equal opportunity employer. Therefore, personnel hiring and administration in this district shall be conducted so as not to discriminate in employment against properly qualified individuals by reason of their age, sex, race, creed, color, ancestry, national origin, religion, disability, marital status, sexual orientation, arrest record, conviction record, membership in the national guard, state defense force or any other reserve component of the military forces of the United States or this state or use or nonuse of lawful products off the employer's premises during nonworking hours.

**II. EMPLOYMENT ENVIRONMENT**

The Board of Education supports an educational and work environment that is free of discrimination of any form. It is the policy of the district that no employee, student, or visitor will be allowed to engage in any form of discrimination (including harassment and intimidation) toward an employee, student, or visitor. Individuals who upon investigation are determined to have engaged in discriminatory behavior shall be subjected to disciplinary action. In the case of employees, that action may include, but is not limited to suspension, discharge or non-renewal. In the case of others engaged in such conduct while participating in district programs and activities, discipline may include removal and prohibition from participation in such activities or programs.

Not all socially inappropriate behavior in the workplace constitutes harassment. Nevertheless, professional conduct in the workplace is the expectation, which includes civil discourse, problem solving when there are disagreements without the use of a demeaning tone, manner, words or actions, and generally a modeling of problem solving and conflict resolution for students.

**III. HARASSMENT**

Harassment is considered a form of discrimination.

<u>Harassment is...any behavior directed toward a person</u>	<u>based in whole or part, on membership in a protected class</u>	<u>that has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or interferes with the individual's work performance.</u>
Can include: name-calling, making threats, spreading rumors, telling jokes, making fun of someone, gestures, physical intimidation, hitting, touching, pranks or hazing, vandalism or destruction of property	sex, race, color, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability	the behavior is so severe (can be one incident of a more serious nature) or pervasive (occurs frequently, is part of a pattern of behaviors, permeates the atmosphere) that it has a strong negative effect.

Sexual harassment is often rationalized as being so socially prevalent that it is acceptable. The law protects both males and females from sexual harassment, regardless of who the harasser is (student, staff person, visitor) or their gender. Sexual harassment can be student-to-student, staff-to-student, or student-to-staff; and can be inter- or intra-gender.

Examples of inappropriate conduct that would be considered sexual harassment are: Unwelcome or unwanted sexual advances. This means patting, pinching, brushing up against, hugging cornering, kissing, fondling, or any other similar physical contact which is considered unacceptable by another individual. Requests or demands for sexual favors. This includes subtle or blatant expectations, pressures or requests for any type of sexual favor accompanied by an implied or stated promise of preferential treatment (e.g. better grade) or negative consequence concerning one's organizational, academic, or educational status.

SCHOOL DISTRICT OF WEST DE PERE

**STAFF NONDISCRIMINATION**

4117 (con't)

- A. Verbal abuse or joking that is sexually oriented and considered unacceptable by another individual. This includes commenting about an individual's body or appearance where such comments go beyond mere courtesy; telling "dirty jokes" that are clearly unwanted and considered offensive by others; or any other tasteless, sexually oriented comments, innuendos or actions that offend others.
- B. Engaging in any type of sexually oriented conduct that would unreasonably interfere with a student's learning environment. This includes extending unwanted sexual attentions to someone such that the student's participation in any program or activity is negatively affected.
- C. Creating an environment that is intimidating, hostile or offensive because of unwelcome or unwanted sexually oriented conversations, suggestions, requests, demands, physical contacts or attentions.
- D. Creating an environment that is intimidating, hostile or offensive because of the existence on school premises or during school activities of sexually oriented materials including, but not limited to, photographs, or other offensive sexually graphic materials.

When similar behaviors to those above are based upon any of the other protected classes (e.g. race, religion, etc.), this would constitute discriminatory behavior in violation of this policy.

**IV. COMPLAINT PROCEDURES**

Any person who believes he or she has been discriminated against (including harassment) in violation of the terms of this policy, or is witness to discriminatory actions against another shall report it and is encouraged to follow the complaint procedures below.

**A. INFORMAL COMPLAINT PROCEDURE**

- 1. Every complainant is encouraged to speak to their direct supervisor and to attempt to resolve at the lowest possible level. However, an alternative person, as noted in the policy, will be made available in the event that the immediate supervisor is the alleged harasser.
- 2. The complainant always has the right to file a complaint and proceed to a formal complaint process at any time or file a complaint with an outside agency.
- 3. If the complainant exercises his/her option of filing a complaint, it will be investigated and proceed to the formal complaint procedures. If an informal procedure would be ineffective due to the alleged or actual circumstances or the complainant does not wish to discuss the matter with the principal or counselor, or the results are unsuccessful, a complaint shall be filed according to the formal complaint procedures within fifteen (15) days of the original complaint.

**B. FORMAL COMPLAINT PROCEDURES**

The District Administrator or designee shall be responsible for processing formal discrimination complaints and shall be further responsible for coordinating state and federal regulations concerning discrimination. The designee under this policy is the Director of Student Services. Alternative designees under the policy are the principals. The District Administrator reserves the discretion to appoint an investigator from outside the district.

- 1. The person who believes he/she is being subjected to discrimination is encouraged, but not required, to advise the person who is engaging in such conduct of their objection to the acts of discrimination.

If the person being discriminated against is unable or unwilling to discuss the matter of his/her objections with the person committing the discrimination, or the discrimination continues after completion of this step, the person shall submit a formal complaint.

- 2. The formal complaint shall be submitted in writing to the district-appointed administrator. The complaint report shall include the name, address, and phone number of the complainant, the name of the victim (if different), the name(s) of the person(s) who engaged in the alleged discrimination,

SCHOOL DISTRICT OF WEST DE PERE

**STAFF NONDISCRIMINATION**

4117 (con't)

and others who may be a witness or have knowledge. The complaint shall also include the specific nature of the discrimination and should detail, in so far as possible, the times, dates, locations and other details of the alleged discrimination, and a description of any relief sought. The complaint shall be signed and dated by the complainant. Complaint forms are available in each school office, from a school counselor, or the district office.

3. The complaint will be acknowledged in writing within a reasonable timeframe. This acknowledgement will typically include a requested day and time to meet with the district-appointed investigator.
4. The complaint shall be thoroughly investigated. This will occur in an expeditious yet methodical manner so as not to compromise the integrity of the investigative process. In doing so, he/she will notify the person accused of the complaint and the specifics thereof. The accused individual shall be permitted to respond to the allegations either verbally or in a signed statement at his/her discretion. If in the judgment of the investigator a meeting of involved parties is necessary or appropriate to clarify or resolve the matter, a meeting will be conducted.
5. The investigator shall notify, in writing, the complainant and accused of the final determination of the investigation. This final determination must also include a list of actions taken, if any, to resolve the matter and an explanation of the complainant's appeal rights. A copy of the final determination will be maintained in the district office.
6. If the complainant is not satisfied with the final determination, he/she may submit a written appeal to the Superintendent. The appeal shall be filed with the Superintendent within ten (10) working days of receipt of the final determination. The appeal shall include the nature of the disagreement with the final determination and the complainant's underlying reason for disagreement. The individual accused of discrimination shall be notified of the consideration of appeal. The Superintendent shall respond, in writing, to the complainant and accused within twenty (20) working days of the hearing with respect to the findings and determination in the matter of the appeal. A copy of the Superintendent's findings will be maintained in the district office.
7. If the complainant is not satisfied with the Superintendent's appeal determination, he/she may submit a written appeal to the Board of Education. The appeal shall be filed within ten (10) working days of receipt of the Superintendent's determination.
  - a. The appeal shall be filed with the Superintendent who shall transmit the appeal to the Board of Education for placement on a closed session agenda at the next regularly scheduled board meeting. If the appeal is filed less than five (5) working days before a regularly scheduled meeting, the matter will be considered at the next successive regular board meeting.
  - b. The appeal shall include the nature of the disagreement with the most recent determination and the complainant's underlying reason for disagreement. The complainant may request and shall be granted the right to be present during discussion of the appeal and shall be permitted to present his/her reasons for disagreement. The individual accused of discrimination shall be notified of the consideration of appeal and may be present and shall be permitted to present his/her response.
  - c. Both the complainant and the accused may be represented during the Board's informal appeal consideration.
8. The Board shall respond, in writing, to the complainant and accused within twenty (20) working days of the hearing with respect to the Board's findings and determination in the matter of the appeal. A copy of the Board's findings will be maintained in the district office.

The District Administrator and/or the Board of Education reserves the right or may have the legal duty to refer matters of discrimination to appropriate legal authorities in such cases where reasonable belief exists that a criminal act may have occurred.

SCHOOL DISTRICT OF WEST DE PERE

**STAFF NONDISCRIMINATION**

4117 (con't)

9. If the complainant is not satisfied with the Board's determination, he/she may submit a written appeal to the Office of Civil Rights, the Wisconsin Equal Rights Division or the Federal Equal Employment Opportunity Commission.

If the complaint constitutes a workplace safety issue, it can be processed under the statutory grievance procedures outlined under policy #4420. The timeline for said grievance procedure is identified below.

**Procedures:**

First Step

Within ten (10) days after the facts upon which the grievance is based or should have reasonably become known the employee shall present the written grievance to his/her immediate supervisor. The immediate supervisor shall give a written answer within ten (10) days of receipt of the grievance, with a copy to the District Office.

An employee who has been notified of termination may process the grievance commencing at Step 3.

Second Step

If the grievance is not satisfactorily resolved at Step 1, it may be submitted by the grievant to the District Administrator within five (5) days after having received the answer in the First Step. After receipt of the written grievance by the District Administrator, he/she or the designated representative of the District Administrator will meet with the grievant in an effort to resolve the issue(s) raised by the grievance. Within ten (10) days after the meeting, the District Administrator shall respond to the grievance in writing. The District Administrator shall also determine if the grievance is timely, if the subject matter of the grievance is within the scope of this policy and otherwise properly processed as required by this policy. If the District Administrator is aware of other similar pending grievances, he/she may consolidate those matters and process them as one grievance.

Third Step

Upon the written request of the grievant in response to an adverse decision, the decision at the second step may be appealed by a written statement to the District Administrator particularly describing the reason for appeal. The appeal must be submitted within ten (10) days of the decision in Step 2. If the decision at Step 2 is based in whole or in part on the basis of timeliness, scope of the grievance process or other failure of the Grievant to properly follow the process, the matter shall be referred to the Board, which shall determine whether the matter should be processed further. If the Second Step decision is on the merits of the grievance only, the grievance will be referred to an Impartial Hearing Officer (IHO). The IHO will be designated by the District Administrator. Any costs incurred by the (IHO) will be paid by the School District. The IHO will convene a hearing in the manner the IHO determines necessary. The IHO shall have the authority to administer oaths, issue subpoenas at the request of the parties, and decide if a transcript is necessary. The IHO may require the parties to submit grievance documents and witness lists in advance of the hearing to expedite the hearing. The oral or written statements of students, which would otherwise be hearsay, will be considered by the impartial hearing officer without the direct testimony of students, if other, non-hearsay information is presented. The burden of proof shall be "a preponderance of the evidence". In termination and discipline cases, the District shall have the burden. In workplace safety cases, the employee shall have the burden. The IHO may request oral or written arguments and replies. The IHO shall provide the parties a written decision.

The IHO may only consider the matter presented in the initial grievance filed by the employee. The IHO shall have no power to add to, subtract from or modify the terms of the Board policy or rule that forms the basis for the grievance.

Fourth Step

Either party may appeal an adverse determination at step three to the Board of Education, by filing written notice in the District Office appealing the decision of the IHO within ten (10) days of the decision of the IHO. The Board of Education shall, within thirty (30) days after submission of the appeal, schedule the review of the IHO's decision. The review will be conducted by the Board during a closed session meeting unless an open

SCHOOL DISTRICT OF WEST DE PERE

**STAFF NONDISCRIMINATION**

4117 (con't)

session is required by law. The Board may make its decision based on the written decision of the IHO or the Board may examine any records, evidence and testimony produced at the hearing before the IHO. The Board may conduct a hearing if it so determines or if required by law. A simple majority vote of the Board members participating in the review shall decide the appeal (unless a greater number is required by law) within twenty (20) days following the last session scheduled for review. The Board will issue a final written decision which shall be binding on all parties.

The complaint procedure will be enforced consistent with the laws prohibiting discrimination.

Accommodations will be provided for any individual with a disability that requires assistance or alternative means to either file a complaint or participate in the investigation of a complaint, due to their disability.

C. EXCEPTIONS

1. Nothing in these procedures shall preclude individuals who feel they have been discriminated against from filing a complaint directly with either the Wisconsin Equal Rights Division or the Federal Equal Employment Opportunity Commission as authorized by federal law. Such complaints must be filed within 300 days of the alleged incident.

V. RETALIATION

- A. Retaliation against an individual for filing a discrimination complaint or for participating in a discrimination investigation will not be tolerated, and will be grounds for disciplinary action.

The complainant has the right to file a complaint with the Office of Civil Rights located at:

**Office for Civil Rights**  
U.S. Department of Education  
500 West Madison Street, Suite 1475  
Chicago, IL 60661

**Address complaints to: Amy Schuh, Director of Student Services**  
**School District of West De Pere**  
400 Reid Street, Suite W  
De Pere, WI 54115  
920-337-1393

LEGAL REFERENCE: Wisconsin Statute 111.3  
Title VI of the Civil Rights Act of 1964  
Title IX of the Educational Amendments of 1972  
Section 504 of the Rehabilitation Act of 1973

CROSS REFERENCE: 1113 - Nondiscrimination  
5117 - Student Nondiscrimination  
4420 -Grievance Policy for Professional Teaching Staff

FIRST READING: 2/17/00  
ADOPTED: 3/14/00  
REVISED: 12/19/12  
READOPTED: 1/16/13  
REVIEWED: 12/11/19  
READOPTED: 1/27/2020