POLICY **NONDISCRIMINATION-STAFF/VISITORS 8012**

Human Resources

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.

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