



Book	Administrative Guideline Manual
Section	Special Update - Title IX - June 2024
Title	New Guideline - Special Update - Title IX - June 2024 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES
Code	ag2264 - Ripon
Status	

New Guideline - Special Update - Title IX

2264 - NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES

This guideline provides additional information about the District's procedures for addressing allegations of sex discrimination, including sex-based harassment, which occurs on or after August 1, 2024. Allegations of sex-based harassment that occurred on or before July 31, 2024, shall be addressed pursuant Policy 2266 ~~(-)~~ and AG 2266 ~~[END OF OPTION]~~. All information below supplements Board Policy 2264 – Nondiscrimination on the Basis of Sex in Education Programs or Activities. To the extent there is a conflict between these guidelines and Policy 2264, the policy controls. Throughout this guideline, unless expressly stated otherwise, reference to "Title IX" includes and incorporates the 2024 Title IX regulations (also known as the "2024 Final Rule"). The Title IX regulations are found at 34 C.F.R. Part 106. References solely to Title IX (20 U.S.C. §§ 1681 – 1688) are denoted as "Title IX (Statute)." Additionally, in this guideline, unless the context otherwise requires, words importing the singular include the plural and vice versa.

Except as authorized by the 2024 Title IX regulations, no person shall, on the basis of sex, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any academic, extra-curricular, or other education program or activity operated by the District.

In the limited circumstances when Title IX permits different treatment or separation on the basis of sex, the District shall not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than *de minimis* harm, except as otherwise permitted under Title IX. Pursuant to the 2024 Title IX regulations, adopting a policy or engaging in a practice that prevents a person from participating in an education program or activity consistent with the person's gender identity subjects a person to more than *de minimis* harm on the basis of sex.

Policy 2264 applies to all sex discrimination occurring under the District's education program or activity in the United States. Conduct that occurs under the District's education program or activity includes, but is not limited to, conduct that is subject to the District's disciplinary authority. **[DRAFTING NOTE: The Board should discuss with its Legal Counsel the impact its Student Code of Conduct and Athletic Code of Conduct may have on the scope of conduct that is subject to Policy 2264. If the District imposes consequences (i.e., discipline) based on students' off-campus behavior (e.g., cyberbullying, and/or 24/7/365 enforcement of conduct restrictions on student-athletes), the District will have to similarly act to end, prevent the recurrence of, and remedy the effects of sex discrimination that occurs under comparable circumstances (e.g., sex discrimination, including sex-based harassment, that occurs at parties that take place over the weekend, or during school breaks or other times when the District ordinarily is not thought to exercise jurisdiction over its students).]**

The District is obligated to address sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurs outside the District's education program or activity, or outside the United States.

Sex-based harassment prohibited by the 2024 Title IX regulations is a form of sex discrimination and means sexual harassment and other forms of harassment on the basis of sex – including on the bases of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, and other conduct on the basis of

sex – that is:

- A. quid pro quo harassment; or
- B. hostile environment harassment; or
- C. specific offenses (namely, sexual assault, dating violence, domestic violence, or stalking). (See Policy 2264 for the complete definitions of these offenses.)

The following conduct – if objectively offensive and so severe or pervasive that it limits or denies a person’s ability to participate in or benefit from the District’s education program or activity (i.e., creates a hostile environment) – may constitute sex-based harassment:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact;
- C. threats or insinuations implying that a person's conditions of education or employment may be adversely affected by not submitting to sexual advances;
- D. unwelcome sexual verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; unwelcome sexually degrading language, profanity, jokes, or innuendoes;
- E. sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings, or literature;
- F. unwelcome and inappropriate touching, patting, or pinching;
- G. asking about, or talking about, sexual fantasies, sexual preferences, or sexual activities;
- H. speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. giving unwelcome personal gifts such as lingerie that suggest the desire for a romantic relationship; and
- J. leering or staring at someone in a sexual way, such as staring at a person’s breasts, buttocks, or groin.

The preceding list serves only to provide examples of potential sex-based harassment and is not meant to be an exhaustive or exclusive list of such prohibited conduct. Additionally, any expressive conduct described above that entails speech protected by the First Amendment to the U.S. Constitution does not constitute sex discrimination for purposes of Title IX.

Sexual assault, for purposes of Policy 2264, refers to any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent (e.g., due to the person’s age, intellectual or other disability, or use of drugs or alcohol). ~~(-) Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape. All such acts of sexual assault are forms of sex-based harassment and, in turn, sex discrimination prohibited by Title IX and Policy 2264. [END OF OPTION]~~

[DRAFTING NOTES:

- A. The current Clery Act regulations define sexual assault as an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting System/Program (“UCR”) and direct recipients to look to the Summary Reporting System (“SRS”) User Manual from the FBI’s UCR program for a definition of “rape” and to the National Incident-Based Reporting System (“NIBRS”) User Manual from the FBI’s UCR program for definitions of “fondling,” “statutory rape,” and “incest.”**

The following are the Clery Act-approved definitions in case the District wants to include them in this guideline:

- 1. Rape -- the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.**
- 2. Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.**

- a. **Fondling** — The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of the victim's age or because of the victim's temporary or permanent mental incapacity.
- b. **Incest** —Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- c. **Statutory Rape** —Sexual intercourse with a person who is under the statutory age of consent.

B. Consistent with the 2020 Title IX regulations, the 2024 Final Rule does not require the District to adopt a particular definition of "consent" with respect to sexual assault. In Neola's 2020 version of AG 2264 (now AG 2266), it includes a discussion of the concept of "consent" and "incapacitated." Neola offers the following OPTION if the District wants to include a similar discussion in new AG 2264.]

[] [OPTIONAL LANGUAGE]

Two (2) critical components of assessing allegations of sexual assault involve the concepts of "consent" and a person being "incapacitated." "Consent" refers to words or affirmative actions that a reasonable person in the perspective of the respondent would understand as agreement to engage in the sexual conduct at issue. A person who is incapacitated is not capable of giving consent. A person may be incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. Consent must be given voluntarily. It cannot be procured through physical violence, threats, blackmail, or other unreasonable pressure for sexual activity. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous relationships or prior consent do not imply consent to future sexual acts.

Determining whether there was consent is a critical factor in evaluating whether a sexual assault occurred. As defined above, consent is a mutual, voluntary, and informed agreement to participate in specific sexual acts with another person that is not achieved through manipulation, force, or coercion of any kind, and requires having cognitive ability to agree to participate. Force involves the use, or the threatened use, of physical violence to achieve sexual access. Force further includes the use of a person's body in a physically imposing manner to elicit unwelcome or unwanted sexual contact. Coercion involves unreasonable pressure for sexual activity or contact.

Consent requires an outward demonstration, through mutually understandable words, conduct, or action, indicating that an individual has freely chosen to engage in the specific sexual acts. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive. Silence or an absence of resistance does not imply consent, and consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Even in the context of an ongoing relationship, consent must be sought and freely given for each specific sexual act. Consent may be withdrawn at any time. When consent is withdrawn, sexual activity must immediately stop.

Impairment or incapacitation due to alcohol and/or drug use, temporary or permanent mental or physical disability, and being below the age of consent (age sixteen (16)) are factors that detract from or make consent impossible. Incapacity is defined as an inability to make rational, reasonable decisions or judgments. Incapacitation is a state where an individual cannot make an informed and rational decision to consent to engage in sexual contact because the individual lacks conscious knowledge of the nature of the act (e.g., to understand the "who, what, where, when, why or how" of the sexual interaction) and/or is physically or mentally helpless. An individual is also considered incapacitated, and therefore unable to give consent, when asleep, unconscious, or otherwise unaware that sexual contact is occurring.

Incapacitation is found when the respondent knew or should have known that the complainant was incapacitated when viewed from the position of a sober, reasonable person. One's own intoxication is not an excuse for failure to recognize another person's incapacitation.

Incapacitation may result from the use of alcohol and/or other drugs; however, consumption of alcohol or other drugs, inebriation, or intoxication alone are insufficient to establish incapacitation. Incapacitation is beyond mere drunkenness or intoxication. The impact of alcohol or drugs varies from person to person, and evaluating incapacitation requires an assessment of how consumption of alcohol and/or drugs impacts an individual's:

- A. decision-making ability;
- B. awareness of consequences;
- C. ability to make informed judgments;

D. capacity to appreciate the nature or circumstances of the act.

No single factor is determinative of incapacitation. Some common signs that someone may be incapacitated include slurred speech, confusion, shaky balance, stumbling or falling down, vomiting, and unconsciousness.

~~[END OF OPTIONAL LANGUAGE]~~

TITLE IX COORDINATOR(S)

The Superintendent will delegate whether the Title IX Coordinator will serve as both the investigator and the decision-maker.

~~[DRAFTING NOTE: SELECT ONE (1) OF THE FOLLOWING SIX (6) OPTIONS.]~~

~~() shall serve as both the investigator and the decision maker.~~

~~() shall serve as the investigator and appoint a decision maker.~~

~~() shall appoint an investigator and serve as the decision maker.~~

~~() shall appoint a person to serve as the investigator and decision maker.~~

~~() shall appoint one (1) person to serve as the investigator and a different person to serve as the decision maker.~~

~~() will ordinarily serve as both the investigator and decision maker but may, under certain circumstances (e.g., _____), appoint () a person to serve as both the investigator and decision maker () a person to serve as the investigator and a separate person to serve as the decisionmaker () a person(s) to serve as the investigator and/or decision maker [END OF OPTIONS].~~

~~[END OF OPTIONS]~~

~~[DRAFTING NOTE: Neola recommends that districts select the following option.]~~

~~[] The Title IX Coordinator may Superintendent will appoint a third party to serve as an investigator, decision-maker, appeal decision-maker, or informal resolution facilitator. [END OF OPTION]~~

It is critical that the Title IX Coordinator, and any investigator, decision-maker, or person designated to facilitate an informal resolution, does not have a conflict of interest or bias for or against complainants and respondents generally or any individual complainant(s) or respondent(s).

~~[DRAFTING NOTE: If the District selects the first of the six (6) options above, select OPTION 1 below; otherwise, select OPTION 1 and OPTION 2 below.]~~

~~[] [OPTION 1]~~

The Title IX Coordinator shall confirm in writing that the Coordinator does not have a conflict of interest or bias for or against complainants and respondents generally. Additionally, the Coordinator shall confirm in writing – after learning the name(s) of the specific complainant(s) and respondent(s) - that the Coordinator does not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

~~[END OF OPTION 1]~~

~~[] [OPTION 2]~~

When a person is assigned to conduct an investigation and/or to serve as a decision-maker, the investigator and the decision-maker shall confirm in writing that they do not have a conflict of interest or bias for or against complainants and respondents generally. The investigator and/or decisionmaker shall also – after learning the name(s) of the specific complainant(s) and respondent(s) – confirm in writing that they do not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

~~[END OF OPTION 2]~~

[END OF OPTIONS]

In appropriate circumstances, the Title IX Coordinator may appoint/assign a person to facilitate an informal resolution process. The facilitator must confirm in writing that the facilitator does not have a conflict of interest or bias for or against complainants and respondents generally, and does not have a conflict of interest or bias for or against the individual complainant(s) and respondent(s) involved in the specific complaint.

Within two (2) days of learning of the identity of the investigator, decision-maker, and/or facilitator of the informal resolution process, the complainant(s) and/or respondent(s) may submit a written objection to the Title IX Coordinator concerning the investigator, decision-maker, and/or facilitator of the informal resolution process based upon an actual or perceived conflict of interest or bias for or against complainants and/or respondents generally or either party to the complaint. The objecting party must explain the basis for the contention that the investigator, decision-maker, and/or facilitator of the informal resolution process has a conflict of interest or is biased and submit any substantiating evidence. Within two (2) days of receiving the written objection, the Title IX Coordinator or Superintendent (if the Title IX Coordinator is the person alleged to have a conflict of interest or bias) will decide whether to replace the investigator, decisionmaker, and/or facilitator of the informal resolution process and notify the parties ~~(-)~~, in writing, **[END OF OPTION]** of the decision, including the reasons for it.

[DRAFTING NOTE: The timelines identified in the preceding paragraph are not mandated by the 2024 Title IX regulations, but rather are suggested as a means of conveying the need for these issues to be raised promptly so as not to unnecessarily delay the grievance process; the Board may select different timelines, but should certainly impose some timeframe to ensure such matters are brought to the Title IX Coordinator's attention in a timely manner.]

NOTICE OF NONDISCRIMINATION

The District shall provide a notice of nondiscrimination to students; parents, guardians, or other authorized legal representatives of elementary and secondary school students; employees; and applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the District.

The District's notice of nondiscrimination shall include the following elements:

- A. a statement that the District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment;
- B. a statement that inquiries about the application of Title IX to the District may be referred to the District Title IX Coordinator(s), to the Office for Civil Rights, or to both;
- C. the name or title, office address, email address, and telephone number of the District's Title IX Coordinator(s);
- D. how to locate the Board's nondiscrimination policy and grievance procedures; and
- E. how to report information about conduct that may constitute sex discrimination under Title IX, and how to make a complaint of sex discrimination under Title IX and Policy 2264.

~~[]~~ See Form 2264 F1 – Notice and Statement of Nondiscrimination. **[END OF OPTION]**

The District shall prominently include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to the persons listed above, or which are otherwise used in connection with the recruitment of students or employees.

Alternatively, the District may – due to the format or size of a publication – include a statement in such publication that the District prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the Title IX Coordinator(s), and provide the location of the District's notice of nondiscrimination on its website.

Under no circumstances will the District distribute a publication stating that it treats applications, students, or employees differently on the basis of sex, except as such treatment is permitted under Title IX.

[DRAFTING NOTE: Neola is offering new Form 2264 F1 – Notice and Statement of Nondiscrimination, which is a template Notice of Nondiscrimination and Statement of Nondiscrimination. If the District elects to use Form 2264 F1, it does not need to select the following OPTION. Regardless of whether the District elects to use Form 2264 F1, if it selects the following OPTION, the District will need to decide whether to include both the Name(s) and Title(s) or just the Title(s) of the Title IX Coordinator(s). In the District's actual Notice, it should

list both the Name and Title of the person(s) designated to serve as the Title IX Coordinator(s). Because the person's name will be included in the actual Notice, the District will need to have procedures/practices, so this information is updated whenever a new person – either by name or title – is designated to serve as the Title IX Coordinator. With respect to this guideline, the same caution that is discussed in the corresponding DRAFTING NOTE in Policy 2264 applies here – if the Name and Title are included in the guideline, the Superintendent will need to update the guideline whenever a new person is designated to serve as the Title IX Coordinator.]

~~[] [OPTIONAL LANGUAGE]~~

Notice of Nondiscrimination:

The District's Notice of Nondiscrimination shall read as follows:

The Board of the _____ **Ripon Area** School District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

The District's Title IX Coordinator(s) is(are):

Emmy Jess
Pupil Service Director
100 Ringstad Drive
Ripon, WI 54971
(920) 748-1550
jesse@ripon.k12.wi.us

Jonah Adams
Business Manager
1120 Metomen Street
Ripon, WI 54971
(920) 748-4600
adamsj@ripon.k12.wi.us

~~[END OF OPTIONAL LANGUAGE]~~

[DRAFTING NOTE: If the Board appoints more than one (1) Title IX Coordinator, consider selecting the following OPTION. This language, however, is not a mandatory component of the District's Notice of Nondiscrimination. See also DRAFTING NOTE in Policy 2264 concerning the alternative approach of designating one (1) Title IX Coordinator, and then one (1) or more Deputy or Assistant Title IX Coordinators to help the Title IX Coordinator fulfill the position's responsibilities as delineated in the policy and the 2024 Title IX regulations.]

~~[]~~The Board designates _____ **Emmy Jess/Director of Pupil Services ~~[Insert Name and/or Title of the Title IX Coordinator who is ultimately responsible for the District's compliance with its responsibilities under Title IX]~~ as the coordinator who is ultimately responsible for oversight over the Board's compliance with its responsibilities under Title IX. **[END OF OPTION]****

The Board's nondiscrimination policy and grievance procedures can be located at: _____ www.ripon.k12.wi.us ~~[Insert link to location(s) on website or otherwise describe location(s)].~~

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to _____ www.ripon.k12.wi.us ~~[Insert link to location(s) on website or otherwise describe location(s)].~~

Statement of Nondiscrimination:

If necessary, due to the format or size of any publication, the District may use the following statement of nondiscrimination:

The Board of the _____ Ripon Area School District prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The full notice of nondiscrimination is located at _____ www.ripon.k12.wi.us [insert website address] [END OF OPTION].

GENERAL RESPONSIBILITIES

All students and Board employees share responsibility for avoiding, discouraging, and reporting sex discrimination.

The Title IX Coordinator(s) shall be available during regular school/work hours to discuss Title IX questions, including questions related to sex discrimination, and assist employees, students, parents/guardians/other authorized legal representatives with a legal right to act on behalf of a complainant, and other members of the school community to access Policy 2264 and implement the grievance procedures and other protections included in the policy.

Any member of the school community may provide information to the Title IX Coordinator(s) concerning conduct that reasonably may constitute sex discrimination under Title IX. Such information may be submitted in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') published contact information, or by any other means (oral or written) that results in the Title IX Coordinator receiving the information. Information may be provided at any time (including during non-work hours).

All Board employees ~~() except confidential employees [END OF OPTION]~~ are required to provide the Title IX Coordinator(s) with notification of conduct that reasonably may constitute sex discrimination under Title IX.

When a Board employee notifies the Title IX Coordinator of suspected sex discrimination, the employee is required to report all known details about the alleged sex discrimination including: (1) the name of the alleged respondent; (2) the person who experienced the alleged sex discrimination (i.e., the complainant); (3) other persons involved in the alleged sex discrimination; and (4) any other relevant facts, such as date, time, and location. Failure to provide such notification may result in discipline, up to and including suspension or termination of employment.

Upon receiving a notification of suspected sex discrimination, the Title IX Coordinator will provide the appropriate notice to the complainant, discuss supportive measures with the complainant, and explain the grievance procedures. The Title IX Coordinator will also inform the complainant that the Title IX Coordinator is available to assist the complainant in filing a complaint if that is what the complainant wants to do. The Title IX Coordinator will further explain to the complainant that Federal law includes protections against retaliation and that the District will not only take steps to prevent retaliation, but also take strong responsive action if it occurs.

~~[]~~ When it comes to allegations of stalking, the Title IX Coordinator will inform the complainant that it is important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. Such evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. This type of non-physical evidence will also be useful in all types of sex discrimination investigations, not just those involving sex-based harassment. [END OF OPTION]

TITLE IX EMERGENCY REMOVAL

[DRAFTING NOTE: The emergency removal process detailed in this AG is unique to the Title IX context and does not replace or supplant any emergency removal provisions/procedures contained in State law that authorize a Principal or other school employee to remove a student from the educational setting for a portion of a specific school day or the remainder of a school day because the student's behavior is causing significant disruption and/or threatening the student's safety or the safety of other students and/or staff. See 118.164, Wis. Stats. Select either OPTION 1 or OPTION 2.]

~~[] [OPTION 1]~~

If a complaint involves a student respondent, the Title IX Coordinator will determine whether the circumstances warrant consideration of emergency removal of the student respondent.

~~[END OF OPTION 1]~~

~~[] [OPTION 2]~~

~~If the complaint involves a student respondent, while the Title IX Coordinator is communicating with the complainant concerning supportive measures and whether to file a complaint, the Superintendent will determine whether the circumstances warrant consideration of emergency removal of the student respondent.~~

[END OF OPTION 2]

If the ~~()~~ Title IX Coordinator ~~()~~ Superintendent **[END OF OPTION]** decides that the situation calls for possible emergency removal of the student respondent, the ~~()~~ Title IX Coordinator ~~()~~ Superintendent **[END OF OPTION]** will ~~()~~ convene ~~()~~ direct the Principal to convene **[END OF OPTION]** a team of educators and other appropriate staff members (e.g., school psychologist, guidance counselor, mental health counselor, etc.) to conduct an individualized safety and risk analysis. The team will be tasked with determining whether the student respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination that justifies removal. **[DRAFTING NOTE: The District can, but is not required to, use its "threat assessment team" to conduct this individualized safety and risk analysis.]**

If the team determines the student respondent poses such a threat, it will recommend to the Principal that the District implement a Title IX Emergency Removal (i.e., remove the student respondent from the school premises). If the Principal agrees with the recommendation, the Principal will notify the student respondent and remove the student respondent from the school premises based on the team's determination that the student respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination. The student respondent will have an opportunity to challenge the team's recommendation and the Principal's corresponding decision to remove the student respondent immediately following the implementation of the removal. The challenge may be filed directly with the Superintendent or by following the due process procedures outlined in Policy 5610 – Suspension and Expulsion, and Policy 5611 – Due Process Rights.

[DRAFTING NOTES:**A. The District should consult with its Legal Counsel whenever it considers implementing a Title IX Emergency Removal.**

- 1. While a Title IX Emergency Removal does not constitute "discipline" for purposes of Title IX's prohibition against imposing discipline prior to a determination, at the conclusion of the grievance procedures, that a respondent engaged in sex discrimination, the District will want to obtain guidance concerning some of the restrictions associated with instituting a Title IX Emergency Removal. For example, a Title IX Emergency Removal could constitute a change in placement for a student with a disability pursuant to the IDEA or Section 504.**
- 2. Additionally, the District should discuss with its Legal Counsel any restrictions that State law may impose on the implementation of such an emergency removal, including the procedures that need to be followed to act consistent with State law. See 120.13(1)(c), Wis. Stats.**
- 3. As noted below, the District has an ongoing duty to educate the student respondent once the student is removed from the student's regular educational setting and it may need guidance on how to legally fulfill this responsibility.**

B. In consultation with its Legal Counsel, the District may decide to develop a different procedure for implementing a Title IX Emergency Removal, including specifying that the Superintendent and/or Principal has the authority – given the imminency of the threat – to implement such a removal without convening a team to conduct the individualized safety and risk analysis. If the District empowers its Superintendent and/or Principal to take such action, it should consider also establishing a "review" mechanism whereby other administrators and persons knowledgeable about the student and the situation have an opportunity to provide feedback. Regardless of whether it is a team or the Superintendent/Principal who recommends/decides to emergency remove a student respondent, the person(s) deciding to take that action must conduct an individualized safety and risk assessment and conclude that the student respondent poses an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination. This is a significant standard that needs to be met.

C. Based on the preceding, use of supportive measures that entail "separating" a student complainant from a student respondent may be a preferable approach for less severe circumstances to avoid having to implement a Title IX Emergency Removal.]

A student respondent who is removed from school pursuant to a Title IX Emergency Removal is still entitled to be educated, just not in the student's regular school setting. The Superintendent, in consultation with the Principal and other relevant educators, will determine where and how to educate the student.

If the student respondent who is subject to a Title IX Emergency Removal is a student with a disability, the Title IX Coordinator will consult with one (1) or more members of the student's IEP or Section 504 team before the student is emergency removed. If the duration of the Title IX Emergency Removal is expected to exceed ten (10) school days, or the student has already been excluded from school for ten (10) or more school days in the school year in which the Title IX Emergency Removal is going to take place, the student's IEP or Section 504 Team shall meet to conduct a manifestation determination review. If the Title IX Emergency Removal is determined to be a manifestation of the student's disability, the student will be returned to the student's regular educational placement, subject to (1) the IEP or Section 504 Team determining with input ~~() and consent [END OF OPTION]~~ from the student's parent to change, temporarily, the student educational placement; or (2) the District implementing an interim alternative educational setting for the student in accordance with Federal and State law.

PROCEDURES APPLICABLE TO TITLE IX COORDINATOR WHEN INITIATING A COMPLAINT OF SEX DISCRIMINATION

A complainant, or a person who has a right to make a complaint on behalf of a complainant (e.g., a parent, guardian, or other authorized representative with the legal right to act on behalf of the complainant), may file a complaint with the Title IX Coordinator.

Additionally, after making a fact-specific determination that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person(s), or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. The Title IX Coordinator shall consider, at a minimum, the following factors when making the above-specified determination:

- A. the complainant's request not to proceed with initiation of a complaint;
- B. the complainant's reasonable safety concerns regarding the initiation of a complaint;
- C. the risk that additional acts of sex discrimination would occur if a complaint were not initiated;
- D. the severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- E. the age and relationship of the parties, including whether the respondent is a Board employee;
- F. the scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- G. the availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
- H. whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

If the Title IX Coordinator decides to initiate a complaint, the Title IX Coordinator shall notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

~~[]~~ The District will honor a student complainant's request to inform an alleged respondent that the Title IX Coordinator made the decision to proceed with initiating the complaint without the student 'complainant's consent. ~~[END OF OPTION]~~

The Title IX Coordinator must balance the student complainant's request that a complaint not be initiated with the District's obligation to provide a safe and discrimination-free environment for all students.

Even when the Title IX Coordinator initiates the complaint, the Title IX Coordinator is not a complainant; the complainant remains the individual who is alleged to be the victim of conduct that could constitute sex discrimination.

Upon receipt of a complaint, the District will follow its Grievance Procedures and undertake an objective evaluation of all relevant evidence (that is not otherwise impermissible) – including both inculpatory and exculpatory evidence. Eyewitness testimony, video and/or audio recordings, photographs, documents, emails, texts, and other forms of physical evidence can all serve as relevant evidence in an investigation. Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness. The respondent is presumed not responsible for the alleged conduct until a decision is made at the conclusion of the grievance procedures that sex discrimination occurred.

GRIEVANCE PROCEDURES

The District's grievance procedures are detailed in Policy 2264. The goal of the grievance procedures is to secure a prompt and equitable resolution to complaints made by students, employees, or other individuals who are participating or attempting to participate in the District's education program or activity, or by the Title IX Coordinator, alleging any action that is prohibited by Title IX.

Impact of Criminal Investigations

If there is an ongoing criminal investigation involving the conduct/incident that is the subject of the complaint, the Title IX Coordinator will seek to implement the Board's grievance procedures in a manner that does not unduly impact the criminal investigation. As appropriate and in accordance with State and Federal law, the Title IX Coordinator and/or the District-assigned investigator (if applicable) will consider whether information can be shared among the criminal investigators and the District-assigned investigator so that the complainant is not unnecessarily required to give multiple statements about an alleged traumatic event. If the investigation includes forensic evidence, the Title IX Coordinator, or the District-assigned investigator (as applicable), may consult with (↔) a school resource officer, ~~[END OF OPTION]~~ local law enforcement or a forensic expert to ensure that the District-assigned investigator is correctly interpreting the evidence.

While the District will not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation, it may temporarily delay the investigation while the police are gathering evidence and actively investigating. During this delay in the Title IX investigation, the Title IX Coordinator will implement supportive measures. The Title IX Coordinator will remain in contact with local law enforcement officials and provide reasonable updates to the parties on the status of the matter and inform the parties when the school resumes its investigation.

If the District's investigation is delayed due to an ongoing criminal investigation, the Title IX Coordinator will promptly resume and complete the investigation once the District learns that law enforcement has completed its evidence-gathering stage of the criminal investigation. The District will not unreasonably delay its investigation or the determination of whether sex discrimination occurred until the ultimate outcome of the criminal investigation or the filing of any charges. The District will work with (↔) its school resource officer(s), ~~[END OF OPTION]~~ local law enforcement and local prosecutor's office to learn when the evidence-gathering stage of the criminal investigation is complete.

Modification to Timeframes and Extensions

After evaluating a complaint and deciding to investigate it, the Title IX Coordinator may determine the standard timeframe is unreasonable based on one (1) or more of the factors (i.e., grounds) listed below. If any of the listed factors are present in the case, the Title IX Coordinator may modify the "standard" grievance procedures timeframe – at the onset of the Investigation – by notifying, in writing, the parties of a revised timeframe and the reason(s) for the modification.

Likewise, a party or other individual participating in the grievance procedures may request an extension of an event, deadline, or stage(s) of the grievance process by submitting, in writing, to the Title IX Coordinator, or the Superintendent if the requesting party is the Title IX Coordinator, the proposed length of the extension and the reason for the requested extension. The Title IX Coordinator, or the Superintendent if the Title IX Coordinator is the individual requesting an extension, may approve reasonable extensions of the timeframes set forth in Policy 2264 on a case-by-case basis for good cause with notice to the parties. In considering and deciding whether to approve or deny the requested extension, the Title IX Coordinator, or the Superintendent (if applicable), shall balance the reason(s) proffered for the extension with the District's need to complete a comprehensive, fair, and prompt Investigation and Determination of the merits of the complaint.

The Title IX Coordinator, or the Superintendent if the Title IX Coordinator is the individual requesting an extension, may approve reasonable extensions of the timeframes associated with a specific stage of the grievance procedures. The Title IX Coordinator's, or the Superintendent's (as applicable), decision on whether to grant a requested extension shall be provided, in writing, simultaneously to both parties. If the request is approved, the decision will set forth the new, extended date by which a certain action, event, or stage(s) of the grievance procedures must be completed by, and the reason the extension was granted.

The following is an illustrative, not exhaustive, list of reasonable grounds for granting an extension of time:

- A. The nature and scope of the claims: If the claims involve multiple incidents of alleged wrongdoing or misconduct, and/or the claims allegedly occurred over an extended period, and/or the claims will require a nuanced analysis of the facts and application of the appropriate legal standards, the Investigation and/or Determination stages may require more than the standard allotment of time.
- B. The complexity of the case: If the investigation involves multiple parties, numerous witnesses, or a significant volume of evidence to review, an extension may be necessary to conduct a thorough and fair investigation.

- C. Unavailability of key parties or witnesses: If critical individuals are temporarily unavailable due to illness, travel, or other unforeseen circumstances, or have limited availability to participate in the Investigation, an extension may be granted to allow for their participation.
- D. Concurrent law enforcement investigation: If there is an ongoing criminal investigation related to the conduct alleged to constitute sex discrimination, an extension may be appropriate to avoid interfering with law enforcement proceedings or to coordinate the sharing of information.
- E. Academic Breaks or Holidays: Extensions may be granted if the investigation overlaps with scheduled breaks (e.g., winter, spring, or summer) or other periods when school is not in session (e.g., holidays, calamity days) to ensure all parties have adequate opportunity to participate.
- F. Accommodations for disabilities: If any of the parties involved have a disability that requires additional time or resources to fully participate in the investigation, an extension may be necessary to provide appropriate accommodations.
- G. New evidence or allegations: If substantial new evidence comes to light or new allegations are raised during the course of the investigation, an extension may be needed to properly address and incorporate this information and/or to consolidate issues/complaints/cases.
- H. Procedural delays: Unforeseen procedural issues, such as the need to replace an investigator due to a conflict of interest or the requirement to provide translation services, may necessitate an extension.
- I. Other factors unique to the situation.

[DRAFTING NOTE: If the Board selected the OPTION in Policy 2264 to provide the Title IX Coordinator with discretion to offer an Informal Resolution Process, the District should select the following OPTION.]

~~[] [OPTIONAL LANGUAGE: INFORMAL RESOLUTION PROCESS]~~

Informal Resolution Process

The Title IX Coordinator has the discretion to offer informal resolution in appropriate circumstances. Specifically, any time prior to a Determination that sex discrimination occurred, the Title IX Coordinator may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary or secondary school student or such a process would conflict with Federal, State, or local law. An offer to the parties to participate in an informal resolution process may be made any time after the Title IX Coordinator receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made.

The Title IX Coordinator may also decline to offer an informal resolution despite one (1) or more of the parties' wishes. For example, the Title IX Coordinator may decline to allow informal resolution when the Title IX Coordinator determines that the alleged conduct would present a future risk of harm to others.

If the Title IX Coordinator offers the parties an opportunity to participate in an informal resolution process, the Title IX Coordinator must, to the extent necessary, also take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.

Under no circumstances shall the Title IX Coordinator require or pressure the parties to participate in an informal resolution process.

Prior to commencing an informal resolution process, the Title IX Coordinator shall obtain the parties' voluntary consent ~~()~~, in writing, ~~[END OF OPTION]~~ to the informal resolution process; the parties' agreement to engage in the informal resolution process shall not require a waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

[DRAFTING NOTE: While not required by the 2024 Title IX regulations, Neola encourages the District to select the preceding option. It is a best practice to obtain the parties' voluntary consent in writing.]

Before initiation of the informal resolution process, the Title IX Coordinator must provide to the parties ~~()~~ written ~~[END OF OPTION]~~ notice that explains: (a) the allegations; (b) the requirements of the informal resolution process; (c) that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the District's grievance procedures; (d) that the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same

allegations; (e) the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and (f) what information the District will maintain and whether and how the District could disclose such information for use in the District's grievance procedures if grievance procedures are initiated or resumed. **[DRAFTING NOTE: While not required by the 2024 Title IX regulations, Neola encourages the District to select the preceding option. It is a best practice for the Title IX Coordinator to provide the above-described notice in writing.]**

The facilitator for the informal resolution process shall not be the same person as the investigator, decisionmaker, or appeal decisionmaker (if applicable) in the District's grievance procedures as applied to any party to the informal resolution process. Further, any person designated by the Title IX Coordinator to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent.

Any person facilitating an informal resolution process must receive the training specified below.

If the Title IX Coordinator offers the parties an informal resolution process, and the parties voluntarily consent to participate in the informal resolution process, the following is a non-exhaustive list of potential terms that may be included in an informal resolution agreement: (1) restrictions on contact; and (2) restrictions on the respondent's participation in one (1) or more of the District's education programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the District's grievance procedures that sex discrimination occurred.

~~[END OF OPTIONAL LANGUAGE- INFORMAL RESOLUTION PROCESS]~~

Off-Campus Sex-Based Harassment

The District is required to investigate a complaint that involves conduct that occurred in the District's education program or activity, even if the conduct occurred off school property. The District's education program or activity includes locations, events, and circumstances in the United States over which the Board exercises substantial control over the respondent and the context in which the sex discrimination occurs. The Title IX Coordinator shall determine whether any alleged off-campus sex-based harassment occurred in an education program or activity. If it did, the grievance procedures shall apply and be implemented in the same manner as with an on-campus complaint. Whether the alleged misconduct occurred in this context may not always be apparent from the initial complaint, so the Title IX Coordinator may need to gather additional information to make such a determination. Off-campus education programs and activities include school-sponsored field trips, athletic team travel, and school club events.

Upon receipt of a complaint, the Title IX Coordinator will confirm whether the alleged conduct falls within the scope of Policy 2264, including whether the conduct, as reported, constitutes, or could constitute, sex discrimination, and whether the incident(s) occurred within the context of the District's education program or activity. If the Title IX Coordinator determines the conduct did not occur in the context of the District's education program or activity, or could not constitute sex discrimination even if investigated, the Title IX Coordinator will dismiss the complaint but may refer the matter to the Principal to consider whether the alleged misconduct, while not a Title IX violation, may still constitute a violation of the Student Code of Conduct or involve the creation of an impermissible hostile or discriminatory environment that is prohibited under the Board's other nondiscrimination and/or anti-harassment policies.

Role of Family Members and Advisors

All parties are entitled to consult with family members, confidential resources, and advisors during the grievance procedures. A party may not select a person who is identified as or may be called as a witness to serve as an advisor, with the exception of a parent/guardian/ other authorized legal representatives of elementary and secondary students.

~~[]~~ The parties are expected to notify, in advance (i.e., two (2) days before the event), the Title IX Coordinator, investigator, and/or decision-maker (as applicable) of the identity of family members and/or advisors who may accompany them at a meeting or interview. **~~[END OF OPTION]~~ [DRAFTING NOTE: Neola recommends the District select this OPTION. The specific timeline (i.e., two (2) days) listed in the OPTION is not required, but Neola suggests the District include some specific period of advance notice so the District official can determine whether another school official should also attend the meeting/interview.]**

Family members and advisors are expected to conduct themselves in a professional and ethical manner, with integrity and in good faith.

Family members and advisors are subject to the same rules, regardless of whether they are an attorney or not. The Title IX Coordinator, the investigator, and the decision-maker shall have discretion to determine whether advisors may be permitted to present on behalf of the complainant or respondent in a meeting or interview. Under no circumstances would a

parent/guardian be prevented from doing so. Any limitations placed on the advisors shall apply to the advisors for all parties. If it is determined the advisors are not permitted to present on behalf of the complainant or respondent, the advisor should request or wait for a break in the meeting/interview before interacting with District officials. Advisors may confer quietly with their advisees as necessary, as long as they do not disrupt the meeting/interview. Advisors may request breaks, as needed, in order to confer with their advisees.

~~[-]~~ Prior to the first meeting or interview, the Title IX Coordinator, the investigator, or the decision-maker will meet or speak with the advisors to clarify their roles and answer any questions they may have. ~~END OF OPTION]~~

Family members and advisors are prohibited from interfering with the investigation or the grievance process. If a family member or an advisor acts in a disruptive manner or outside the role at a meeting/interview, the District official in charge of the meeting/interview will warn the family member or advisor. If the advisor continues to disrupt the meeting/interview or act in an unprofessional manner, the District official in charge of the meeting/interview will ask the advisor to leave and will dismiss the advisor from the meeting/interview. If a family member continues to disrupt the meeting/interview or act in an unprofessional manner, the District official in charge of the meeting/interview may adjourn the meeting/interview until the family member agrees to act appropriately. A meeting/interview will typically continue after the advisor is excused. The Title IX Coordinator will subsequently decide whether the original advisor will be permitted to return or will need to be replaced by a different advisor.

For the District to share documentation related to the allegations pertaining to a student with the student party's advisor, the Eligible Student or the student party's parent/guardian must provide written consent authorizing such sharing.

The Title IX Coordinator will notify family members and advisors that consistent with the 2024 Title IX regulations, they are required to maintain the privacy of the parties and witnesses, including all records shared with them by the District during the grievance process. Pursuant to FERPA, the records may not be shared with third parties, disclosed publicly, or used for purposes unrelated to the grievance process. Nothing herein, however, shall restrict the ability of the parties to obtain and present evidence, including by speaking with witnesses (subject to the non-retaliation provisions of Policy 2264), consulting with family members, confidential resources, or advisors, or otherwise prepare for or participate in the grievance procedures.

If a family member or an advisor is unable to attend a meeting in person, the District official in charge of the meeting will attempt to arrange for the family member or advisor to participate by telephone, video, and/or virtual meeting. ~~(-)~~ However, an advisor's inability to attend a meeting will ordinarily not excuse or prevent the meeting from occurring. ~~END OF OPTION]~~

If a party is a Board employee entitled to a union representative, the Board employee may be accompanied by a union representative and/or personal representative (e.g., attorney) at any meeting/interview ~~(-)~~ or hearing ~~END OF OPTION]~~.

Remedies

If the decisionmaker determines the respondent engaged in sex discrimination in violation of Policy 2264, the District will take prompt and effective steps to end the sex discrimination, eliminate the hostile environment, prevent its recurrence, and remedy its effects. The decisionmaker's written determination should recommend to the Title IX Coordinator and the Superintendent appropriate remedies that may include, but are not limited to:

- A. providing an escort for the complainant to move safely between classes and activities;
- B. ensuring the complainant and respondent do not share classes or extracurricular activities (e.g., re-arranging schedules at the complainant's request);
- C. moving the respondent or complainant to another school within the District;
- D. providing medical, counseling, and academic support services to the complainant and/or respondent;
- E. affording/arranging for the complainant to have extra time to complete or re-take classes or exams without academic penalty (e.g., the complainant is provided extensions on due dates for papers, assignments, quizzes, tests, etc.);
- F. reviewing disciplinary proceedings/actions against the complainant to see if there is a causal connection between the sex-based harassment and the misconduct that may have resulted in the complainant being disciplined;
- G. initiating evaluations including a functional behavior assessment, development/revision of a behavior intervention plan, or amendments to an individualized education program/Section 504 Plan under the Individuals with Disabilities

Education Improvement Act ("IDEA") or Section 504 of the Rehabilitation Act of 1973 ("Section 504");

- H. imposing disciplinary sanctions/consequences, up to and including expulsion or permanent exclusion on a student respondent and termination on an employee respondent; and
- I. ordering other global remedies such as:
 - 1. training or re-training employees;
 - 2. developing and distributing materials on sex discrimination;
 - 3. conducting sex discrimination prevention programs; and/or
 - 4. conducting climate checks/surveys.

DISTRICT'S RESPONSIBILITIES WITH RESPECT TO A STUDENT'S PREGNANCY OR RELATED CONDITIONS

Once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator shall promptly provide the student with voluntary reasonable modifications to the Board's policies, practices, or procedures because of pregnancy or related conditions, as follows:

- A. the reasonable modifications to the Board's policies, practices, or procedures for a student because of pregnancy or related conditions shall be provided on an individualized and voluntary basis depending on the student's needs when necessary to prevent discrimination and ensure equal access to the District's education program or activity unless the Board can demonstrate that making the modification would fundamentally alter the nature of the District's education program or activity;
- B. the Title IX Coordinator shall effectively implement, coordinate, and document the District's reasonable modification to its policies, practices, or procedures for a student because of pregnancy or related conditions; and
- C. said reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (e.g., access to a larger desk or a footrest); ~~() elevator access [END OF OPTION];~~ or other changes to policies, practices, or procedures;
- D. allow the student to take a voluntary leave of absence from the District's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider;

To the extent that a Board maintains a leave policy for students that allows a greater period of time than the medically necessary period, the Board shall permit the student to take leave under that policy instead if the student so chooses. When the student returns to the District's education program or activity, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the leave began.

- E. provide lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

CONFIDENTIALITY

The District will not disclose personally identifiable information obtained in the course of complying with the 2024 Title IX regulations, except in the following circumstances:

- A. when the District has obtained prior written consent from a person with the legal right to consent to the disclosure;
- B. when the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- C. to carry out the purposes of the 2024 Title IX regulations, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the District's education program or activity;

- D. as required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- E. to the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 C.F.R. part 99.

TRAINING

The persons listed below shall receive training related to their duties under Title IX promptly upon hiring and changes of position that alters their duties under Title IX, and annually thereafter. The training shall not rely on sex stereotypes.

All Employees

All Board employees shall be trained on:

- A. the District's obligation to address sex discrimination in its education program or activity;
- B. the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment; and
- C. all applicable notification and information requirements set forth in the 2024 Title IX regulations:
 1. When a Board employee is notified by a student, or a person who has a legal right to act on behalf of the student, of the student's pregnancy or related conditions, the employee must promptly provide the student, or the person who has a legal right to act on behalf of the student, with the Title IX Coordinator's contact information and inform the student/person that the Title IX Coordinator(s) can coordinate specific action to prevent sex discrimination and ensure the student's equal access to the District's education program or activity.
 2. All Board employees ~~() except confidential employees [END OF OPTION]~~ must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

Investigators, Decision-Makers, and Other Persons Who Are Responsible for Implementing the District's Grievance Procedures or Have the Authority to Modify or Terminate Supportive Measures

In addition to the training required for all Board employees, all investigators, decision-makers, and other persons who are responsible for implementing the Board's grievance procedures, or have the authority to modify or terminate supportive measures, shall be trained on the following topics to the extent related to their responsibilities:

- A. the District's responsibility to respond promptly and effectively when it has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, and to comply with 34 C.F.R. § 106.44 of the 2024 Title IX regulations to address sex discrimination in its education program or activity;
- B. the Board's grievance procedures;
- C. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- D. the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

Facilitators of Informal Resolution Process

In addition to the training required for all Board employees, all facilitators of the informal resolution process shall be trained on the rules and practices associated with the District's informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

Title IX Coordinator and Designees

In addition to the training required for all Board employees, all investigators, decision-makers, and other persons who are responsible for implementing the Board's grievance procedures, or have the authority to modify or terminate supportive measures, and all facilitators of informal resolution process, the Title IX Coordinator(s) and their designees shall be trained on their specific responsibilities to prevent sex discrimination in the District's education programs or activities (see 34 C.F.R.

§§ 106.8(a) & (f), 106.40(b(3), and 106.44(f) & (g)), the District's recordkeeping system and the recordkeeping requirements set forth in the 2024 Title IX regulations (see 34 C.F.R. § 106.44(f)), and any other training necessary to coordinate the District's compliance with Title IX.

[] [OPTIONAL LANGUAGE]

Students

The District ~~shall~~ **may opt to** provide age-appropriate education **and/or resources** about sex discrimination, including sex-based harassment, to students ~~()~~ and their parents ~~[END OF OPTION]~~. In the younger grades, the District will cover these topics in its anti-bullying and harassment training. In the older grades, students will receive training in specific topics, including:

- A. Title IX and what constitutes sex discrimination under the Board's policies;
- B. the definition of consent applicable to sexual conduct, including examples;
- C. how the District analyzes whether conduct was unwelcome under Title IX;
- D. how the District analyzes whether unwelcome sexual conduct creates a hostile environment;
- E. notification/reporting options, including how to file a complaint;
- F. the Board's grievance procedures used to address complaints alleging sex discrimination;
- G. disciplinary code provisions relating to sex discrimination and the consequences of violating those provisions;
- H. ~~()~~ effects of trauma, including neurobiological changes;
- I. ~~()~~ the role alcohol and drugs often play in sex-based harassment incidents, including the deliberate use of alcohol and/or other drugs to perpetrate sex-based harassment;
- J. ~~()~~ strategies and skills for bystanders to intervene to prevent possible sex discrimination;
- K. ~~() the names/titles of confidential employees;~~
- L. how to report sex discrimination, including sex-based harassment, to school officials and local law enforcement and the ability to pursue law enforcement proceedings simultaneously with a Title IX grievance; and
- M. Title IX's protections against retaliation.

The training will also encourage students to report sex discrimination, even if they are unsure whether the incident meets the definition of sex discrimination contained in Policy 2264. The District will emphasize that its primary concern is student safety, and that use of alcohol or drugs never makes the alleged victim at fault for sex-based harassment.

The District shall specifically inform students that all Board employees ~~() except confidential employees [END OF OPTION]~~ are responsible for reporting information involving sex discrimination to the Title IX Coordinator, including the need to report the names of the alleged complainant and respondent, as well as relevant facts including the date, time, and location. The issue of confidentiality will be discussed during the training.

~~[] Further, the District shall identify the individuals with whom students can speak confidentially and offer information about resources such as victim advocacy, academic support, counseling, disability services, and health and mental health services. [END OF OPTION]~~

[END OF OPTIONAL LANGUAGE]

The District will periodically review the efficacy of its Title IX training programs.

RETALIATION

Federal law strictly prohibits retaliation against a complainant, respondent, or witness. The Title IX Coordinator will inform the complainant, respondent, and other individuals who participate in the District's grievance procedures of this prohibition and direct the complainant to report any retaliation, including peer retaliation, whether by students, Board employees, or other members of the school community, that is directed toward the complainant. Upon learning of alleged retaliation, the Title IX Coordinator will initiate the District's grievance procedures.

CONTACT INFORMATION FOR THE OFFICE OF CIVIL RIGHTS

Individuals may submit questions or file complaints relating to Title IX with the U.S. Department of Education's Office for Civil Rights at any time. The OCR's regional office in Chicago, Illinois has jurisdiction for all of Wisconsin:

Chicago Office
Office for Civil Rights
U.S. Department of Education
John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: 312-730-1560
FAX: 312-730-1576; TDD: 800-877-8339
Email: OCR.Chicago@ed.gov

RECORDKEEPING

The Title IX Coordinator is responsible for overseeing the retention of all records that must be maintained pursuant to Title IX and Policy 2264. The District will maintain, for a period of at least seven (7) years, the following records:

- A. For each complaint of sex discrimination, records documenting the informal resolution process and the grievance procedures, and the resulting outcome.
- B. For each notification that the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX, records documenting the actions the District took to meet its obligations under the 2024 Title IX regulations.
- C. All materials used to provide training required by the 2024 Title IX regulations. The District will make these training materials available upon request for inspection by members of the public. **[DRAFTING NOTE: Neola continues to recommend that the District make its training materials available on its website, but that requirement is not part of the 2024 Title IX regulations. It is, however, a part of the 2020 Title IX regulations, which remain in effect related to conduct alleged to have occurred prior to August 1, 2024, and reasonably could constitute sex-based harassment, if substantiated. Thus, the training related to Policy 2266 and AG 2266 still must be made available on the District's website.]**

All investigators, decision-makers (including appeal decision-makers), and facilitators of informal resolution processes shall provide to the Title IX Coordinator all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315 – Information Management) created and/or received as part of their work associated with the grievance procedures and/or informal resolution process.

[DRAFTING NOTE: The following language is optional but consistent with the 2024 Title IX regulations; a district should include it if the district determines it would be helpful to provide staff with detailed information concerning the scope of the records that need to be maintained.]

~~[] [OPTIONAL LANGUAGE (see drafting note above)]~~

Board employees, to the extent they have any of the following records, are directed to provide them to the Title IX Coordinator in a timely manner so they can be appropriately retained as required by the 2024 Title IX regulations:

- A. documents pertaining to each complaint reasonably alleging sex discrimination, including any documents related to an investigation conducted pursuant to the Board's grievance procedures (e.g., audio or audiovisual recording or transcript that is made of any interview, any disciplinary sanctions recommended and/or imposed on the respondent(s), and any remedies provided to the complainant(s) designed to restore or preserve equal access to the District's education program or activity);
- B. any appeal and the resulting outcome;
- C. any informal resolution and the resulting outcome;
- D. all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

- E. all written notifications, allegations, complaints, statements, and responses pertaining to an alleged violation of Policy 2264;
- F. any narratives that memorialize oral notifications, allegations, complaints, statements, and responses pertaining to an alleged violation of Policy 2264;
- G. any documentation that memorializes the actions taken by Board employees or third parties contracted or appointed by the Board to fulfill its responsibilities related to the grievance procedures and/or the District's response to an alleged violation of Policy 2264;
- H. written witness statements;
- I. narratives, notes from, or audio, video, or digital recordings of witness interviews/statements;
- J. e-mails, texts, or social media posts that directly relate to, or constitute evidence pertaining to, an alleged violation of Policy 2264 (i.e., not after-the-fact commentary about or media coverage of the conduct/incident);
- K. notes or summaries prepared contemporaneously by the investigator in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.), but not including transitory notes whose content is otherwise memorialized in other documents;
- L. written disciplinary sanctions issued to students or employees and other documentation that memorializes oral disciplinary sanctions issued to students or employees for violations of Policy 2264;
- M. written descriptions of evidence and decisions as to whether sex discrimination occurred (including summaries of relevant exculpatory and inculpatory evidence) and other documentation that memorializes oral notifications to the parties concerning the outcome of the investigation, including any consequences imposed as a result of a violation of Policy 2264;
- N. documentation of any supportive measures offered and/or provided to complainants and/or respondents, including no contact orders issued to the parties, the dates the no contact orders were issued, and the dates the parties acknowledged receipt of the no contact orders;
- O. documentation of all actions taken, both individual and systemic, to stop sex discrimination (including sex-based harassment), prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects;
- P. copies of the Board's nondiscrimination policy and/or grievance procedures, including guidelines used by the District to conduct the investigation, and any documents used by the District at the time of the alleged violation to communicate the Board's expectations to students and staff with respect to the subject of Policy 2264 (e.g., Student Code of Conduct and/or Employee/Administrator Handbooks);
- Q. copies of any documentation that memorializes the outcome of any informal resolution process;

[DRAFTING NOTE: The following options may be selected if the Board determines that they are not adequately encompassed in the preceding paragraphs.]

- R. ~~documentation of any training provided to Board employees related to Policy 2264 including, but not limited to, notification of the prohibitions and expectations of staff set forth in the policy and the role and responsibility of all Board employees related to enforcement of Policy 2264, including their duty to report alleged violations of the policy () (unless the individual is a confidential employee) [END OF OPTION] and/or conducting an investigation and/or making a determination of whether sex discrimination occurred as alleged in a complaint;~~

[DRAFTING NOTE: REMINDER - Documentation of training must be maintained regardless of whether any complaints are filed alleging a violation of Title IX or Policy 2264, or any investigations take place pertaining to alleged violations of Policy 2264, or any informal resolution processes are implemented. The Board should maintain a log of all Board employees who participate in training, along with the date, time, and location of the training and a copy of the materials reviewed and/or presented during the training.]

- S. ~~() documentation that any rights or opportunities that the District made available to one party during the investigation were made available to the other party on equal terms;~~
- T. ~~() copies of any notices sent to the complainant and respondent that detail allegations of conduct that may constitute a violation of Policy 2264;~~

U. ~~()~~ copies of any documentation or evidence used during the grievance procedures, including any description of the evidence, and any written responses to it submitted by the complainant or the respondent.

~~[END OF OPTIONS]~~

~~[END OF OPTIONAL LANGUAGE]~~

Under no circumstances should an employee destroy any of the preceding records without express consent from the Title IX Coordinator.

The documents, ESI, and electronic media (as defined in Policy 8315 – Information Management) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law (e.g., R.C. 3319.321) – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315 – Information Management) created or received as part of an investigation or proceeding related to the determination of whether sex discrimination occurred shall be retained in accordance with Policy 8310 – Public Records, Policy 8315 – Information Management, Policy 8320 – Personnel Files, and Policy 8330 – Student Records for not less than seven (7) calendar years, but longer if otherwise required by the District's records retention schedule.

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