



| | |
|---------|---|
| Book | Policy Manual - First Draft Clean |
| Section | 2000 Program |
| Title | NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY |
| Code | po2260 (WS411/R411) - 2nd 9-13-2021 |
| Status | |
| Legal | 118.13 Wis. Stats. P.I. 9, Wis. Adm. Code P.I. 41, Wis. Adm. Code Fourteenth Amendment, U.S. Constitution 20 U.S.C. Section 1681, Title IX of Education Amendments Act 20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974 20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act 29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended 42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964 42 U.S.C. Section 2000ff et seq., The Genetic Information Nondiscrimination Act 42 U.S.C. 6101 et seq., Age Discrimination Act of 1975 42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended |

2260 - **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

The Board is committed to providing an equal educational opportunity for all students in the District.

The Board does not discriminate on the basis of race, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex, (including transgender status, change of sex or gender identity), or physical, mental, emotional, or learning disability ("Protected Classes") in any of its student program and activities. This policy is intended to support and promote nondiscriminatory practices in all District and school activities, particularly in the following areas:

- A. use of objective bases for admission to any school, class, program, or activity;
- B. prohibition of harassment towards students and procedures for the investigation of claims (see Policy 5517);
- C. use of disciplinary authority, including suspension and expulsion authority;
- D. administration of gifts, bequests, scholarships and other aids, benefits, or services to students from private agencies, organizations, or persons;
- E. selection of instructional and library media materials in a nondiscriminatory manner and that reflect the cultural diversity and pluralistic nature of American society;
- F. design and implementation of student evaluation practices, materials, and tools, but not at the exclusion of implementing techniques to meet students' individual needs;

G. design and configuration of facilities;

H. opportunity for participation in extra-curricular and co-curricular activities provided that separate programs for male and female students may be available provided comparable activities are made available to all in terms of type, scope, and District support; and

I. the school lunch program and other school-sponsored food service programs.

The Board is also committed to equal employment opportunity in its employment policies and practices as they relate to students. The Board's policies pertaining to employment practices can be found in Policy 1422, Policy 3122, and Policy 4122 - Nondiscrimination and Equal Employment Opportunity.

In furtherance of the aforesaid goal, the Superintendent shall:

A. Curriculum Content

1. review current and proposed courses of study and textbooks to detect any bias based upon the Protected Classes ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both sexes, various races, ethnic groups, etc. toward the development of human society;
2. provide that necessary programs are available for students with limited use of the English language;

B. Staff Training

develop an ongoing program of staff training and in-service training for school personnel designed to identify and solve problems of bias based upon the Protected Classes in all aspects of the program;

C. Student Access

1. review current and proposed programs, activities, facilities, and practices to ensure that all students have equal access thereto and are not segregated on the basis of the Protected Classes in any duty, work, play, classroom, or school practice, except as may be permitted under State regulations;
2. verify that facilities are made available in a non-discriminatory fashion, in accordance with Board Policy 7510 - Use of District Facilities, for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society;

D. District Support

require that like aspects of the District program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

E. Student Evaluation

verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the Protected Classes.

The Superintendent shall appoint and publicize the name of the compliance officer(s) who is/are responsible for coordinating the District's efforts to comply with the applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or equal access. The Compliance Officer(s) also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), is provided to students, their parents, staff members, and the general public.

The Superintendent shall attempt annually to identify children with disabilities, ages 3 - 21, who reside in the District but do not receive a public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient, including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit guidelines and shall be designed to provide students with effective instruction that leads to

academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading and writing, on an annual basis.

Reporting Procedures

Students, parents and all other members of the School District community are encouraged to promptly report suspected violations of this policy to a teacher or administrator. Any teacher or administrator who receives such a complaint shall file it with the District's Compliance Officer at his/her first opportunity.

Students who believe they have been denied equal access to District educational opportunities in a manner inconsistent with this policy may initiate a complaint and the investigation process that is set forth below. Initiating a complaint will not adversely affect the complaining individual's participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with the knowledge that it is false.

The Board designates the following individuals to serve as the District's CO's:

Director of Pupil Services
608-786-1064
405 East Hamlin Street
West Salem, WI 54669

Director of Human Resources
608-786-5302
405 East Hamlin Street
West Salem, WI 54669

The names, titles, and contact information of these individuals will be published annually:

- A. in the staff and student handbooks.
- B. on the School District's website.

A CO will be available during regular school/work hours to discuss concerns related to student discrimination in educational opportunities under this policy.

Investigation and Complaint Procedure

The CO shall investigate any complaints brought under this policy. Throughout the course of the process as described herein, the CO should keep the parties informed of the status of the investigation and the decision-making process.

All complaints must include the following information to the extent it is available: a description of the alleged violation, the identity of the individual(s) believed to have engaged in, or to be actively engaging in, conduct in violation of this policy, if any; a detailed description of the facts upon which the complaint is based; and a list of potential witnesses.

If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter the CO will prepare a written summary of the oral interview, and the Complainant will be asked to verify the accuracy of the report by signing the document.

Upon receiving a complaint, the CO will consider whether any action should be taken during the investigatory phase to protect the Complainant from further loss of educational opportunity, including but not limited to a change of class schedule for the Complainant, tentative enrollment in a program, or other appropriate action. In making such a determination, the CO should consult the Principal prior to any action being taken. The Complainant should be notified of any proposed action prior to such action being taken.

As soon as appropriate in the investigation process, the CO will inform any individual named by the Complainant in connection with an alleged violation of this policy, that a complaint has been received. The person(s) must also be provided an opportunity to respond to the complaint.

All investigations shall be commenced as soon as practicable upon receipt of a complaint and concluded as expeditiously as feasible, in consideration of the circumstances, while taking measures to complete a thorough investigation. The complaining party shall be notified in writing of receipt of the complaint within forty-five (45) days of the complaint and shall reach a determination concerning the complaint within ninety (90) days of receipt unless additional time is agreed to by the complaining party.

The investigation will include:

- A. interviews with the Complainant;
- B. interviews with any persons named in the complaint;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations, as determined by the CO;
- 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 CO.

At the conclusion of the investigation, the CO shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definitions in this Policy, as well as in State and Federal law as to whether the Complainant has been denied access to educational opportunities on the basis of one of the protected classifications, based on a preponderance of evidence standard. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved.

The CO may consult with the Board's attorney during the course of the investigatory process and/or before finalizing the report to the Superintendent.

In cases where no District CO is able to investigate a complaint due to concerns regarding conflicts, bias or partiality, or for other reasons that impair the CO's ability to conduct an investigation, the CO may in consultation with the Superintendent or Board President, engage outside legal counsel to conduct the investigation consistent with this policy.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the CO, the Superintendent must either issue a final decision regarding the complaint or request further investigation. A copy of the Superintendent's final decision will be delivered to the Complainant. The Superintendent may redact information from the decision in the event the release of information raises concerns regarding the integrity of the complaint or investigation process. The Board authorizes the Superintendent to consult with legal counsel to determine the extent to which information in an investigation report must be provided to either the Complainant or Respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above. The decision of the Superintendent will be reviewed by the Board upon request.

If the Complainant feels that the decision does not adequately address the complaint s/he may appeal the decision to the State Superintendent of Public Instruction by submitting a written request to the Wisconsin Department of Public Instruction, Pupil Nondiscrimination Program, or by contacting the DPI Pupil Nondiscrimination Program at (608) 267-9157. Any person, including the Respondent in a complaint, who is subject to disciplinary action up to and including termination as a result of a complaint may choose to file a grievance utilizing the District's grievance procedure as outlined in Policy 3340 or Policy 4340.

The Board reserves the right to investigate and resolve a complaint or report regardless of whether the member of the School District community or third party chooses to pursue the complaint. The Board also reserves the right to have the complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board.

Additional School District Action

If the evidence suggests that any conduct at issue violates any other policies of the Board, is a crime, or requires mandatory reporting under the Children's Code (Sec. 48.981, Wis. Stat.) (Policy 8462), or threats of violence (Policy 8462.01), the CO or Superintendent shall take such additional actions as necessary and appropriate under the circumstances, which may include a report to the appropriate social service and/or law enforcement agency charged with responsibility for handling such investigations.

Confidentiality

The District will make reasonable efforts to protect the privacy of any individuals involved in the investigation process. Confidentiality cannot be guaranteed, however. All Complainants proceeding through the investigation process should be advised that as a result of the investigation, allegations against individuals may become known to those individuals, including the Complainant's identity.

During the course of an investigation, the CO will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

Retention of Public Records, Student Records, and Investigatory Records and Materials

All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including but not limited to:

- A. all written reports/allegations/complaints/statements;
- B. narratives of all verbal reports, allegations, complaints, and statements collected;
- C. a narrative of all actions taken by District personnel;
- D. any written documentation of actions taken by District personnel;
- E. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- F. all documentary evidence;
- G. e-mails, texts, or social media posts related to the investigation;
- H. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- I. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- J. dated written determinations to the parties;
- K. dated written descriptions of verbal notifications to the parties;
- L. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- M. documentation of all actions, both individual and systemic, taken to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.