

BOARD OF EDUCATION
COCHRANE-FOUNTAIN CITY SCHOOL DISTRICT
Policy Committee Meeting
High School Library
September 3, 2020
5:00 p.m.

This meeting will be held through an application and digital devices. The Superintendent and some board members will be physically present in the High School Library; other members of the board and the public may access the meeting offsite using digital devices. Use the following link to view the meeting:

<https://zoom.us/j/98947241221?pwd=MkdtNmhxTFllazJBVGnJR0kzTGVIz09>

A password is also required to join the meeting. To receive the password, please email: jfairbanks@cfc.k12.wi.us before 4:00 p.m., September 3, 2020.

1. Call to Order
2. Members Present
3. Review the Committee's Charge- The Policy Committee is charged with making recommendations for the adoption, deletion or revision of school board policies, and, in limited circumstances, administrative rules.
4. Review/discuss/recommend the following policies/rules:
 - a. Rule 2; Policy 113: Expectations for employees to report discrimination and harassment
 - b. Policy 511: Equal Opportunity Employment and Nondiscrimination
 - c. Rule 511: Employment Discrimination and Harassment Complaint Procedures
 - d. Policy 512: Harassment Based on a Legally Protected Status
2. Adjourn

EXPECTATIONS FOR EMPLOYEES TO REPORT DISCRIMINATION AND HARASSMENT

113-Rule

Sample Rule 2

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~~(This sample rule is intended to coordinate with PRG 113 Sample Policy 1 (or 113 Sample Policy 2) and PRG 113 Sample Rule 1. The rule establishes requirements for all employees and certain "employee-like" agents of the school district to internally report incidents and allegations of possible unlawful discrimination for further follow-up and response. The federal Title IX regulations make such internal reporting critical in the case of allegations of Title IX sexual harassment (whether of students or employees) within any education program or activity of the school district. This is because the Title IX regulations provide that a school district has actual knowledge of such sexual harassment and an obligation to respond to such knowledge any time that any employee of the district has notice of conduct or allegations that could constitute sexual harassment under Title IX. However, even before the Title IX regulations created that broad "actual knowledge" standard for Title IX sexual harassment, many districts already set expectations for all school employees to internally report known or suspected incidents or allegations of unlawful discrimination/harassment.)~~

The guidelines and expectations established in this rule apply to all District employees and to all non-employee authorized agents of the District who perform a compensated role for the District that requires a DPI license (e.g., licensed professionals working for the District in the capacity of contracted service provider) ~~insert if desired: "or who hold a volunteer position that is regularly offered as a paid position/assignment (e.g., a volunteer coach)"~~. The District may further apply this rule to other non-employees who provide services to the District by including appropriate provisions in any applicable contract, memorandum of understanding, or other agreement, or by issuing any other sufficient notice or directives to such persons. ~~{Editor's Note: A school district using this rule should set the rule's scope of application very carefully. Especially for any non-employee agents to whom the rule is applied, a district needs to ensure that the individuals are made aware of the relevant expectations, perhaps by providing such agents with the same training or other notice that is provided to district employees. Examples of other non-employee positions that a district might cover via the final sentence of this paragraph include contracted bus drivers, contracted food service workers, or school resource officers. However, as provided in the sample language for that final sentence, any such additional coverage should normally be addressed in the contract/agreement that the district holds with the direct employer of such individuals.}~~

In the remainder of this rule:

1. "Agent" means any non-employee agent, contractor, or service-provider to whom the guidelines and expectations established in this rule apply.
2. "District nondiscrimination policy" includes the following School Board policies: 113, 411, 411.1, 511, 512~~{Identify and list applicable local policies: Policy 113, Policy 411, Policy 411.1, Policy 511, Policy 512}~~.

Reporting Responsibilities

Any employee or agent of the District who has knowledge of conduct by any other person that constitutes, or is reasonably suspected to constitute, unlawful discrimination in violation of a legal obligation of the District, or in violation of any District nondiscrimination policy, is responsible for

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promptly reporting such conduct. Similarly, an employee or agent who reasonably suspects that any District policy or District operating procedure unlawfully discriminates against any person in violation of a legal obligation of the District, or in violation of any District nondiscrimination policy, is also responsible for promptly reporting that knowledge, claim, or concern. ~~*{Editor's Note: This paragraph establishes the critical reporting expectations for employees and agents as they relate to the district's nondiscrimination obligations. As applied specifically to employees, the district may wish to reiterate these important expectations directly in the district's employee handbook and also include a direct cross-reference to this complete rule in the handbook.}*~~

The District's established procedures for making a report or complaint of prohibited discrimination, or alleged discrimination, are found in Policy 113 ~~{Policy 113}~~. Employees and agents of the District may, and generally should, use those established methods to satisfy the reporting obligations established in this rule. However, an employee or agent may also satisfy the reporting obligations established in this rule if they submit the relevant report directly to the School Principal, Assistant School Principal, or the District Administrator, ~~*{insert a list of appropriate high-level administrators—e.g., "a school principal, the supervisory head of a department, the Director of Student Services, the Director of Human Resources, or the District Administrator"}*~~, provided that the person to whom the report is made is someone other than a person who is alleged to be responsible for the reported discrimination. Particularly if such a report was not submitted in person (e.g., it was submitted via mail or electronic mail), employees and agents are strongly encouraged to personally contact the intended recipient to confirm that the report was received as intended.

The obligation established in this Rule to report conduct by any other person that constitutes, or that is reasonably suspected to constitute, unlawful discrimination (including unlawful harassment) applies to such conduct occurring within any aspect of the District's programs, activities, or operations and also applies regardless of:

1. Whether the person alleged to be responsible for the conduct is a student, an employee, a supervisor/administrator, a School Board member, or other person over whom the District exercises relevant authority, control, or responsibility;
2. Whether the person alleged to be the victim of the conduct is a student, an employee, or other person who is legally protected from the alleged discrimination;
3. How the employee or agent obtained their knowledge of the conduct or alleged conduct (e.g., as a direct witness to the conduct/incident, as a victim or target of the conduct, or after receiving a report or other relevant information from a third-party); and
4. Whether the employee or agent making the report considers (or does not consider) themselves to be an alleged victim or target of the conduct, or to have been otherwise harmed in some way by the conduct, except that an employee or agent who is an alleged victim of conduct that could constitute sexual harassment, as defined under section 106.30 of the federal Title IX regulations, is permitted, at their discretion, to make their report in a manner that either does, or does not, constitute a "formal complaint" of sexual harassment, as defined in section 106.30.

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As further established in the Board's nondiscrimination policies, an employee or agent is protected from any form of unlawful retaliation for making a good-faith report of known, alleged, or reasonably suspected discrimination under this rule.

The reporting obligations established in this Rule do not apply when the employee or agent has direct and certain knowledge that the relevant conduct or other allegations of unlawful discrimination have already been reported to at least to the School Principal, Assistant School Principal, or the District Administrator. [insert relevant position(s) — e.g., "one of the District's designated nondiscrimination coordinators and/or the District Administrator"]. For example, an employee or agent is not required to submit another report of the same conduct, incident, or allegation when they have knowledge that the District has already started an investigation into (or otherwise initiated an appropriate response to) the same matter.

To the extent applicable to the employee's or agent's position/role and to the facts of a specific situation, employees and agents of the District remain responsible for adhering to any other mandatory reporting requirements established under a District policy and/or under state or federal law (e.g., reports of child abuse or neglect, threats of school violence, or educator misconduct).

~~{Editor's Note: The remainder of this sample rule, below, could be deleted and the content above would still constitute a coherent statement of guidelines and expectations. The purpose of the remaining text is to expressly recognize the ambiguities that staff will encounter in evaluating specific situations under this rule and to provide some basic direction regarding how to handle such ambiguities.}~~

In the course of their duties and in attempting to adhere to the expectations established by this rule, employees and agents will witness or otherwise become aware of incidents involving conduct that may be inappropriate, but that may or may not also constitute unlawful harassment or some other form of discrimination that is prohibited by law and/or District policy. In some situations, the relevant conduct (or alleged conduct) will be so severe or pervasive, or present such a significant threat to someone's health, safety, or wellbeing, that reporting as required by this rule will clearly be the necessary course of action. However, it is also the case that not every unkind action, statement that someone might find offensive, ill-advised attempt at humor, or incident of interpersonal conflict, teasing, or name-calling amounts to unlawful harassment that requires a report to be submitted under this rule.

Due to the continuum of potentially problematic incidents and conduct that employees and agents may encounter, the District recognizes that there will be borderline situations where employees and agents will need to exercise reasonable professional judgment when deciding whether the situation should be further reported as possible discrimination under this rule. In exercising such judgment, under a reasonable person standard for someone holding the employee's or agent's position/role, the employee or agent is expected to:

1. Make efforts to be reasonably consistent in making such reporting decisions;
2. Refer to and apply any policy-based standards that may be relevant to the situation, including considering whether policies in addition to the District's nondiscrimination

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policies may be relevant, e.g. 411, 511, 512, ~~(e.g. *insert a few examples of actual policies that exist in the district—e.g., "a policy prohibiting student bullying, a school safety policy, a policy addressing staff student communications/interactions, or a policy that prohibits workplace violence"*)~~, as well as any reporting expectations that may apply with respect to such other policies;

3. Seek assistance from appropriate supervisory or administrative personnel, including but not limited to any District-designated nondiscrimination coordinator, whenever the employee or agent encounters any questions regarding the scope or application of this rule, and the employee or agent is unsure how to fully assess or otherwise handle the situation; and
4. Follow any lawful supervisory or administrative directives or guidance that they may receive.

Adoption Date: 9/16/2020

Expectations for employees to report discrimination and harassment

113 Policy, Rule 2

The guidelines and expectations established in this rule apply to all District employees and to all non-employee authorized agents of the District who perform a compensated role for the District that requires a DPI license (e.g., licensed professionals working for the District in the capacity of contracted service provider) The District may further apply this rule to other non-employees who provide services to the District by including appropriate provisions in any applicable contract, memorandum of understanding, or other agreement, or by issuing any other sufficient notice or directives to such persons.

In the remainder of this rule:

1. "Agent" means any non-employee agent, contractor, or service-provider to whom the guidelines and expectations established in this rule apply.
2. "District nondiscrimination policy" includes the following School Board policies: 113, 411, 411.1, 511, 512

Reporting Responsibilities

Any employee or agent of the District who has knowledge of conduct by any other person that constitutes, or is reasonably suspected to constitute, unlawful discrimination in violation of a legal obligation of the District, or in violation of any District nondiscrimination policy, is responsible for promptly reporting such conduct. Similarly, an employee or agent who reasonably suspects that any District policy or District operating procedure unlawfully discriminates against any person in violation of a legal obligation of the District, or in violation of any District nondiscrimination policy, is also responsible for promptly reporting that knowledge, claim, or concern.

The District's established procedures for making a report or complaint of prohibited discrimination, or alleged discrimination, are found in Policy 113. Employees and agents of the District may, and generally should, use those established methods to satisfy the reporting obligations established in this rule. However, an employee or agent may also satisfy the reporting obligations established in this rule if they submit the relevant report directly to the School Principal, Assistant School Principal, or the District Administrator, provided that the person to whom the report is made is someone other than a person who is alleged to be responsible for the reported discrimination. Particularly if such a report was not submitted in person (e.g., it was submitted via mail or electronic mail), employees and agents are strongly encouraged to personally contact the intended recipient to confirm that the report was received as intended.

The obligation established in this Rule to report conduct by any other person that constitutes, or that is reasonably suspected to constitute, unlawful discrimination (including unlawful harassment) applies to such conduct occurring within any aspect of the District's programs, activities, or operations and also applies regardless of:

1. Whether the person alleged to be responsible for the conduct is a student, an employee, a supervisor/administrator, a School Board member, or other person over whom the District exercises relevant authority, control, or responsibility;
2. Whether the person alleged to be the victim of the conduct is a student, an employee, or other person who is legally protected from the alleged discrimination;

3. How the employee or agent obtained their knowledge of the conduct or alleged conduct (e.g., as a direct witness to the conduct/incident, as a victim or target of the conduct, or after receiving a report or other relevant information from a third-party); and
4. Whether the employee or agent making the report considers (or does not consider) themselves to be an alleged victim or target of the conduct, or to have been otherwise harmed in some way by the conduct, except that an employee or agent who is an alleged victim of conduct that could constitute sexual harassment, as defined under [section 106.30](#) of the federal Title IX regulations, is permitted, at their discretion, to make their report in a manner that either does, or does not, constitute a “formal complaint” of sexual harassment, as defined in section 106.30.
As further established in the Board’s nondiscrimination policies, an employee or agent is protected from any form of unlawful retaliation for making a good-faith report of known, alleged, or reasonably suspected discrimination under this rule.

The reporting obligations established in this Rule do not apply when the employee or agent has direct and certain knowledge that the relevant conduct or other allegations of unlawful discrimination have already been reported to at least to the School Principal, Assistant School Principal, or the District Administrator. For example, an employee or agent is not required to submit another report of the same conduct, incident, or allegation when they have knowledge that the District has already started an investigation into (or otherwise initiated an appropriate response to) the same matter.

To the extent applicable to the employee’s or agent’s position/role and to the facts of a specific situation, employees and agents of the District remain responsible for adhering to any other mandatory reporting requirements established under a District policy and/or under state or federal law (e.g., reports of child abuse or neglect, threats of school violence, or educator misconduct).

In the course of their duties and in attempting to adhere to the expectations established by this rule, employees and agents will witness or otherwise become aware of incidents involving conduct that may be inappropriate, but that may or may not also constitute unlawful harassment or some other form of discrimination that is prohibited by law and/or District policy. In some situations, the relevant conduct (or alleged conduct) will be so severe or pervasive, or present such a significant threat to someone’s health, safety, or wellbeing, that reporting as required by this rule will clearly be the necessary course of action. However, it is also the case that not every unkind action, statement that someone might find offensive, ill-advised attempt at humor, or incident of interpersonal conflict, teasing, or name-calling amounts to unlawful harassment that requires a report to be submitted under this rule.

Due to the continuum of potentially problematic incidents and conduct that employees and agents may encounter, the District recognizes that there will be borderline situations where employees and agents will need to exercise reasonable professional judgment when deciding whether the situation should be further reported as possible discrimination under this rule. In exercising such judgment, under a reasonable person standard for someone holding the employee’s or agent’s position/role, the employee or agent is expected to:

1. Make efforts to be reasonably consistent in making such reporting decisions;
2. Refer to and apply any policy-based standards that may be relevant to the situation, including considering whether policies in addition to the District’s nondiscrimination policies may be relevant, e.g. 411, 511, 512, as well as any reporting expectations that may apply with respect to such other policies;

3. Seek assistance from appropriate supervisory or administrative personnel, including but not limited to any District-designated nondiscrimination coordinator, whenever the employee or agent encounters any questions regarding the scope or application of this rule, and the employee or agent is unsure how to fully assess or otherwise handle the situation; and
4. Follow any lawful supervisory or administrative directives or guidance that they may receive.

Cross Reference SR2 7/24/20

Adoption Date: 9/16/2020

Book	School Board Policies
Section	500 Series: Personnel
Title	Equal Opportunity Employment and Nondiscrimination
Code	511
Status	Active
Adopted	August 21, 2019

The District is committed to equal employment opportunity in its personnel practices. The School Board's goal, intent, and specific directive is that the District shall maintain policies, practices, and a workplace environment that are free from all unlawful discrimination, harassment and retaliation. Accordingly, recruitment, hiring, and all personnel administration (e.g., training, assignments, compensation, evaluation, and discipline) shall be conducted so as not to illegally discriminate against any applicant or employee on the basis of age, race, religion, sex, sexual orientation, disability, citizenship, marital status, pregnancy, national origin, creed, color, political or religious affiliation, ancestry, arrest or conviction record, military service, use or nonuse of a lawful product off school premises during nonworking hours, declining to attend a meeting or to participate in any communication about religious matters or political matters, the authorized use of family or medical leave or worker's compensation benefits, genetic information, or any other reason prohibited by applicable law. Specific state and federal laws and regulations further define the actions that do, or do not constitute unlawful discrimination, harassment or retaliation with respect to the various protected classes.

To the extent required by law, reasonable accommodations that do not impose an undue hardship shall be made for qualified individuals with a disability. Such accommodations may be used to enable a qualified applicant or employee with a disability to perform the essential functions of a position or to enjoy the same benefits and privileges as those enjoyed by applicants or employees without disabilities. The District shall also accommodate the religious practices of an employee to the extent required by law. Applicants or employees desiring an accommodation should submit a request to their immediate supervisor or to the Equal Employment Opportunity Officer.

Complaints. Complaints regarding possible employment discrimination or the interpretation or application of this policy may be submitted to the District's designated Equal Employment Opportunity Officer, as further described in the complaint procedures established under this policy. The Board encourages attempts to resolve complaints informally.

Designation of an Equal Employment Opportunity Officer. The staff member holding the following position shall serve as the District's designated Equal Employment Opportunity Officer (EEO Officer):

District Administrator
 Cochrane-Fountain City School District
 S2770 State Road 35
 Fountain City, WI 54629
 (608) 687-7771

In his/her capacity as the District's EEO Officer, the designated individual also serves as the District's Title IX Coordinator and Section 504/Americans with Disabilities Act (ADA) Coordinator **for employment-related matters**. Title IX is federal legislation that prohibits discrimination on the basis of sex in education programs, including employment within education programs. Section 504 and the ADA address the rights of individuals with disabilities.

The EEO Officer shall have primary responsibility for coordinating the District's efforts to implement this policy and adhere to applicable nondiscrimination laws and regulations, including investigating and responding to any complaint or report alleging noncompliance with, or acts in violation of, such laws and regulations, including as examples the following:

- Title VI and Title VII of the federal Civil Rights Act (as amended)
- Title IX of the federal Education Amendments of 1972 (as amended)
- The federal Americans with Disabilities Act (as amended)
- Section 504 of the federal Rehabilitation Act of 1973 (as amended)
- The federal Age Discrimination in Employment Act (as amended)
- The federal Genetic Information Nondiscrimination Act (as amended)
- The Wisconsin Fair Employment Act (as amended)
- Sections 118.195 and 118.20 of the Wisconsin Statutes

The principal shall perform the duties of the EEO Officer if the EEO Officer is temporarily unavailable or if a complaint involves any alleged improper conduct by the EEO Officer.

Employee Reporting Responsibilities. All employees are responsible for reporting violations of this policy. An employee who believes he/she has been subjected to unlawful discrimination by anyone, including supervisors, co-workers, students, or Board members, is expected to promptly report the behavior to an administrator or supervisor. Such reports may always be submitted to the District's Equal Employment Opportunity Officer, and an employee may also choose to use the District's employment discrimination and harassment complaint procedures. (511-Rule Procedure for Handling Employment Discrimination, Harassment and/or Bullying Complaints). Any employee who is aware of a discriminatory policy, practice, or incident in the workplace is likewise expected to report it, even when that employee is not a direct victim/target. All reports and complaints of possible employment-related discrimination shall be taken seriously, promptly and thoroughly investigated, and responded to as appropriate.

Confidentiality. Although absolute confidentiality and anonymity cannot be assured, the District will maintain the confidentiality of reports and complaints under this policy to the extent required by any applicable law, and the District 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. Individuals who have specific concerns about confidentiality in connection with any report, complaint, or investigation should arrange to discuss those concerns with the District as early as possible in the process.

Retaliation Prohibited. No one shall attempt to restrain, interfere with, coerce, or take retaliatory action against a complainant, witness, or other person who is participating in the presentation, processing, or resolution of a complaint, report, or concern regarding employment-related discrimination.

Consequences for Violations. Any person who is responsible for any form of employment-related discrimination or any act of retaliation in violation of this policy is subject to disciplinary action, up to and including discharge from employment. Additional consequences may include other adverse or remedial actions within the District's scope of authority and/or referral to law enforcement officials for possible legal action. In addition, supervisory employees who fail to reasonably respond to discrimination complaints or reports or to reasonably act on their knowledge of a violation of this policy will likewise be subject to disciplinary action.

Information and Notices. Staff shall be informed of this policy and the related complaint procedures via the District's Employee Handbook. This policy and the related complaint procedures shall be posted on the District website. Additional notice of employee rights under this policy shall be given in accordance with any requirements of state or federal law (e.g., via the posting of signs/posters in the workplace).

Legal References:

Wisconsin Statutes

- Section 111.31 [declaration of fair employment policy]
- Section 111.321 [prohibited basis for discrimination]
- Section 111.322 [discriminatory actions prohibited]
- Section 118.195 [discrimination against handicapped teachers]
- Section 118.20 [teacher/administrator discrimination prohibited]

Federal Laws and Regulations

- Title IX, Education Amendments of 1972 [sex discrimination in employment in educational programs]
- Title VII of the Civil Rights Act of 1964 [employment discrimination based on race, color, religion, sex and national origin]
- Section 504 of the Rehabilitation Act of 1973 [employment discrimination based on handicap; reasonable accommodations]
- Age Discrimination Act of 1967 [age discrimination in employment]
- Pregnancy Discrimination Act [pregnancy discrimination in employment]
- Americans with Disabilities Act of 1990 [disability discrimination in employment; reasonable accommodations]
- Genetic Information Nondiscrimination Act of 2008 [employment discrimination based on genetic information]
- Immigration and Nationality Act (Title II, Chapter 8, Act 274B) [employment discrimination based on national origin and citizenship status]
- Uniformed Services Employment and Reemployment Rights Act (USERRA) [employment discrimination on the basis of military service]
- 11 U.S.C. §525 [employment discrimination based on certain bankruptcy-related statuses and proceedings]

Cross References SP3: 2/10/2017; Employee Handbook

EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

Policy 511

Sample Policy 2

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~~(This sample policy addresses employment-related equal opportunity and nondiscrimination issues in a somewhat abbreviated fashion. The sample is only appropriate for a district that has adopted either PRG 113 Sample Policy 1 or PRG 113 Sample Policy 2 (or the locally-numbered equivalent) because this sample incorporates certain provisions from policy 113 by reference (rather than repeating the provisions in their entirety). PRG 511 Sample Policy 1 takes a more comprehensive (and longer) approach to coordinating with the PRG sample policies in topic 113 by repeating all parallel language for the various parallel provisions. IMPORTANT: A district using this sample would also need to adopt an employment discrimination complaint procedure. PRG 511 Sample Rule ___ is a complaint procedure that was drafted to coordinate with this sample policy. In addition, a district adopting this policy should strongly consider adopting PRG 512 Sample Policy 1 as a supporting/related policy that further defines and addresses unlawful harassment as a form of employment discrimination.)~~

The ~~[insert formal name of school district]~~ Cochrane- Fountain City School District is an equal opportunity employer. The School Board's goal and expectation is that the District shall maintain policies, practices, and a workplace environment that (1) do not unlawfully discriminate against any employee or applicant for employment, and (2) facilitate a timely, appropriate, and proportionate response to any complaint, report, or concern regarding possible unlawful discrimination in employment. The District's commitment to nondiscrimination and to taking appropriate corrective action when needed encompasses all aspects of employment and personnel administration, including recruitment, hiring, training, assignments, compensation, evaluation, and discipline.

Accordingly, the District shall not unlawfully discriminate against any employee or applicant for employment on the basis of disability, race, color, ancestry, national origin, citizenship, sex (including sex-based stereotypes and an employee's transgender status), sexual orientation, marital status, pregnancy, age, religion, creed, political or religious affiliation, arrest or conviction record, military service, use or nonuse of a lawful product off school premises during nonworking hours, declining to attend a meeting or to participate in any communication about religious matters or political matters, the authorized use of family or medical leave or worker's compensation benefits, genetic information, or any other basis prohibited by applicable law.

~~[Include as a clarification, if desired: "The term "unlawful discrimination" as used in this policy encompasses any unlawful adverse employment action, any unlawful harassment, or other unlawful denial of employment-related rights, benefits, or privileges that is based on any legally-protected status or classification. Specific state and federal laws and regulations further define the practices and conduct that do (or do not) constitute unlawful discrimination with respect to each protected status or classification."]~~ The District also prohibits and shall appropriately address reports or complaints of any alleged, unlawful retaliation that arise in connection with state and federal employment rights. Additional District policies, including ~~{~~Board Policy 113 and Board Policy 512~~}~~, further address equal employment opportunities and the District's prohibition against employment-related discrimination and prohibited retaliation.

~~In the pursuit of providing an appropriate workplace environment that is free from unlawful discrimination (including harassment) the District reserves all discretion and authority to receive reports of, investigate, intervene in, and implement an appropriate response for: **(Editor's Note: This paragraph and its three subparagraphs are provided to clarify district expectations and the intended scope of the policy, but they are not strictly necessary and could be deleted.)**~~

EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

Policy 511

Sample Policy 2

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- ~~• The conduct of District officials, District employees, and certain non-employees (contractors, volunteers, vendors, visitors, etc.) that may constitute or that could reasonably contribute to a finding of unlawful discrimination affecting a District employee or applicant for employment.~~
- ~~• Conduct by a District official or employee that occurs while off-duty or away from a District workplace that has a legally-sufficient connection to District employment or to a District workplace (e.g., while off-duty, a supervisor sexually harasses a District employee).~~
- ~~• Workplace-related conduct by District officials or employees that the District determines (1) has no legitimate business purpose and improperly interferes with the efficient operation of the District; (2) improperly interferes with the work, education, or well-being of others; or (3) violates any Board policy or any other legitimate District work rule, directive, or expectation, even when such conduct may not be connected to a legally-protected status or prohibited by law. **{Editor's Note: Some districts may choose to adopt a policy or conduct rule specifically addressing inappropriate conduct that has no (or at least no alleged/known) connection to a legally-protected status. See PRG 522.3 Sample Policy 1 (covering workplace violence, threats, intimidation, and harassment.)}**~~

Accommodations Based on Disability or Religious Beliefs/Practices. To the extent required by law, the District will make reasonable accommodations in its employment practices for qualified individuals with a disability. ~~{Insert additional detail if desired: "Such accommodations may be used to enable a qualified applicant or employee with a disability to perform the essential functions of a position or to enjoy the same benefits and privileges as those enjoyed by applicants or employees without disabilities."}~~ The District shall also reasonably accommodate the religious beliefs and practices of an employee to the extent required by law. Applicants or employees may submit requests for such accommodations or otherwise identify a potential need for such accommodations by contacting ~~the employee's immediate supervisor~~ ~~{insert appropriate initial contact(s) – e.g., "the District's Equal Employment Opportunity Officer or the employee's immediate supervisor"}.~~

Policy Provisions Incorporated by Reference. The following provisions of ~~{Board Policy 113}~~, which addresses the District's commitment to nondiscrimination across all aspects of the District's programs, activities, and operations, are applicable to this employment-focused policy and are incorporated by reference: ~~{Editor's Note: It is very important that the district policy that is cross-referenced in this paragraph, e.g., policy 113, contains all of the items in the list below. Some districts may choose to adopt a policy or conduct rule specifically addressing inappropriate conduct that has no (or at least no alleged/known) connection to a legally-protected status. Such a policy or rule could prohibit workplace violence, threats, intimidation, and harassment. See PRG 522.3 Sample Policy 1.}~~

- Notice that the prohibitions against sex discrimination established by Title IX of the federal Education Amendments of 1972 ("Title IX") and by the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations") apply to the District and extend to District employment.
- The designation of nondiscrimination coordinators, including the District's Title IX Coordinator(s). ~~{Board Policy 113}~~ also provides the direct contact information for such coordinators.

EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

Policy 511

Sample Policy 2

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- Procedures under which any person may submit a report, concern, or allegation of prohibited discrimination or prohibited retaliation.
- Procedures and conditions under which an individual who is alleged to be the victim of conduct that could constitute sexual harassment under the federal Title IX regulations (i.e., a Title IX "complainant") may file a "formal complaint" of "sexual harassment," as those terms are defined in 34 C.F.R. §106.30.
- The prohibition that no official, employee, or agent of the District or any other person may intimidate, threaten, coerce, or unlawfully discriminate against any individual (1) for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or (2) because the individual has made a report or complaint, or testified, assisted, participated, or exercised a legal right to refuse to participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy.
- The limitations on the extent to which the District can provide or assure confidentiality, but also the commitment to observe any specific confidentiality requirements established by state or federal law.
- The prohibition against bad faith conduct and abuse of process in connection with any report or complaint of possible discrimination or retaliation.
- The responsibility of the administration to issue/post all required notices related to this policy and to the state and federal laws that prohibit employment discrimination.
- The responsibility of the administration to maintain adequate records relating to reports and complaints of discrimination or retaliation.

Deadline for Submitting a Report or Complaint. There is no absolute deadline for a person to submit a report or complaint under this policy. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, or retaliation. However, employees are expected to make such reports promptly, and any other person who has a complaint or concern involving such a matter is strongly encouraged to notify the District or pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. A material gap in pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of remedies and resolutions that are reasonably available. Further, it is important for employees to know that, under some circumstances, certain legal remedies for alleged discrimination may be unavailable if the employee fails to take timely action on his/her complaint or claim or unreasonably fails to take advantage of preventive or corrective opportunities (such as a complaint procedure) provided by the employer. If the District dismisses a report or complaint under this policy due to lack of timeliness, an actual party in interest may seek reconsideration of the decision to the extent provided under {Board Policy 113}.

Complaint Procedures. Except as provided in {Board Policy 113} in connection with formal complaints of Title IX sexual harassment or as otherwise required by any law, a report or complaint identifying circumstances or allegations that could constitute employment-related discrimination or retaliation under this policy will be processed according to the discrimination

EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

Policy 511

Sample Policy 2

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complaint procedures that the District has established under this policy.

~~*(Editor's Note: If the district has not adopted a more formal rule or procedure addressing expectations for employees to report their knowledge of conduct by another person that could constitute unlawful discrimination or a violation of district nondiscrimination policy, such as PRG 113 Sample Rule 2, the district should consider inserting the following section found in PRG 113 Sample Rule 1: "Employee Obligation to Report Policy Violations. Any District employee of the District who has knowledge of conduct by any other person that constitutes, or is reasonably suspected to constitute, unlawful discrimination in violation of a legal obligation of the District, or in violation of any District nondiscrimination policy, is responsible for promptly reporting such conduct. Similarly, a District employee who reasonably suspects that any District policy or District operating procedure unlawfully discriminates against any person is also responsible for promptly reporting that knowledge, claim, or concern. Such reports may be made using the general reporting methods identified in [Board Policy 113]. Alternatively, an employee may satisfy this reporting obligation by submitting the relevant report directly to [insert a list of appropriate high-level administrators/supervisors – e.g., "a school principal, the supervisory head of a department, the Director of Student Services, the Director of Human Resources, or the District Administrator"], provided that the person to whom the report is made is someone other than a person who is alleged to be responsible for the reported discrimination. The administration is authorized to extend this same reporting expectation to certain non-employee authorized agents of the District.")*~~

Consequences for Violations. Any person who is determined to be responsible for any form of unlawful discrimination, any act of prohibited retaliation, or other violation of a District nondiscrimination policy, including this policy, is subject to appropriate disciplinary action and/or other appropriate consequences that are within the District's lawful authority.

In addition, any employee or authorized agent of the District who, considering the duties, responsibilities, and expectations established for their position/role, fails to reasonably respond to complaints or reports of alleged discrimination or retaliation, or who otherwise fails to reasonably act on their knowledge of a possible violation of a nondiscrimination law or a District nondiscrimination policy, is also subject to possible disciplinary action.

~~*(Editor's Note: If the district mandates particular training for administrators and other supervisors that exceed minimum legal mandates (such as the Title IX training mandates), or if the board wishes to establish an expectation that the administration will provide opportunities for all employees to attend or access certain training and awareness programs relating to nondiscrimination expectations, obligations, and policies, such training and staff development requirements may be specified as an additional section within this policy. Whether or not mandated by a school board policy, a school district can point to such training and awareness activities to show that the district has taken reasonable steps to attempt to prevent discrimination (including harassment) and to notify employees (and perhaps even students) of relevant expectations and procedures — all of which can directly affect school district liability in some cases.)*~~

Legal References:

Wisconsin Statutes

EQUAL OPPORTUNITY EMPLOYMENT AND NONDISCRIMINATION

Policy 511

Sample Policy 2

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Subch. II of Chapter 111 [the state fair employment and nondiscrimination statutes, including specific prohibited bases of discrimination (sections 111.31 to 111.395)]
Section 118.195 [discrimination against handicapped teachers]
Section 118.20 [teacher/administrator discrimination prohibited]

Federal Laws and Regulations

20 U.S.C. §1681 et seq. [Title IX of the Education Amendments of 1972, as amended, prohibiting sex discrimination in federally-supported educational programs; implementing regulations at 34 C.F.R. Part 106]
42 U.S.C. §2000e et seq. [Title VII of the Civil Rights Act of 1964, as amended, prohibiting employment discrimination based race, color, national origin, sex, pregnancy, and religion; implementing regulations at 29 C.F.R. Ch. XIV]
42 U.S.C. §2000d et seq. [Title VI of the Civil Rights Act of 1964, as amended, prohibiting discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds; implementing regulations at 28 C.F.R. Part 42, Subpart C]
42 U.S.C. §12111 et seq. [The Americans with Disabilities Act, Title I, as amended, prohibiting employment discrimination based on a qualifying disability; implementing regulations at 29 C.F.R. Part 1602 and Part 1630]
42 U.S.C. §12131 et seq. [The Americans with Disabilities Act, Title II, as amended, nondiscrimination based on disability by state and local governments; implementing regulations at 28 C.F.R. Part 35]
42 U.S.C. §2000ff et seq. [Genetic Information Nondiscrimination Act, as amended; implementing regulations at 29 C.F.R. Part 1635]
29 U.S.C. §794 et seq. [Section 504 of the Rehabilitation Act of 1973, as amended, prohibiting discrimination based on a qualifying disability by recipients of federal funds; implementing regulations at 34 C.F.R. Part 104, 28 C.F.R. Part 42, Subpart G, and 29 C.F.R. Part 1640]
29 U.S.C. §621 et seq. [Age Discrimination in Employment Act, as amended; implementing regulations at 29 C.F.R. Parts 1625 to 1627]
38 U.S.C. 4301 et seq. [Uniformed Services Employment and Reemployment Rights Act, as amended; implementing regulations at 20 C.F.R. Part 1002]
8 U.S.C. §1324b(a) [prohibiting employment discrimination based on national origin and citizenship status; implementing regulations at 28 C.F.R. Part 44]
11 U.S.C. §525 [employment discrimination based on certain bankruptcy-related statuses and proceedings]

Cross References:

[Insert appropriate cross references to the policy as applicable to your district.]

Adoption Date:

Equal Opportunity Employment and Nondiscrimination

511 Policy

The Cochrane- Fountain City School District is an equal opportunity employer. The School Board's goal and expectation is that the District shall maintain policies, practices, and a workplace environment that (1) do not unlawfully discriminate against any employee or applicant for employment, and (2) facilitate a timely, appropriate, and proportionate response to any complaint, report, or concern regarding possible unlawful discrimination in employment. The District's commitment to nondiscrimination and to taking appropriate corrective action when needed encompasses all aspects of employment and personnel administration, including recruitment, hiring, training, assignments, compensation, evaluation, and discipline.

Accordingly, the District shall not unlawfully discriminate against any employee or applicant for employment on the basis of disability, race, color, ancestry, national origin, citizenship, sex (including sex-based stereotypes and an employee's transgender status), sexual orientation, marital status, pregnancy, age, religion, creed, political or religious affiliation, arrest or conviction record, military service, use or nonuse of a lawful product off school premises during nonworking hours, declining to attend a meeting or to participate in any communication about religious matters or political matters, the authorized use of family or medical leave or worker's compensation benefits, genetic information, or any other basis prohibited by applicable law.

The term "unlawful discrimination" as used in this policy encompasses any unlawful adverse employment action, any unlawful harassment, or other unlawful denial of employment-related rights, benefits, or privileges that is based on any legally-protected status or classification. Specific state and federal laws and regulations further define the practices and conduct that do (or do not) constitute unlawful discrimination with respect to each protected status or classification. The District also prohibits and shall appropriately address reports or complaints of any alleged, unlawful retaliation that arise in connection with state and federal employment rights. Additional District policies, including Board Policy 113 and Board Policy 512, further address equal employment opportunities and the District's prohibition against employment-related discrimination and prohibited retaliation.

Accommodations Based on Disability or Religious Beliefs/Practices. To the extent required by law, the District will make reasonable accommodations in its employment practices for qualified individuals with a disability. The District shall also reasonably accommodate the religious beliefs and practices of an employee to the extent required by law. Applicants or employees may submit requests for such accommodations or otherwise identify a potential need for such accommodations by contacting the employee's immediate supervisor

Policy Provisions Incorporated by Reference. The following provisions of Board Policy 113, which addresses the District's commitment to nondiscrimination across all aspects of the District's programs, activities, and operations, are applicable to this employment-focused policy and are incorporated by reference:

- Notice that the prohibitions against sex discrimination established by Title IX of the federal Education Amendments of 1972 ("Title IX") and by the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations") apply to the District and extend to District employment.
- The designation of nondiscrimination coordinators, including the District's Title IX Coordinator(s). Board Policy 113 also provides the direct contact information for such coordinators.

- Procedures under which any person may submit a report, concern, or allegation of prohibited discrimination or prohibited retaliation.
- Procedures and conditions under which an individual who is alleged to be the victim of conduct that could constitute sexual harassment under the federal Title IX regulations (i.e., a Title IX “complainant”) may file a “formal complaint” of “sexual harassment,” as those terms are defined in 34 C.F.R. §106.30.
- The prohibition that no official, employee, or agent of the District or any other person may intimidate, threaten, coerce, or unlawfully discriminate against any individual (1) for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or (2) because the individual has made a report or complaint, or testified, assisted, participated, or exercised a legal right to refuse to participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy.
- The limitations on the extent to which the District can provide or assure confidentiality, but also the commitment to observe any specific confidentiality requirements established by state or federal law.
- The prohibition against bad faith conduct and abuse of process in connection with any report or complaint of possible discrimination or retaliation.
- The responsibility of the administration to issue/post all required notices related to this policy and to the state and federal laws that prohibit employment discrimination.
- The responsibility of the administration to maintain adequate records relating to reports and complaints of discrimination or retaliation.

Deadline for Submitting a Report or Complaint. There is no absolute deadline for a person to submit a report or complaint under this policy. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, or retaliation. However, employees are expected to make such reports promptly, and any other person who has a complaint or concern involving such a matter is strongly encouraged to notify the District or pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. A material gap in pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of remedies and resolutions that are reasonably available. Further, it is important for employees to know that, under some circumstances, certain legal remedies for alleged discrimination may be unavailable if the employee fails to take timely action on his/her complaint or claim or unreasonably fails to take advantage of preventive or corrective opportunities (such as a complaint procedure) provided by the employer. If the District dismisses a report or complaint under this policy due to lack of timeliness, an actual party in interest may seek reconsideration of the decision to the extent provided under Board Policy 113.

Complaint Procedures. Except as provided in Board Policy 113 in connection with formal complaints of Title IX sexual harassment or as otherwise required by any law, a report or complaint identifying circumstances or allegations that could constitute employment-related discrimination or retaliation under this policy will be processed according to the discrimination complaint procedures that the District has established under this policy.

Consequences for Violations. Any person who is determined to be responsible for any form of unlawful discrimination, any act of prohibited retaliation, or other violation of a District nondiscrimination policy, including this policy, is subject to appropriate disciplinary action and/or other appropriate consequences

that are within the District's lawful authority.

In addition, any employee or authorized agent of the District who, considering the duties, responsibilities, and expectations established for their position/role, fails to reasonably respond to complaints or reports of alleged discrimination or retaliation, or who otherwise fails to reasonably act on their knowledge of a possible violation of a nondiscrimination law or a District nondiscrimination policy, is also subject to possible disciplinary action.

Legal References:

Wisconsin Statutes

[Subch. II of Chapter 111](#) [the state fair employment and nondiscrimination statutes, including specific prohibited bases of discrimination (sections [111.31](#) to [111.395](#))]

[Section 118.195](#) [discrimination against handicapped teachers]

[Section 118.20](#) [teacher/administrator discrimination prohibited]

Federal Laws and Regulations

[20 U.S.C. §1681 et seq.](#) [Title IX of the Education Amendments of 1972, as amended, prohibiting sex discrimination in federally-supported educational programs; implementing regulations at [34 C.F.R. Part 106](#)]

[42 U.S.C. §2000e et seq.](#) [Title VII of the Civil Rights Act of 1964, as amended, prohibiting employment discrimination based race, color, national origin, sex, pregnancy, and religion; implementing regulations at [29 C.F.R. Ch. XIV](#)]

[42 U.S.C. §2000d et seq.](#) [Title VI of the Civil Rights Act of 1964, as amended, prohibiting discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds; implementing regulations at [28 C.F.R. Part 42, Subpart C](#)]

[42 U.S.C. §12111 et seq.](#) [The Americans with Disabilities Act, Title I, as amended, prohibiting employment discrimination based on a qualifying disability; implementing regulations at 29 C.F.R. [Part 1602](#) and [Part 1630](#)]

[42 U.S.C. §12131 et seq.](#) [The Americans with Disabilities Act, Title II, as amended, nondiscrimination based on disability by state and local governments; implementing regulations at [28 C.F.R. Part 35](#)]

[42 U.S.C. §2000ff et seq.](#) [Genetic Information Nondiscrimination Act, as amended; implementing regulations at [29 C.F.R. Part 1635](#)]

[29 U.S.C. §794 et seq.](#) [Section 504 of the Rehabilitation Act of 1973, as amended, prohibiting discrimination based on a qualifying disability by recipients of federal funds; implementing regulations at [34 C.F.R. Part 104](#), [28 C.F.R. Part 42, Subpart G](#), and [29 C.F.R. Part 1640](#)]

[29 U.S.C. §621 et seq.](#) [Age Discrimination in Employment Act, as amended; implementing regulations at [29 C.F.R. Parts 1625 to 1627](#)]

[38 U.S.C. 4301 et seq.](#) [Uniformed Services Employment and Reemployment Rights Act, as amended; implementing regulations at [20 C.F.R. Part 1002](#)]

[8 U.S.C. §1324b\(a\)](#) [prohibiting employment discrimination based on national origin and citizenship status; implementing regulations at [28 C.F.R. Part 44](#)]

[11 U.S.C. §525](#) [employment discrimination based on certain bankruptcy-related statuses and proceedings]

Cross References: SP2 8/7/2020, Board Policy 113, 512

Adoption Date: 9/16/2020

Book	School Board Policies
Section	500 Series: Personnel
Title	Procedure for Handling Employment Discrimination, Harassment and/or Bullying Complaints
Code	511-RULE
Status	Active
Adopted	August 21, 2019

An employee, former employee or applicant for employment who believes that any part of the school organization has violated any law prohibiting discrimination or harassment based on a legally protected status in the workplace (including provisions prohibiting employer retaliation in connection with such laws) or that there has been a violation of the District's equal opportunity employment or harassment/bullying policy may bring forward a complaint as outlined in these procedures. In addition, these complaint procedures may also be used in any situation where another Board policy or rule directs or allows the use of these complaint procedures.

Any person presenting a report or complaint under these procedures who has concerns about safety, confidentiality, or retaliation should discuss those concerns with the Equal Employment Opportunity Officer (EEO Officer) as early as possible in the process — preferably at or even prior to the time that a detailed report or complaint is filed.

In conjunction with the District's receipt of notice of any report or complaint of alleged discrimination, harassment, bullying, or retaliation under these procedures, the District shall consider (and a complainant may affirmatively request consideration of) any interim measures that should be taken before the final outcome of an investigation (e.g., safety planning or other steps needed to protect the complainant).

Informal Resolution Procedure

The District strongly encourages, but does not require, attempts to informally present and resolve complaints or concerns regarding possible employment-related discrimination, harassment, bullying, or retaliation. Accordingly, anyone who believes he/she has a valid basis for a complaint may discuss the issue or concern with an appropriate administrator or supervisor in lieu of, or prior to, initiating the formal complaint procedure. For purposes of this procedure, the "appropriate administrator or supervisor" is defined as any the following:

1. The District's designated Equal Employment Opportunity Officer (EEO Officer).

District Administrator
Cochrane-Fountain City School District
S2770 State Road 35
Fountain City, WI 54629
(608) 687-7771

2. An employee's direct supervisor.
3. The principal.

The administrator or supervisor who receives a request to attempt to informally resolve a complaint or concern will coordinate the District's response, which may involve calling meetings, gathering information, holding mediated resolution sessions, or, following a presentation and initial assessment of the issue(s), the offering of one or more options for changes to be made in the relevant circumstances. If, at any time, the person seeking an informal resolution becomes dissatisfied with the process or outcome, he/she may initiate a formal complaint according to the steps listed below.

In the event any administrator/supervisor other than the EEO Officer addresses or resolves an informal complaint involving an allegation of employment-related discrimination, harassment or bullying, the administrator/supervisor shall provide the EEO Officer with a written summary of the nature of the complaint and a summary of any responsive action taken on the informal complaint.

Formal Complaint Procedure

Step 1: The complainant shall submit a signed complaint to the District's EEO Officer, identified above. The EEO Officer shall issue an acknowledgement of receipt within 10 working days. (Working days means weekdays, excluding holidays). The EEO Officer shall usually serve as the complaint manager and the primary point of contact regarding the complaint for the relevant parties.

Except as provided in the next paragraph, the EEO Officer or other designated complaint manager shall oversee an investigation of the complaint, decide the merits of the case at Step 1, determine what responsive or remedial actions will be taken (if any), and provide written notice of the administrative determination of the complaint to the appropriate parties.

If the allegation is against the District Administrator, the complainant shall submit the Step 1 complaint directly to the Board President. The Board President shall engage outside legal counsel as the complaint manager, who shall recommend either of the following to the Board President following an investigation into the matters raised by the complaint: (1) that the complaint lacks merit and that the Board President may communicate that conclusion and resolution to the complaining party, the District Administrator, the remaining Board members, and any other parties; or (2) the complaint may have merit and/or that some degree of responsive or remedial action may be appropriate, and that legal counsel advises consultation with the full Board regarding such possible resolution. In conjunction with legal counsel, the Board President shall thereafter report in writing the Board's resolution of the complaint to the appropriate parties. If a complaint follows this track at Step 1, the next available Step shall be a request for reconsideration of a negative determination of the complaint by the complainant at Step 3.

Step 2: If any complainant or alleged responsible party under the complaint is dissatisfied with the decision at Step 1, the individual may, within 10 working days of being notified of the administration's determination, file a written request for reconsideration with the office of the District Administrator. The request for reconsideration shall state any specific reason(s) why the complainant believes the administrative determination should be modified. The District Administrator will normally issue a written decision on reconsideration to the parties within 30 working days unless further investigation is initiated and/or the District Administrator determines that an extension of time is otherwise needed. The decision of the District Administrator at this Step shall include information about the complainant's opportunity to appeal a negative determination to the School Board. The Board shall also be notified of the District Administrator's Step 2 decision.

Step 3: A complainant or any alleged responsible party may appeal an adverse determination of the complaint at Step 2 to the Board within 10 working days of the date that he/she is notified of the decision that is being appealed. Any appeal to the Board shall be filed in care of the Board Clerk at the Office of the District Administrator, and the request shall state the reasons the decision is being appealed. The Board will provide a written response to the appeal, which may or may not involve a meeting with any of the relevant parties and/or any further investigation.

Deadline for Filing an Initial Complaint: There is no absolute deadline for the initial filing of a complaint under these procedures. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, bullying or retaliation. However, a person with a complaint or concern involving such an employment matter is encouraged to notify the District of the issue or to pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. Any gap pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of possible remedies and resolutions that are reasonably available. Notwithstanding the lack of a single, fixed deadline, the District, acting through the complaint manager may determine that any complaint filed more than 300 days after the alleged act(s) occurred, or more than 300 days after the last occurrence of an ongoing condition, will not be processed through these procedures for lack of timeliness (although the District may follow-up on the issues presented through other means if appropriate). A decision to dismiss a complaint because it is untimely may be appealed to the Board under Step 3, and the Board may either affirm the dismissal of the complaint for lack of a timely filing or remand the complaint for further processing.

External Agency or Court Filing: If the complainant is not satisfied with the Board's decision, or in lieu of or in addition to utilizing the internal complaint procedures established by this procedure, the complainant may pursue alternate actions available under state or federal laws (e.g. appeal to State Superintendent of Public Instruction (for teachers and administrative personnel), filing of complaint with the Equal Rights Division of the Department of Workforce Development, the U.S. Office for Civil Rights - Region V and/or any court or agency having proper jurisdiction). Any party with a complaint is solely responsible for determining the applicable outside agencies or courts with which a complaint may properly be filed and the applicable filing deadlines. While it is not always necessary to pursue an internal complaint before filing a complaint with an external agency or court, all individuals are given notice that failure to follow an employer's internal procedures for giving notice of incidents and complaints can, in some cases, affect the individual's ability to seek remedies from an external agency or court. Unless mandated by a state or federal law or regulation, pursuing an internal complaint under this procedure does not extend or toll the filing deadlines applicable to filing a complaint with an external agency or court.

Maintenance of Complaint Records

Records should be kept for each formal complaint filed and, at a minimum, should include the following

1. The name and address of the complainant and his/her title or status.

2. The date the complaint was filed.
3. The specific allegation made and any corrective action requested by the complainant.
4. The name and address of the respondents.
5. The levels of processing followed, and the resolution, date and decision-making authority at each level.
6. A summary of facts and evidence presented by each party involved.
7. A determination of the facts, statement of the final resolution, and the nature and date(s) of any corrective or remedial action taken.

Cross References SP4, 2/5/15; Employee Handbook

EMPLOYMENT DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURES

511-Rule

Sample Rule 1

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(This sample rule provides procedures for processing complaints of employment-related discrimination (including harassment) and retaliation. The sample has been drafted to coordinate with PRG 113 Sample Policy 1 (or 113 Sample Policy 2), PRG 511 Sample Policy 1 (or 511 Sample Policy 2), and PRG 512 Sample Policy 1. Some districts may also elect to use these procedures to address other employment-related complaints.)

I. Purpose

These procedures will be used to process a report or complaint that any employee, former employee, or applicant for employment has been subjected to discrimination or retaliation in violation of any employment-related nondiscrimination law or any board policy that prohibits discrimination based on a legally-protected status in connection with the District's employment practices (including policy provisions prohibiting retaliation).

These procedures serve as the District's grievance procedures for resolving reports and complaints of sex discrimination related to employment matters under Title IX, other than formal complaints of Title IX sexual harassment. In addition, these complaint procedures may also be used in any situation where another Board policy or District procedure directs or allows the use of these complaint resolution procedures.

II. General Provisions and Pre-Investigation Considerations/Procedures

A. Nondiscrimination Coordinators

The District's designated nondiscrimination coordinators have primary responsibility for coordinating the processing of reports and complaints under these procedures. In fulfilling such responsibilities, a coordinator may consult as needed with other administrators/supervisors. *(Insert if reflective of district procedures: "With the approval of the District Administrator or School Board President, a nondiscrimination coordinator may also consult with District legal counsel.")* ***(Editor's Note: If the district's designated nondiscrimination coordinators are authorized to engage district legal counsel without obtaining other advance approval, a district could substitute the following sentence in place of the previous optional sentence: "With notice to the District Administrator and/or School Board President, a nondiscrimination coordinator may also engage District legal counsel for the purpose of consultation regarding a report or complaint.")***

For purposes of this procedure, designated nondiscrimination coordinators are defined as any the following:

1. The District's designated Equal Employment Opportunity Officer (EEO Officer).

District Administrator
Cochrane-Fountain City School District
52770 State Road 35
Fountain City, WI 54629
(608) 687-7771

2. The District's designated Title IX Coordinator

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Sample Rule 1

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~~Assistant Principal~~

~~S2770 State Road 35, Fountain City WI 54629~~

~~608-687-7771 x108~~

~~first initial last name@cfc.k12.wi.us~~

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~~[Either identify the designated nondiscrimination coordinators for employment-related matters and provide their contact information directly in these procedures, or provide a cross-reference that clearly identifies where such information can be located — e.g., "Board Policy 113 identifies and provides contact information for each of the District's nondiscrimination coordinators. The contact information for the coordinators is also available on the District's website."]~~

B. Procedures for Filing a Complaint or Report

Refer to ~~[Board Policy 113 and Board Policy 511]~~ for procedures and additional information regarding the submission of reports and complaints of prohibited discrimination and retaliation.

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C. Referral to Nondiscrimination Coordinators

If, for any reason, a report or complaint alleging prohibited discrimination or retaliation is initially brought to the attention of a District official or employee other than a designated nondiscrimination coordinator, such other person shall refer the report or complaint to an appropriate coordinator.

All reports and complaints of sex discrimination, including sexual harassment, shall be referred to a nondiscrimination coordinator who serves as a District Title IX Coordinator.

D. Coordination with Title IX Sexual Harassment Regulations and Procedures

To the extent a report or complaint concerns conduct that could constitute "sexual harassment" as defined in Chapter 106 of Title 34 of the Code of Federal Regulations ("the federal Title IX regulations"), additional requirements and obligations apply to the District and its designated Title IX Coordinator(s), including but not limited to the obligations to contact the alleged victim of the sexual harassment, to consider and implement supportive measures, and to avoid implementing disciplinary sanctions against the alleged perpetrator of the sexual harassment until after an appropriate determination of responsibility.

Further, as required by the federal Title IX regulations, the District has adopted a separate grievance process for the resolution of "formal complaints" of "sexual harassment," as

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those terms are defined in the federal regulations (see [34 C.F.R. §106.30](#)). Accordingly, formal complaints of Title IX sexual harassment will be processed pursuant to the separate grievance process.

The District is not required to use these complaint procedures to further address any report, complaint, allegation, or basis for a finding of potential misconduct or liability that reaches a determination, or that is otherwise resolved, through the separate Title IX grievance process. *(Editor's Note: Some districts may elect to exclude this section, particularly if the district's Title IX grievance process already addresses the relevant coordination issues. However, especially in the early implementation of the 2020 Title IX regulations, there is likely some benefit to the repetition in these procedures.)*

E. Concerns with Safety, Confidentiality, or Retaliation

Any person who presents a report or complaint or who participates in any manner in an investigation or other proceeding under these procedures should arrange to discuss any concerns about safety, confidentiality, or retaliation with ~~insert the appropriate position(s): the District's Equal Employment Opportunity Coordinator (EEO Coordinator) or the Title IX Coordinator, any other designated nondiscrimination coordinator, the Director of Human Resources, or the District Administrator,~~ as early as possible in connection with their involvement in the process — including at or even prior to the time that a report or complaint is filed. The District's nondiscrimination policies further address the issues of confidentiality and protections for retaliation. *(Editor's Note: Some districts may elect to exclude this section.)*

F. Interim Measures

In conjunction with the District's receipt of notice of any report or complaint of alleged discrimination, harassment, or retaliation, or any other matter that is directed to these procedures for a resolution, a District nondiscrimination coordinator or an administrator acting on behalf of a coordinator shall consider the potential need for and may implement interim measures that are taken before the resolution of the report or complaint (e.g., safety planning, a "no contact" directive, or other steps needed to protect the complainant or other persons). A complainant may also affirmatively request the consideration of such interim measures. To the extent a report or complaint concerns conduct that could constitute Title IX sexual harassment, the District's consideration and implementation of any such interim measures shall be consistent with the requirements of the federal Title IX regulations. *(Editor's Note: Some districts may elect to exclude this section. However, even if not stated expressly, there are sound reasons (and sometimes legal obligations) to consider such interim measures.)*

G. Substitution of Parties

If a report or complaint is initially submitted to the District by someone who is not claiming to have been personally harmed or victimized by the alleged conduct or challenged policy (such as a witness or a person who received a third-party account of an incident or allegation), the District reserves discretion, for purposes of these procedures, to

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substitute the actual party in interest in place of the person who initially submitted the complaint or report. The District will inform the person who initially submitted the complaint or report of any such decision to substitute the actual party in interest as the complainant. ~~(Editor's Note: Some districts may elect to exclude this section.)~~

H. Authority to Dismiss Complaints or Specific Allegations

The District retains discretion to dismiss a complaint, or specific allegations, without completing the steps of these complaint procedures for any of the following reasons:

1. The allegations, in whole or in part, raise issues over which the District does not have authority or jurisdiction or that are not amenable to a resolution through these procedures;
2. Mootness (e.g., a challenged policy or practice has been changed);
3. The District determines that specific circumstances prevent the District from gathering evidence that is sufficient to reach a determination regarding the allegations;
4. Due to a lack of timeliness (e.g., an unreasonable or prejudicial delay in reporting);
5. Abuse of process; or
6. The complainant requests to withdraw the complaint and the District consents.

A decision to dismiss a complaint or any allegations for purpose of these complaint procedures does not prevent the District from otherwise addressing a matter through other processes.

An actual party in interest may, within ~~140~~ 10 calendar days of being notified of a dismissal decision, submit a written request to the District Administrator asking for the District Administrator to review/reconsider such decision.

I. Modification of Procedures to Address Conflicts

In all cases, these procedures shall be implemented in a manner that avoids conflicts of interest, including but not limited to situations where one of the individuals acting on behalf of the District in the resolution process is alleged to have engaged in the conduct that is the basis for the allegations. The primary means of avoiding conflicts is to substitute different individuals in place of any individual who has a conflict of interest. Provided that the District Administrator is not personally affected by a conflict of interest, all concerns with conflicts of interest or potential conflicts of interest shall be brought to the attention of the District Administrator, and the District Administrator is authorized to direct or approve such substitutions if he/she determines that it is necessary or appropriate to do so.

If a report or complaint alleges that the District Administrator has engaged in the improper conduct that is the basis for the allegations, or if the District Administrator or School Board determines that the administrator is affected by some other material conflict of interest, a designated nondiscrimination coordinator or the District

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Administrator shall forward the complaint or report to the Board President. The Board President shall engage District legal counsel for the purpose of formulating a recommendation on any modifications to these procedures that may be appropriate to address the District Administrator's conflict of interest. Such recommendation may include the appointment of an outside investigator, and the Board President is authorized to appoint/engage such an outside investigator. When the District Administrator is affected by a conflict of interest, the Board President is also authorized to assign an individual to serve as the complaint manager for any formal investigation (see below) and to perform any other responsibility that these procedures assign to the District Administrator, including, upon advice of counsel and with notice to the Board, making decisions regarding the dismissal of a complaint. In addition, in any case where the District Administrator is alleged to have engaged in the conduct that is the basis for the allegations, the Board shall automatically serve as the body that, following an investigation, makes a determination regarding any allegations of misconduct on the part of the District Administrator. Any appeal of the Board's decision shall be treated as a request for reconsideration and final decision by the Board.

Beyond the modifications identified in this section, any additional modifications of these procedures that are deemed necessary or advisable in order to address conflicts of interest shall be approved by the Board.

III. Informal Resolution (other than for complaints of Title IX sexual harassment)

A. Conditions on the Use of Informal Resolution

The District permits, but does not require, attempts to informally resolve reports, complaints, or other concerns regarding (1) possible employment-related discrimination, harassment, or retaliation, or (2) other claims or allegations that are addressed under these procedures. However, both of the following conditions apply:

1. If any such report, complaint, or concern relates to conduct that could constitute "sexual harassment" as defined by the federal Title IX regulations, informal resolution may be attempted only if a formal complaint of Title IX sexual harassment is pending and the attempt at informal resolution is conducted pursuant to the Title IX regulations and the District's separate grievance process for such formal complaints.
2. No person is required to participate in an informal resolution process (i.e., if such a process is offered, then participation is voluntary). A person who initially agrees to participate in an informal resolution process may withdraw from the process prior to its conclusion without penalty.

B. Description of the Process

1. An attempt to reach an acceptable informal resolution may be initiated at any point after the District has been notified of a report or complaint that would otherwise be

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resolved using the formal investigative and decision-making steps defined below, including after a formal investigation has been initiated.

2. Although various administrators/supervisors may be involved in attempting an informal resolution, an appropriate nondiscrimination coordinator should still be notified of the complaint or report and involved in the decision to offer/pursue an informal resolution.
3. An informal resolution process is intended to be flexible, but generally includes any process that departs from the formal investigative and decision-making steps defined below. For example, an informal resolution may involve calling resolution meetings, gathering relevant information (e.g., regarding requested remedies), seeking agreement on facts that are not in dispute, holding mediated resolution sessions, and/or offering one or more options for changes to the relevant circumstances.
4. Attempts at informal resolution may resolve some, all, or none of the issues/allegations submitted for resolution. Any unresolved issues and allegations may proceed to be further processed under these procedures.
5. The person(s) facilitating the informal resolution process on behalf of the District shall document the allegations/issues that were submitted for attempted resolution and the outcome of the process. If such documentation is prepared by another person, the record shall be provided to the appropriate nondiscrimination coordinator.

IV. Formal Investigation and Determination Procedures (other than for formal complaints of Title IX sexual harassment)

The formal complaint procedures listed below shall be initiated based on a written statement of the complaint or other report of the relevant claims/allegations. The written statement may be a statement that was submitted by a complainant, or a statement that is prepared by a District-designated nondiscrimination coordinator or a designee. If necessary, the written statement may be amended during the process, or the District may otherwise inform the parties of any clarifications of or changes to the claims or allegations under investigation.

The District will normally attempt to make an initial determination of a complaint under these procedures within 90 days of the date that a District-designated nondiscrimination coordinator, or an administrative-level designee of the coordinator, is first notified of the claims/allegations. However, the District may determine that there is a legitimate need to extend the normal timeline and shall notify the relevant parties of any such extension.

Step 1: The District will designate a complaint manager, who will normally be one of the District's designated nondiscrimination coordinators. The complaint manager will be the primary point of contact regarding the complaint for the relevant parties, ensure that appropriate communications from the District are provided to the parties, and ensure appropriate record-keeping in connection with the complaint process.

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Step 2: In consultation with the complaint manager, the ~~(insert at least two position(s) that will have this authority – e.g., “the District Administrator or the Title IX Coordinator the Director of Human Resources”)~~ or their administrative-level designee shall assign one or more individuals to conduct an investigation of the claims/allegations, decide the merits of the matter at this Step, and determine what responsive, remedial, or disciplinary actions will be taken or recommended (if any). The complaint manager shall ensure that the District provides the appropriate parties with written notice of the initial administrative determination of the complaint.

Step 3: If any complainant or alleged responsible party under the complaint is dissatisfied with the determination reached at Step 2, the individual may, within ~~(14 calendar days)~~ of the date that the District issues notice of the initial determination, file a written request for reconsideration with the office of the District Administrator. (The request may be submitted via electronic mail to the District Administrator’s District-issued email address.) The request for reconsideration shall state the specific reason(s) why the party believes the administrative determination should be modified. Prior to reaching a decision that would modify the previous determination, the District will give the other parties to the matter at least ~~(5)~~ calendar days to submit a statement regarding the asserted grounds for modification. The District Administrator will normally issue a written decision on reconsideration to the parties within ~~(30 calendar days)~~ unless further investigation is initiated and/or the District Administrator determines that an extension of time is

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otherwise needed. The District shall notify the parties of any extension of the ~~(30-day)~~ timeline.

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~~(insert if the district desires to allow an appeal to the school board)~~

Step 4: If any complainant or alleged responsible party is dissatisfied with the determination reached at Step 3, the party may appeal the Step 3 determination to the School Board. ~~(insert if desired to limit the scope of such appeals: “Although the Board reserves ultimate discretion to modify any sanctions or remedies, the Board will not modify the determination of the merits of the complaint unless the complainant is able to demonstrate (1) that the determination was affected by a material conflict of interest or undue bias; (2) that there was a clear legal or procedural error that affected the outcome; or (3) that a material factual determination lacked any rational foundation or can be affirmatively disproven by new evidence that was not available at the time of the earlier determination.”)~~

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Any appeal to the Board shall be filed in writing within ~~(14 calendar days)~~ of the date that the District issues notice of the Step 3 determination. The appeal shall be filed at the Office of the District Administrator, addressed to the attention of the Board Clerk with a copy directed to the attention of the District Administrator. (The notice of appeal may be filed as an email that is sent the District-issued email addresses of the two officials.) The notice of appeal must state the specific

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reason(s) why the party believes the Step 3 determination should be modified.

Prior to issuing a decision that would modify the determination, the District will give any other parties to the matter at least ~~45~~ calendar days to submit a written statement regarding the asserted grounds for the appeal. The Board will meet to determine the appeal and will issue a written response to the appeal. Unless otherwise directed by the Board, an appeal to the Board shall not involve any further investigation of the matter or any in-person appearances by the parties. ~~"}~~

V.—External Agency or Court Filing

~~If a complainant is not satisfied with the District's decision, or in lieu of or in addition to utilizing the internal complaint procedures established by this procedure, the complainant may pursue alternate actions that may be available under state or federal law (e.g., filing an appeal to State Superintendent of Public Instruction in appropriate cases, or filing a complaint with the Equal Rights Division of the Department of Workforce Development, with the U.S. Department of Education's Office for Civil Rights—Region V, and/or with any court or agency having proper jurisdiction). Any party with a complaint is responsible for determining the applicable outside agencies or courts with which a complaint may properly be filed and the applicable filing deadlines and procedures. While it is not always necessary to pursue an internal complaint before filing a complaint with an external agency or court, the failure to follow an employer's internal procedures for giving notice of incidents and complaints can, in some cases, affect the individual's ability to seek remedies from an external agency or court. Unless mandated by a state or federal statute or regulation, pursuing an internal complaint under these procedures does not extend or delay the filing deadlines applicable to filing a complaint with an external agency or court. **{Editor's Note: Some districts may elect to exclude this section.}**~~

VI.V. Maintenance of Complaint Records

~~**{Editor's Note: Some districts may elect to exclude this section, but excluding the statements does not eliminate the district's public records obligations with respect to any relevant records that are created or the district's obligations to create and maintain certain records under specific state or federal laws (e.g., the Title IX regulations).}**~~

The District shall maintain records for each report or complaint that is processed under these procedures. Such records shall identify at least the following:

1. The date the report or complaint was first received by the District.
2. The identity of the person submitting the report or complaint and the identities of the actual parties in interest to the complaint, if known.
3. The claims or allegations made in the report or complaint and any other allegations that are investigated in connection with the report or complaint.
4. Documentation of any interim measures implemented by the District.
5. Documentation of the outcome of any informal resolution process that was attempted.

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6. A record of the determination of the complaint, including any dismissals, any initial determination(s) on the merits, and any determination(s) made in connection with an appeal, including the identity of the relevant decision-makers.
7. Any remedies or sanctions that are granted following a determination that substantiates any claims or allegation(s).

Cross References: SR1 8/9/2020; Board Policy 113, 512

Adoption Date: 9/16/2020

Employment Discrimination and Harassment Complaint Procedures

Policy 511 Rule 1

I. Purpose

These procedures will be used to process a report or complaint that any employee, former employee, or applicant for employment has been subjected to discrimination or retaliation in violation of any employment-related nondiscrimination law or any board policy that prohibits discrimination based on a legally-protected status in connection with the District's employment practices (including policy provisions prohibiting retaliation).

These procedures serve as the District's grievance procedures for resolving reports and complaints of sex discrimination related to employment matters under Title IX, other than formal complaints of Title IX sexual harassment. In addition, these complaint procedures may also be used in any situation where another Board policy or District procedure directs or allows the use of these complaint resolution procedures.

II. General Provisions and Pre-Investigation Considerations/Procedures

A. Nondiscrimination Coordinators

The District's designated nondiscrimination coordinators have primary responsibility for coordinating the processing of reports and complaints under these procedures. In fulfilling such responsibilities, a coordinator may consult as needed with other administrators/supervisors. With notice to the District Administrator and/or School Board President, a nondiscrimination coordinator may also engage District legal counsel for the purpose of consultation regarding a report or complaint.

For purposes of this procedure, designated nondiscrimination coordinators are defined as any the following:

1. The District's designated Equal Employment Opportunity Officer (EEO Officer).

District Administrator
Cochrane-Fountain City School District
S2770 State Road 35
Fountain City, WI 54629
(608) 687-7771 x 313
first initial last name@cfc.k12.wi.us

2. The District's designated Title IX Coordinator

Assistant Principal
Cochrane-Fountain City School District
S2770 State Road 35
Fountain City WI 54629
608-687-7771 x108
first initial last name@cfc.k12.wi.us

B. Procedures for Filing a Complaint or Report

Refer to Board Policy 113 and Board Policy 511 for procedures and additional information regarding the submission of reports and complaints of prohibited discrimination and retaliation.

C. Referral to Nondiscrimination Coordinators

If, for any reason, a report or complaint alleging prohibited discrimination or retaliation is initially brought to the attention of a District official or employee other than a designated nondiscrimination coordinator, such other person shall refer the report or complaint to an appropriate coordinator.

All reports and complaints of sex discrimination, including sexual harassment, shall be referred to a nondiscrimination coordinator who serves as a District Title IX Coordinator.

D. Coordination with Title IX Sexual Harassment Regulations and Procedures

To the extent a report or complaint concerns conduct that could constitute “sexual harassment” as defined in Chapter 106 of Title 34 of the Code of Federal Regulations (“the federal Title IX regulations”), additional requirements and obligations apply to the District and its designated Title IX Coordinator(s), including but not limited to the obligations to contact the alleged victim of the sexual harassment, to consider and implement supportive measures, and to avoid implementing disciplinary sanctions against the alleged perpetrator of the sexual harassment until after an appropriate determination of responsibility.

Further, as required by the federal Title IX regulations, the District has adopted a separate grievance process for the resolution of “formal complaints” of “sexual harassment,” as those terms are defined in the federal regulations (see [34 C.F.R. §106.30](#)). Accordingly, formal complaints of Title IX sexual harassment will be processed pursuant to the separate grievance process.

The District is not required to use these complaint procedures to further address any report, complaint, allegation, or basis for a finding of potential misconduct or liability that reaches a determination, or that is otherwise resolved, through the separate Title IX grievance process.

E. Concerns with Safety, Confidentiality, or Retaliation

Any person who presents a report or complaint or who participates in any manner in an investigation or other proceeding under these procedures should arrange to discuss any concerns about safety, confidentiality, or retaliation with the District’s Equal Employment Opportunity Coordinator (EEO Coordinator) or the Title IX Coordinator as early as possible in connection with their involvement in the process — including at or even prior to the time that a report or complaint is filed. The District’s nondiscrimination policies further address the issues of confidentiality and protections for retaliation.

F. Interim Measures

In conjunction with the District’s receipt of notice of any report or complaint of alleged discrimination, harassment, or retaliation, or any other matter that is directed to these procedures for a resolution, a District nondiscrimination coordinator or an administrator acting on behalf of a coordinator shall consider the potential need for and may implement interim measures that are

taken before the resolution of the report or complaint (e.g., safety planning, a “no contact” directive, or other steps needed to protect the complainant or other persons). A complainant may also affirmatively request the consideration of such interim measures. To the extent a report or complaint concerns conduct that could constitute Title IX sexual harassment, the District’s consideration, and implementation of any such interim measures shall be consistent with the requirements of the federal Title IX regulations.

G. Substitution of Parties

If a report or complaint is initially submitted to the District by someone who is not claiming to have been personally harmed or victimized by the alleged conduct or challenged policy (such as a witness or a person who received a third-party account of an incident or allegation), the District reserves discretion, for purposes of these procedures, to substitute the actual party in interest in place of the person who initially submitted the complaint or report. The District will inform the person who initially submitted the complaint or report of any such decision to substitute the actual party in interest as the complainant.

H. Authority to Dismiss Complaints or Specific Allegations

The District retains discretion to dismiss a complaint, or specific allegations, without completing the steps of these complaint procedures for any of the following reasons:

1. The allegations, in whole or in part, raise issues over which the District does not have authority or jurisdiction or that are not amenable to a resolution through these procedures;
2. Mootness (e.g., a challenged policy or practice has been changed);
3. The District determines that specific circumstances prevent the District from gathering evidence that is sufficient to reach a determination regarding the allegations;
4. Due to a lack of timeliness (e.g., an unreasonable or prejudicial delay in reporting);
5. Abuse of process; or
6. The complainant requests to withdraw the complaint and the District consents.

A decision to dismiss a complaint or any allegations for purpose of these complaint procedures does not prevent the District from otherwise addressing a matter through other processes.

An actual party in interest may, within 10calendar days of being notified of a dismissal decision, submit a written request to the District Administrator asking for the District Administrator to review/reconsider such decision.

I. Modification of Procedures to Address Conflicts

In all cases, these procedures shall be implemented in a manner that avoids conflicts of interest, including but not limited to situations where one of the individuals acting on behalf of the District in the resolution process is alleged to have engaged in the conduct that is the basis for the allegations. The primary means of avoiding conflicts is to substitute different individuals in place of any individual who has a conflict of interest. Provided that the District Administrator is not personally affected by a conflict of interest, all concerns with conflicts of interest or potential conflicts of interest shall be brought to the attention of the District Administrator, and the District Administrator is authorized to direct or approve such substitutions if he/she determines that it is necessary or appropriate to do so.

If a report or complaint alleges that the District Administrator has engaged in the improper

conduct that is the basis for the allegations, or if the District Administrator or School Board determines that the administrator is affected by some other material conflict of interest, a designated nondiscrimination coordinator or the District Administrator shall forward the complaint or report to the Board President. The Board President shall engage District legal counsel for the purpose of formulating a recommendation on any modifications to these procedures that may be appropriate to address the District Administrator's conflict of interest. Such recommendation may include the appointment of an outside investigator, and the Board President is authorized to appoint/engage such an outside investigator. When the District Administrator is affected by a conflict of interest, the Board President is also authorized to assign an individual to serve as the complaint manager for any formal investigation (see below) and to perform any other responsibility that these procedures assign to the District Administrator, including, upon advice of counsel and with notice to the Board, making decisions regarding the dismissal of a complaint. In addition, in any case where the District Administrator is alleged to have engaged in the conduct that is the basis for the allegations, the Board shall automatically serve as the body that, following an investigation, makes a determination regarding any allegations of misconduct on the part of the District Administrator. Any appeal of the Board's decision shall be treated as a request for reconsideration and final decision by the Board.

Beyond the modifications identified in this section, any additional modifications of these procedures that are deemed necessary or advisable in order to address conflicts of interest shall be approved by the Board.

III. Informal Resolution (other than for complaints of Title IX sexual harassment)

A. Conditions on the Use of Informal Resolution

The District permits, but does not require, attempts to informally resolve reports, complaints, or other concerns regarding (1) possible employment-related discrimination, harassment, or retaliation, or (2) other claims or allegations that are addressed under these procedures. However, both of the following conditions apply:

1. If any such report, complaint, or concern relates to conduct that could constitute "sexual harassment" as defined by the federal Title IX regulations, informal resolution may be attempted only if a formal complaint of Title IX sexual harassment is pending and the attempt at informal resolution is conducted pursuant to the Title IX regulations and the District's separate grievance process for such formal complaints.
2. No person is required to participate in an informal resolution process (i.e., if such a process is offered, then participation is voluntary). A person who initially agrees to participate in an informal resolution process may withdraw from the process prior to its conclusion without penalty.

B. Description of the Process

1. An attempt to reach an acceptable informal resolution may be initiated at any point after the District has been notified of a report or complaint that would otherwise be resolved using the formal investigative and decision-making steps defined below, including after a formal investigation has been initiated.

2. Although various administrators/supervisors may be involved in attempting an informal resolution, an appropriate nondiscrimination coordinator should still be notified of the complaint or report and involved in the decision to offer/pursue an informal resolution.
3. An informal resolution process is intended to be flexible, but generally includes any process that departs from the formal investigative and decision-making steps defined below. For example, an informal resolution may involve calling resolution meetings, gathering relevant information (e.g., regarding requested remedies), seeking agreement on facts that are not in dispute, holding mediated resolution sessions, and/or offering one or more options for changes to the relevant circumstances.
4. Attempts at informal resolution may resolve some, all, or none of the issues/allegations submitted for resolution. Any unresolved issues and allegations may proceed to be further processed under these procedures.
5. The person(s) facilitating the informal resolution process on behalf of the District shall document the allegations/issues that were submitted for attempted resolution and the outcome of the process. If such documentation is prepared by another person, the record shall be provided to the appropriate nondiscrimination coordinator.

IV. Formal Investigation and Determination Procedures (other than for formal complaints of Title IX sexual harassment)

The formal complaint procedures listed below shall be initiated based on a written statement of the complaint or other report of the relevant claims/allegations. The written statement may be a statement that was submitted by a complainant, or a statement that is prepared by a District-designated nondiscrimination coordinator or a designee. If necessary, the written statement may be amended during the process, or the District may otherwise inform the parties of any clarifications of or changes to the claims or allegations under investigation.

The District will normally attempt to make an initial determination of a complaint under these procedures within 90 days of the date that a District-designated nondiscrimination coordinator, or an administrative-level designee of the coordinator, is first notified of the claims/allegations. However, the District may determine that there is a legitimate need to extend the normal timeline and shall notify the relevant parties of any such extension.

- Step 1:** The District will designate a complaint manager, who will normally be one of the District's designated nondiscrimination coordinators. The complaint manager will be the primary point of contact regarding the complaint for the relevant parties, ensure that appropriate communications from the District are provided to the parties, and ensure appropriate record-keeping in connection with the complaint process.
- Step 2:** In consultation with the complaint manager, the District Administrator or the Title IX Coordinator or their administrative-level designee shall assign one or more individuals to conduct an investigation of the claims/allegations, decide the merits of the matter at this Step, and determine what responsive, remedial, or disciplinary actions will be taken or recommended (if any). The complaint manager shall ensure that the District provides the appropriate parties with written notice of the initial administrative determination of the complaint.
- Step 3:** If any complainant or alleged responsible party under the complaint is dissatisfied with the determination reached at Step 2, the individual may, within 14 calendar days of the date

that the District issues notice of the initial determination, file a written request for reconsideration with the office of the District Administrator. (The request may be submitted via electronic mail to the District Administrator's District-issued email address.) The request for reconsideration shall state the specific reason(s) why the party believes the administrative determination should be modified. Prior to reaching a decision that would modify the previous determination, the District will give the other parties to the matter at least 5 calendar days to submit a statement regarding the asserted grounds for modification. The District Administrator will normally issue a written decision on reconsideration to the parties within 30 calendar days unless further investigation is initiated and/or the District Administrator determines that an extension of time is otherwise needed. The District shall notify the parties of any extension of the 30-day timeline.

Step 4: If any complainant or alleged responsible party is dissatisfied with the determination reached at Step 3, the party may appeal the Step 3 determination to the School Board. Although the Board reserves ultimate discretion to modify any sanctions or remedies, the Board will not modify the determination of the merits of the complaint unless the complainant is able to demonstrate (1) that the determination was affected by a material conflict of interest or undue bias; (2) that there was a clear legal or procedural error that affected the outcome; or (3) that a material factual determination lacked any rational foundation or can be affirmatively disproven by new evidence that was not available at the time of the earlier determination."

Any appeal to the Board shall be filed in writing within 14 calendar day of the date that the District issues notice of the Step 3 determination. The appeal shall be filed at the Office of the District Administrator, addressed to the attention of the Board Clerk with a copy directed to the attention of the District Administrator. (The notice of appeal may be filed as an email that is sent the District-issued email addresses of the two officials.) The notice of appeal must state the specific reason(s) why the party believes the Step 3 determination should be modified.

Prior to issuing a decision that would modify the determination, the District will give any other parties to the matter at least 5 calendar days to submit a written statement regarding the asserted grounds for the appeal. The Board will meet to determine the appeal and will issue a written response to the appeal. Unless otherwise directed by the Board, an appeal to the Board shall not involve any further investigation of the matter or any in-person appearances by the parties.

V. Maintenance of Complaint Records

The District shall maintain records for each report or complaint that is processed under these procedures. Such records shall identify at least the following:

1. The date the report or complaint was first received by the District.
2. The identity of the person submitting the report or complaint and the identities of the actual parties in interest to the complaint, if known.
3. The claims or allegations made in the report or complaint and any other allegations that are investigated in connection with the report or complaint.
4. Documentation of any interim measures implemented by the District.
5. Documentation of the outcome of any informal resolution process that was attempted.
6. A record of the determination of the complaint, including any dismissals, any initial

determination(s) on the merits, and any determination(s) made in connection with an appeal, including the identity of the relevant decision-makers.

7. Any remedies or sanctions that are granted following a determination that substantiates any claims or allegation(s).

Cross References: SR1 8/9/2020; Board Policy 113, 511, 512

Adoption Date: 9/16/2020

Book	School Board Policies
Section	500 Series: Personnel
Title	Employee Harassment and Bullying
Code	512
Status	Active
Adopted	August 21, 2019

The District does not tolerate harassment or bullying of employees, as such actions are detrimental and disruptive to the educational and working environment and detrimental to the staff's health and safety.

Harassment: Prohibited harassment includes behavior toward an individual based, in whole or in part, on a person's sex, race, religion, national origin, color, ancestry, creed, pregnancy, marital status, sexual orientation, disability, age or other protected status which has the purpose or effect of: (1) creating an intimidating, hostile or offensive work environment; (2) interfering with a person's work performance; or (3) otherwise adversely affecting a person's employment opportunities. Harassment can occur as a result of a single, severe incident or as a result of a pattern of behavior. Harassment is defined primarily by the characteristics and effects of the behavior, and those considerations can outweigh an asserted lack of specific intent to harass.

Some examples of prohibited conduct that would constitute prohibited harassment under this policy include the following:

- Deliberate, repeated, or otherwise severe verbal or written comments that insult, degrade, or stereotype an employee or group of employees because of any legally protected status or protected class; or
- Posting or circulating any written or graphic materials, sound or video recordings, or any electronic or other materials that attack, defame, belittle, or show hostility to an employee or group of employees in a protected class.

Sexual Harassment: "Sexual harassment," in the employment context, includes any unsolicited and unwelcome sexual advances, requests for sexual favors, or other sexual conduct or communication, of any kind, directed at a person of the same or opposite gender as the harasser when:

- submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or advancement;
- submission to or rejection of such conduct by an employee is used as the basis for employment decisions; or
- such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

Examples of prohibited conduct in the workplace that may constitute sexual harassment include, but are not limited to, the following: lewd or sexually suggestive comments; the use of sexual innuendo; unwelcome touching; unwelcome romantic advances or propositions; off-color language or jokes of a sexual nature; slurs and any other verbal, graphic, or physical conduct relating to an individual's gender; any display or distribution of sexually-explicit pictures, cards, articles, books, magazines, photos, or cartoons.

Bullying: As enforced in the District, workplace bullying is a form of prohibited harassment. Workplace bullying includes any severe, systematic, or repeated actions that have no legitimate purpose and that involve the threatened, attempted, or actual infliction of physical harm or psychological/emotional distress on one or more employees or on other persons present in a workplace. Workplace bullying includes written, spoken, nonverbal, or physical behaviors or communications that, by intent or as a reasonably foreseeable consequence, serve to inappropriately threaten, intimidate, insult, degrade, ostracize, or interfere with the work, health, or safety of others.

Other Conduct: The District also reserves the right to investigate and implement appropriate disciplinary consequences (up to and including discharge for employees) for conduct that, even if not actionable under state or federal law, the District determines (1) has no legitimate business purpose and is improperly interfering with the efficient operation of the school district; (2) is improperly interfering with the work, education, health, or safety of others; or (3) violates any Board policy or any other legitimate District work rule, directive, or expectation.

The prohibition against bullying and harassment by District employees (whether under this policy or under the District's student-focused policies) applies not only when the employee is directly engaged in work-related duties, but also to an employee's off-duty or away-from-work conduct to the extent that there is a legally-sufficient connection between the conduct and the individual's employment or employment-related responsibilities.

Employee Reporting Responsibilities. All employees are responsible for ensuring that harassment and bullying do not occur and for reporting alleged harassment or bullying. An employee who believes he/she has been subjected to employment-related harassment or bullying by anyone, including supervisors, co-workers, students, or School Board members, is expected to promptly report the behavior to an administrator. Such reports may always be submitted to the District's Equal Employment Opportunity Officer, and an employee may also choose to use the District's employment discrimination and harassment complaint procedures (511-Rule Procedure for Handling Employment Discrimination, Harassment and/or Bullying Complaints). Any employee who is aware of harassment/bullying in the workplace is likewise expected to report it even when that employee is not a direct victim/target. All reports and complaints regarding employment-related harassment or bullying shall be taken seriously, promptly and thoroughly investigated, and responded to as appropriate.

Confidentiality. Although absolute confidentiality and anonymity cannot be assured, the District will maintain the confidentiality of reports and complaints to the extent required by any applicable law, and the District 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. Individuals who have specific concerns about confidentiality should arrange to discuss those concerns with the District as early as possible in connection with any report, complaint, or investigation of bullying or harassment.

Retaliation Prohibited. No one shall attempt to restrain, interfere with, coerce, or take retaliatory action against a complainant, witness, or other person who is participating in the presentation, processing, or resolution of a complaint, report, or concern regarding workplace harassment or bullying.

Consequences for Violations. Any person who engages in any form of bullying or harassment (whether under this policy or under the District's student-focused policies) or any act of retaliation in violation of this policy is subject to disciplinary action, up to and including discharge from employment. Additional consequences may include other adverse or remedial actions within the District's scope of authority and/or referral to law enforcement officials for possible legal action. In addition, supervisory employees who fail to reasonably respond to a report of harassment or bullying or to reasonably act on their knowledge of a violation of this policy will likewise be subject to employment-related consequences.

Information and Notices. Staff shall be informed of this policy and the related complaint procedures via the District's Employee Handbook and this policy and the related complaint procedures shall be posted on the District website.

Legal References:

Wisconsin Statutes:

Section 111.31 [declaration of fair employment policy]
Section 111.32(13) [definition of sexual harassment in employment]
Section 111.321 [prohibited bases for discrimination]
Section 111.322 [discriminatory actions prohibited]
Section 111.36 [sex discrimination prohibited in employment, including sexual harassment]
Section 118.20 [teacher/administrator discrimination prohibited]
Section 120.13(1) [school board power to set rules of conduct and order]
Section 947.0125 [unlawful use of electronic communications]
Section 947.013 [harassment prohibited]

Federal Laws and Regulations:

Title VII of the Civil Rights Act of 1964 *race, color, religion, sex and national origin discrimination prohibited in employment*
Regulations Implementing Title VII of the Civil Rights Act (29 C.F.R. - Part 1604.11) [employment discrimination; sexual harassment]
Regulations Implementing Title IX of the Education Amendments of 1972 (34 C.F.R. - Part 106.51) [sex discrimination in employment in educational programs]

HARASSMENT BASED ON A LEGALLY-PROTECTED STATUS

Sample Policy 1

Policy 512

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(This sample policy has been written to coordinate with PRG 511 Sample Policy 1 (as well as 511 Sample Policy 2) and with the complaint procedures found in PRG 511 Sample Rule 1. This sample policy defines and provides examples of unlawful harassment as a form of employment discrimination under state and federal law, specifically including sexual harassment and the creation of a hostile work environment based on any legally-protected classification. A policy that defines harassment and provides specific examples of prohibited conduct is recommended because, in some cases, employer liability depends on the extent to which the employer took reasonable steps to prevent and correct harassing conduct. Adopting such a policy, particularly if the policy is well-communicated to employees and supported by training activities and an effective complaint procedure, is one way to show that the district has taken such steps.)

This policy addresses unlawful, employment-related harassment that is based on a person's legally-protected status or classification. Such harassment is also prohibited by the District's equal employment and nondiscrimination policy, but benefits from further definition and attention. ~~(include for emphasis, if desired: "It is important, for example, for District employees at all levels to be able to identify different types of unlawful harassment, to understand their right to be free from all forms of unlawful harassment, and to clearly understand that the District imposes an expectation and responsibility on every employee — not just supervisors and administrators — to avoid engaging in conduct that constitutes or that could directly contribute to a finding of unlawful harassment in the workplace. The District prohibits all such conduct not only because of the District's legal obligations, but also because such conduct is detrimental to the educational and working environment and to the well-being of District employees.")~~

Defining and Identifying Harassment in the Workplace. Although different state and federal laws establish different standards to define conduct that does (or does not) constitute unlawful harassment in the employment context, harassment generally includes conduct that:

1. Is based, in whole or in part, on the person's race, color, ancestry, national origin, citizenship, sex, sexual orientation, marital status, pregnancy, age, disability, religion, creed, or other legally-protected status; and
2. Is sufficiently severe or pervasive such that it: (a) creates an intimidating, hostile, or offensive work environment; (b) improperly interferes with a person's ability to perform their job; or (c) otherwise adversely affects a person's employment opportunities.

In addition:

- Prohibited harassment can occur as a result of a single, severe incident or as a result of a pattern of behavior.
- The harasser may be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- Harassment can occur at an employee's workplace, or, provided that there is a legally-sufficient connection to the workplace, when an employee is off duty or away from work.
- An employee who is affected by harassing conduct can be a victim of harassment (e.g., a hostile work environment) even when he/she is not the direct target of the harassment.

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- "Sexual harassment," in the employment context, includes unwelcome physical or verbal conduct or unwanted communication that is of a sexual nature or otherwise on the basis of sex, whether directed at a person of the same or opposite gender as the harasser, when any of the following apply:
 - submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or advancement, including conditioning any aid, benefit or service on a person's participation in or submission to such conduct; or
 - submission to or rejection of such conduct is used as the basis for employment decisions; or
 - such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.
- Sexual harassment also includes all conduct on the basis of sex that constitutes "sexual harassment" as defined and prohibited under the federal Title IX regulations (see [34 C.F.R. §106.30](#)), including but not limited to conduct in any program or activity of the District that constitutes sexual assault, stalking, dating violence, or domestic violence as those terms are further defined under the Title IX regulations.
- Harassment is defined primarily by the characteristics and effects of the behavior, and such considerations can outweigh any asserted lack of intent to harass.
- When determining whether alleged harassment is sufficiently severe or pervasive to (1) substantially interfere with an employee's work performance, or (2) create an intimidating, hostile, or offensive work environment, the conduct in question is evaluated from the objective standpoint of a "reasonable person."

Examples. Some examples of inappropriate, prohibited conduct that could constitute harassment or directly contribute to the creation of a hostile or offensive work environment under this policy include the following:

- Deliberate, repeated, or otherwise severe verbal or written comments that insult, degrade, or stereotype an employee or group of employees because of any legally-protected status or classification. This might include the use of slurs, epithets, name calling, ridicule, mockery, insults, put-downs, or offensive jokes.
- Threats, intimidation, or physical assaults that have a connection to a person's legally-protected status.
- Posting, displaying, or circulating any written or graphic materials, sound or video recordings, or any electronic or other materials or objects that attack, mock, belittle, or show hostility toward an employee or group of employees based on a legally-protected status.

Examples of inappropriate, prohibited conduct in the workplace that may constitute or contribute to a finding of unlawful sexual harassment include, but are not limited to, the following: (1) lewd or sexually suggestive comments; (2) the use of sexual innuendo; (3) unwelcome touching; (4) unwelcome romantic advances or propositions; (5) offensive

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language or jokes of a sexual nature; (6) the display or distribution of sexually-explicit content that lacks a sufficiently legitimate purpose; or (7) any other verbal, written, graphic, or physical conduct or communication that attacks, mocks, belittles, or shows hostility toward an employee due to his/her sex, gender, or lack of conformity to gender stereotypes.

Applicability of Nondiscrimination Policies; Reports of Complaints of Harassment. Unlawful harassment that is based on a legally-protected status is a form of discrimination. As a result, ~~Board Policy 113 (Nondiscrimination in District Programs, Activities and Operations) and Board Policy 511 (Equal Opportunity Employment and Nondiscrimination)~~ apply in full to this policy. Accordingly, any report or complaint of possible harassment or conduct that may constitute or contribute to a finding of prohibited harassment, as well as any formal complaint of Title IX sexual harassment, may be submitted to the District as further provided under those other nondiscrimination policies. In addition, any questions or concerns about workplace-related harassment may be brought to the attention of one of the nondiscrimination coordinators identified in ~~Board Policy 113 or Board Policy 511~~. ***(Editor's Note: This paragraph assumes that the district has adopted one or both of the broad nondiscrimination policies that are incorporated into this policy by reference and that such other policies sufficiently address the filing of reports or complaints, the designation of nondiscrimination coordinators, etc. Ensure that the district has, in fact, adopted those related policies and policy provisions.)***

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Legal References:

Wisconsin Statutes

Subch. II of Chapter 111 [the state fair employment and nondiscrimination statutes, including specific prohibited bases of discrimination]
Section 111.32(13) [state law definition of sexual harassment in employment]
Section 118.195 [discrimination against handicapped teachers]
Section 118.20 [teacher/administrator discrimination prohibited]

Federal Laws and Regulations

See the federal references for Policy 511–Equal Opportunity Employment and Nondiscrimination

Cross References:

(insert appropriate cross references to the policy as applicable to your district.)

Adoption Date:

Harassment Based on a Legally Protected Status

Policy 512

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Legal References:

Wisconsin Statutes

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Federal Laws and Regulations

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Cross References: SP1 8/7/2020, Board Policy 113, 511

Adoption Date: 9/16/2020

