

## **401 EQUAL EMPLOYMENT OPPORTUNITY**

### **I. PURPOSE**

The purpose of this policy is to provide equal employment opportunity for all applicants for school district employment and for all school district employees.

### **II. GENERAL STATEMENT OF POLICY**

- A. It is the school district's policy to provide equal employment opportunity for all applicants and employees. The school district does not unlawfully discriminate on the basis of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation, including gender identity or expression, age, family care leave status or veteran status. The school district also makes reasonable accommodations for disabled employees.

Note: The Minnesota Human Rights Act defines "sexual orientation" to include "having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness." Minnesota Statutes section 363A.03, subdivision 44.

- B. The school district prohibits the harassment of any individual for any of the categories listed above. For information about the types of conduct that constitute impermissible harassment and the school district's internal procedures for addressing complaints of harassment, please refer to the school district's policy on harassment and violence.
- C. This policy applies to all areas of employment including hiring, discharge, promotion, compensation, facilities or privileges of employment.
- D. Every school district employee shall be responsible for following this policy.
- E. Any person having a question regarding this policy should discuss it with the superintendent of the schools.

### **III. GRIEVANCE PROCEDURE FOR COMPLAINTS OF DISCRIMINATION**

The following grievance procedure applies to claims of sex, disability, and racial discrimination:

- A. Any person who believes he or she has been the victim of unlawful discrimination or any person with knowledge or belief of conduct that may constitute unlawful discrimination shall report the alleged acts immediately to an appropriate school district official designated by this policy. The complaint must be filed within 90 calendar days of the alleged violation.

- B. The Human Rights Officer is responsible for receiving oral or written complaints of unlawful discrimination toward an employee or student. However, nothing in this policy shall prevent any person from reporting unlawful discrimination toward an employee or student directly with the Human Rights Officer, the school board or other school district official.
- C. The school board hereby designates Dan Posthumus, 1700 3<sup>rd</sup> Ave South, Wheaton, MN 56296, 320-563-8282, dposthumus@wheaton.k12.mn.us, as the school district Human Rights Officer to receive reports, complaints, or grievances of unlawful discrimination. If the complaint involves a Human Rights Officer, the complaint shall be filed directly with the Wheaton School Board Chair.
- D. Upon receipt of a complaint, the Human Rights Officer shall immediately notify the superintendent. If the superintendent is the subject of the complaint, the Human Rights Officer shall immediately notify the school board.
- E. The Human Rights Officer may request but not insist upon a written complaint. Alternative means of filing a complaint, such as through a personal interview or by tape recording, shall be made available upon request for qualified persons with a disability. If the complaint is oral, it shall be reduced to writing within 24 hours and forwarded to the superintendent. Failure to do so may result in disciplinary action. The school district encourages the reporting party to complete the complaint form for written complaints. It is available from the principal of each building or the school district office.
- F. The school district shall respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses, consistent with the school district's legal obligations to investigate, take appropriate action, and comply with any discovery or disclosure obligations.

## **INVESTIGATION**

- A. The Human Rights Officer, upon receipt of a complaint alleging unlawful discrimination shall promptly undertake an investigation if deemed appropriate. The investigation may be conducted by the Title IX coordinator for complaints of sex discrimination or the Section 504 Coordinator for complaints of disability discrimination, or a school district official or neutral third party designated by the Title IX coordinator, Section 504 coordinator or Human Rights Officer. The investigation shall be completed within 30 days of the complaint, unless impracticable.
- B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of other methods deemed pertinent by the investigator.

- C. In determining whether the alleged conduct constitutes a violation of this policy, the school district shall consider the facts and the surrounding circumstances such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incident occurred.
- D. The school district may take immediate steps to protect the parties involved in the complaint process, pending completion of an investigation of alleged unlawful discrimination.
- E. Upon completion of the investigation, the school district investigator shall make a written report to the Human Rights Officer. If the complaint involves the Human Rights Officer, the report may be filed directly with the superintendent or school board. The report shall include the facts, a determination of whether the allegations have been substantiated, whether a violation of this policy has occurred as well as a description of any proposed resolution which may include alternative dispute resolution.
- F. The district shall comply with federal and state law pertaining to retention of records.

### **APPEAL**

If the grievance has not been resolved to the satisfaction of the complainant, s/he may appeal to the Human Rights Officer within ten (10) school days of receipt of the findings of the school district investigation. The school district investigator shall conduct a review of the appeal and within ten (10) school days of receipt of the appeal, shall affirm, reverse, or modify the findings of the report. The decision of the school district investigator is final but does not preclude pursuit of alternative complaint procedures noted in the section entitled "Right to Alternative Compliant Procedures."

### **SCHOOL DISTRICT ACTION**

- A. Upon conclusion of the investigation and receipt of the findings, the school district shall take appropriate action. If it is determined that a violation has occurred, such action may include, but is not limited to, warning, suspension, expulsion, transfer, remediation or termination.

School district action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, Minnesota and federal law and school district policies.

- B. The result of the school district's investigation of each complaint filed under these procedures shall be reported in writing to the complainant by the school district in accordance with state and federal law regarding data or records privacy.

## **RETALIATION**

The school district shall take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports alleged unlawful discrimination toward an employee or student or any person who testifies, assists or participates in an investigation or hearing relating to such unlawful discrimination. Retaliation includes, but is not limited to, any form of intimidation or harassment.

## **CONFLICT OF INTEREST**

If there is a conflict of interest with respect to any party affected by this policy, appropriate action shall be taken such as, but not limited to, appointing or contracting with a neutral third party investigator to conduct the investigation or recusal from the process by the person for whom a conflict or potential conflict of interest exists.

## **DISSEMINATION OF POLICY**

The school district shall adopt and publish these procedures.

### **TITLE IX COORDINATOR**

Dan Posthumus  
1700 3<sup>rd</sup> Ave South  
Wheaton, MN 56296  
320-563-8282  
dposthumus@wheaton.k12.mn.us

### **SECTION 504 COORDINATOR**

Heidi Rinke  
1700 3<sup>rd</sup> Ave South  
Wheaton, MN 56296  
320-563-8282  
hrinke@wheaton.k12.mn.us

## **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of recourse, which may include filing charges with the agencies listed below or initiating action in state or federal court.

**Claims of discrimination may also be pursued through the following agencies where appropriate:**

### **U.S. Department of Education**

Office for Civil Rights, Region V  
500 W. Madison Street – Suite 1475  
Chicago, IL 60661  
Tel: 312-730-1560  
TDD: 312-730-1609

### **MN Department of Human Rights**

190 E 5<sup>th</sup> Street  
St. Paul, MN 55101  
800.657.3704  
651.296.5663  
TDD 651.296.1283

### **For complaints of employment discrimination:**

Equal Employment Opportunity Commission  
330 S. 2<sup>nd</sup> Avenue – Suite 430  
Minneapolis, MN 55401  
800.669.4000  
612.335.4040  
TDD 612.335.4045

This document provides general information and is not to be a substitute for legal advice. Changes in the law, including timelines for filing a complaint, may affect your rights.

***Resources:***

U.S. Department of Education  
Office for Civil Rights, Region V  
500 W. Madison Street – Suite 1475  
Chicago, IL 60661  
Tel: 312-730-1560  
TDD: 312-730-1609

Reading Room, U.S. Department of Education, Office for Civil Rights:  
<http://www2.ed.gov/about/offices/list/ocr/publications.html>

***Legal References:*** Minn. Stat. Ch. 363A (Minnesota Human Rights Act)  
29 U.S.C. § 621 et seq. (Age Discrimination in Employment Act)  
29 U.S.C. § 2615 (Family and Medical Leave Act)  
38 U.S.C. § 4211 et seq. (Employment and Training of Veterans)  
38 U.S.C. § 4301 et seq. (Employment and Reemployment Rights of Members of the Uniformed Services)  
42 U.S.C. § 2000e et seq. Equal Employment Opportunities; Title VII of the Civil Rights Act)  
42 U.S.C. § 12101 et seq. (Equal Opportunity for Individuals with Disabilities)

***Cross References:*** Policy 402 (Disability Nondiscrimination)  
Policy 405 (Veteran’s Preference)  
Policy 413 (Harassment and Violence)