

AFFIRMATIVE ACTION PLAN

Plan Years: 2017-2022
(Effective Dates December 1, 2017 – June 30, 2022)

**Madison Metropolitan School District
Madison, Wisconsin**

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Affirmative Action Officer: Eric M. Kestin**

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1. Purpose

This is the Madison Metropolitan School District's (District) five-year Affirmative Action / Equal Opportunity Plan (Plan).

As one of the largest employers in Dane County; employing thousands of individuals to work with/and for District students, the District maintains this Plan to inform the public of its intentions in the area of affirmative action, to guide District hiring authorities, and to inform employment-based decision-making practices.

The purpose of an affirmative action plan is to ensure that an employer's hiring process provides all individuals an equal opportunity for recruitment, hiring, and promotion. Generally, employers should expect that their workforces reflect the available labor pool.

"An affirmative action program is a management tool designed to ensure equal employment opportunity. A central premise underlying affirmative action is that, absent discrimination, over time a ... workforce, generally, will reflect the gender, racial and ethnic profile of the labor pools from which the ... [organization] recruits and selects. Affirmative action programs contain a diagnostic component which includes a number of quantitative analyses designed to evaluate the composition of the workforce of the ... [organization] and compare it to the composition of the relevant labor pools. Affirmative action programs also include action-oriented programs. If women and minorities are not being employed at a rate to be expected given their availability in the relevant labor pool, the ... [organization's] affirmative action program includes specific practical steps designed to address this underutilization." 40 C.F.R. § 60.2-10

This Plan is distinct from and serves a different purpose than the work being done by the Human Resources Department in support of the District's Strategic Framework "Priority Area IV – Thriving Workforce." The work of Human Resources is designed to "cultivate a work environment that attracts, develops and retains top talent." While this Plan measures availability and utilization based on protocols designed by the federal government, Human Resources strives for higher goals. As stated in the November 2017 Human Resources Report, "The Human Resources Department's work is aligned to our district vision. To realize our vision of every school being a thriving school that prepares every student for college, career and community we must continuously strive for a workforce that reflects our schools and community and promotes an environment that values excellence with equity and professional growth."

This Plan serves as a snapshot, taken once every five years using protocols established by the federal government to identify and address the District's underutilization of women and/or minorities in specific areas of the workforce when compared to the availability of these groups. The Plan also supports Human Resources and hiring authorities within the District to diversify the pool of potential candidates for each position to be hired. The hope is that the best possible candidates for each position will be identified and hired.

This Plan operates as a baseline, based on federal definitions and protocols, for looking at the demographics of a workforce. This baseline is distinct from internal goals an organization may create. The difference between this Plan and the work of the Human Resources Department is clear when looking at the different goals. For this Plan, the established goals are designed to eliminate areas of underutilization in specific job groups. The Human Resources report outlines more aggressive goals aimed at diversifying the District workforce so that it more closely reflects the students and families it serves. These goals are in line with the District's overall vision. This work is illustrated in the District's annual Human Resources Report.

The District's Affirmative Action Officer, in consultation with Human Resources, has the primary responsibility for the implementation of this Plan. The Officer provides education, evaluation and enforcement of the District's equal opportunity and affirmative action policies within the District.

2. Overview and Policy Statements

It is the policy of the District's School Board to employ individuals on the basis of merit, training and experience. The District strives to provide an environment where every employee and applicant feels supported, respected, and welcomed and where every staff member can serve students in an atmosphere that is free from discrimination and harassment. Discrimination and harassment can have a harmful social, physical, and/or psychological impact on individuals who are the victims of these actions; those who engage in these behaviors; and bystanders that observe discriminatory and/or harassing acts.

District policy protects employees and applicants for employment from discrimination and harassment regarding a person's sex, pregnancy/childbirth, race, religion/creed, color, national origin, ancestry, age (over 40), disability, marital status, arrest record, conviction record, military service membership, homelessness, sexual orientation, gender identity, gender expression, genetic identity, and/or retaliation. The District shall comply with all state and federal laws.

This Plan measures workforce demographics within the District at a specific point in time. It assists in the evaluation of the demographics within the District's workforce as it compares to the District's reasonable recruitment area for each job group. While this Plan uses federal protocols to determine availability and utilization of staff, the Human Resources Department establishes more aggressive goals outlined in its annual Human Resources Report. Through the goals outlined in the Human Resources report, the District strives to attain and maintain a workforce that is diverse and reflects our students, their families and the community.

This Plan advances equal employment opportunity without preferential treatment on the basis of protected class(es).

3. Staff Responsibilities for Implementation, Monitoring and Evaluation of Progress

The Superintendent of Schools is ultimately responsible and accountable to the Board for the development, implementation, coordination, and monitoring of the District's Plan. The Superintendent, in consultation with the Affirmative Action Officer and Human Resources, will provide leadership and guidance to all administrators, supervisors, and other staff in the conduct of their employment practices to assure conformity with relevant federal and state laws, regulations and District policies.

The Superintendent has delegated the responsibilities of monitoring and implementing the policies on non-discrimination and affirmative action to the District's Affirmative Action Officer. The Affirmative Action Officer is responsible to the Superintendent for District compliance with the principles set forth in this Plan.

The Affirmative Action Officer will:

- Work with staff at all levels of the District to assure understanding and support for the program.
- Work with Human Resources to implement reporting systems that will measure statistics in relevant categories.
- Assist District staff in carrying out their responsibilities for program implementation.
- Provide an annual report to the Superintendent and Board of Education.
- Support Human Resources in outreach and recruitment activities to ensure a diverse applicant pool.
- Provide a system of support for the prompt, fair, impartial consideration of complaints of discrimination as provided for in District policy.

Human Resources will be responsible for documenting compliance with the Plan, which includes maintaining an annual statistical analysis and updating employment data to measure the effectiveness of the Plan and to highlight any areas of underutilization, if present.

Human Resources also has the responsibility of making known the District's desire and commitment to employ members of protected as well as non-protected groups through regular and frequent contacts with community groups and employment agencies and through identifying, to the extent reasonably possible, persons with requisite skills and talents for projected openings throughout the District. Human Resources shall ensure that recruitment efforts are reaching protected groups, as well as non-protected groups, in all categories where underutilization exists.

4. Workforce Analysis by Race/Ethnicity and Sex

The use of geographic areas and statistics is intended only for the purpose of implementing this Plan and identifying areas of underutilization. These statistical comparisons do not have any independent legal or factual significance. The statistics and geographic areas have been selected and used in good faith with respect to this Plan.

To determine if an employment goal should be established for hiring racial/ethnic group members and/or women, their representation in the District's workforce is compared to their availability in the relevant labor market area(s). This process includes three steps: 1) establishing major job groups, 2) determining the number of racial/ethnic group members and women who are employed in those job groups, and 3) comparing the number of racial/ethnic group members and women who are employed in those job groups to the number of racial/ethnic group members and women who are qualified and available to be hired in those job groups in the relevant labor market area(s).

If the percentage of racial/ethnic group members or women in the relevant labor market area(s) who are qualified and available to be hired in the District's job groups exceeds the percentage of racial/ethnic group members or women currently employed in the District's job groups, there is an underutilization of racial/ethnic group members or women in those specific job groups.

The District's determination of underutilization is neither a finding nor an admission of discrimination.

4.1 Explanation of Underutilization Analysis

The term "**underutilization**" as used in this Plan means having fewer members of an affected group in a specific job group than would be reasonably expected based upon their availability in the labor market area relative to that job group.

"**Availability**" is defined as the percentage of all qualified racial/ethnic group members and women in a reasonable recruitment area(s) who can be employed in a particular job group or who are capable of acquiring the skills to be employed in such job group. The District's obligation is to demonstrate a "good faith effort" to achieve the goal of having the percentage of racial/ethnic group members and/or women employed in the job groups that would be expected by their availability in the relevant labor market area(s).

4.2 Explanation of Job Groups

The District has established seven major job groups.

A. Administrators & Professionals

This group was formerly labeled, “Administrative - Managers.” It has been changed to more accurately represent terminology used in Human Resources and throughout the District. The jobs in this job group are administrative in nature. These personnel establish practices and procedures, exercise overall responsibility for execution of Board policies and established practices and procedures, and direct individual departments or District operations. This job group includes executives, directors, lawyers, principals, comptrollers, middle level managers, coordinators, supervisors, accountants, purchasing and payroll managers and other salaried positions who are members of management.

B. Teachers

This group was formerly labeled, “Professional (Certified Teachers & Support Staff).” It is now separated into two groups. This one represents only teachers. The jobs in this job group require that a person be a college graduate and have state certification/licensure.

C. Pupil Services Support

This group was formerly labeled, “Professional (Certified Teachers & Support Staff).” It is now separated into two groups. This group represents positions that support pupils in schools. The jobs in this job group require that a person be a college graduate and have state certification/licensure. The jobs in this job group include librarians, counselors, social workers, psychologists, nurses, nurse practitioners, physical and occupational therapists, and guidance counselors.

D. Administrative Support Workers (Clerical/Technical/Security/Bilingual Resource Specialists)

The jobs in this job group include clerical type of work, such as work done by secretaries, clerks, etc. Technical jobs are also included in this job group. Employees who work in technical jobs have knowledge of system technology, standards for computer hardware/software, application tools, enterprise/data bases, computer networking, network design, computer peripherals and information systems. Technical jobs include computer operators, computing analysts, computer programmers, computing specialists, computer technicians, program analysts, programmers and user services specialists. Bilingual Resource Specialists are included in this job group. They support the educational program because of their ability to speak two languages by acting as a translator or interpreter, and providing direct instructional assistance to students who do not speak English. The jobs in this job group also include employees who provide security. Security jobs require that individuals assist in maintaining order in the schools, such as intervening in altercations between students.

E. Custodial/Maintenance/Trades

The jobs in this job group include custodial jobs. These jobs include laborers that perform tasks, such as lifting, digging, mixing, loading, and cleaning. Maintenance jobs are in this job group. Trades jobs are also included in this job group, and include skilled craft workers such as painters, carpenters, painters, plumbers and electricians.

F. Food Service Workers

The jobs in this job group include individuals who have knowledge of how to produce food on a large scale, operate commercial kitchen equipment and have the ability to ensure timely heating and serving of meals. Food service workers include food service workers, bakers and cooks.

G. Educational Assistants

The individuals who do the jobs in this job group provide assistance to teachers and students as part of the educational program. They include teaching assistants, nursing assistants, and special education assistants.

4.3 Overall District Numbers

The first table below provides the overall District numbers within each job group. This table also indicates the number of “Women” and “Minorities” by number and percentage within each job group and for the overall District. The District utilizes the terms “Women” and “Minorities” as these are the terms used by the federal government when discussing affirmative action and affirmative action plans.

Job Group Profile MMSD Full-Time / Part-Time Staff as of 6/30/2011

| Job Group ¹ | Totals | MALES | | | | | | | WOMEN | | | | | | | Total Women | | Total Minorities | |
|---|--------------|-------|----|----|----|----|---|---|-------|----|----|----|----|---|---|-------------|-------------|------------------|-------------|
| | | W | B | H | A | I | P | T | W | B | H | A | I | P | T | Raw | % | Raw | % |
| Administrators & Professionals | 137 | 52 | 7 | 3 | 0 | 0 | X | X | 63 | 9 | 3 | 0 | 0 | X | X | 75 | 54.7 | 22 | 16.0 |
| Teachers & Pupil Services Support | 2523 | 450 | 25 | 22 | 16 | 5 | X | X | 1829 | 42 | 77 | 44 | 13 | X | X | 2005 | 79.5 | 244 | 9.7 |
| Administrative Support Workers (Clerical/Technical/Security/Bilingual Resource Specialists) | 484 | 107 | 19 | 9 | 18 | 1 | X | X | 262 | 10 | 45 | 13 | 0 | X | X | 330 | 68.1 | 115 | 23.7 |
| Custodial/Maintenance/Trades | 248 | 167 | 15 | 14 | 1 | 13 | X | X | 40 | 3 | 1 | 1 | 3 | X | X | 48 | 19.3 | 41 | 16.5 |
| Food Service Workers | 136 | 6 | 1 | 1 | 0 | 0 | X | X | 93 | 12 | 14 | 8 | 1 | X | X | 128 | 94.1 | 37 | 27.3 |
| Educational Assistants | 507 | 46 | 18 | 3 | 1 | 1 | X | X | 383 | 37 | 8 | 7 | 3 | X | X | 438 | 86.4 | 78 | 15.3 |
| District Totals (number) | 4035 | | | | | | | | | | | | | | | 3024 | 74.9 | 537 | 13.3 |
| District Totals (%) | 100.0 | | | | | | | | | | | | | | | 74.9 | | 13.3 | |

MMSD Full-Time / Part-Time Staff as of 10/09/2017

| Job Group | Totals | MALES | | | | | | | WOMEN | | | | | | | Total Women | | Total Minorities | |
|---|--------------|-------|----|----|----|---|---|---|-------|----|-----|----|----|---|----|-------------|-------------|------------------|-------------|
| | | W | B | H | A | I | P | T | W | B | H | A | I | P | T | Raw | % | Raw | % |
| Administrators & Professionals | 199 | 52 | 17 | 4 | 1 | 0 | 0 | 0 | 103 | 13 | 4 | 4 | 0 | 0 | 1 | 125 | 62.8 | 44 | 22.1 |
| Teachers | 2240 | 436 | 26 | 34 | 10 | 2 | 2 | 4 | 1508 | 39 | 108 | 45 | 10 | 4 | 12 | 1726 | 77.1 | 296 | 13.2 |
| Pupil Services Support | 509 | 49 | 7 | 4 | 1 | 0 | 0 | 1 | 401 | 17 | 14 | 12 | 3 | 0 | 0 | 447 | 87.8 | 59 | 11.6 |
| Administrative Support Workers (Clerical/Technical/Security/Bilingual Resource Specialists) | 341 | 46 | 22 | 12 | 13 | 2 | 0 | 1 | 162 | 18 | 46 | 13 | 2 | 0 | 4 | 245 | 71.8 | 133 | 39.0 |
| Custodial/Maintenance/Trades | 233 | 149 | 22 | 16 | 4 | 2 | 1 | 0 | 25 | 7 | 3 | 1 | 3 | 0 | 0 | 39 | 16.7 | 59 | 25.3 |
| Food Service Workers | 126 | 5 | 5 | 2 | 0 | 0 | 0 | 0 | 74 | 12 | 17 | 5 | 1 | 1 | 4 | 114 | 90.5 | 47 | 37.3 |
| Educational Assistants | 518 | 43 | 29 | 10 | 2 | 0 | 0 | 2 | 306 | 71 | 38 | 7 | 4 | 2 | 4 | 432 | 83.4 | 169 | 32.6 |
| District Totals (number) | 4166 | | | | | | | | | | | | | | | 3128 | 75.1 | 807 | 19.4 |
| District Totals (%) | 100.0 | | | | | | | | | | | | | | | 75.1 | | 19.4 | |

Key:

W = White B = Black / African-American H = Hispanic A = Asian
 I = American Indian / Alaskan Native P = Other Pacific Islander / Hawaiian T = Two or more Races

¹ Teachers and Pupil Services Support were one job group in 2011. Additionally, the District did not track demographics for “Other Pacific Islander/Hawaiian” and “Two or more Races” until switching to Munis in the Summer of 2012.

Workforce Analysis (Actual Utilization)

Previous Plan (2011-16) and Current Plan (2017-2022)

| Job Group | 2011 (Previous) | 2017 ² (Current) |
|---|--------------------|-----------------------------|
| Administrators & Professionals – Women | 54.7% | 62.8% |
| Administrators & Professionals – Minorities | 16.0% | 22.1% |
| Teachers– Women | 79.5% ³ | 77.1% |
| Teachers– Minorities | 9.7% ⁴ | 13.2% |
| Pupil Services Support – Women | 79.5% ⁵ | 87.8% |
| Pupil Services Support – Minorities | 9.7% ⁶ | 11.6% |
| Administrative Support Workers – Women | 68.1% | 71.8% |
| Administrative Support Workers – Minorities | 23.7% | 39.0% |
| Custodial/Maintenance/Trades – Women | 19.3% | 16.7% |
| Custodial/Maintenance/Trades – Minorities | 16.5% | 25.3% |
| Food Service Workers – Women | 94.1% | 90.5% |
| Food Service Workers – Minorities | 27.3% | 37.3% |
| Educational Assistants – Women | 86.4% | 83.4% |
| Educational Assistants – Minorities | 15.3% | 32.6% |

² While the District has seen a decrease of the percentage of women in different job groups (Teachers, Custodial/Maintenance/Trades, Food Service Workers, and Educational Assistants) compared to the previous Plan, mathematically the District’s utilization of Women is above their availability except for Custodian/Maintenance/Trades. Additionally, the District has seen an increase of the percentage of minorities in all job groups.

³ This number represents actual utilization of the Teachers & Pupils Services Support job groups combined as these job groups were combined into one group for the 2011-2016 Affirmative Action Plan.

⁴ This number represents actual utilization of the Teachers & Pupils Services Support job groups combined as these job groups were combined into one group for the 2011-2016 Affirmative Action Plan.

⁵ This number represents actual utilization of the Teachers & Pupils Services Support job groups combined as these job groups were combined into one group for the 2011-2016 Affirmative Action Plan.

⁶ This number represents actual utilization of the Teachers & Pupils Services Support job groups combined as these job groups were combined into one group for the 2011-2016 Affirmative Action Plan.

4.31 Identified Underutilization

The statistical comparisons in this section involve the use of workforce statistics for the reasonable recruitment areas relevant to each job group.

The reasonable recruitment areas were determined by consultation between the Affirmative Action Officer and the Human Resources Department, including the Executive Director of Human Resources and the Director of Employment and Talent Management. The data used comes from the U.S Census Bureau and its affiliated sites.

The following reasonable recruitment areas were defined for each job group:

1. For Administrator & Professionals, the reasonable recruitment area is the United States.
2. For Teachers, the reasonable recruitment area is Metro Madison.⁷
3. For Pupil Services Support, the reasonable recruitment area is the state of Wisconsin.
4. For the remaining job groups: Administrative Support Workers, Custodial/Maintenance/Trades, Food Service Workers and Educational Assistants, the reasonable recruitment area is Metro Madison.

⁷ "The United States Office of Management and Budget (OMB) delineates metropolitan and micropolitan statistical areas according to published standards that are applied to Census Bureau data. The general concept of a metropolitan or micropolitan statistical area is that of a core area containing a substantial population nucleus, together with adjacent communities having a high degree of economic and social integration with that core. Currently delineated metropolitan and micropolitan statistical areas are based on application of 2010 standards (which appeared in the Federal Register on June 28, 2010) to 2010 Census and 2006-2010 American Community Survey data, as well as 2013 Population Estimates Program data. Current metropolitan and micropolitan statistical area delineations were announced by OMB effective July 2015." (Source: <https://www.census.gov/programs-surveys/metro-micro/about.html> accessed on May 3, 2017)

The following table shows the utilization analysis for all six job groups. The following pages illustrate the availability analysis for each of the District's six job groups.

| Job Group | Women Incumbency % | Women Availability % | Minority Incumbency % | Minority Availability % | Utilization ⁸ of Women | Utilization ⁹ of Minorities |
|---|--------------------|----------------------|-----------------------|-------------------------|-----------------------------------|--|
| Administrators & Professionals | 62.8 | 51.1 | 22.1 | 23.2 | +11.7 | -1.1 |
| Teachers | 77.1 | 75.8 | 13.2 | 9.4 | +1.3 | +3.8 |
| Pupil Services Support | 87.8 | 58.0 | 11.6 | 9.2 | +29.8 | +2.4 |
| Administrative Support Workers (Clerical/Technical/Security/Bilingual Resource Specialists) | 71.8 | 47.8 | 39.0 | 23.0 | +24.0 | +16.0 |
| Custodial/Maintenance/Trades | 16.7 | 47.8 | 25.3 | 23.0 | -31.1 | +2.3 |
| Food Service Workers | 90.5 | 47.8 | 37.3 | 23.0 | +42.7 | +14.3 |
| Educational Assistants | 83.4 | 47.8 | 32.6 | 23.0 | +35.6 | +9.6 |

Affirmative action plans are a snapshot of an organization at one moment in time. It is measuring availability for particular jobs vs. utilization in the workforce. Where there is an underutilization, the District creates goals to eliminate that underutilization. Availability is defined using protocols established by the federal government. This calculation establishes a baseline in the District's job groups.

However, the District's efforts are not focused on meeting these baselines. The District is focused on the aspirational goal of its workforce demographics mirroring the demographics of its students. The Human Resources Department's work in this area is reflected in its annual Human Resources report. The Human Resources Department continuously strives to build a workforce that reflects our schools and community.

This table shows the utilization of women and minorities in each of the six job groups. Currently the District has an underutilization for Minorities in the Administrators & Professionals job group of 1.1% and for Women in Custodians/Maintenance/Trades of 31.1%.

⁸ A minus indicates an area of underutilization.

⁹ A minus indicates an area of underutilization.

In determining the availability of Women and Minorities in each job group, the District must consider the percentage of external candidates available in its reasonable recruitment area plus the percentage of available internal candidates. These percentages are then weighted based on the percentage of candidates hired from these respective pools. These numbers determine overall availability of Minorities and Women in each job group. The determined overall availability is then measured against actual percentage utilization in the current District workforce to determine if there is an underutilization.

Availability Analysis by Job Group¹⁰

Job Group: Administrative & Professionals

| Factors | Raw Statistics | | Value ¹¹ Weight | Weighted Availability | |
|--|-------------------|----------------|-------------------------------|-----------------------|--------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 23.7 | 48.2 | .85 | .201 | .41 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 20.8 | 67.2 | .15 | .031 | .101 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .232 | .511 |
| Final Availability (Percentage) | | | | 23.2% | 51.1% |
| Current Incumbency (Percentage) | | | | 22.1% | 62.8% |
| Difference (Percentage) | | | | -1.1% | +11.7% |

Based on the availability of Administrators & Professionals in the reasonable recruitment area and internally, the District has an underutilization of 1.1% of Minorities in this job group. While this is an underutilization which the District will strive to eliminate, actual utilization since the last Plan has grown from 16.0% to 22.1% today.

¹⁰ "(a) Availability is an estimate of the number of qualified minorities or women available for employment in a given job group, expressed as a percentage of all qualified persons available for employment in the job group. The purpose of the availability determination is to establish a benchmark against which the demographic composition of the contractor's incumbent workforce can be compared in order to determine whether barriers to equal employment opportunity may exist within particular job groups. (b) The contractor must separately determine the availability of minorities and women for each job group. (c) In determining availability, the contractor must consider at least the following factors: (1) The percentage of minorities or women with requisite skills in the reasonable recruitment area. The reasonable recruitment area is defined as the geographical area from which the contractor usually seeks or reasonably could seek workers to fill the positions in question. (2) The percentage of minorities or women among those promotable, transferable, and trainable within the contractor's organization." Source: 40 C.F.R. § 60-2.14(a)-(c).

¹¹ Value Weight is the percentages assigned to each of the factors within a job group. These percentages should express the relative amount of hiring the District does from each factor in staffing a specific job group. For example, if 15% of hires in a particular job group historically have come from within the organization, you would assign a value weight of 15% to the "Percentage of Minorities or Women promotable, transferable and trainable within the District" for that job group.

Availability Analysis by Job Group

Job Group: Teachers

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|-------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 8.6 | 75.6 | 0.816 | .070 | .617 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 12.9 | 76.9 | .184 | .024 | .141 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .094 | .758 |
| Final Availability (Percentage) | | | | 9.4% | 75.8% |
| Current Incumbency (Percentage) | | | | 13.2% | 77.1% |
| Difference (Percentage) | | | | +3.8% | +1.3% |

Based on the availability of Teachers in the reasonable recruitment area and internally, the District does not have an underutilization in this job group. This is a new job group for this Plan. For this reason, it is difficult to determine how the District's current demographics in this job group compare to Teachers in previous Plans. As noted throughout this document, underutilization is compared to availability in the District's reasonable recruitment area. The lack of underutilization in this job group does not change the District's goal to recruit, hire and retain a diverse workforce that more closely reflects the students and families the District serves. Thus, the Human Resources Department's efforts in this area are not given a lower priority because there is not an underutilization in this area. Human Resources strives to create a thriving workforce as delineated in the District's Strategic Framework. This work is reflected in the annual Human Resources Report.

Job Group: Pupil Services Support

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|--------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 9.2 | 51.5 | 0.816 | .075 | .42 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 9.2 | 87.2 | .184 | .017 | .160 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .092 | .58 |
| Final Availability (Percentage) | | | | 9.2% | 58% |
| Current Incumbency (Percentage) | | | | 11.6% | 87.8% |
| Difference (Percentage) | | | | +2.4% | +29.8% |

Based on the availability of Pupil Services Support in the reasonable recruitment area and internally, the District does not have an underutilization in this job group. This is a new job group for this Plan. For this reason, it is difficult to determine how the District's current demographics in this job group compare to Pupil Services Support in previous Plans.

Availability Analysis by Job Group

Job Group: Administrative Support Workers (Clerical/Technical/Security/Bilingual Resource Specialists)

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|--------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 10.5 | 43.1 | .85 | .089 | .366 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 18.8 | 74.8 | .15 | .141 | .112 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .23 | .478 |
| Final Availability (Percentage) | | | | 23.0% | 47.8% |
| Current Incumbency (Percentage) | | | | 39.0% | 71.8% |
| Difference (Percentage) | | | | +16.0% | +24.0% |

Based on the availability of Administrative Support Workers in the reasonable recruitment area and internally, the District does not have an underutilization in this job group. Comparing the previous Plan to the current Plan, utilization of Women has grown from 68.1% in 2011 compared to 71.8% today. Utilization of Minorities has grown from 23.7% in 2011 to 39.0% today.

Job Group: Custodial/Maintenance/Trades

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|---------------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 10.5 | 43.1 | .85 | .089 | .366 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 18.8 | 74.8 | .15 | .141 | .112 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .23 | .478 |
| Final Availability (Percentage) | | | | 23.0% | 47.8% |
| Current Incumbency (Percentage) | | | | 25.3% | 16.7% |
| Difference (Percentage) | | | | +2.3 | -31.1% |

Based on the availability of Custodial/Maintenance/Trades in the reasonable recruitment area and internally, the District has an underutilization of 31.1% of Women in this job group. Utilization of Minorities has grown from 16.5% in 2011 to 25.3% today.

Availability Analysis by Job Group

Job Group: Food Service Workers

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|--------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 10.5 | 43.1 | .85 | .089 | .366 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 18.8 | 74.8 | .15 | .141 | .112 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .23 | .478 |
| Final Availability (Percentage) | | | | 23.0% | 47.8% |
| Current Incumbency (Percentage) | | | | 37.3% | 90.5% |
| Difference (Percentage) | | | | +14.3% | +42.7% |

Based on the availability of Food Service Workers in the reasonable recruitment area and internally, the District does not have an underutilization in this job group. Comparing the previous Plan to the current Plan, utilization of Women has decreased from 94.1% in 2011 to 90.5% today. Utilization of Minorities has grown from 27.3% in 2011 to 37.3% today.

Job Group: Educational Assistants

| Factors | Raw Statistics | | Value Weight | Weighted Availability | |
|--|----------------|-------------|--------------|-----------------------|--------|
| | Total Minority | Total Women | | Minority | Women |
| Percentage of Minorities or Women having the requisite skills in the reasonable recruitment area | 10.5 | 43.1 | .85 | .089 | .366 |
| Percentage of Minorities or Women promotable, transferable and trainable within the District | 18.8 | 74.8 | .15 | .141 | .112 |
| Other relevant factors (optional) | N/A | N/A | | | |
| Total | | | 1.0 | .23 | .478 |
| Final Availability (Percentage) | | | | 23.0% | 47.8% |
| Current Incumbency (Percentage) | | | | 32.6% | 83.4% |
| Difference (Percentage) | | | | +9.6% | +35.6% |

Based on the availability of Educational Assistants in the reasonable recruitment area and internally, the District does not have an underutilization in this job group. Comparing the previous Plan to the current Plan, utilization of Women has decreased from 86.4% in 2011 to 83.4% today. Utilization of Minorities has grown from 15.3% in 2011 to 32.6% today.

4.32 Goals and Action Steps

Effective affirmative action and equal employment opportunity programs require a positive and planned approach to hiring and promoting qualified individuals, including women and racial/ethnic minority applicants. The District strives to remove artificial barriers to the employment of women and racial/ethnic minorities.

A good faith effort will continue to be made by the District to recruit women and racial/ethnic minority applicants. Employment applications will continue to be reviewed in a fair and consistent manner. Department heads and principals are strongly encouraged to consider the added value that diversity brings to their department or school. The goals established below address identified underutilization of Women and Minorities in specific job groups. The District considers these goals a baseline as it recognizes the positive impact of students working with staff who look like them as positive role models. This Plan, which follows federal protocols, establishes a baseline for employing women and racial/ethnic minorities in the delineated job groups. While setting a baseline is within the scope of an Affirmative Action Plan which follows federal protocols, the District is not focusing on baselines. The District focuses on creating a thriving workforce as detailed in the Strategic Framework and outlined in the annual Human Resources report. The District continues to review its overall approach to recruitment and retention as it strives for its workforce to mirror the student population.

Goals and action plans are designed and used to help correct any imbalances and disparities in the District's workforce. It is important to note that goals are not quotas, as the latter has been ruled to be impermissible by the courts. Goal setting for areas of underutilization is required for federal contractors under federal regulations. Goals help inform the action plans for each hiring process in an underutilized area. The action plans for departments and schools are based on the District's anticipated vacancies and the labor force data of available protected class applicants. The goals will be reviewed and revised at a minimum of every five years when the District updates its Affirmative Action Plan.

The goal for each department and school is to address identified underutilization through both short- and long-term efforts over time. The District is working to create an equity impact analysis tool to help department heads and principals make the best hiring decision, using equitable principles, for each position in their department or school.

The District and individual schools recognize the benefit to students who have the opportunity to work with role models during their education who look like them. One recent study found, "having at least one black teacher in third through fifth grades reduced a black student's probability of dropping out of school by 29 percent ... For very low-income black boys, the results are even greater – their chance of dropping out fell 39 percent."¹² The District strives to provide positive role models for all District students.

¹² Source: <http://releases.jhu.edu/2017/04/05/with-just-one-black-teacher-black-students-more-likely-to-graduate/>; complete study can be found here: "The Long Run Impacts of Same Race Teachers," Institute of Labor

Based on the data in the previous section the District currently has underutilization in two areas:

1. Administrators & Professionals – Minorities
2. Custodians/Maintenance/Trades – Women

| Job Group | Women Incumbency % | Women Availability % | Minority Incumbency % | Minority Availability % | Utilization of Women | Utilization of Minorities |
|--------------------------------|--------------------|----------------------|-----------------------|-------------------------|----------------------|---------------------------|
| Administrators & Professionals | 62.8 | 51.1 | 22.1 | 23.2 | +11.7 | -1.1 |
| Custodial/Maintenance/Trades | 16.7 | 47.8 | 25.3 | 23.0 | -31.1 | +2.3 |

The District’s previous Plan indicated underutilization existed in three areas:

1. Women Administrators & Professionals;
2. Minority Teachers & Pupil Services Support; and
3. Women Custodians/Maintenance/Trades.

Compared to the previous Plan, utilization of Women Administrators & Professionals grew from 54.7% to 62.8% today. Therefore, Women in the Administrators & Professionals job group currently account for 62.8% of the employees in that group; while their availability in the workforce is 51.1%, thus eliminating the mathematical underutilization.

Additionally, compared to the previous Plan, utilization of Minority Teachers & Pupil Services Support grew. As a reminder, this group is now two separate job groups “Teachers” and “Pupil Services Support.” Minority Teachers are now 13.2% of the current workforce, while Minority Pupil Services Support is 11.6%. The mathematical underutilization which existed in 2011 no longer exists in these job groups. While this shows growth in the District’s diversification of this segment of the workforce, it does not impact Human Resources efforts to strive towards a workforce that matches the diversity of the students.

Administrator & Professional – Minorities

Based on the data, Minorities constitute 22.1% of the District’s current workforce for this job group. However, their availability is 23.2%. This constitutes a difference of 1.1%

While this constitutes an underutilization, the percentage of minorities in this job group has grown from 11.2% in the District’s previous Plan to 22.1% today.

Custodian/Maintenance/Trades - Women

Based on the data, Women constitute 16.7% of the District's current workforce for this group. However, their availability is 47.8%. This constitutes a difference of 31.1%

This constitutes an underutilization, and must be addressed. The percentage of Women in this job group decreased from 19.3% in the District's previous Plan to 16.7% today.

Specific Goal:

The goal is to increase the representation of Minorities in Administrator and Professional positions and Women in Custodian/Maintenance/Trades positions. Again, these goals are the District's baseline. The District strives for its workforce demographics to mirror its student body and continually looks for ways to increase the pool of prospective candidates as well as ensure hiring decisions are made in an equitable manner. The District's efforts in this area are shown in the annual Human Resources Report.

In consultation between the Affirmative Action Officer and Human Resources it was determined that the plan of action to address the underutilization in both areas would be the same with adaptations made to address the uniqueness of the positions in each job group.

Plan of Action:

Each step will be done in consultation with the Affirmative Action Officer, Human Resources and other departments as appropriate.

1. Develop a specific sourcing plan to maximize the pool of candidates for these specific positions, along with reviewing the screening and selection process of candidates with an equity lens to reduce any bias influencing decision-making.
2. In an effort to ensure a harassment free environment, the District will continue to create opportunities to measure the climate of departments and schools; enhance opportunities for staff engagement; and communicate opportunities for current staff and potential applicants to raise concerns of discrimination and harassment.
3. Will continue to offer employee trainings regarding the District's Non-Discrimination policy, reporting procedures and how to develop an environment free from discrimination.
4. Ensure that publications represent and highlight all demographics of District employees.
5. Assist department heads, principals and all staff in resolving conflicts, especially those related to cultural differences which may be based in race, ethnicity, gender or other traits and experiences which make us unique.

6. Identify and take steps to eliminate artificial barriers to equal employment opportunities. These steps include, but will not be limited to:
 - a. Assist department heads and staff in applying an equity impact analysis tool in all aspects of hiring decisions;
 - b. Exit interviews of all staff to help the District address concerns which are raised in an effort to improve the working environment for all employees and increase retention; and
 - c. Review and analyze position descriptions utilizing the equity framework analysis tool to ensure that each position description accurately reflects the job requirements for the specific positions.

5. Internal Monitoring and Reporting Process

The Human Resources Department will maintain such records as to comply with local, state, and federal requirements pertaining to employment, including information related to referrals, hires, promotions, transfers and terminations. Human Resources will maintain a record system that will collect facts on employees to help ensure that recruitment efforts are reaching a diverse candidate pool, including protected groups.

The Affirmative Action Officer will evaluate the effectiveness of the Plan and prepare an annual report on the effectiveness of the Plan and progress made towards employment of protected categories. The annual report will continue to be presented to the Superintendent and Board of Education, as part of the annual Human Resources Report.

Upon request by the Affirmative Action Officer, Human Resources shall compile information related to this Plan, including the following:

- Survey of current employees by race, sex, disability, job classification, salary and/or wage level,
- Applicant flow data at each step of the selection process for new hires, promotions, transfers, by race, sex and disability,
- Referrals for employment from external sources, by race, sex and disability,
- Terminations, by race, sex and disability,
- Exit-interview information, by race, sex and disability, and/or
- Disciplinary actions other than termination by race, sex and disability.

6. Equity Impact Analysis Tool

The District is creating an Equity Impact Analysis tool. Once this is created it should be used to assist those responsible for making hiring decisions to apply principles of equity to every step of the hiring process.

This includes: prioritizing which positions to fill, job descriptions, required steps in hiring/interview process, questions for interviews, and other related steps. The expectation is to introduce and/or sustain and strengthen equitable principles and practices throughout the hiring/promotion processes in the District. The hope is that this tool will be used for other decision points at all levels of the District with the goal of embedding equitable decision-making practices within the systemic structures of the District.

7. Definitions

Affirmative Action: Any action that is taken by an employer to:

- a) Prevent unlawful employment discrimination, and
- b) To remedy the effects of past employment practices which may have excluded the appointment and promotion of ethnic/racial minorities and women at various levels of the work force.

Affirmative Action Plan: A written plan outlining the course of action to be taken to implement the affirmative action program.

Availability Analysis: Is defined as the percentage of minorities and women who reside within the labor market area and who have the skills required for entry into a specific job group, or who are capable of acquiring them. Persons who are available are those who are qualified to perform the work or who are capable of acquiring the skills to be qualified to perform the work.

Disability: Persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered. Major life activities include, but are not limited to, caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Some examples of impairments which may substantially limit major life activities, even with the help of medication or aids/devices, are: AIDS, alcoholism, blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness. This definition includes students who have been identified as having a disability under the Individuals with Disabilities Education Act (IDEA).

Discrimination: Any action, policy, or practice, including bias, stereotyping, and student harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles or rewards based, in whole or in part, on their membership in a protected class, or which perpetuates the effects of past discrimination.

Equal: Having the same privileges, status or rights.

Equal Employment Opportunity: A term that describes a work environment that is free of unlawful employment discrimination. All persons are treated fairly and equally in accordance with applicable federal, state and local laws.

Equitable: Exhibiting or characterized by equity; impartial or reasonable in judgment or dispensation; not necessarily equal or the same.

Goals: Goals are defined as the percentage of women and minorities who should be employed in a particular job group based on a utilization analysis.

Harassment: Unwanted, deliberate or repeated unsolicited comments (oral or written), gestures, graphic material, physical contacts, verbal/nonverbal or physical conduct directed to an individual because of their membership in a protected class(es) constitute harassment when this conduct: 1) Has the purpose or effect of creating an intimidating, hostile or offensive educational environment; or 2) Has the purpose or effect of unreasonably or substantially interfering with a student's performance in school, including their performance in curricular, extracurricular, and nonacademic activities; or 3) Otherwise adversely affects a student's opportunities in curriculum, extracurricular, and nonacademic activities; or 4) Submission to the conduct is made either explicitly or implicitly, a term or condition of a student's opportunity to obtain an education; or 5) Submission to or rejection of the conduct by an individual is used as a factor in decisions affecting the student's education; or 6) Is sufficiently severe, persistent or pervasive that it adversely affects a student's ability to participate in or benefit from an educational program or activity.

Labor Market Area: The geographic area from which the District recruits applicants for employment, the labor market area may be different for different job groups. The Labor Market Area for each job group is determined by the reasonable recruitment area for that job group as determined by consultation between the Affirmative Action Officer and Human Resources.

Job Groups: Is defined as a group of jobs which (1) share the same or similar certification or licensing requirements, (2) have a similar work day, work schedule, and work location, (3) have similar duties and skills, (4) share a similarity with respect to wages, hours and working conditions and/or (5) have the same purpose. The establishment of job groups is the first step in performing a utilization analysis.

Preferential Treatment: To give preference to one class of workers or applicants over another class of workers or applicants because of their disability, sex, race or other protected classification. Preferential treatment is most often used as it relates to affirmative action efforts to bring about parity. Title VII, Civil Rights Act of 1964, as amended, does not require preferential treatment because of an imbalance in the employer's work force. However, a court under the Civil Rights Act of 1964, as amended, can order preferential treatment if there has been a finding of unlawful employment discrimination.

Protected class: A group of people defined by the law who share common characteristics and are protected from discrimination and harassment by federal, state and/or local laws. District policy recognizes protected classes including sex, pregnancy/childbirth, race, religion/creed, color, national origin, ancestry, age (over 40), disability, marital status, arrest record, conviction record, military service membership, homelessness, sexual orientation, gender identity, gender expression, genetic identity, and/or retaliation.

Race/Ethnic Identification¹³: Race/ethnic designations that are used by the various civil rights agencies. Such designations do not denote scientific definitions of anthropological origins. For the purpose of this Plan, an employee may be included in the group to which they should belong, identifies with, or is regarded in a community as belonging to. However, no person shall be counted in more than one race/ethnic group. The race/ethnic categories used for this Plan have been developed by the federal government.

- a) **White**: A person having origins in any of the original peoples of Europe, the Middle East or North Africa.
- b) **Black or African-American**: A person having origins in any of the Black racial groups of Africa.
- c) **American Indian or Alaska Native**: A person having origin in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- d) **Asian**: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.
- e) **Native Hawaiian or Other Pacific Islander**: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or the Pacific Islands.
- f) **Hispanic or Latino**¹⁴: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish cultural or origin regardless of race.

Religion: For the purpose of this Plan, religion is defined as all aspects of religious observance and practice as well as belief.

Remedial Action: Any action that is taken by an employer to remedy the effects of past employment practices which may have excluded the appointment and promotion of ethnic/racial minorities and women at various levels of the workforce.

Selection Process: The process used to recruit, interview, and/or appoint applicants for employment or promote employees.

¹³ “The U.S. Census Bureau must adhere to the 1997 Office of Management and Budget (OMB) standards on race and ethnicity which guide the Census Bureau in classifying written responses to the race question ... The data on race were derived from answers to the question on race that was asked of individuals in the United States. The Census Bureau collects racial data in accordance with guidelines provided by the U.S. Office of Management and Budget (OMB), and these data are based on self-identification. The racial categories included in the census questionnaire generally reflect a social definition of race recognized in this country and not an attempt to define race biologically, anthropologically, or genetically.” Bureau, US Census. “Race.” About, www.census.gov/topics/population/race/about.html. Accessed 4 May 2017

¹⁴ Humes, Karen R., et al. Overview of Race and Hispanic Origin: 2010. Washington, D.C., U.S. Dept. of Commerce, Economics and Statistics Administration, U.S. Census Bureau, 2011, www.census.gov/prod/cen2010/briefs/c2010br-02.pdf. Accessed 4 May 2017.

Sexual Orientation: Term that refers to being romantically or sexually attracted to people of a specific gender. Our sexual orientation and our gender identity are separate, distinct parts of our overall identity.

Student Harassment: Behavior toward students based, in whole or in part, on their protected class(es) which substantially interferes with a student's school performance or creates an intimidating, hostile, or offensive school environment.

Target Group Members: For the purpose of this Plan, target group members are defined as racial/ethnic minorities and women.

Underutilization: Is defined as having fewer minorities or women in a particular job group than would be reasonably expected by their availability in the reasonable recruitment area.

Unlawful Employment Discrimination: Unfair treatment or denial of normal privileges because of a person's race, gender or other protected classification. Conduct which denies a person an opportunity, such as a job, because of their race or other protected classification

Utilization Analysis: As a comparison of the number of minorities and women who are employed in a particular job group to the number of qualified minorities and women who are available in the relevant labor market area to be employed in such job group.

Value Weight: Value Weight is the percentages assigned to each of the factors within a job group. These percentages should express the relative amount of hiring the District does from each factor in staffing a specific job group. For example, if 15% of hires in a particular job group historically have come from within the organization, you would assign a value weight of 15% to the "Percentage of Minorities or Women promotable, transferable and trainable within the District" job group.

Workforce Analysis: Is defined as a statistical analysis which provides an overall employment profile of the District. The workforce analysis, among other things, will reflect the number of minorities and women employed by the District in the six job groups.

8. Appendices

APPENDIX A – Board Policy 8012

APPENDIX B – Complaint of Discrimination

Prohibition Against Discrimination

1. Purpose
 - a. The Madison Metropolitan School District strives to provide an environment where every employee, applicant, family member and visitor feels supported, respected and welcomed and where every staff member can serve students in an atmosphere that is free from harassment and discrimination. Discrimination and harassment can have a harmful social, physical, and/or psychological impact on individuals who are the victims of these actions, those who engage in these behaviors, and bystanders that observe discriminatory and/or harassing acts. The School District does not allow discrimination and harassment towards or by students, school employees or volunteers on school/District grounds, at school/District-sponsored activities or in transportation to and from school or school/District-sponsored activities.
 - b. District policy protects employees and applicants for employment from discrimination and harassment regarding a person's sex, pregnancy/childbirth, race, religion/creed, color, national origin, ancestry, age (over 40), disability, marital status, arrest record, conviction record, military service membership, homelessness, sexual orientation, gender identity, gender expression, genetic identity, or retaliation.
 - c. District policy protects volunteers, family members and visitors from discrimination and harassment regarding a person's sex, race, religion, creed, color, national origin, ancestry, age (over 18), disability, marital status, arrest record, conviction record, less than honorable discharge, physical appearance, homelessness, sexual orientation, gender identity, gender expression, political beliefs, student status, or retaliation.
2. The District is committed to providing equal employment opportunities for all persons and to providing a work environment free from harassment and discrimination. Harassment, discrimination and retaliation are prohibited conduct and violations of this Policy will not be tolerated. Managerial and supervisory employees are expected to serve as role models and to demonstrate their commitment to this Policy in their everyday conduct. All employees are required to cooperate fully with any investigation into alleged violations of this Policy. Engaging in any prohibited conduct could result in disciplinary action being taken against the offender, up to and including discharge from District employment.
3. The District believes that volunteers and visitors shall be able to visit District properties and functions in an environment free from harassment and discrimination. Volunteers and visitors are also expected to comply with District Policy and established school rules and procedures. Any violation of this Policy is serious, and school officials shall promptly take appropriate action. Volunteers and visitors who violate this Policy may be directed to leave school property and/or reported to law enforcement, as appropriate.
4. Harassment

- a. The District is committed to the provision of a professional, harassment-free environment for employees, job applicants, and to all persons who seek or receive services from the District or its contractors. The Board considers all forms of harassment, including hazing, to be unacceptable behavior because it undermines productivity in the work and academic environments, degrades, intimidates, isolates and is discriminatory. Harassment infringes upon the rights of all and creates a hostile environment for learning and working.

To ensure that all employees work in an environment free of all forms of harassment, the Board expressly prohibits harassment based on a person's membership in a protected class(es) as defined in this Policy, and will take all the necessary steps to prevent such harassment from occurring.

- b. Examples of harassment may include but are not limited to:
 - 1) Unwanted physical contact including touching, pinching and/or brushing the body;
 - 2) Indecent exposure, including lewd and lascivious behaviors;
 - 3) Persistent requests for social/sexual encounters and favors;
 - 4) Making inappropriate statements or jokes about students or staff because of their protected status(es);
 - 5) Basing a personnel decision on someone providing sexual favors, or someone's protected class(es);
 - 6) Displaying graphic, sexually explicit objects, posters or pictures that show adolescents, women, racial minorities, people who have disabilities or students in a degrading or humiliating manner;
 - 7) Obscene gestures, nonverbal suggestive behavior (leering) or insulting sounds (whistling).

5. Discrimination by Association

A situation where an individual is discriminated against through their association with another person. It shall be a violation of this Policy and is thus prohibited for anyone subject to this Policy to engage in any discriminatory or harassing acts prohibited by this Policy against any individual because of that individual's association with a member of any protected class(es).

6. Civil Liability

This Policy provides guidance for appropriate disciplinary action for violations of this Policy. It does not provide a basis for a civil cause of action or damages. Any cause of action or right to damages shall be according to applicable federal and/or state law.

7. Any employee, applicant, family member and visitor who believe they have been discriminated against or harassed may file a complaint using the complaint procedure

outlined below.

10/4/04
Revised 2/29/16

PROCEDURE

NONDISCRIMINATION-STAFF/VISITORS _____ **8012**
Human Resources

Resolution of Discrimination/Harassment Complaints

1. Who May File a Discrimination/Harassment Complaint. Any employee, applicant for employment, student, parent, or resident of the District who believes they have been discriminated against may file a complaint.
2. Filing of Complaint
 - a. The District shall not accept any complaint filed more than three hundred (300) calendar days after the alleged discrimination occurred.
 - 1) Where a complainant alleges a pattern or practice of discrimination, the 300 calendar days shall begin to run from the last act or occurrence of alleged discrimination.
 - 2) Where a complainant alleges that there is a continuing violation of the Ordinance, the 300 calendar days shall begin to run from the last act or occurrence of alleged discrimination.
 - b. A formal complaint may be filed by the complainant in person or mailed to the Title IX Investigator at Legal Services, Attn: Title IX Investigator, 545 West Dayton Street, Room 104, Madison, WI 53703.
 - 1) A complaint shall be deemed filed on the date received if delivered, or on the date postmarked if addressed by mail.
 - 2) Anonymous complaints will not be accepted.
 - 3) All complaints should include, to the best of the complainant's ability, specific information regarding the discriminatory or harassing action(s) or inaction(s), the basis (e.g. age, race, sexual orientation, etc.) for the action(s) or inaction(s), the alleged offender(s), and any witnesses.
 - 4) If the complaint is incomplete or does not satisfy the definition of harassment or discrimination, the complaint may be returned to the complainant, without being processed, for further information.
 - c. The complaint shall be completed on an approved form and must include the complainant's original signature to be accepted and processed.
 - d. The Title IX Investigator shall send to the complainant a written acknowledgment of the receipt of the complaint as soon as practicable, but within fifteen (15) calendar days.

- 1) The acknowledgement letter will include information regarding applicable local, state and federal antidiscrimination laws and related administrative agencies. This information is intended to assist the complainant and is not all inclusive. The letter will advise the complainant to seek assistance in determining any of their rights by contacting the enforcement agencies or an attorney.

3. Confidentiality

- a. If the complainant requests confidentiality or asks that the complaint not be pursued, the District will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation.
 - 1) If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the District should inform the complainant that its ability to respond may be limited.
 - 2) The District should tell the complainant that District policy and Title IX prohibits retaliation, and that District officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.
- b. If the complainant continues to ask that their name or other identifiable information not be revealed, the District should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all staff, visitors and students. Thus, the District may weigh the request for confidentiality against several factors including:
 - 1) the seriousness of the alleged harassment;
 - 2) the complainant's age;
 - 3) whether there have been other harassment complaints about the same individual; and
 - 4) the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.
- c. The District should inform the complainant if it cannot ensure confidentiality. Even if the District cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

4. Retaliation

No District employee or student shall attempt to restrain, interfere with, coerce, discriminate, or take reprisal action against the complainant(s) and/or their witnesses during or after the presentation, processing, and resolution of a complaint. Such an action would be a violation of this Policy and the employee or student would be subject to the appropriate discipline. Any person who feels they are being retaliated against, as

defined above, may contact the Title IX Investigator to make a complaint regarding the retaliatory actions.

5. Informal Complaint Resolution

- a. The District may offer efforts to resolve the complaint on an informal basis while the investigation proceeds.
- b. If an informal resolution of the complaint is arrived at, the terms of such resolution shall be reduced to writing and made a part of the complaint file. If the complaint is not resolved the investigation shall proceed.

6. Investigation

- a. All complaints formally filed shall be investigated, unless resolved informally, to determine whether or not this Policy may have been violated.
- b. In investigating a complaint, the District will determine:
 - 1) Whether or not the alleged incident(s) occurred; and
 - 2) If the misconduct did occur, the District will take action to stop the current situation, if applicable, and prevent a recurrence.
- c. The District shall provide a prompt, complete, independent, and impartial investigation of the complaint. In most cases, the investigation will be conducted by the Title IX Investigator. In some cases, the investigation may be conducted by an investigative team or outside consultant as determined by the Title IX Investigator and Legal Counsel. In all cases the investigation shall be conducted with the Legal Counsel's oversight.
- d. The investigation shall include a thorough review of the circumstance under which the alleged discrimination occurred and any policies and practices related to the situation. The investigation may include the review of various documents and information acquired during the investigation, which may include, but is not limited to, the response of the alleged discriminating person, written or oral statements from witnesses, copies of or extracts from records, policy statements, on-site visit, or regulations of the District.

7. Timeliness

- a. Investigations under this Policy will be completed within ninety (90) days from the date a complete, formal complaint has been properly filed with the Title IX Investigator.
- b. Due to extenuating circumstances, including the informal resolution process, leaves of absence, etc. an investigation may take longer than ninety (90) days. However, both parties must agree to this extension of time.
- c. The ninety (90) day timeframe includes the District's response to the initial complaint. It does not include a response to any appeal that may be filed.

8. Determination and Appeal

- a. After the investigation has been completed, the Investigator shall inform the Superintendent or Superintendent's designee of the determination of the complaint. The Superintendent or Superintendent's designee after consultation with the Title IX Investigator and/or Legal Counsel shall communicate in writing such determination of the complaint to the complainant and respondent(s).
- b. After the complainant and respondent(s) receive the written determination of the District's position, the complainant or respondent(s) may request a reconsideration of the District's position. The reconsideration request must be filed within twenty (20) calendar days of the date of the determination. The written request for reconsideration must contain a statement as to why the complainant or respondent(s) is not satisfied with the decision. The Superintendent or Superintendent's designee will send the complainant or respondent(s) a written acknowledgment within twenty (20) calendar days after the Superintendent receives the reconsideration request.

9. Notification of Nondiscrimination Policy and Complaint Procedure

Federal and state laws require that federal and state posters be displayed in the workplace. The District also posts notification of this Policy and the complaint procedure in each building, as well as on the District website.

10. Definitions

- a. Ancestry. Refers to the country, nation, tribe or other identifiable group of people from which a person descends. It can also refer to the physical, cultural or linguistic characteristics of the person's ancestors.
- b. Arrest Record. This includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.
- c. Complainant. Any person eligible to file a complaint under the District's Non-Discrimination policy, this includes students, staff and visitors to District grounds and activities.
- d. Conviction Record. This includes, but is not limited to, information indicating that a person has been convicted of a felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority.
- e. Creed. A system of religious beliefs, including moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views.
- f. Days. When used in time computation by the Equal Opportunities Division, means a calendar day, except that if the last day of the time period is a Saturday,

Sunday or holiday observed by the City of Madison, the last day shall be the next business day.

- g. **Disability.** Persons with a physical or mental impairment which substantially limits one or more major life activities. People who have a history of, or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered. Major life activities include but are not limited to caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Some examples of impairments which may substantially limit major life activities, even with the help of medication or aids/devices, are: AIDS, alcoholism, blindness or visual impairment, cancer, deafness or hearing impairment, diabetes, drug addiction, heart disease, and mental illness. This definition includes students who have been identified as having a disability under the Individuals with Disabilities Education Act (IDEA).
- h. **Discrimination.** Any action, policy, or practice, including bias, stereotyping, and student harassment, which is detrimental to a person or group of persons and differentiates or distinguishes among persons, or which limits or denies a person or group of persons opportunities, privileges, roles or rewards based, in whole or in part, on their membership in a protected class, or which perpetuates the effects of past discrimination.
- i. **Equal.** Having the same privileges, status or rights.
- j. **Equitable.** Exhibiting or characterized by equity; impartial or reasonable in judgment or dispensation; not necessarily equal or the same.
- k. **Evidentiary Standard.** Standard used to determine if harassment/discrimination allegations are true. The standard applied to discrimination complaints is a "Preponderance of the Evidence" (defined below).
- l. **Familial Status.** One or more individuals (who have not attained the age of 18 years) being domiciled with 1) A parent or another person having sole or joint legal custody or physical placement, as defined in Wis. Stat. § 767.001, of such individual(s); or 2) The designee of such parent or other person having such custody or physical placement, with the written permission of such parent or other person; or 3) A foster parent or other person with whom a person under the age of 18 years is placed by court order. The protections afforded against discrimination based on familial status shall apply to any person who is pregnant or is in the process of securing sole or joint legal custody or physical placement of any individual who has not attained the age of 18 years; 4) The domestic partner of a parent or another person having sole or joint legal custody or physical placement, as defined in Wis. Stat. § 767.001 of such individual(s).
- m. **Gender Expansiveness.** An umbrella term used for individuals that broaden commonly held definitions of gender, including its expression, associated identities, and/or other perceived gender norms, in one or more aspects of their life. These individuals expand the definition of gender through their own identity and/or expression. Some individuals do not identify with being either male or female; others identify as a blend of both, while still others identify with a gender, but express their gender in ways that differ from stereotypical presentations. A

gender-expansive person's preferences and self-expression may fall outside commonly understood gender norms within their own culture; or they may be aligned with them even as one's internal gender identity doesn't align with the sex assigned at birth.

- n. **Gender Expression.** Refers to the ways in which people externally communicate their gender identity to others through behavior, clothing, haircut, voice, and other forms of presentation. Gender expression also works the other way as people assign gender to others based on their appearance, mannerisms, and other gendered characteristics. Sometimes, transgender people seek to match their physical expression with their gender identity, rather than their birth-assigned sex. Gender expression should not be viewed as an indication of sexual orientation.
- o. **Gender Fluidity.** Gender fluidity conveys a wider, more flexible range of gender expression, with interests and behaviors that may even change from day to day. Gender fluid children do not feel confined by restrictive boundaries of stereotypical expectations of girls or boys. In other words, a child may feel they are a girl some days and a boy on others, or possibly feel that neither term describes them accurately.
- p. **Gender Identity.** One's innermost core concept of self which can include male, female, a blend of both or neither, and many more—how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different than the sex assigned at birth. Individuals become conscious of this between the ages 18 months and 3 years. Most people develop a gender identity that matches their biological sex. For some, however, their gender identity is different from their biological or assigned sex. Some of these individuals choose to socially, hormonally and/or surgically change their physical appearance to more fully match their gender identity and some do not.
- q. **Genetic Identity.** The genetic information unique to the individual, including information regarding: 1) such individual's genetic tests, 2) the genetic tests of family members of such individual, 3) the manifestation of a disease or disorder in family members of such individual, 4) any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual, and 5) The term 'genetic identity' shall not include information about the sex or age of any individual.
- r. **Genetic Testing.** The term 'genetic test' means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detects genotypes, mutations, or chromosomal changes.
- s. **Harassment.** Unwanted, deliberate or repeated unsolicited comments (oral or written), gestures, graphic material, physical contacts, verbal/nonverbal or physical conduct directed to an individual because of their membership in a protected class(es) constitute harassment when this conduct: 1) Has the purpose or effect of creating an intimidating, hostile or offensive educational environment; or 2) Has the purpose or effect of unreasonably or substantially interfering with a student's performance in school, including their performance in curricular, extracurricular, and nonacademic activities; or 3) Otherwise adversely affects a

student's opportunities in curriculum, extracurricular, and nonacademic activities; or 4) Submission to the conduct is made either explicitly or implicitly, a term or condition of a student's opportunity to obtain an education; or 5) Submission to or rejection of the conduct by an individual is used as a factor in decisions affecting the student's education; or 6) Is sufficiently severe, persistent or pervasive that it adversely affects a student's ability to participate in or benefit from an educational program or activity.

- t. Homelessness: The status of lacking housing (without regard to whether the individual is a member of a family). This includes those individuals whose primary residence during the night is a supervised public or private facility (e.g., shelters) that provides temporary living accommodations, and an individual who is a resident in transitional housing.
- u. Hostile Environment: A situation in which harassment causes the school environment to be permeated with intimidation, humiliation, ridicule or insult that is sufficiently severe or pervasive to reasonably interfere or alter the conditions of the student's education or the employee's work.
- v. Less than Honorable Discharge. Any general, undesirable, clemency, bad conduct or dishonorable discharge from the military service.
- w. Marital status. This includes being married, separated, divorced, widowed, or single.
- x. Military Service Membership. Any individual who is or applies to be a member of the U.S. armed forces, the state defense force, the national guard of any state, or any reserve component of the U.S. armed forces or because the individual performs, has performed, applies to perform, or has an obligation to perform military service.
- y. National Origin. Treating people unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not). This includes students whose dominant language is other than English.
- z. Parental Status. Parental status means the status of being a parent or childless. A parent includes a step-parent, adoptive parent and foster parent. A student who is pregnant is considered a parent.
- aa. Physical Appearance. The outward appearance of any person, irrespective of sex, with regard to hairstyle, beards, manner of dress, weight, height, facial features, or other aspects of appearance. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed attire, if and when such requirement is uniformly applied for admittance to a public accommodation or to employees in a business establishment for a reasonable business purpose.
- bb. Political Beliefs. One's opinion, manifested in speech or association, concerning the social, economic and governmental structure of society and its institutions.

- cc. Pregnancy. This involves treating a student unfavorably because of pregnancy, childbirth, a medical condition related to pregnancy or childbirth or any pregnancy related condition.
- dd. Preponderance of the Evidence. The evidence submitted must show that it is more likely than not that the act(s) of discrimination/harassment did occur and more likely than not the alleged perpetrator(s) committed the act.
- ee. Probable Cause. There is reasonable ground for belief supported by facts and circumstances strong enough in themselves to warrant a prudent person in the belief that discrimination probably has been or is being committed.
- ff. Protected class. A group of people defined by the law who share common characteristics and are protected from discrimination and harassment by federal, state and/or local laws.
- gg. Religion. This includes all aspects of religious observance and practice, as well as belief. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs.
- hh. Retaliation. Any adverse action impacting a student's education experience and/or any adverse action to include any act of revenge, reprisal, intimidation or coercion directed at a student and motivated by the belief that the student has either opposed a violation of this Policy, has filed a complaint under this Policy, has participated in an investigation of a complaint filed under this Policy, or has exercised any other right under this Policy.
- ii. Sex. This involves treating someone unfavorably because of that person's sex. These may include, for example, allegations of sexual harassment or other kinds of sex discrimination, such as adverse actions taken because of the person's non-conformance with sex-stereotypes. It is a Title IX violation and considered discrimination based on sex to treat a person unfavorably if a person identifies as transgender.
- jj. Sexual Harassment. Unwanted, deliberate or repeated unsolicited comments (oral or written), gestures, graphic material, physical contacts, unwelcome requests for sexual favors, and/or verbal/nonverbal or physical conduct directed to an individual because of the student's sex. "Sexual harassment" includes conduct directed by a person at another person of the same or opposite sex.
- kk. Sexual Orientation. Term that refers to being romantically or sexually attracted to people of a specific gender. Our sexual orientation and our gender identity are separate, distinct parts of our overall identity.
- ll. Stereotyping. Attributing behaviors, abilities, interests, values and roles to a person or group of persons on the basis, in whole or in part, of their protected class(es).
- mm. Student Harassment. Behavior toward students based, in whole or in part, on their protected class(es) which substantially interferes with a student's school

performance or creates an intimidating, hostile, or offensive school environment.

- nn. Student Status. A person who is enrolled in a public or private high school, college, university, technical college, accredited trade school, or apprenticeship program.
- oo. Transgender. An umbrella term describing a person whose gender identity or expression is different from that traditionally associated with their assigned sex at birth.
- pp. Visitor(s). This includes persons, agencies, vendors, contractors and organizations doing business with or performing services for the school system as well as volunteers and persons coming to school events.

10/4/04

Revised 2/29/16

Complaint forms returned to:
 Madison Metropolitan School District
 Legal Services
 545 W. Dayton Street, Room 104
 Madison, WI 53703

Complaint of Discrimination

Contact Information:

| | | |
|------------------|---|--------------------------------|
| Name: | | Department/Division (Employee) |
| Home Address: | | Job Title (Employee) |
| City/State/Zip: | | |
| Cell/Home Phone: | Work Phone (may we call this number: Yes <input type="radio"/> No <input type="radio"/>) | |

Check One:

| | | | | | |
|-------------------------------|------------------------------|-------------------------------|--------------------------------|--|-------------|
| <input type="radio"/> Student | <input type="radio"/> Parent | <input type="radio"/> Visitor | <input type="radio"/> Employee | <input type="radio"/> Applicant for Employment | Other _____ |
|-------------------------------|------------------------------|-------------------------------|--------------------------------|--|-------------|

Cause of Discrimination:

| | | | |
|---|--|--|---|
| <input type="radio"/> Age | <input type="radio"/> Marital Status | <input type="radio"/> Sexual Orientation | <input type="radio"/> Genetic Identity (Employee) |
| <input type="radio"/> Color | <input type="radio"/> National Origin/Ancestry | <input type="radio"/> Pregnancy (Student/Employee) | <input type="radio"/> Less Than Honorable Discharge (Visitor) |
| <input type="radio"/> Disability | <input type="radio"/> Race | <input type="radio"/> Parental Status (Student) | <input type="radio"/> Physical Appearance (Visitor) |
| <input type="radio"/> Gender Expression | <input type="radio"/> Religion/Creed | <input type="radio"/> Arrest Record (Employee/Visitor) | <input type="radio"/> Political Beliefs (Visitor) |
| <input type="radio"/> Gender Identity | <input type="radio"/> Retaliation | <input type="radio"/> Conviction Record (Employee/ Visitor) | <input type="radio"/> Student Status (Visitor) |
| <input type="radio"/> Homelessness | <input type="radio"/> Sex | <input type="radio"/> Military Service Membership (Employee) | |

Where did incident occur: _____

Date of most recent incident: _____
 (complaint should be filed within 300 days of most recent incident)

Have you reported this incident to anyone? Yes No
 If yes, to whom, what is their position?: _____

| Name(s) of alleged offender(s) (if known): | School/Dept | Student | | Employee | |
|--|-------------|-------------------------|-------------------------|-------------------------|-------------------------|
| | | Y <input type="radio"/> | N <input type="radio"/> | Y <input type="radio"/> | N <input type="radio"/> |
| | | Y <input type="radio"/> | N <input type="radio"/> | Y <input type="radio"/> | N <input type="radio"/> |
| | | Y <input type="radio"/> | N <input type="radio"/> | Y <input type="radio"/> | N <input type="radio"/> |
| | | Y <input type="radio"/> | N <input type="radio"/> | Y <input type="radio"/> | N <input type="radio"/> |

Please describe each alleged discriminatory act. For each action, please include the date(s) the act occurred, the name(s) of each person(s) involved and, why you believe it was discrimination. Also, please provide the names of any person(s) who was present and witnessed the act(s) of discrimination. (Please attach additional sheets if necessary)

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|---------------------------|-------|
| Signature of Complainant: | Date: |
|---------------------------|-------|

(revised 6/2016)