

## 528.1 – STAFF-STUDENT COMMUNICATIONS

### Purpose

District staff members are expected to conduct themselves in a manner that promotes the health, safety, and wellbeing of students, including by establishing and maintaining role-appropriate communicative, physical, emotional, and social boundaries in their interactions with students. This requires every staff member to consistently exercise sound judgment that is context dependent and that gives due consideration to the staff member's District-assigned role and responsibilities.

As applied to communication that occurs between District staff members and any student(s), the general expectations outlined in the previous paragraph mean that staff members are expected to communicate with students in an appropriate manner, which encompasses (1) the content of the communication and (2) the method of communication (e.g., the means, timing, location, and other relevant characteristics of the communication). This policy establishes certain standards for appropriate staff-student communications that occur when a staff member is interacting with a student in the staff member's District-authorized capacity.

Whether a communication occurs in a staff member's District-authorized capacity is determined based on the totality of the circumstances and is not limited to any specific hours of the day. For example, a District employee can be acting in such capacity when the reason(s) for or other circumstances of the communication arise directly from the employee's District-assigned responsibilities, even though the communication occurs outside of established school hours, outside of the employee's regular work hours, or both.

For purposes of this Policy, staff members include District employees and District-authorized volunteers (i.e., an individual who has been approved by the District to provide volunteer services for the benefit of the District in one or more specified capacities).

### **Appropriate and Inappropriate Content of Communications**

In addition to the basic expectation that the content of communication between a staff member and one or more students that occurs in the staff member's District-authorized capacity will not violate any applicable law, District policy, or express supervisory directive, the following are general standards for **appropriate content** for such communications:

- The communication has a legitimate educational, programmatic, safety, or supervisory purpose that is reasonably grounded in the staff member's District-assigned role and responsibilities.
- The staff member's communication to the student(s) is respectful in its substantive message and tone.

- The communication is consistent with the staff member's role as an authority figure who is demonstrating due regard for the safety and welfare of the student(s) and maintaining role-appropriate boundaries in the staff member's interactions with the student(s).
- To the extent implicated by the specific situation, the communication is within the reasonable scope of the professional competencies that are part of the staff member's District-assigned role and responsibilities.
- The communication is age-appropriate for the relevant student(s).

The standards listed above are established with the recognition and understanding that (1) context-specific circumstances will be relevant to the application of the standards (i.e., not every standard will apply, or apply equally, to every staff-student interaction; some communication may be as simple and brief as showing a basic social courtesy); and (2) not all communication between staff and students will be excessively formal. For example, used in appropriate contexts, informal conversations and good-natured humor serve a legitimate purpose in District programs and activities.

Without attempting to be exhaustive of all possible examples and without restricting supervisors and administrators who have relevant oversight authority from establishing additional rules and directives related to appropriate and inappropriate content, the **content** of communication between a District staff member and a student when the staff member is acting in the staff member's District-authorized capacity is **inappropriate** and a violation of this Policy if (1) the communication fails to meet a standard for appropriate communication (see list, above) that applies to the specific situation; and/or (2) if the content:

- Ridicules, demeans, or threatens a student.
- Would be viewed by a reasonable supervisor, administrator, or other District official with relevant oversight responsibility as communication by the staff member that:
  - Creates an intimidating, hostile, or offensive environment within a District school, program, or activity;
  - Manipulates, coerces, or grooms a student to engage in, or to consider engaging in, any inappropriate behavior;
  - Exploits a power dynamic, such as by offering improper benefits or privileges or by inappropriately threatening to impose negative consequences in a quid quo pro posture; or
  - Encourages, condones, invites, or arranges (1) any unlawful conduct; (2) any conduct that would unreasonably endanger the safety or welfare of any person; or (3) any inappropriate staff-student interaction.
  - Expresses sexual or romantic interest in a student or makes, accepts, or encourages sexual or romantic advances involving a student.

- Outside of any legitimate curricular purpose (e.g., as part of the approved curriculum in literature, biology, health, or human growth and development):
  - Is or would be interpreted by a reasonable person as being sexualized in nature, such as by being sexually explicit or sexually suggestive;
  - Involves sexual humor or the use of sexual innuendo; or
  - Uses profanity.
- Taken in context, engages any student(s) in:
  - The sharing of information at an inappropriate level of personal or emotional intimacy, such as through a staff member's disclosure of inappropriate details of the staff member's personal life with a student.
  - Inappropriately peer-like communication that could reasonably impair the staff member's ability to be effective in the staff member's District role(s).
- Solicits or encourages secrecy or concealment in a manner that inhibits accountability for misconduct, such as by attempting to prevent inappropriate communication or inappropriate conduct from being discovered and/or addressed by persons who have a legitimate oversight interest/role (e.g., a supervisor or parent).
- To the extent not already addressed by any other example in this list, above, constitutes or occurs in the course of "immoral conduct" within the meaning of section 115.31 of the state statutes.
- Improperly discloses confidential information about any other student(s), as determined under applicable laws and District policies.

### **Appropriate and Inappropriate Methods of Communication**

The following standards apply to the methods that are used for communication between a District staff member and one or more students that occurs when the staff member is acting in the staff member's official, District-authorized capacity:

1. Notwithstanding any other provision of this Policy, a method of staff-student communication is **always inappropriate** and prohibited if the staff member selects or uses a means, time, or location of communication to **conceal** an inappropriate communication or inappropriate interaction from being discovered by persons who have a legitimate interest in the information or conduct (e.g., by a supervisor or by the student's parent or guardian) and/or from being subject to legitimate District oversight. The intentional destruction of or falsifying or tampering with a relevant record of a communication can constitute improper concealment.
2. A District staff member is required to implement any specific **accountability practice** that may be mandated by a District policy, an administratively-established rule, or a supervisory directive that applies to the specific communication. Examples of **accountability practice** include copying additional

recipients on a communication, using group-based communication, selecting a visible location for an in-person conversation, involving an appropriate witness to a person-to-person communication, etc.

3. Unless a supervisor or administrative official with relevant authority has given the staff member an express directive to the contrary that applies to the particular staff-student communication, the following **means of communication** are normally **appropriate** and should be considered primary channels for such communication:
  - a. In-person communication, provided that, taken in context, the communication occurs at a reasonable time and in a reasonable location.
  - b. Non-electronic, written communication.
  - c. Electronic communication that occurs by voice, video, electronic messaging, or other electronic means, if **all** of the following apply:
    - i. The staff member uses an account, application, system, or platform that the District has provided for the relevant purpose or that the District has expressly approved for use for staff-student communications in the specific context (e.g., approval by a District supervisor or administrator with relevant oversight authority).
    - ii. The staff member is an authorized user of the relevant account, application, system, or platform.
    - iii. The staff member exercises sound, context-dependent judgment regarding the timing of the staff member's communication.
4. Subject to the limited exceptions identified below, it is **inappropriate** and a violation of this policy for a staff member to engage in electronic communication with a student if the staff member uses an (1) internet-based communications account or service (e.g., an email or social media account); (2) phone account; (3) virtual phone account; or (4) other electronic messaging, voice communication, or video communication account, application, system, or platform that is **neither** District-provided **nor** expressly District-approved for use for the specific purpose. The exceptions to the rule established by this paragraph are as follows:
  - a. The staff member is addressing emergency/exigent circumstances of an imminent and reasonably serious nature, such as an imminent threat to a person's health, safety, or property, provided that the staff member (i.) limits the extent of the communication to reasonably addressing the exigent circumstances, and (ii.) promptly communicates their reliance on this exception to an appropriate supervisor or other District official with relevant oversight responsibility.

- b. The communication is limited to a reasonably necessary safety-related contact or a brief, logistics-related communication that is time sensitive and for which no District-provided account, application, or system or specific pre-approved communication arrangement is reasonably available for the purpose. This exception might sometimes arise, for example, in connection with an activity that involves District-supervised student travel away from school grounds.
  - c. Situations in which the appropriate school principal has granted approval for such communication for a limited purpose, including establishing a protocol for the retention of any relevant records and identifying any appropriate accountability practices the staff member will be expected to implement. No staff member may approve such an exception that applies to himself/herself.
5. Subject to the same exceptions that apply to the previous item (immediately above) and not including any large group, non-personalized messages or system-generated alerts that a student has elected to receive, it is **inappropriate** and a violation of this policy for a staff member acting in an official, District-authorized capacity to communicate with one or more students by electronically messaging the student(s) through (a.) a student's personal social media account or some other non-District personal internet account that is known to be accessed by the student; (b.) a non-District email account used by the student; or (c.) a student's personal phone account (or the equivalent, such as a personal virtual phone number).
  6. Except when the student is actively participating in a late-night, overnight, or early-morning District- sponsored activity or when the staff member is relying on the exception, defined above, for emergency/exigent circumstances, District staff shall not engage any student(s) in direct conversations or in back-and-forth messaging that closely resembles a direct conversation, whether the interaction occurs in person or by electronic means, between the hours of 10:00 p.m. and 6:00 a.m.

### **Consequences for Inappropriate Staff-Student Communications**

Staff members who communicate with a student in violation of the law, this Policy, other District policies or rules, or applicable supervisory directives, are subject to a range of disciplinary and non-disciplinary consequences that will be determined based on the District's assessment of the nature and seriousness of the violation/misconduct. Examples of possible non-disciplinary consequences include a notice of performance expectations and the provision of evaluative feedback or other performance ratings. Examples of possible disciplinary consequences include a formal reprimand, a disciplinary reassignment, an unpaid suspension, termination of a specific District-authorized role, termination of employment, and/or the termination or non-renewal of an applicable contract. Consequences may be structured with or without special conditions, such as a requirement to complete specific training or re-training.

For purposes of applying consequences under this Policy:

- A District employee shall be considered an employee under this Policy whether acting in connection with any District role(s) that the individual has as an employee or in connection with any additional role(s) the individual may have as a District volunteer.
- Unless prohibited by law, consequences for a District student who violates this Policy while serving in the capacity of a District employee or District volunteer may include school-related consequences, such as a loss of school-related privileges or, in cases of serious misconduct that meet applicable state criteria, possible expulsion from school.

As required by law or as otherwise deemed appropriate to the situation, officials, employees, or agents of the District may also refer or report matters relating to inappropriate communications (whether substantiated or alleged/suspected) to law enforcement, the Department of Public Instruction, Child Protective Services, or other governmental authorities. Nothing in this Policy alters any person's mandatory reporting obligations that are established under any law.

### **Definitions and Policy Application**

1. In this Policy, “**student**” means an individual who is any of the following:
  - a. An individual who is enrolled in or who attends **any** public, private, or tribal school at the secondary (i.e., high school) level or lower (e.g., an elementary school), whether the school is within or outside of the District and regardless of the age of such individual.
  - b. An individual who is enrolled in or who attends a home-based private educational program, as defined under state law.
  - c. Under age 18 and a participant in any District-sponsored class, program, or activity that is offered for children and other school-age youth.
2. A student is considered a student under this Policy, rather than a District-authorized volunteer, if the student is enrolled in the District and engages in service opportunities within the District which are not generally available to non-students and during which time the student is subject to District supervision as a student.
3. If an individual is **both** a current student (as defined above) **and** a current District employee or District-authorized volunteer, then for purposes of applying this Policy, such an individual is considered a student in connection with the content of any communication that occurs between that individual and any non-student District staff member (i.e., even if the communication occurs in connection with such individual's employment or volunteer capacity).
4. For purposes of applying this Policy, a District-authorized intern or District-authorized student-teacher or other clinical, practicum, or fieldwork student shall be

classified as a District-authorized volunteer unless such an individual receives a wage or salary from the District.

5. It is **not** a violation of this Policy for a District staff member to merely receive an unsolicited inappropriate communication from a student, provided that the staff member takes prompt and reasonable steps to attempt to prevent future instances of such improper student-initiated communications, including but not limited to promptly reporting inappropriate content for administrative follow-up when warranted and to outside authorities when required by any applicable law.

### **Communications with Students when Not Acting in a District-Authorized Capacity**

The District recognizes that there are many potential scenarios in which a District staff member may communicate or otherwise interact with a student when the staff member is **not** acting in the staff member's District-authorized capacity, including many such situations in which the staff member is instead acting in connection with a legitimate non-District relationship or other legitimate non-District social or community connection that the staff member has to the student (for example, as a parent or other relative of the student or through a non-District community organization). The standards and expectations that this Policy establishes for staff-student communications that occur when a staff member is acting in the staff member's official, District-authorized capacity do **not** directly apply to communications that occur entirely outside of that official capacity. For example, the District is in no way purporting to constrain a staff member who is a parent of a student from privately messaging their child(ren) using personal accounts.

However, and very importantly, communications and other interactions between a student and a District staff member that occur outside of the staff member's official, District authorized capacity are subject to the limitation that where there is a sufficient nexus between the circumstances surrounding the staff member's conduct and the staff member's District-authorized role(s) and responsibilities, the District may still impose lawful consequences for the conduct. For example, the District often retains evaluative, remedial, and potentially disciplinary interests in such conduct if the conduct (1) unreasonably harms or endangers the health, safety, welfare, or property of any person; (2) undermines a staff member's ability to be effective in his/her District role(s); (3) is disruptive to District operations, programs, or activities; (4) jeopardizes the District's educational mission; (5) is contrary to a lawful supervisory directive; or (6) is unlawful.

### **Administrative Responsibility under this Policy**

The District Administrator or an administrative-level designee is responsible for ensuring that the District takes reasonable steps to make District staff members aware of this Policy.

## Legal References:

### Wisconsin Statutes

|                                   |                                                                                                                                                                                           |
|-----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#">Section 48.981</a>    | [mandatory reporting of child abuse and neglect]                                                                                                                                          |
| <a href="#">Section 115.31</a>    | [requirements to report certain substantiated or suspected misconduct by school district employees to the Department of Public Instruction]                                               |
| <a href="#">Section 118.07(6)</a> | [requirement to immediately notify pupil's parent or guardian of sexual misconduct by a school staff member and other potential victimization affecting the parent's or guardian's child] |
| <a href="#">Section 118.07(7)</a> | [requirement to adopt policy on appropriate communication between an employee or volunteer and students; related training mandate]                                                        |
| <a href="#">Section 175.32</a>    | [mandatory reporting of threats of school violence]                                                                                                                                       |
| <a href="#">Section 948.072</a>   | [crime of grooming a child for sexual activity]                                                                                                                                           |
| <a href="#">Section 948.098</a>   | [crime of sexual misconduct by a school staff person or volunteer]                                                                                                                        |
| <a href="#">Section 995.55</a>    | [limitations on district access to personal Internet accounts of employees and students]                                                                                                  |

### Federal Laws

[47 U.S.C. §§254\(h\) and 254\(l\)](#) [Children's Internet Protection Act (CIPA); implementing regulations at [47 C.F.R. §54.520](#)]

### Cross References:

*528 – Staff – Student Relations*

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