

## 3362 - EMPLOYEE ANTI-HARASSMENT

### Prohibited Harassment

The School Board is committed to a work environment that is free of harassment of any form. The Board will not tolerate any form of harassment and will take all necessary and appropriate action to eliminate it. Any member of the School District community who violates this policy will be subject to disciplinary action, up to and including termination of employment. Additionally, appropriate action will be taken to stop and otherwise deal with any third party who engages in harassment against our employees.

For purposes of this policy, "School District community" means individuals subject to the control and supervision of the Board including, but not limited to, student, teachers, staff, volunteers, and Board members. "Third party" means individuals outside the School District community who participate in school activities and events authorized by the Board including, but not limited to, visiting speakers, participants on opposing athletic teams, and vendors doing business with, or seeking to do business with, the District.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's protected status, such as sex, color, race, ancestry, creed, religion, genetic information, national origin, age, handicap, disability, marital status, veteran status, citizenship status, sexual orientation, arrest record, conviction record, or other protected group status, which affects tangible job benefits, interferes unreasonably with an individual's work performance, or creates an intimidating, hostile, or offensive working environment. Harassment may occur employee-to-employee, student-to-employee, employee-to-student, male-to-female, female-to-male, male-to-male, or female-to-female.

### Sexual Harassment

Sexual harassment deserves special mention. Unwelcome sexual advances, requests for sexual favors, and other physical, verbal, or visual conduct based on sex constitutes sexual harassment when:

- A. A supervisory employee engages in harassing behavior towards a subordinate employee, regardless of whether such conduct creates a hostile work environment;
- B. Acquiescence in or submission to such conduct is an explicit or implicit term or condition of employment;
- C. An individual's acquiescence in, submission to, or rejection of such conduct becomes the basis for employment decisions affecting that individual;
- D. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment;

- E. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism results in an adverse employment action for another employee or otherwise creates a hostile work environment; and
- F. Inappropriate boundary invasions by a District employee or other adult member of the District into a student's personal space and personal life.

Sexual relationships between staff members, where one staff member has supervisory responsibilities over the other, are discouraged as a matter of Board policy. 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 the consequences of non-compliance.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### **Reporting Procedures**

The Superintendent shall prepare written administrative procedures for employees to report alleged harassment prohibited under this policy to appropriate school administrators. The reporting procedures shall, at a minimum, provide as follows:

- A. Any employee who believes s/he has been the victim of harassment prohibited under this policy will be encouraged to report the alleged harassment to appropriate school officials.
- B. Teachers, administrators, and other school officials who have or receive notice that an employee has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to an appropriate school official.
- C. Any other person with knowledge or belief that an employee has or may have been the victim of harassment prohibited by this policy shall be encouraged to immediately report the alleged acts to an appropriate school official.
- D. The reporting party or complainant shall be encouraged to use a report form available from the principal of each building or available from the District office, but oral reports shall be considered complaints as well. Use of formal reporting forms shall not be mandated. However, all oral complaints shall be reduced to writing. Further, nothing in the administrative procedures shall prevent any person from reporting harassment directly to the Superintendent.

## **Investigation Procedures**

The Superintendent shall prepare written administrative procedures for investigating complaints of harassment. These procedures will, at a minimum, provide as follows:

- A. The Human Resources Director or another individual designated by the Superintendent (the "Investigator") shall conduct an investigation immediately upon receiving a complaint or report of harassment prohibited under this policy. The Superintendent, or his/her designee, shall oversee the investigation. The Superintendent will also take immediate action, as may be appropriate, to prevent further violations of this policy while the investigation is being conducted.
- B. The investigation shall consider all relevant facts, documents, witness accounts, and other relevant information.
- C. The investigation shall be completed as quickly as possible, but no later than thirty (30) working days from receipt of the complaint, unless additional time is needed to conduct a thorough and objective investigation and the complainant is informed of the need for additional time. The Investigator shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report shall be filed directly with the Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The Investigator may conduct the investigation regardless of the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

## **School District Action**

Upon receipt of a report that a violation has occurred, the School District will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include, but are not limited to, counseling, awareness training, warning, suspension, exclusion, transfer, remediation, termination, or discharge. School District action taken for violation of this policy shall be consistent with the requirements of state and federal law, and School District policies for violations of a similar nature or similar degree of severity.

If the evidence suggests that the harassment at issue is also a crime, the Board shall also direct the Superintendent to report the results of the investigation to the appropriate social service and/or law enforcement agency charged with responsibility for handling such crimes. Notwithstanding the preceding, nothing in this policy shall prohibit the Superintendent from reporting suspected harassment and/or other potentially criminal behavior to the appropriate social service and/or law enforcement agency prior to completion of the District's investigation.

In accord with state and federal laws regarding privacy and other rights, the Superintendent shall provide the complainant and other parties with a written answer to the complaint within ten (10) working days of receiving the Investigator's report.

## **Appeal Provision**

The Superintendent shall also develop written procedures for the complainant and alleged harasser to appeal his/her answer. These procedures may include a means for these individuals to appeal the answer to the Superintendent and the Board.

### **Reprisal**

Submission of a good faith complaint or report of harassment will not affect the complainant's or reporter's work status or work environment. However, the Board also recognizes that false or fraudulent claims of harassment or false or fraudulent information about such claims may be filed. The Board reserves the right to discipline any person filing a false or fraudulent claim of harassment or false or fraudulent information about such a claim.

The District will discipline or take appropriate action against any member of the School District community who retaliates against any person who reports an incident of harassment prohibited by this policy or participates in a proceeding, investigation, or hearing relating to such harassment. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

### **Miscellaneous**

The District shall conspicuously post a notice including this policy against harassment in each school in a place accessible to the School District community and members of the public. This notice shall also include the name, mailing address, and telephone number of the District Investigator, the name, mailing address, and telephone number of the state agency responsible for investigating allegations of discrimination in educational opportunities, and the mailing address and telephone number of the United States Equal Opportunity Employment Commission.

A summary of this policy and any related administrative procedures shall be made available upon request of employees and other interested parties.

The Board will ensure that methods are developed for discussing this policy with the School District community. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to the School District community on an annual basis, and at such other times as the Board in consultation with the Superintendent determines is necessary or appropriate.

This policy shall be reviewed at least annually for compliance with local, state, and federal law.

The Board will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as practicable, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery, disclosure, or other legal obligations.

Section 111.31 of the Wisconsin Statutes (fair employment)

Section 118.195 of the Wisconsin Statutes (discrimination against handicapped teachers prohibited)

118.20 of the Wisconsin Statutes (teacher discrimination prohibited)

20 U.S.C. 1681 et seq., Title IX (discrimination based on sex prohibited)

29 U.S.C. 701 et seq., Rehabilitation Act of 1973  
29 U.S.C. 794 (nondiscrimination in federal grants and programs)  
29 C.F.R. Part 1635 (related to Genetic Information Nondiscrimination Act of 2008)  
42 U.S.C. 1983 (civil action for deprivation of rights)  
42 U.S.C. 2000d et seq. (prohibition of denial of rights based on race, color or national origin)  
42 U.S.C. 2000e et seq. (Title VII of the Civil Rights Act of 1964)  
42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act of 2008)  
42 U.S.C. 12101 et seq. (Americans with Disabilities Act of 1990)

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