

OCTORARA AREA SCHOOL DISTRICT WORK SESSION

**March 13, 2023– 7:00 p.m.
Jr. High School Multi-Purpose Room**

DISCUSSION GUIDE

1. Moment of Silence
 2. Pledge of Allegiance
 3. Roll Call
 4. Presentations
 - A. Social Skills Meets Ed Tech – Chris Shultz
 5. Visitors' Comments - Agenda Items Only
 6. Information Items
 7. Presentation of Agenda Items for the March 20, 2023 Regular Monthly Public Meeting:
 - A. That the Octorara Board of School Directors approve the Lease Agreement with American Tower Management, LLC.
 - B. That the Octorara Board of School Directors approve the Chesconet Agreement effective July 1, 2023 through June 30, 2024.
 - C. That the Octorara Board of School Directors approve the extension of the Environmental Control Systems, Inc. contract through June 30, 2026.
 - D. That the Octorara Board of School Directors approve the Service Agreement with the Chester County Intermediate Unit for a technology specialist from March 8, 2023 through June 8, 2023.
 - E. That the Octorara Board of School Directors approve the following policies, first reading:
 - 103 *Discrimination/Title IX Sexual Harassment Affecting Students*
 - 104 *Discrimination/Title IX Sexual Harassment Affecting Staff*
 - 137 *Home Education Programs*
 - 137.1 *Extracurricular Participation by Home Education Students*
 - 137.2 *Participation in Cocurricular Activities and Academic Courses by Home Education Students*
 - 137.3 *Participation in Career and Technical Education Programs by Home Education Students*
- Resignation Approvals:**
- F. That the Octorara Board of School Directors accept the resignation of Mr. Colin Kolb as a computer systems technology teacher at the Octorara Jr./Sr. High School effective March 3, 2023. (Hired January 2, 2020)
 - G. That the Octorara Board of School Directors accept the resignation of Ms. Deirdre Shappell as a long-term substitute reading specialist at the Octorara Jr./Sr. High School effective March 31, 2023. (Hired February 20, 2023)

Hiring Approvals:

H. That the Octorara Board of School Directors approve Mr. Robert Smith as a long-term substitute CTE Teacher of Record/Computer Systems Technology teacher effective March 6, 2023 through the end of the 2022-2023 school year. Mr. Smith's salary will be \$54,416, pro-rated, which is Step 18 to MAX of the Bachelor's scale. (Mr. Smith is transferring from a previous long-term substitute position beginning December 1, 2023 and is replacing Colin Kolb who resigned.)

I. That the Octorara Board of School Directors approve the transfer of Ms. Diane Vinson from food service employee to food service site leader at the Octorara Jr./Sr. High School effective February 16, 2023. Ms. Vinson's rate will be \$17.00 per hour for 5.75 hours per day.

J. That the Octorara Board of School Directors approve the following supplemental contract for the 2022-2023 school year:

Craig Leister	Varsity Asst Baseball Coach	6 pts @ \$620	\$3,720
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K. That the Octorara Board of School Directors approve the following supplemental contract for the 2023-2024 school year:

Ed Smith	Head Football Coach	10 pts @ \$620	\$6,200
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8. Education Committee Report

9. Policy Committee Report

10. Facility Committee Report

11. Other Items/Concerns

A. OASD Gifted Program

B. Nationwide Teacher Shortage

12. Visitors' Comments – General

13. Administrator Comments/Announcements

14. Board Comments

15. Adjournment

Policy Committee Meeting – Monday, March 13, 2023 – 6:00 p.m. in room 102 at the Jr. High School

Facility Committee Meeting – Monday, March 13, 2023 – 6:30 p.m. in room 102 at the Jr. High School

Executive Session for Personnel – Monday, March 13, 2023 – following the Work Session in room 102 at the Jr. High School

Finance Committee Meeting – Monday, March 20, 2023 – 6:00 p.m. in room 102 at the Jr. High School

Next regularly scheduled Board Meeting – Monday, March 20, 2023 – 7:00 p.m. in the Jr. High School Multi-Purpose Room

Education Committee Meeting – Monday, March 27, 2023 – 6:00 p.m. in room 102 at the Jr. High School

THE FIRST AMENDMENT TO STANDARD LEASE AGREEMENT

This First Amendment to Standard Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **Octorara Area School District ("Landlord")** and **American Tower Management, LLC**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Standard Lease Agreement dated February 29, 2000 (as the same may have been amended, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such leasehold and easement rights and interests, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Ten Thousand and 00/100 Dollars (\$10,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before April 21, 2023; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum of Lease executed by Landlord. In the event that Tenant elects to pay the one-time payment prior to the satisfaction of any of the conditions precedent, Landlord shall still be required to comply with items (a) through (d) above and the other terms and conditions of this Amendment shall apply and be binding upon issuance of such payment by Tenant.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease, the Parties agree that the Lease, without giving effect to this Amendment and assuming the exercise by Tenant of all remaining renewal terms in the Lease, has a final expiration date of December 6, 2045 (the "**Current Expiration Date**"). Tenant shall have the option to extend the Lease for each of four (4) additional five (5) year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). The first New Renewal Term shall commence on the day immediately following the Current Expiration Date, and all existing renewal terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease not less than ninety (90) days prior to the expiration of the then current term.
3. **Rent and Escalation.** The rent payable from Tenant to Landlord under the Lease shall remain **One Thousand Two Hundred and 00/100 Dollars (\$1,200.00)** per month (the "**Rent**"). Commencing on December 7, 2023, and on each successive annual anniversary thereof, Rent due under the Lease, as amended herein, shall increase by an amount equal to **three percent (3%)** of the then current Rent. In

the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to Octorara Area School District. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and are of no further force and effect.

4. **Notices.** The Parties acknowledge and agree that Section 15 of the Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 338 Highland Road, Atglen, Pennsylvania 19310; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
5. **Conflict/Capitalized Terms.** The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.
6. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

TENANT:

American Tower Management, LLC,
a Delaware limited liability company

Signature: _____

Print Name: _____

Title: _____

Date: _____

LANDLORD:

Octorara Area School District,

Signature: _____

Print Name: _____

Title: _____

Date: _____

[SIGNATURES CONTINUE ON NEXT PAGE]



AMENDMENT 1

MSA No. 2022OctASD

Order No. 2215

1. EFFECTIVE DATE

The Effective Date becomes binding and enforceable upon execution by both authorized representatives of the Parties as evidenced by the signatures and date on the Agreement below.

2. CUSTOMER

Octorara Area School District

3. BILLING ADDRESS

Accounts Payable	228 Highland Road Atglen, PA 19310
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4. BUSINESS CONTACT

Jeff Curtis Business Manager	228 Highland Road Atglen, PA 19310	(610) 593-8219	jcurtis@octorara.org
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5. TECHNICAL CONTACT

Rob Czetli Director of Information Technology	228 Highland Road Atglen, PA 19310	(610) 593-8238 ext. 30520	rczetli@octorara.org
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6. ANTICIPATED SERVICE START DATE

Service start date is July 1, 2023.

7. SERVICE

Fiber optic transport and Internet.

8. SERVICE LOCATION(S)

SITE NAME	SITE ADDRESS	SERVICE
Octorara Area School District	228 Highland Road Atglen, PA 19310	Chesconet Fiber Demarc
Octorara Area Junior-Senior High School	228 Highland Road Atglen, PA 19310	Chesconet Equipment Demarc

9. PRICING / PAYMENT

SOLUTION	NON-RECURRING	RECURRING
Chesconet 2Gbps Fiber Optic Connectivity 2Gbps of transport and Internet	\$0	\$32,000
TOTAL		\$32,000

10. ADDITIONAL SERVICE DETAILS

This amendment extends the original Chesconet Contract MSA # 2022OctASD/2215 from July 1, 2023 through June 30, 2024. Original Form 470 #220016772. If the customer wishes to increase bandwidth in increments up to 10Gbps the annual recurring costs are listed below:

For 3Gbps, the annual recurring cost would be \$34,000

For 4Gbps, the annual recurring cost would be \$36,000

For 5Gbps, the annual recurring cost would be \$38,000

For 6Gbps, the annual recurring cost would be \$40,000

For 7Gbps, the annual recurring cost would be \$42,000

For 8Gbps, the annual recurring cost would be \$44,000

For 9Gbps, the annual recurring cost would be \$46,000

For 10Gbps, the annual recurring cost would be \$48,000

11. BILLING OPTION

Quarterly.

12. SERVICE LEVEL

Service Level for all components of the managed service is described in the Service Level Agreements attached hereto as Appendix A.

13. SERVICE INSTALLATION / ACCEPTANCE

Billing shall not be delayed by any issues related to the customer's readiness. CHESCONET will commence billing as of the Service Start Date. The Customer will have no more than five (5) business days to test and identify issues related to service in writing to CHESCONET, which CHESCONET will work to resolve. Billing (the Billing Date) will commence on the Service Start Date. If identified issues impact service delivery, CHESCONET may prorate the first bill. Each party is solely responsible for their own equipment, damages caused by their equipment and for the maintenance and suitability of their equipment. Neither party may adjust or repair the other party's equipment without prior written authorization.

14. SERVICE CREDITS

The customer may request a Service Credit if CHESCONET is unable to meet the target Service Levels. Service Credits are described in the Service Level Agreements attached hereto as Appendix A.

15. SERVICE ADDITIONS / MODIFICATIONS / ENGINEERING REVIEW

This Service Order may be subject to additional nonrecurring and recurring charges based upon final engineering approval. Upon mutual written agreement between Customer and CHESCONET, this Service Order may be modified, expanded or combined into a new service order at the same terms and conditions.

CHESCONET agrees to disclose security procedures used to protect customer information and infrastructure and continually improve security posture. CHESCONET agrees to disclose to customer any breach of CHESCONET assets or third party assets used to manage CHESCONET infrastructure within 24 hours of discovery or notification from third party vendor.

CHESCONET will apply all relevant security patches to switches, routers, management systems, software and

workstations used to manage or owned by CHESCONET within 30 days of being notified by software/hardware vendor of a security vulnerability.

16. TERM / TERMINATION

This Amendment constitutes as one (1) of two (2) one-year contract extensions. Following the termination or expiration of the Service Term, the Service may be extended on a month-to-month basis by mutual written agreement, in which case additional Service Charges and Other Charges may apply. Termination is governed by the Master Service Agreement (MSA).

17. THE AGREEMENT

This document summarizes the key elements of this Service Order, which incorporates the MSA, together with agreements, purchase orders, invoices, and other documents delivered in connection therewith ("Contract"). CHESCONET and the Customer are the sole parties to this Service Order, which is governed by laws of the Commonwealth of Pennsylvania. Both parties may assign or modify this Service Order upon written consent of the other party, such assignment or modification not to be unreasonably withheld. Breach of this Service Order has no impact on any other Service Orders entered into under the MSA.

18. DISPUTES

Disputes are governed by the MSA.

AGREED BETWEEN

Octorara Area School District

*Chester County Community Network, Inc.
("CHESCONET")*

Authorized Representative

Authorized Representative

Printed Name

Printed Name

Title

Title

Date

Date



Environmental Control Systems, Inc.

Environmental Engineers and Management Consultants

ADDENDUM TO DESIGNATED PERSON CONTRACT

February 13, 2023

Mr. Jeff Curtis
Business Manager
Octorara Area School District
228 Highland Road
Atglen, PA 19310

Re: Addendum to Designated Person Contract

Dear Mr. Curtis:

Per our Designated Person Contract executed January 22, 2020, (attached), Environmental Control Systems Inc. acknowledges that the Octorara School District wishes to extend the current contract through June 30, 2026.

Per this "Addendum to the original Designated Person Contract", Octorara School District and Environmental Control Systems, Inc. agree to extend the contract through June 30, 2026. The Professional Fee Schedule listed as "Exhibit A" will not be subject to increase through June 30, 2026.

We have appreciated the opportunity to work with you and your staff and look forward to our continued business association. Thank you for this opportunity to provide our professional services.

Cordially,

Barbara B. Lippmann,
President

AUTHORIZATION TO PROCEED

By: _____
Title _____
Date: _____

SERVICE AGREEMENT

Client

Octorara Area School District
228 Highland Road, Suite 1 | Atglen, PA 19310

Services to be Provided

Octorara Area School District (OASD) has requested that the Chester County Intermediate Unit (CCIU) provide on-site content knowledge support for the OASD Career and Technical Education (CTE) Computer Technologies course. One (1) CCIU technology specialist will be on-site in the classroom from 7:30 am – 11:00 am to consult with the teacher of record and provide computer technology content expertise. CCIU will provide:

- A non-PDE certified technology specialist
- Technical content expertise
- Hands-on assistance with technology assembly and disassembly
- Guidance to the teacher and students on troubleshooting technical issues
- Examples drawing from real-world experience

OASD will provide:

- A certified teacher
- Assignments
- Formative and summative assessments
- Attendance, discipline, classroom management, and other student accountability measures

Date(s) of Service

March 8, 2023 – June 8, 2023

Location of Service

Octorara Area Senior High School | 226 Highland Rd. | Atglen, PA 19310

Fees

CCIU will provide one (1) technology specialist at a rate of \$80 per hour, for three and one-half (3.5) hours on-site and two (2) planning hours per day, for a total of \$440 per day of service. CCIU will issue an invoice monthly for the days of service. The total estimated fee for the duration of this service agreement is \$25,550 (\$440 per day, 58 instructional days).

Additional hours of support, up to seven and one half (7.5) hours per day, will be charged at a rate of \$80/hour. Hours worked above seven and one half (7.5) hours per day will be charged at an overtime rate of \$120/hour.

Terms

Signature below indicates that this agreement has been received, read, understood, and its provisions accepted. Return one signed copy of this agreement to Ann Marie Franciscus, Innovative Educational Services, CCIU, 455 Boot Road, Downingtown PA 19335, or AnnMarieF@cciu.org.

Approvals**CCIU Contact****Client**

Signature**Date**

Bonnie J. Wolff
Board President
Chester County Intermediate Unit

Signature**Date**

Lisa McNamara
Director of Career and Technical Education
Octorara Area School District
610-593-8238 extension 30549
lmcnamara@octorara.org



Book	Policy Manual
Section	100 Programs
Title	Discrimination/Title IX Sexual Harassment Affecting Students
Code	103
Status	First Reading

Authority

The Board declares it to be the policy of this district to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the ~~schools~~ district without discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)[\[11\]](#)[\[12\]](#)[\[13\]](#)[\[14\]](#)[\[15\]](#)[\[16\]](#)[\[17\]](#)

The Board also declares it to be the policy of this district to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the district may be referred to the Compliance Officer/Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district is committed to the maintenance of a safe, positive learning environment for all students that is free from discrimination by providing all students course offerings, counseling, assistance, services, employment, athletics and extracurricular activities without any form of discrimination, including Title IX sexual harassment. Discrimination is inconsistent with the rights of students and the educational and programmatic goals of the district and is prohibited at or, in the course of, district-sponsored programs or activities, including transportation to or from ~~school~~ the district or ~~school~~ district-sponsored activities.

Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences under applicable Board policy and procedures.[\[18\]](#)[\[19\]](#)[\[20\]](#)[\[21\]](#)

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the district's website.

The Board requires a notice stating that the district does not discriminate in any manner, including Title IX sexual harassment, in any district education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the district. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Officer ~~and~~ /Title IX Coordinator.

Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages students and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination or retaliation to promptly report such incidents to the building principal, even if some elements of the related incident took place or originated away from ~~school~~ district grounds, ~~school~~ district activities or ~~school~~ district conveyances. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

The student's parents/guardians or any other person with knowledge of conduct that may violate this policy is encouraged to immediately report the matter to the building principal.

A ~~school~~ district employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building principal, as well as properly making any mandatory police or child protective services reports required by law.[22]

If the building principal is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the Compliance Officer/Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building principal shall promptly notify the Compliance Officer/Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The Compliance Officer/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Board policies.

Disciplinary Procedures When Reports Allege Title IX Sexual Harassment

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints outlined in Attachment 3. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.

When an emergency removal, as described in Attachment 3, is warranted to address an immediate threat to the physical health or safety of an individual, and it is not feasible to continue educational services remotely or in an alternative setting, the normal procedures for suspension and expulsion shall be conducted to accomplish the removal, including specific provisions to address a student with a disability where applicable. [18][20][23][24]

When an emergency removal is not required, disciplinary sanctions shall be considered in the course of the Title IX grievance process for formal complaints. Following the issuance of the written determination and any applicable appeal, any disciplinary action specified in the written determination or appeal decision shall be implemented in accordance with the normal procedures for suspensions, expulsions or other disciplinary actions, including specific provisions to address a student with a disability where applicable.[18][19][20][23]

Discipline/Placement of Student Convicted or Adjudicated of Sexual Assault

Upon notification of a conviction or adjudication of a student in this district for sexual assault against another student enrolled in this district, the district shall comply with the disciplinary or placement requirements established by state law and Board policy.[25][26]

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report and the investigation related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be handled in accordance with applicable law, regulations, this policy, the attachments and the district's legal and investigative obligations.[27][28][29][30][31]

Retaliation

The Board prohibits retaliation by the district or any other person against any person for:[30]

1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.
2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Compliance Officer/Title IX Coordinator immediately if retaliation is believed to have occurred.

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

Discrimination

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Harassment is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance when such conduct is:

1. Sufficiently severe, persistent or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by ~~a school~~ the district.

Definitions Related to Title IX Sexual Harassment

Formal complaint shall mean a document filed by a complainant or signed by the Compliance Officer/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation under the grievance process for formal complaints. The authority for the Compliance Officer/Title IX Coordinator to sign a formal complaint does not make the Compliance Officer/Title IX Coordinator a party in

the grievance process for formal complaints. The phrase “document filed by a complainant” refers to a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.[\[29\]](#)[\[32\]](#)

Supportive measures shall mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.[\[32\]](#)

Supportive measures shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:[\[32\]](#)

1. Counseling.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Mutual restrictions on contact between the parties.
6. Changes in work or housing locations.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the campus.
10. Assistance from domestic violence or rape crisis programs.
11. Assistance from community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program (IEP) or Section 504 Service Agreement based on a student’s behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations or Board policy.[\[17\]](#)[\[18\]](#)[\[23\]](#)[\[24\]](#)[\[33\]](#)

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:[\[32\]](#)

1. A district employee conditioning the provision of an aid, benefit, or district service on an individual’s participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
 - a. **Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:[\[34\]](#)
 - i. Length of relationship.

- ii. Type of relationship.
- iii. Frequency of interaction between the persons involved in the relationship.
- b. **Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.[\[34\]](#)
- c. **Sexual assault** means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.[\[35\]](#)
- d. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:
 - i. Fear for their safety or the safety of others.
 - ii. Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.[\[28\]](#)[\[29\]](#)[\[32\]](#)

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the [\[36\]](#)

[The district may choose the same or different individuals to fulfill the roles of Compliance Officer and Title IX Coordinator. If designating one (1) individual to fulfill both responsibilities, select the first option and enter the appropriate position title. If designating two (2) individuals to fulfill the separate responsibilities, select the second option and enter the appropriate position titles.]

{X } _____ Director of Student Services _____ as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: 228 Highland Road, Suite 1; Atglen, PA 19310

Email: chilbolt@octorara.org

Phone Number: 610-593-8238 ext 30519

~~{ } _____ as the district's Compliance Officer and _____
as the district's Title IX Coordinator.~~

~~-
The Compliance Officer can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

~~-~~

~~The Title IX Coordinator can be contacted at:~~

~~-~~

~~Address:~~

~~-~~

~~Email:~~

~~-~~

~~Phone Number:~~

The Compliance Officer~~and~~/Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the district's nondiscrimination procedures in the following areas, as appropriate:

1. Curriculum and Materials - Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training - Provide training for students and staff to prevent, identify and alleviate problems of discrimination.
3. Resources - Maintain and provide information to staff on resources available to complainants in addition to the ~~school~~ district complaint procedure or Title IX procedures, such as making reports to the police, and available supportive measures such as assistance from domestic violence or rape crisis programs and community health resources including counseling resources.
4. Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
5. District Support - Assure that like aspects of the ~~school~~ district programs and activities receive like support as to staffing and compensation, facilities, equipment, and related areas.[37]
6. Student Evaluation - Review of assessments, procedures, and guidance and counseling materials for stereotyping and discrimination.
7. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.

Guidelines

Title IX Sexual Harassment Training Requirements

The Compliance Officer~~and~~/Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the following training, as required or appropriate to their specific role:

1. Definition of sexual harassment.
2. Scope of the district's education program or activity, as it pertains to what is subject to Title IX regulations.
3. How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable.
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.

5. Use of relevant technology.
6. Issues of relevance including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
7. Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence.
8. How to address complaints when the alleged conduct does not qualify as Title IX sexual harassment but could be addressed under another complaint process or Board policy.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the district's website.

Disciplinary Consequences

A student who is determined to be responsible for violation of this policy shall be subject to appropriate disciplinary action consistent with the Code of Student Conduct, which may include but is not limited to:[18][19][20]

1. {X } Loss of school privileges.
2. {X } Permanent transfer to another ~~school~~ district building, classroom or school bus.
3. {X } Exclusion from ~~school~~ district-sponsored activities.
4. {X } Detention.
5. {X } Suspension.
6. {X } Expulsion.
7. {X } Referral to law enforcement officials.

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.[21][38]

Reports of Discrimination

Any reports of discrimination that are reviewed by the Compliance Officer/Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.

Reports of Title IX Sexual Harassment

Any reports deemed by the Compliance Officer/Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 to this policy.

Legal

- [1. 22 PA Code 12.1](#)
- [2. 22 PA Code 12.4](#)
- [3. 22 PA Code 15.1 et seq](#)
- [4. 22 PA Code 4.4](#)
- [5. 24 P.S. 1301](#)
- [6. 24 P.S. 1310](#)
- [7. 24 P.S. 1601-C et seq](#)
- [8. 24 P.S. 5004](#)
- [9. 43 P.S. 951 et seq](#)
- [10. 20 U.S.C. 1681 et seq](#)
- [11. 34 CFR Part 106](#)
- [12. 29 U.S.C. 794](#)
- [13. 42 U.S.C. 12101 et seq](#)
- [14. 42 U.S.C. 1981 et seq](#)
- [15. 42 U.S.C. 2000d et seq](#)
- [16. U.S. Const. Amend. XIV, Equal Protection Clause](#)
17. Pol. 103.1
18. Pol. 113.1
19. Pol. 218
20. Pol. 233
21. Pol. 317
22. Pol. 806
23. Pol. 113.2
24. Pol. 113.3
25. Pol. 218.3
- [26. 24 P.S. 1318.1](#)
- [27. 20 U.S.C. 1232g](#)
- [28. 34 CFR 106.44](#)
- [29. 34 CFR 106.45](#)
- [30. 34 CFR 106.71](#)
- [31. 34 CFR Part 99](#)
- [32. 34 CFR 106.30](#)
33. Pol. 113
- [34. 34 U.S.C. 12291](#)
- [35. 20 U.S.C. 1092](#)
- [36. 34 CFR 106.8](#)
37. Pol. 150
38. Pol. 317.1
- [18 Pa. C.S.A. 2709](#)
- [20 U.S.C. 1400 et seq](#)

[103-Attach 1 Report Form.pdf \(161 KB\)](#)[103-Attach 2 Discrimination.docx \(40 KB\)](#)[28.CFR Part 35](#)[103-Attach 4 ConfidentialityTemplateLetter.docx \(21 KB\)](#)[103-Attach 3 Title IX.docx \(76 KB\)](#)[34 CFR Part 104](#)[34 CFR Part 110](#)[U.S. Const. Amend. I](#)

Bostock v. Clayton County, 590 U.S., 140 S. Ct. 1731 (2020)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

[Office for Civil Rights - Resources for Addressing Racial Harassment](#)

Pol. 122

Pol. 123

Pol. 138

Pol. 216

Pol. 220

Pol. 247

Pol. 249

Pol. 251

Pol. 252

Pol. 320

Pol. 701

Pol. 815

Pol. 832

**DISCRIMINATION/SEXUAL HARASSMENT/BULLYING/
HAZING/DATING VIOLENCE/RETALIATION
REPORT FORM**

The Board declares it to be the policy of this district to provide a safe, positive learning and working environment that is free from bullying, hazing, dating violence, sexual harassment and other discrimination, and retaliation. If you have experienced, or if you have knowledge of, any such actions, we encourage you to complete this form. The Compliance Officer/Title IX Coordinator will be happy to support you by answering any questions about the report form, reviewing the report form for completion and assisting as necessary with completion of the report. The Compliance Officer/Title IX Coordinator's contact information is:

Position: _____

Address: _____

Email: _____

Phone Number: _____

Retaliation Prohibited

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against you for filing this report. Please contact the Compliance Officer/Title IX Coordinator immediately if you believe retaliation has occurred.

Confidentiality

Confidentiality of all parties, witnesses, the allegations and the filing of a report shall be handled in accordance with applicable law, regulations, Board policy, procedures, and the district's legal and investigative obligations. The school-district will take all reasonable steps to investigate and respond to the report, consistent with a request for confidentiality as long as doing so does not preclude the school-district from responding effectively to the report. If you have any questions regarding how the information contained in this report may be used, please discuss them with the Compliance Officer/Title IX Coordinator prior to filing the report. Once this report is filed, the district has an obligation to investigate the information provided.

***Note:** For purposes of Title IX sexual harassment, this Report Form serves initially as an informal report, not a formal complaint of Sexual Harassment under Title IX.*

I. Information About the Person Making This Report:

Name: _____

Address: _____

Phone Number: _____

School Building: _____

I am a:

☐ Student ☐ Parent/Guardian ☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If you are not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is: ☐ Your Child ☐ Another Student ☐ A District Employee

☐ Other: _____ (please explain relationship to the alleged victim)

II. Information About the Person(s) You Believe is/are Responsible for the Bullying, Hazing, Harassing or Other Discrimination You are Reporting

What is/are the name(s) of the individual(s) you believe is/are responsible for the conduct you are reporting?

Name(s): _____

The reported individual(s) is/are:

☐ Student(s) ☐ Employee(s)

☐ Other _____ (please explain relationship to the district)

III. Description of the Conduct You are Reporting

In your own words, please do your best to describe the conduct you are reporting as clearly as possible. Please attach additional pages if necessary:

When did the reported conduct occur? (Please provide the specific date(s) and time(s) if possible):

Where did the reported conduct take place?

Please provide the name(s) of any person(s) who was/were present, even if for only part of the time.

Please provide the name(s) of any other person(s) that may have knowledge or related information surrounding the reported conduct.

Have you reported this conduct to any other individual prior to giving this report?

☐ Yes ☐ No

If yes, who did you tell about it?

If you are the victim of the reported conduct, how has this affected you?

I affirm that the information reported above is true to the best of my knowledge, information and belief.

Signature of Person Making the Report

Date

Received By

Date

FOR OFFICIAL USE ONLY

*This section is to be completed by the **Compliance Officer**/Title IX Coordinator based on reviewing the report with the complainant or other individual making the report.*

*The purpose of this form is to assist the **Compliance Officer**/Title IX Coordinator in gathering information necessary to properly assess the circumstances surrounding the reported conduct to determine if the allegations fall under the definition of Title IX sexual harassment or if the matter merits review and action under the Code of Student Conduct and/or other Board policies. The **Compliance Officer**/Title IX Coordinator shall gather as much information as possible in cases of incomplete or anonymous reports (including those that may be received through the Safe2Say Something program) to assess the report.*

*Upon receipt of the report, The **Compliance Officer**/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures as described in Policy 103 and Attachment 3. The **Compliance Officer**/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.*

I. Reporter Information:

Name: _____

Address: _____

Phone Number: _____

School Building: _____

Reporter is a:

☐ Student ☐ Parent/Guardian ☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If the reporter is not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is: ☐ Reporter's Child ☐ Another Student ☐ Another Employee

☐ Other: _____ (please explain relationship to the alleged victim)

II. Respondent Information

Please state the name(s) of the individual(s) believed to have conducted the reported violation:

Name(s):

The reported respondent(s) is/are:

- ☐ Student(s) ☐ Employee(s)
- ☐ Other _____ (please explain relationship to the district)

III. Level of Report:

- ☐ Informal ☐ Formal (see additional information below on Title IX formal complaints)

IV. Type of Report:

- ☐ Title IX Sexual Harassment ☐ Discrimination ☐ Retaliation ☐ Bullying
- ☐ Hazing ☐ Dating Violence ☐ Other _____

Nature of the Report (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Race | <input type="checkbox"/> Age |
| <input type="checkbox"/> Color | <input type="checkbox"/> Creed |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Sexual Harassment (Title IX) |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Ancestry |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Pregnancy |
| <input type="checkbox"/> Handicap/Disability | <input type="checkbox"/> Bullying |
| <input type="checkbox"/> Hazing | <input type="checkbox"/> Dating Violence |

V. Reported Conduct

Describe the reported conduct below, including specific actions, dates, times, locations and any other details necessary to properly assess the reported incident(s).

How often did the conduct occur?

Is it being repeated? ☐ Yes ☐ No

Do the circumstances involve a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act?

☐ No.

☐ Yes, please identify the student with a disability and contact the Director of Special Education.

Date ~~Director~~ Supervisor of Special Education was contacted: _____

How has the conduct affected the alleged victim's ability to fully participate in the ~~school's~~ district's academic, programs, activities or ~~school~~ district employment?

What is the alleged victim's relationship with the alleged respondent?

Insert names, descriptions, and/or contact information of individuals believed to have observed the conduct or who otherwise may have knowledge of the conduct and/or related circumstances.

Additional observations or evidence including pictures, texts, emails, video or other information submitted to the Compliance Officer/Title IX Coordinator.

VI. Safety Concerns

Are there safety concerns that may require Emergency Removal of or Administrative Leave for a respondent? (This requires an individualized safety and risk analysis as to whether there is an immediate threat to the physical health or safety of a student or other individual.)

☐ No.

☐ Yes, please describe:

VII. Other Reports

Has the conduct been reported to the police or any other agency?

☐ No

☐ Yes Date reported: _____ Agency: _____

VIII. Identification of Policies Implicated by Reported Conduct

Check all that apply:

☐ Policy 103. Discrimination/Title IX Sexual Harassment Affecting Students

☐ Policy 104. Discrimination/Title IX Sexual Harassment Affecting Staff

☐ Policy 247. Hazing

☐ Policy 249. Bullying

☐ Policy 252. Dating Violence

☐ Other _____

To meet the definition of Title IX sexual harassment, the conduct must have taken place during a district education program or activity involving a person in the United States. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the sexual harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.

Did the incident occur during a school district program or activity involving a person in the United States?

☐ Yes

☐ No

To meet the definition of Title IX sexual harassment, the conduct needs to satisfy one or more of the following (please check all that apply):

☐ A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.

☐ Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.

☐ Sexual assault, dating violence, domestic violence or stalking.

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:

- Length of relationship.
- Type of relationship.
- Frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Sexual assault means a sexual offense under a state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Stalking means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:

1. Fear for their safety or the safety of others.
2. Suffer substantial emotional distress.

IX. Recommended Course of Action

After consultation with the complainant and consideration of the reported information, the Compliance Officer/Title IX Coordinator directs the report to proceed under the provisions of (check all that apply):

☐ No further action at this time. Reason:

☐ Policy 247. Hazing

☐ Policy 249. Bullying

☐ Policy 252. Dating Violence

☐ Other _____

☐ Policy 103 Discrimination/Title IX Sexual Harassment Affecting Students: Attachment 2
Discrimination Complaint Procedures

- ☐ Policy 104 Discrimination/Title IX Sexual Harassment Affecting Staff: Attachment 2
Discrimination Complaint Procedures
- ☐ Policy 103. Discrimination/Title IX Sexual Harassment Affecting Students: Attachment 3 Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints
- ☐ Policy 104. Discrimination/Title IX Sexual Harassment Affecting Staff: Attachment 3 Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints

X. Title IX Information to Complainant

What supportive measures were discussed with the complainant, and what were the complainant's wishes with respect to supportive measures?

Upon designating a course of action under Title IX sexual harassment, the Compliance Officer/Title IX Coordinator will promptly:

1. Explain to the complainant the process for filing a formal complaint.
2. Inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint.
3. The Compliance Officer/Title IX Coordinator shall contact a student complainant's parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints.

If the complainant/reporter, ~~school-district~~ staff or others with professional knowledge relating to the complainant's health and well-being indicate that notifying the parents/guardians could cause serious harm to the health or well-being of the complainant or other person(s), the Compliance Officer/Title IX Coordinator will determine, in consultation with such individuals and upon advice of legal counsel, whether to withhold or delay notification of the report from the complainant's parents/guardians.

4. Determine what supportive measures may be offered to the respondent.
5. Determine whether the complainant wishes this report to be treated as a formal complaint.

XI. Compliance Officer/Title IX Coordinator Signature

I recommend the above course of action based on my consultation with the complainant and the information available at this time.

Compliance Officer/Title IX Coordinator: _____

Date: _____

XII. Title IX Formal Complaint Action

The Compliance Officer/Title IX Coordinator shall have the complainant check the appropriate box and sign and date below to indicate whether or not the complainant wishes to have this form serve as a formal complaint pursuant to Title IX.

I would like my report to be treated as a formal complaint pursuant to Title IX.

☐ Yes

☐ No

Complainant's Signature: _____

Date: _____

If the complainant does not wish this report to be treated as a formal complaint pursuant to Title IX, the Compliance Officer/Title IX Coordinator must assess whether actions limited to supportive measures are a sufficient response to alleged behavior, or whether a formal complaint process is necessary to investigate and address the situation adequately. For example, if disciplinary action would be warranted if allegations are true, if the respondent is an employee, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be clearly unreasonable not to initiate the formal complaint process. The Compliance Officer/Title IX Coordinator may consult with the ~~school~~-district solicitor and other district officials in making this decision.

As Compliance Officer/Title IX Coordinator, I have determined that, notwithstanding the complainant's preference, it is necessary to proceed with the Grievance Process for Formal Complaints for the following reasons:

Therefore, I am signing this form for the purpose of serving as the formal complaint initiating that process:

Compliance Officer/Title IX Coordinator's Signature: _____

Date: _____

DISCRIMINATION COMPLAINT PROCEDURES

The Discrimination Complaint Procedures prescribed in this Attachment apply to reports of retaliation or discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability that do not constitute Title IX sexual harassment as defined in the Policy 103.

*All reports of discrimination shall be reviewed by the **Compliance Officer**/Title IX Coordinator upon receipt to determine if the allegations meet the definition and parameters of sexual harassment under Title IX. If the result of this review determines that the allegations fall within the scope of Title IX sexual harassment, then the process set forth in Policy 103 Attachment 3 for Title IX Sexual Harassment shall be followed.*

[Note: if the same individual is assigned to the roles of Title IX Coordinator and Compliance Officer through Policy 103, please revise the terminology in this Attachment 2 to reflect the position of Title IX Coordinator/Compliance Officer throughout.]

All reports of discrimination and retaliation brought pursuant to the district's discrimination policy shall also be reviewed for conduct which may not be proven discriminatory under Policy 103 but merits review and possible action under the Code of Student Conduct and other Board policies. (Pol. 103.1, 218, 247, 249, 252)

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual who has been reported to be the perpetrator of the alleged conduct.

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Harassment is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance when such conduct is:

1. Sufficiently severe, persistent or pervasive; and

2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by ~~a school~~ the district.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report discrimination or harassment, participate in an investigation or other process addressing discrimination or harassment, or act in opposition to discriminatory practices.

Reasonable Accommodations

Throughout the discrimination complaint procedures, the district shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, and address barriers being experienced by disadvantaged students such as English learners and homeless students, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 113, 138, 251, 832, 906)

Required Reporting Under Other Policies

In addition to implementing the disciplinary complaint procedures, the building principal or Compliance Officer/Title IX Coordinator shall ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse. (Pol. 218, 317.1, 806, 824)

Timeframes

Reasonably prompt timeframes shall be established for completing each step of the discrimination complaint procedures, including timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities.

PROCEDURES FOR COMPLAINTS OF DISCRIMINATION

Step 1 – Reporting

A student or individual who believes they have been subject to discrimination by any student, employee or third party is encouraged to immediately report the incident to the building principal using the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form or by making a general report verbally or in writing to the building principal.

Parents/Guardians of students have the right to act on behalf of the complainant, the respondent, or other individual at any time.

Any person with knowledge of discrimination in violation of Board policy or this procedure is encouraged to immediately report the matter to the building principal.

A school-district employee who suspects or is notified that a student has been subject to discrimination shall immediately report the incident to the building principal. Additionally, employees who have reasonable cause to suspect that a child is the victim of child abuse, shall immediately report the suspected abuse, in accordance with applicable law, regulations and Board policy. (Pol. 806)

The building principal shall immediately notify the ~~Title IX Coordinator and~~ Compliance Officer/Title IX Coordinator of the reported discrimination.

If the building principal is the subject of a complaint, the student, third party or employee shall report the incident directly to the ~~Title IX Coordinator and/or~~ Compliance Officer/Title IX Coordinator.

The complainant or reporting individual shall be encouraged to use the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form, however, complaints shall be accepted in person, by telephone, by mail or email, or by any other means that results in the appropriate individual receiving the individual's verbal or written report. Verbal reports shall be documented using the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form, and these procedures shall be implemented.

The Compliance Officer/Title IX Coordinator shall review reports and complaints, and may gather additional information from the individual submitting the report and other parties identified in the report using the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form. The Compliance Officer/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination

Complaint Procedures prescribed in this Attachment 2, or if the reported circumstances meet the definition

and parameters of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other applicable Board policies.

If the Compliance Officer/Title IX Coordinator determines that the report should be addressed through the discrimination complaint procedures, ~~the Compliance Officer shall be notified and~~ the complaint procedures in this Attachment 2 shall be implemented.

When any party is an identified student with a disability, or thought to be a student with a disability, the Compliance Officer/Title IX Coordinator shall notify the Director-Supervisor of Special Education and coordinate to determine whether additional steps must be taken for the party, while the discrimination complaint procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations or Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2, 113.3)

Step 2 – Initial Communications/Supports

The complainant shall be informed about the Board's policy on discrimination, including the right to an investigation of both verbal and written reports of discrimination.

The building principal or designee, in consultation with the Compliance Officer/5-Title IX Coordinator and other appropriate individuals, shall promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The building principal or designee may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. The person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The building principal or designee shall seek to obtain consent from parents/guardians to initiate an investigation where the complainant or alleged victim is under age eighteen (18), and inform parents/guardians of the complainant that the complainant may be accompanied by a parent/guardian during all steps of the complaint procedure. When a parent/guardian requests confidentiality and will not consent to the alleged victim's participation in an investigation, the building principal or designee shall explain that the ~~school-district~~ shall take all reasonable steps to investigate and respond to the complaint consistent with that request for confidentiality as long

as doing so does not preclude the ~~school-district~~ from responding effectively to the discrimination and preventing discrimination that affects other students.

The building principal or Compliance Officer/Title IX Coordinator shall provide relevant information on resources available in addition to the discrimination complaint procedure, such as making reports to the police, available assistance from domestic violence or rape crisis programs and community health resources, including counseling resources.

Informal Remedies -

At any time after a complaint has been reported, if the Compliance Officer/Title IX Coordinator believes the circumstances are appropriate, the Compliance Officer/Title IX Coordinator may offer the parties involved in the complaint the opportunity to participate in informal remedies to address the reported conduct. Informal remedies can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services, or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal remedies shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation to indicate agreement with the resolution and receive a copy, and forward it to the Compliance Officer/Title IX Coordinator.

The Compliance Officer/Title IX Coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies, and shall document all appropriate actions.

*If the informal remedies result in the final resolution of the complaint, the following steps are not applicable.

Step 3 – Investigation

The Compliance Officer/Title IX Coordinator shall assess whether the investigation should be conducted by the building principal, another district employee, the Compliance Officer/Title IX Coordinator or an attorney and shall promptly assign the investigation to that individual. When a parent/guardian has requested confidentiality and will not consent to the alleged victim's participation in an investigation, the Compliance Officer/Title IX Coordinator shall provide the parent/guardian with a letter containing information related to the district's legal obligations to conduct an investigation and address violations of Board policy, and any other information appropriate to the specific complaint.

The Compliance Officer/Title IX Coordinator shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination and retaliation issues and Board policy, and how to conduct investigations and draft an investigative report.

The investigator shall work with the Compliance Officer/Title IX Coordinator to assess the anticipated scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the respondent may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from ~~school-district~~ property, ~~school-district~~-sponsored activities or ~~school-district~~ conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in ~~school-district~~ settings.

The investigation may consist of individual interviews with the complainant, the respondent, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians and witnesses shall be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer/Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations.

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation, and the reason for such delay shall be documented by the investigator.

Step 4 – Investigative Report

The investigator shall prepare and submit a written report to the Compliance Officer/Title IX Coordinator within

{ } twenty (20) school days

{ X } thirty (30) school days

{ } _____ school days

of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Compliance Officer/[Title IX Coordinator](#) to establish a different due date. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The investigative report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated Board Policy 103 and of any other violations of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into discrimination or harassment shall consider the record as a whole and the totality of circumstances in determining whether a violation of Board policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the respondent shall be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written investigative report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The respondent shall not be notified of the individual remedies offered or provided to the complainant.

Step 5 – District Action

If the investigation results in a finding that some or all of the allegations of the discrimination complaint are founded and constitute a violation of Board policy, the district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the district education program or activity. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer/[Title IX Coordinator](#) shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If an investigation results in a finding that a different policy was violated separately from or in addition to violations of Policy 103 or these procedures, or that there are circumstances warranting further action, such matters shall be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary. (Pol. 113.1, 218, 233, 247, 249)

Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations. (Pol. 103, 104, 113.1, 218, 233, 317, 317.1)

Appeal Procedure

If the complainant or the respondent is not satisfied with a finding made pursuant to these procedures or with recommended corrective action, they may submit a written appeal to the Compliance Officer/Title IX Coordinator within fifteen (15) school days of receiving notification of the outcome of the investigation. If the Compliance Officer/Title IX Coordinator investigated the complaint, such appeal shall be made to the Superintendent.

The individual receiving the appeal shall review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The person handling the appeal shall prepare a written response to the appeal within

{ } five (5) school days.

{ } ten (10) school days.

{ } twenty (20) school days.

{ x } thirty (30) school days.

Copies of the response shall be provided to the complainant, the respondent and the investigator who conducted the initial investigation.

TITLE IX SEXUAL HARASSMENT PROCEDURES AND GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

The Title IX sexual harassment procedures and grievance process for formal complaints prescribed in this attachment apply only when a report includes allegations of sexual harassment subject to Title IX regulations. (34 CFR 106.44, 106.45)

All other reports or complaints of discrimination or retaliation shall follow the complaint procedures established in Policy 103 Attachment 2 regarding discrimination.

[Note: a live hearing process is not required for the grievance process for formal complaints in the K-12 setting. Language on a live hearing process is not included in these procedures, but the district may add language in consultation with the school solicitor.]

Definitions

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the district's **Compliance Officer**/Title IX Coordinator or any district official who has the authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school, other than the respondent.

Exculpatory evidence means evidence tending to exonerate the accused or helps to establish their innocence.

Inculpatory evidence means evidence tending to incriminate the accused or indicate their guilt.

Formal complaint means a document filed by a complainant or signed by the **Compliance Officer**/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation. The authority for the **Compliance Officer**/Title IX Coordinator to sign a formal complaint does not make the **Compliance Officer**/Title IX Coordinator the complainant or other party during the grievance process. The phrase “**document filed by a complainant**” refers to a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report conduct that may constitute discrimination or harassment, including Title IX sexual harassment, in accordance with Board policy and procedures, participate in an investigation or other process addressing discrimination or Title IX sexual harassment, or act in opposition to discriminatory practices.

The following actions shall not constitute retaliation:

1. An individual exercising free speech under the rights protected by the First Amendment.

2. The assignment of consequences consistent with Board policy and the Code of Student Conduct when an individual knowingly makes a materially false statement in bad faith in an investigation. The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

Supportive measures mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures shall be designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:

1. Counseling.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Mutual restrictions on contact between the parties.
6. Changes in work or housing locations.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the campus.
10. Assistance from domestic violence or rape crisis programs.
11. Assistance from community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program (IEP) or Section 504 Service Agreement based on a student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations or Board policy. (Pol. 103.1, 113, 113.1, 113.2, 113.3)

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
 - a. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:
 - 1) Length of relationship.
 - 2) Type of relationship.
 - 3) Frequency of interaction between the persons involved in the relationship.
 - b. **Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
 - c. **Sexual assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - d. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:
 - 1) Fear for their safety or the safety of others.
 - 2) Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment subject to Title IX regulations. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs.

TITLE IX SEXUAL HARASSMENT PROCEDURES

General Response – (with or without a formal complaint)

Any person, whether the alleged victim or not, may report Title IX sexual harassment using the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form or by making a general report verbally or in writing to the building principal, or by using the contact information listed for the **Compliance Officer**/Title IX Coordinator, or by any other means that results in the **Compliance Officer**/Title IX Coordinator receiving the person's verbal or written report. Upon receipt of a report, **school district** staff shall immediately notify the building principal.

A report may be made at any time, including during nonbusiness hours. Verbal reports shall be documented by the **Compliance Officer**/Title IX Coordinator or employee receiving the report using the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form, and these procedures shall be implemented appropriately.

District staff who become aware of bullying, hazing, harassment or other discrimination affecting a student or staff member shall promptly report it to the building principal.

Parents/Guardians of students have the right to act on behalf of the complainant, the respondent, or other individual at any time.

When the district has actual knowledge of Title IX sexual harassment, the district is required to respond promptly and in a manner that is not deliberately indifferent, meaning not clearly unreasonable in light of the known circumstances.

All sexual harassment reports and complaints received by the building principal shall be promptly directed to the **Compliance Officer**/Title IX Coordinator, in accordance with Board policy. The **Compliance Officer**/Title IX Coordinator shall use the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form to gather additional information from the reporter and/or other parties identified in the report, to determine if the allegations meet the definition and parameters for Title IX sexual harassment.

The **Compliance Officer**/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The **Compliance Officer**/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall initially assess whether the reported conduct:

1. Meets the definition of Title IX sexual harassment.
2. Occurred in a district program or activity under the control of the district and against a person in the United States.
3. Involves other Board policies or the Code of Student Conduct.
4. Indicates, based on an individualized safety and risk analysis, that there is an immediate threat to the physical health or safety of an individual.
5. Involves a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. (Pol. 103.1, 113)

If the result of this initial assessment determines that none of the allegations fall within the scope of Title IX sexual harassment, but the matter merits review and possible action under the Code of Student Conduct and other Board policies or Attachment 2 addressing Discrimination Complaints, then the Compliance Officer/Title IX Coordinator shall redirect the report to the appropriate administrator to address the allegations. (Pol. 103, 103.1, 113.1, 218, 247, 249, 252, 317, 317.1)

If the result of the initial assessment determines that the allegations may constitute Title IX sexual harassment, the Compliance Officer/Title IX Coordinator shall promptly explain to the complainant the process for filing a formal complaint and inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint.

The Compliance Officer/Title IX Coordinator shall contact the parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints.

If the complainant, ~~school-district~~ staff or others with professional knowledge relating to the complainant's health and well-being indicate that notifying the parents/guardians could cause serious harm to the health or well-being of the complainant or other person(s), the Compliance Officer/Title IX Coordinator will determine, in consultation with such individuals and upon advice of legal counsel, whether to withhold or delay notification of the report from the complainant's parents/guardians.

The Compliance Officer/Title IX Coordinator shall also determine what supportive measures may be offered to the respondent.

If either party is an identified student with a disability, or thought to be disabled, the Compliance Officer/Title IX Coordinator shall contact the Director Supervisor of Special Education to coordinate the required actions in accordance with Board policy. (Pol. 113, 113.1, 113.2, 113.3)

Confidentiality regarding the supportive measures offered and the identity of the following individuals shall be maintained, except as may be permitted by law or regulations relating to the conduct of any investigation: (20 U.S.C. Sec. 1232g; 34 CFR Parts 99, 106; Pol. 113.4, 216)

1. Individuals making a report or formal complaint.
2. Complainant(s).
3. Respondent(s).
4. Witnesses.

The district shall treat complainants and respondents equitably by:

1. Offering supportive measures to the complainant and may offer such measures to the respondent.
2. Following the grievance process for formal complaints before imposing disciplinary sanctions or other actions that are not supportive measures on the respondent.

Disciplinary Procedures When Reports Allege Title IX Sexual Harassment -

When reports allege Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.

When an emergency removal, as described below, is warranted to address an immediate threat to the physical health or safety of an individual, and it is not feasible to continue educational services remotely or in an alternative setting, the normal procedures for suspension and expulsion shall be conducted to accomplish the removal, including specific provisions to address a student with a disability where applicable. (Pol. 113.1, 113.2, 113.3, 233)

When an emergency removal is not required, disciplinary sanctions will be considered in the course of the Title IX grievance process for formal complaints. Following the issuance of the written determination and any applicable appeal, any disciplinary action specified in the written determination or appeal decision shall be implemented in accordance with the normal procedures for suspensions, expulsions or other disciplinary actions, including specific provisions to address a student with a disability where applicable. (Pol. 113.1, 113.2, 218, 233)

Supportive Measures -

All supportive measures provided by the district shall remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. (34 CFR 106.44)

When any party is an identified student with a disability, or thought to be a student with a disability, the Compliance Officer/Title IX Coordinator shall notify the Director-Supervisor of Special Education and coordinate to determine whether additional steps must be taken as supportive measures for the party while the Title IX procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, FBA or other assessment or evaluation, in accordance with applicable law, regulations or Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2, 113.3)

Reasonable Accommodations –

Throughout the Title IX sexual harassment procedures, the district shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for any party, and address barriers being experienced by disadvantaged students such as English learners and homeless students, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 113, 138, 251, 832)

Emergency Removal –

If the district has determined, based on an individualized safety and risk analysis, that there is an immediate threat to the physical health or safety of any student or other individual due to the allegations of Title IX sexual harassment, the respondent may be removed from the district's education program or activity or moved to an alternative setting, consistent with all rights under federal and state laws and regulations, and Board policy, including but not limited to the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. If the respondent is an identified student with a disability, or thought to be disabled, the Compliance Officer/Title IX Coordinator shall contact the Director-Supervisor of Special Education to coordinate the required actions in accordance with Board policy. The respondent shall be provided with notice and provided an opportunity for due process, in accordance with law, regulations and Board policy. When expulsion is necessary because continuation of educational services is not feasible, the Board's written adjudication of expulsion shall address the pending Title IX process and the impact of the outcome of the Title IX process on a student's emergency removal status. (20 U.S.C. Sec. 1400 et seq. ; 29 U.S.C. Sec. 794 ; 42 U.S.C. Sec. 12101 et seq. ; 34 CFR 106.44 ; Pol. 103.1, 113.1, 233)

Administrative Leave -

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused nonstudent district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with

state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract. (29 U.S.C. Sec. 794, 42 U.S.C. Sec. 12101 et seq., 34 CFR 106.44, Pol. 317)

Required Reporting Under Other Policies -

In addition to implementing the Title IX sexual harassment procedures, the Compliance Officer/Title IX Coordinator shall ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse. (Pol. 218, 317.1, 806, 824)

Timeframes

Reasonably prompt timeframes shall be established for the conclusion of the grievance process for formal complaints, including timeframes for the informal resolution process and timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party, a party's advisor or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities.

Redirection or Dismissal of Title IX Formal Complaints

Formal complaints may be dismissed, if at any time during the investigation or written determination steps described below:

1. A complainant provides written notification of withdrawal of any allegations or of the formal complaint.
2. The respondent is no longer enrolled or employed by the district in a district program or activity.
3. Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

Only alleged conduct that occurred in the district's education program or activity, and against a person in the United States, may qualify as Title IX sexual harassment within the district's

jurisdiction. If it is determined during the investigation or written determination steps below that none of the allegations, if true, would meet the definition and parameters of Title IX sexual harassment within the district's jurisdiction, the [Compliance Officer](#)/Title IX Coordinator shall dismiss the formal complaint under Title IX. If the matter merits review and possible action under the Code of Student Conduct and other Board policies or Attachment 2 addressing Discrimination Complaints, then the [Compliance Officer](#)/Title IX Coordinator shall redirect the report to the appropriate administrator to address the allegations.

Written notification shall be promptly issued to the parties simultaneously of any allegations found not to qualify or that are dismissed in compliance with Title IX. Written notification shall state whether the allegations will continue to be addressed pursuant to the Code of Student Conduct and other Board policies or Attachment 2 addressing Discrimination Complaints.

A dismissal may be appealed via the appeal procedures set forth in this Attachment.

Consolidation of Title IX Formal Complaints

The district may consolidate formal complaints against more than one (1) respondent, or by more than one (1) complainant against one or more respondents, or by one (1) individual against another individual, where the allegations of sexual harassment arise out of the same facts or circumstances.

GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

Step 1 – Formal Complaint

The district is required to initiate the grievance process for formal complaints when a complainant or the complainant's parent/guardian files a formal complaint. The [Compliance Officer](#)/Title IX Coordinator is also authorized to initiate this process despite a complainant's wishes when actions limited to supportive measures are not a sufficient response to alleged behavior, or when a formal complaint process is necessary to investigate and address the situation adequately. For example, if disciplinary action would be warranted if allegations are true, if the respondent is an employee, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be clearly unreasonable not to initiate the formal complaint process. Only the [Compliance Officer](#)/Title IX Coordinator is authorized to initiate the formal complaint process despite a complainant's wishes, but the [Compliance Officer](#)/Title IX Coordinator may consult with the ~~school~~-district solicitor and other district officials in making this decision.

The complainant or the [Compliance Officer](#)/Title IX Coordinator shall use the designated section of the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form to file or sign a formal complaint.

The [Compliance Officer](#)/Title IX Coordinator shall assess whether the investigation should be conducted by the building principal, another district employee, the [Compliance Officer](#)/Title IX Coordinator or an attorney and shall promptly assign the investigation to that individual.

The Compliance Officer/Title IX Coordinator, investigator, decision-maker, or any individual designated to facilitate the informal resolution process, each must have completed the required training for such roles as designated in Board policy and shall not have a conflict of interest or bias for or against an individual complainant or respondent, or for or against complainants or respondents in general.

The respondent shall be presumed not responsible for the alleged conduct until a written determination regarding responsibility has been made at the conclusion of the grievance process for formal complaints.

Notice Requirements -

Upon receipt of a formal complaint, or when the Compliance Officer/Title IX Coordinator signs a formal complaint to initiate the grievance process for formal complaints, the Compliance Officer/Title IX Coordinator shall provide written notice to all known parties, and the parents/guardians of known parties, where applicable, providing the following information:

1. Notice of the district's grievance process for formal complaints and any informal resolution process that may be available.
2. Notice of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identity of the parties involved, if known.
 - b. The conduct allegedly constituting sexual harassment.
 - c. The date and location of the alleged incident(s), if known.
3. A statement that a written determination regarding responsibility shall be made at the conclusion of the grievance process for formal complaints and, until that time, the respondent is presumed not responsible for the alleged conduct.
4. Notice that parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence.
5. Notice that Board policy and the district's Code of Student Conduct prohibits knowingly making false statements or knowingly submitting false information to school-district officials in connection with reports of misconduct or discrimination complaints.
6. Notice to all known parties of any additional allegations that the district decides to investigate during the course of the investigation.

Step 2 – Informal Resolution Process

[Note: The informal resolution process cannot be offered or used to facilitate a resolution for any formal complaint where the allegations state that an employee sexually harassed a student.]

At any time after a formal complaint has been filed, but prior to reaching a determination of responsibility, if the Compliance Officer/Title IX Coordinator believes the circumstances are appropriate, the Compliance Officer/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process, which does not involve a full investigation and adjudication of the Title IX sexual harassment complaint.

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal Title IX sexual harassment complaints. Similarly, a district may not require the parties to participate in an informal resolution process.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services, or supportive measures.

When offering an informal resolution process, the Compliance Officer/Title IX Coordinator shall:

1. Provide the parties a written notice disclosing the following:
 - a. The allegations.
 - b. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process for formal complaints.
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
2. Obtain the parties' voluntary, written consent to the informal resolution process. As part of the consent process, all parties shall be informed of the rights being waived by agreeing to the informal resolution process, and shall acknowledge such agreement in writing.
3. The informal resolution process shall be conducted within

☐ five (5) school days

☐ ten (10) school days

☐ twenty (20) school days

☒ thirty (30) school days

of the parties' signed agreement for the informal resolution process.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal resolution process shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation and receive a copy, and forward it to the Compliance Officer/Title IX Coordinator. Within

☐ ten (10) school days

☐ twenty (20) school days

☒ thirty (30) school days

after the complaint is resolved in this manner, the Compliance Officer/Title IX Coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies. The Compliance Officer/Title IX Coordinator shall document the informal resolution process, responses from all parties, and an explanation of why the district's response was not deliberately indifferent to the reported complaint of sexual harassment.

***If Step 2 Informal Resolution Process results in the final resolution of the complaint, the following steps are not applicable.**

Step 3 – Investigation

The designated investigator, if other than the Compliance Officer/Title IX Coordinator, shall work with the Compliance Officer/Title IX Coordinator to assess the scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation. The investigation stage shall be concluded within

☐ twenty (20) school days.

☒ thirty (30) school days.

☐ _____ school days.

When investigating a formal complaint, the investigator shall:

1. Bear the burden of proof and gather evidence and conduct interviews sufficient to reach a written determination. During the process of gathering evidence, unless the district obtains

the voluntary, written consent of the party, or the party's parent/guardian when legally required, the district cannot access, consider, disclose or otherwise use a party's records which are protected by legal privilege, such as those records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with providing treatment to the party. (Pol. 113.4, 207, 209, 216, Safe2Say Something Procedures)

2. Objectively evaluate all available evidence, including inculpatory and exculpatory evidence.
3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

| { X } However the district may request a nondisclosure agreement be signed by the parties and their advisor(s), if any, stating that they will not disseminate or disclose evidence and documents exchanged in the investigation.

5. Provide the parties with the same opportunities to have others present during any interview or other meeting, including an advisor of the party's choice. The district may establish restrictions, applicable to both parties, regarding the extent to which the advisor may participate.
6. Provide written notice to any party whose participation is invited or expected during the investigation process with the following information, in sufficient time for the party to prepare to participate:
 - a. Date.
 - b. Time.
 - c. Location.
 - d. Participants.
 - e. Purpose of all investigative interviews or other meetings.
7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, including evidence the district does not intend to rely on to reach a determination regarding responsibility and any inculpatory and exculpatory evidence, whether obtained from a party or other source.

If at any point the investigation expands to include additional allegations that were not included in the initial notice provided upon initiation of the grievance process for formal complaints, the

investigator shall alert the Compliance Officer/Title IX Coordinator. The Compliance Officer/Title IX Coordinator shall provide written notice of the new allegations to the known parties.

Prior to the completion of the investigative report, the investigator shall:

1. Send to each party and the party's advisor, if any, the evidence subject to inspection and review in electronic or hard copy format.
2. Provide the parties at least ten (10) school days following receipt of the evidence to submit a written response.
3. Consider the written response prior to drafting the investigative report.

The investigator shall draft an investigative report that fairly summarizes relevant evidence and shall provide the investigative report to all parties and to the designated decision-maker.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer/Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations and make any additional required reports, in accordance with law, regulations and Board policy. (Pol. 218, 317.1, 806)

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to request for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation and the reason for such delay shall be documented by the investigator.

In the course of an investigation, it is possible that conduct other than, or in addition to, Title IX sexual harassment may be identified as part of the same incident or set of circumstances. The fact that there may be Title IX sexual harassment involved does not preclude the district from addressing other identified violations of the Code of Student Conduct or Board policy. If such other conduct is being investigated and addressed together with Title IX sexual harassment as part of the Title IX grievance process for formal complaints, disciplinary action normally should not be imposed until the completion of the Title IX grievance process for formal complaints. A decision whether and when to take such action should be made in consultation with the school district solicitor.

Step 4 – Written Determination and District Action

Designation of Decision-Maker -

To avoid any conflict of interest or bias, the decision-maker cannot be the same person as the Compliance Officer/Title IX Coordinator or the investigator. The responsibility as the decision-maker for complaints of Title IX sexual harassment shall generally be designated to the

☐ building principal.

☒ Superintendent.

☐ Director of Student Services.

☐ _____ Other.

If the Superintendent has a conflict of interest or is a party in the formal complaint process, they shall disclose the conflict and the Compliance Officer/Title IX Coordinator shall designate another individual to serve as the decision-maker.

Written Determination Submissions -

A written determination of responsibility (written determination) must not be finalized less than ten (10) days after the investigator completes the investigative report and provides it to all parties. Before the decision-maker reaches a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, shall provide each party with the answers, and shall allow for additional, limited follow-up questions from each party.

Relevant questions for a party or witness must be submitted by each party within

☐ three (3) school days

☐ five (5) school days

☒ ten (10) school days

following receipt of the investigative report. Follow-up questions must be submitted by each party within

☐ three (3) school days

☐ five (5) school days

☒ ten (10) school days

of being provided the answers to the initial questions.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant as part of the follow-up questions and responses, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other

than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker shall explain to the party proposing the questions about any decision to exclude a question as not relevant.

Written Determination -

The decision-maker must issue a written determination for the conduct alleged in formal complaints. To reach this determination, the decision-maker shall apply the preponderance of the evidence standard, meaning that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.

{X } [Note: Districts may consult with their school solicitor and decide to use the "clear and convincing evidence" standard, as permitted by the federal regulations, in place of the "preponderance of the evidence" standard. However, the legal disadvantages of this should be carefully considered with the school solicitor.] The clear and convincing evidence standard, meaning that the party bearing the burden of proof must show that the truth of the allegations is highly probable.

In considering evidence, the decision-maker shall ensure credibility determinations are not based on an individual's status as a complainant, respondent or witness.

After considering all relevant evidence, the decision-maker shall issue a written determination that includes:

1. Identification of the allegations potentially constituting Title IX sexual harassment.
2. A description of the procedural steps taken from the receipt or signing of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of the district's Code of Student Conduct or Board policies to the facts.
5. A statement of, and rationale for, the result as to each allegation, including:
 - a. Determination regarding responsibility.
 - b. Disciplinary sanctions.

- c. Remedies designed to restore or preserve equal access to the district's education program or activity that will be provided by the district to the complainant. Such remedies may be punitive or disciplinary and need not avoid burdening the respondent.
6. The procedures, deadline and permissible bases for the complainant and respondent to appeal.

The written determination shall be provided to the parties simultaneously. The determination becomes final either:

- 1. On the date that the district provides the parties with the written decision of the result of the appeal, if an appeal is filed;
- 2. Or, if an appeal is not filed, on the date on which an appeal would no longer be considered timely, in accordance with the timeframe established for appeals in this Attachment.

The Compliance Officer/Title IX Coordinator shall be responsible to ensure that any remedies are implemented by the appropriate district officials and for following up as needed to assess the effectiveness of such remedies. Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations, including specific requirements and provisions for students with disabilities. (Pol. 113.1, 218, 233, 317, 317.1)

Appeal Process

Districts must offer both parties the right to appeal a determination of responsibility and the right to appeal the district's dismissal of a Title IX formal complaint or any allegation in the Title IX formal complaint. The scope of appeals related to Title IX sexual harassment are limited to the following reasons for appeal as stated in the Title IX regulations:

- 1. A procedural irregularity that affected the outcome of the matter.
- 2. New evidence that that could affect the outcome was not reasonably available at the time the decision to dismiss or determination of responsibility was made.
- 3. The Compliance Officer/Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents generally that affected the outcome of the matter.

Written notice of a party's appeal shall be submitted to the Compliance Officer/Title IX Coordinator within

{ } five (5) school days

{ X } ten (10) school days

{ } _____ school days

after the date of the written determination. Notice of appeal shall include a brief statement describing the basis for the appeal.

The Compliance Officer/Title IX Coordinator shall ensure that the designated appeal authority is not the same person as the decision-maker that reached the determination, the investigator, or the Compliance Officer/Title IX Coordinator. The designated appeal authority shall be the:

{ } District solicitor or outside counsel.

{ } Outside hearing officer.

{ X } Business Manager (Other).

For all appeals, the designated appeal authority shall:

1. Provide written notice to the other party when notice of an appeal is filed and implement appeal procedures equally for both parties.
2. Provide both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal. Supporting statements shall describe in detail as applicable the procedural irregularities asserted to have affected the outcome of the determination, the nature of any new evidence asserted to have affected the outcome, and the nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If evidence exists supporting the basis for appeal, it shall accompany the supporting statement, or it shall identify where such evidence may be found.

Supporting statements must be submitted to the appeal authority and provided to the other party within

{ } five (5) school days

{ X } ten (10) school days

{ } _____ school days

of the written notice of appeal.

Statements in opposition to the appeal shall be submitted within five (5) school days of the submission of supporting statements. If a statement in opposition to an appeal refers to any evidence beyond what is described in a supporting statement, it shall accompany the statement in opposition, or it shall identify where such evidence may be found.

The appeal authority may accept and consider evidence in support of or in opposition to an

appeal in making any conclusions necessary to deciding the appeal. Alternatively, when the appeal authority determines that factors exist making it necessary for the decision-maker to further develop the evidentiary record relevant to the basis for appeal, the appeal authority may return the matter to the decision-maker for that limited purpose.

3. Determine whether the appeal meets the grounds for permitted reasons for appeal and justifies modifying the written determination.
4. Issue a written decision setting forth the respects, if any, in which the written determination is modified and the rationale for the result within

{ } five (5) school days.

{ X } ten (10) school days.

{ } twenty (20) school days.

{ } _____ school days.

5. Provide the written decision simultaneously to both parties. A copy of the written decision shall also be provided to the Compliance Officer/Title IX Coordinator.

Recordkeeping

The district shall maintain the following records for a period of a minimum of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies, or in the case of a complainant or respondent who is a minor, until the expiration of the longest statute of limitations for filing a civil suit applicable to any allegation:

1. Each Title IX sexual harassment investigation, including any written determination and any audio or audiovisual recording or transcript, and disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity.
2. Any appeal and the result.
3. Any informal resolution and the result.
4. All materials used to train the Compliance Officer/Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process.
5. Records of any district actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment. In each instance, the district shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If a district does not provide a complainant with

supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

Octorara Area School District

228 HIGHLAND ROAD, SUITE 1, ATGLEN, PA 19310-1603

Phone: (610) 593-8238 ♦ Fax: (610) 593-6425 ♦ www.octorara.k12.pa.us



ADDRESSED TO: **Alleged Victim's Parents/Guardians**

RE: **Report** of discrimination made on **[DATE]** on behalf of **[STUDENT]**

Dear _____:

On **[DATE]** you met with **[NAME OF: BUILDING PRINCIPAL, COMPLIANCE OFFICERTITLE IX COORDINATOR]** to discuss an alleged violation of ~~**[SCHOOL-DISTRICT'S]**~~ **Octorara Area School District** Policy No. 103, prohibiting Title IX sexual harassment and other discrimination affecting students. The allegations involved **[VERY BRIEF DESCRIPTION OF INCIDENT OR GENERAL INCIDENTS WITHOUT NAMING NAMES, e.g. that a fellow student reported a teacher in the high school inappropriately texted your child suggesting they have dinner together; that your student reported a classmate in math class has been touching their thigh every day and talking about how cute they are, making them uncomfortable; that a custodian reported hearing an identified group of students use racial slurs against your child; that your child reported to you that a teacher criticized your family's religion as being terroristic, etc.]**.

In this discussion, you stated that you wish to maintain confidentiality and do not consent to **[STUDENT'S]** participation in an investigation. Because the district has a legal obligation to address potential violations of Policy 103, the district will conduct an investigation and maintain confidentiality to the extent this is consistent with the district's obligations to address and prevent violations of this policy. Any violations of policy which may be uncovered through this investigation will be addressed. The ~~**[SCHOOL-DISTRICT]**~~ **Octorara Area School District** prohibits retaliation against any individual who has made a complaint, and alleged victims or individuals who participate in related investigations. If at any time you wish to withdraw your request for confidentiality and have your child participate in the investigation, please notify me immediately. If at any time your child believes there have been additional violations of Policy 103, including any retaliatory behavior, please contact me at your earliest convenience to permit the district to properly address such matters. This will be treated as a new complaint with a new opportunity to determine your child's participation.

Feel free to contact me with any questions. My contact information is:

Sincerely,

Compliance Officer/Title IX Coordinator



Book	Policy Manual
Section	100 Programs
Title	Discrimination/Title IX Sexual Harassment Affecting Staff
Code	104
Status	First Reading

Authority

The Board declares it to be the policy of this district to provide to all persons equal access to all categories of employment in this district, regardless of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. The district shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)[\[11\]](#)[\[12\]](#)

The Board also declares it to be the policy of this district to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the district may be referred to the Compliance Officer/Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the district's website.

The Board requires a notice stating that the district does not discriminate in any manner, including Title IX sexual harassment, in any district education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the district. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Officer~~and~~/Title IX Coordinator.

Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages employees and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination or retaliation to promptly report such incidents to the building principal or building administrator. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

If the building principal or building administrator is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the Compliance Officer/Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the

procedures of this policy and the relevant attachments followed.

The building principal or building administrator shall promptly notify the Compliance Officer/Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The Compliance Officer/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Board policies.

Disciplinary Procedures when Reports Allege Title IX Sexual Harassment

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints outlined in Attachment 3. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.

Administrative Leave –

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused, nonstudent district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be handled in accordance with applicable law, regulations, this policy, the attachments and the district's legal and investigative obligations.[\[13\]](#)[\[14\]](#)[\[15\]](#)[\[16\]](#)[\[17\]](#)

Retaliation

The Board prohibits retaliation by the district or any other person against any person for:[\[16\]](#)

1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.
2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Compliance Officer/Title IX Coordinator immediately if they believe retaliation has occurred.

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

Discrimination

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Harassment is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance, including when: [\[9\]](#)

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

Definitions Related to Title IX Sexual Harassment

Formal complaint shall mean a document filed by a complainant or signed by the Compliance Officer/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation under the grievance process for formal complaints. The authority for the Compliance Officer/Title IX Coordinator to sign a formal complaint does not make the Compliance Officer/Title IX Coordinator a party in the grievance process for formal complaints. The phrase "document filed by a complainant" refers to a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. [\[15\]](#)[\[18\]](#)

Supportive measures shall mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. [\[18\]](#)

Supportive measures shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to: [\[18\]](#)

1. Counseling or Employee Assistance Program.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Mutual restrictions on contact between the parties.
6. Changes in work locations.
7. Leaves of absence.

8. Increased security.
9. Monitoring of certain areas of the campus.
10. Assistance from domestic violence or rape crisis programs.
11. Assistance from community health resources including counseling resources.

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
[\[18\]](#)

1. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
 - a. **Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:[\[19\]](#)
 - i. Length of relationship.
 - ii. Type of relationship.
 - iii. Frequency of interaction between the persons involved in the relationship.
 - b. **Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.[\[19\]](#)
 - c. **Sexual assault** means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.[\[20\]](#)
 - d. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:[\[19\]](#)
 - i. Fear for their safety or the safety of others.
 - ii. Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.[\[14\]](#)
[\[15\]](#)[\[18\]](#)

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the [\[21\]](#)

[The district may choose the same or different individuals to fulfill the roles of Compliance Officer and Title IX Coordinator. If designating one (1) individual to fulfill both responsibilities, select the first option and enter the appropriate position title. If designating two (2) individuals to fulfill the separate responsibilities, select the second option and enter the appropriate position titles.]

{X } _Director of Student Services_____ as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: 228 Highland Road, Suite 1; Atglen, PA 19310

Email: chilbolt@octorara.org

Phone Number: 610-593-8238 ext 30519

~~{ } _____ as the district's Compliance Officer and _____
as the district's Title IX Coordinator.~~

~~The Compliance Officer can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

~~The Title IX Coordinator can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

The Compliance Officer~~and~~/Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the district's nondiscrimination procedures in the following areas, as appropriate:

1. Review - Review of personnel practices and actions for discriminatory bias and compliance with laws against discrimination to include monitoring and recommending corrective measures when appropriate to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; district designed performance evaluations; review of planned employee demotions, non-renewal of contracts, and proposed employee disciplinary actions up to and including termination.
2. Training - Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination.
3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the ~~school~~ district complaint procedure or Title IX procedures, such as making reports to the police, and available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources including counseling resources.
4. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.

Guidelines

Title IX Sexual Harassment Training Requirements

The Compliance Officer~~and~~/Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the following training, as required or appropriate to their specific role:

1. Definition of sexual harassment.
2. Scope of the district's education program or activity, as it pertains to what is subject to Title IX regulations.
3. How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable.
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
5. Use of relevant technology.
6. Issues of relevance including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
7. Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence.
8. How to address complaints when the alleged conduct does not qualify as Title IX sexual harassment but could be addressed under another complaint process or Board policy.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the district's website.

Disciplinary Consequences

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.[22][23][24][25]

Reports of Discrimination

Any reports of discrimination that are reviewed by the Compliance Officer/Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, genetic information, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.

Reports of Title IX Sexual Harassment

Any reports deemed by the Compliance Officer/Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 to this policy.

Legal

- [1. 43 P.S. 336.3](#)
- [2. 43 P.S. 951 et seq](#)
- [3. 34 CFR Part 106](#)
- [4. 20 U.S.C. 1681 et seq](#)
- [5. 29 U.S.C. 206](#)
- [6. 29 U.S.C. 621 et seq](#)
- [7. 29 U.S.C. 794](#)
- [8. 42 U.S.C. 1981 et seq](#)
- [9. 42 U.S.C. 2000e et seq](#)
- [10. 42 U.S.C. 2000ff et seq](#)
- [11. 42 U.S.C. 12101 et seq](#)
- [12. U.S. Const. Amend. XIV, Equal Protection Clause](#)
- [13. 20 U.S.C. 1232g](#)
- [14. 34 CFR 106.44](#)
- [15. 34 CFR 106.45](#)
- [16. 34 CFR 106.71](#)
- [17. 34 CFR Part 99](#)
- [18. 34 CFR 106.30](#)
- [19. 34 U.S.C. 12291](#)
- [20. 20 U.S.C. 1092](#)
- [21. 34 CFR 106.8](#)
22. Pol. 317
23. Pol. 317.1
24. Pol. 806
25. Pol. 824
- [16 PA Code 44.1 et seq](#)
- [18 Pa. C.S.A. 2709](#)
- [28 CFR 35.140](#)
- [28 CFR Part 41](#)
- [29 CFR Parts 1600-1691](#)
- [EEOC Enforcement Guidance on Harris v. Forklift Sys., Inc., November 9, 1993](#)
- [EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999](#)
- [EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990](#)
- Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)
- Faragher v. City of Boca Raton, 524 U.S. 775 (1998)
- Pol. 320
- Pol. 815
- Pol. 832

104-Attach 1 Report Form.pdf (170 KB)

104-Attach 2 Discrimination.docx (40 KB)

104-Attach 3 Title IX.docx (75 KB)

DISCRIMINATION/SEXUAL HARASSMENT/RETALIATION REPORT FORM

The Board declares it to be the policy of this district to provide a safe, positive learning and working environment that is free from sexual harassment, other discrimination and retaliation. If you have experienced, or if you have knowledge of, any such actions, we encourage you to complete this form. The Compliance Officer/Title IX Coordinator will be happy to support you by answering any questions about the report form, reviewing the report form for completion and assisting as necessary with completion of the report. The Compliance Officer/Title IX Coordinator's contact information is:

Position:

Address:

Email:

Phone Number:

Retaliation Prohibited

The district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against you for making this report. Please contact the Compliance Officer/Title IX Coordinator immediately if you believe retaliation has occurred.

Confidentiality

Confidentiality of all parties, witnesses, the allegations and the filing of a report shall be handled in accordance with Board policy, procedures, and the district's legal and investigative obligations. The school-district will take all reasonable steps to investigate and respond to the report, consistent with a request for confidentiality as long as doing so does not preclude the school-district from responding effectively to the report. If you have any questions regarding how the information contained in this report may be used, please discuss them with the Compliance Officer/Title IX Coordinator prior to filing the report. Once this report is filed, the district has an obligation to investigate the information provided.

Note: For purposes of Title IX sexual harassment, this Report Form serves initially as an informal report, not a formal complaint of Sexual Harassment under Title IX.

I. Information About the Person Making This Report:

Name: _____

Address: _____

Phone Number: _____

Assigned School Building(s):

I am a:

☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If you are not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is:

☐ Another Employee ☐ Student

☐ Other: _____ (please explain relationship to the alleged victim)

II. Information About the Person(s) You Believe is/are Responsible for the Harassment, Retaliation or Other Discrimination You are Reporting

What is/are the name(s) of the individual(s) you believe is/are responsible for the conduct you are reporting?

Name(s):

The reported individual(s) is/are:

☐ Student(s) ☐ Employee(s)

☐ Other _____ (please explain relationship to the district)

III. Description of the Conduct You are Reporting

In your own words, please do your best to describe the conduct you are reporting as clearly as possible. Please attach additional pages if necessary:

When did the reported conduct occur? (Please provide the specific date(s) and time(s) if possible):

Where did the reported conduct take place?

Please provide the name(s) of any person(s) who was/were present, even if for only part of the time.

Please provide the name(s) of any other person(s) that may have knowledge or related information surrounding the reported conduct.

Have you reported this conduct to any other individual prior to giving this report?

☐ Yes ☐ No

If yes, who did you tell about it?

If you are the victim of the reported conduct, how has this affected you?

I certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge. I understand that any false information provided herein is subject to penalties contained in 18 Pa. C.S.A. Sec. 4904, relating to unsworn falsification to authorities.

Signature of Person Making the Report

Date

Received By

Date

FOR OFFICIAL USE ONLY

*This section is to be completed by the **Compliance Officer**/Title IX Coordinator based on reviewing the report with the complainant or other individual making the report.*

*The purpose of this form is to assist the **Compliance Officer**/Title IX Coordinator in gathering information necessary to properly assess the circumstances surrounding the reported conduct to determine if the allegations fall under the definition of Title IX sexual harassment or if the matter merits review and action under other Board policies. The **Compliance Officer**/Title IX Coordinator shall gather as much information as possible in cases of incomplete or anonymous reports (including those that may be received through the Safe2Say Something program) to assess the report.*

*Upon receipt of the report, The **Compliance Officer**/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures as described in Policy 104 and Attachment 3. The **Compliance Officer**/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.*

I. Reporter Information:

Name: _____

Address: _____

Phone Number: _____

Assigned School Building(s):

Reporter is a:

☐ Employee ☐ Volunteer ☐ Visitor

☐ Other _____ (please explain relationship to the district)

If the reporter is not the victim of the reported conduct, please identify the alleged victim:

Name: _____

The alleged victim is:

☐ Another Employee ☐ Student

☐ Other: _____ (please explain relationship to the alleged victim)

II. Respondent Information

Please provide the name(s) of the individual(s) believed to have conducted the reported violation:

Name(s):

The reported respondent(s) is/are:

☐ Student(s) ☐ Employee(s)

☐ Other _____ (please explain relationship to the district)

III. Level of Report:

☐ Informal ☐ Formal (see additional information below on Title IX formal complaints)

IV. Type of Report:

☐ Title IX Sexual Harassment ☐ Discrimination ☐ Retaliation ☐ Other _____

Nature of the Report (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Race | <input type="checkbox"/> Age |
| <input type="checkbox"/> Color | <input type="checkbox"/> Creed |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Ancestry |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Pregnancy |
| <input type="checkbox"/> Handicap/Disability | <input type="checkbox"/> Genetic Information |

V. Reported Conduct

Describe the reported conduct below, including specific actions, dates, times, locations and any other details necessary to properly assess the reported incident(s).

How often did the conduct occur?

Is it being repeated? ☐ Yes ☐ No

Do the circumstances involve a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act?

☐ No.

☐ Yes, please identify the student with a disability and contact the Director of Special Education.

Date Director of Special Education was contacted: _____

How has the conduct affected the alleged victim's ability to fully participate in the ~~school~~district's programs or activities in the course of ~~school~~district employment?

What is the alleged victim's relationship with the alleged respondent?

Insert names, descriptions, and/or contact information of individuals believed to have observed the conduct or who otherwise may have knowledge of the conduct and/or related circumstances.

Additional observations or evidence including pictures, texts, emails, video or other information submitted to the Compliance Officer/Title IX Coordinator.

VI. Safety Concerns

Are there safety concerns that may require Emergency Removal or Administrative Leave of a respondent? (This requires an individualized safety and risk analysis as to whether there is an immediate threat to the physical health or safety of an individual.)

☐ No.

☐ Yes, please describe:

VII. Other Reports

Has the conduct been reported to the police or any other agency?

☐ No

☐ Yes Date reported: _____ Agency: _____

VIII. Identification of Policies Implicated by Reported Conduct

Check all that apply:

☐ Policy 103. Discrimination/Title IX Sexual Harassment Affecting Students

☐ Policy 104. Discrimination/Title IX Sexual Harassment Affecting Staff

☐ Other _____

To meet the definition of Title IX sexual harassment, the conduct must have taken place during a district education program or activity involving a person in the United States. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the sexual harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.

Did the incident occur during a school-district program or activity involving a person in the United States?

☐ Yes

☐ No

To meet the definition of Title IX sexual harassment, the conduct needs to satisfy one or more of the following (please check all that apply):

☐ A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo sexual harassment.

☐ Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.

☐ Sexual assault, dating violence, domestic violence or stalking.

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:

- Length of relationship.
- Type of relationship.
- Frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Sexual assault means a sexual offense under a state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Stalking means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:

1. Fear for their safety or the safety of others.
2. Suffer substantial emotional distress.

IX. Recommended Course of Action

After consultation with the complainant and consideration of the reported information, the **Compliance Officer**/Title IX Coordinator directs the report to proceed under the provisions of (check all that apply):

☐ No further action at this time. Reason:

☐ Policy 104 Discrimination/Title IX Sexual Harassment Affecting Staff: Attachment 2 Discrimination Complaint Procedures

☐ Policy 104. Discrimination/Title IX Sexual Harassment Affecting Staff: Attachment 3 Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints

☐ Other _____

X. Title IX Information to Complainant

What supportive measures were discussed with the complainant, and what were the complainant's wishes with respect to supportive measures?

Upon designating a course of action under Title IX sexual harassment, the Compliance Officer/Title IX Coordinator will promptly:

1. Explain to the complainant the process for filing a formal complaint.
2. Inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint.
3. Determine what supportive measures may be offered to the respondent.
4. Determine whether the complainant wishes this report to be treated as a formal complaint.

XI. Compliance Officer/Title IX Coordinator Signature

I recommend the above course of action based on my consultation with the complainant and the information available at this time.

Compliance Officer/Title IX Coordinator: _____

Date: _____

XII. Title IX Formal Complaint Action

The Compliance Officer/Title IX Coordinator shall have the complainant check the appropriate box and sign and date below to indicate whether or not the complainant wishes to have this form serve as a formal complaint pursuant to Title IX.

I would like my report to be treated as a formal complaint of sexual harassment pursuant to Title IX.

☐ Yes ☐ No

Complainant's Signature: _____

Date: _____

If the complainant does not wish this report to be treated as a formal complaint pursuant to Title IX, the Compliance Officer/Title IX Coordinator must assess whether actions limited to supportive measures are a sufficient response to alleged behavior, or whether instead a formal complaint process is necessary to investigate and address the situation adequately. For example, if disciplinary action would be warranted if allegations are true, if the respondent is a supervisor, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be clearly unreasonable not to initiate the formal complaint process. The Compliance Officer/Title IX Coordinator may consult with the ~~school~~-district solicitor and other district official in making this decision.

As Compliance Officer/Title IX Coordinator, I have determined that, notwithstanding the complainant's preference, it is necessary to proceed with the Grievance Process for Formal Complaints for the following reasons:

Therefore, I am signing this form for the purpose of serving as the formal complaint initiating that process:

Compliance Officer/Title IX Coordinator's Signature: _____

Date: _____

DISCRIMINATION COMPLAINT PROCEDURES

The Discrimination Complaint Procedures prescribed in this Attachment apply to reports of retaliation or discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability that do not constitute Title IX sexual harassment as defined in Policy 104.

All reports of discrimination shall be reviewed by the Compliance Officer/Title IX Coordinator upon receipt to determine if the allegations meet the definition and parameters of sexual harassment under Title IX. If the result of this review determines that the allegations fall within the scope of Title IX sexual harassment, then the process set forth in Policy 104 Attachment 3 for Title IX Sexual Harassment shall be followed.

[Note: if the same individual is assigned to the roles of Title IX Coordinator and Compliance Officer through Policy 104, please revise the terminology in this Attachment 2 to reflect the position of Title IX Coordinator/Compliance Officer throughout.]

All reports of discrimination and retaliation brought pursuant to the district's discrimination policy shall also be reviewed for conduct which may not be proven discriminatory under Policy 104 but merits review and possible action under other Board policies or the Code of Student Conduct for students. (Pol. 103.1, 218,317)

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual who has been reported to be the perpetrator of the alleged conduct.

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Harassment is a form of discrimination based on the protected classifications listed in the policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or

put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance, including when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report discrimination or harassment, participate in an investigation or other process addressing discrimination or harassment, or act in opposition to discriminatory practices.

Reasonable Accommodations

Throughout the discrimination complaint procedures, the district shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 104, 113, 832, 906)

Required Reporting Under Other Policies

In addition to implementing the disciplinary complaint procedures, the building principal, building administrator or Compliance Officer/Title IX Coordinator shall ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse. (Pol. 218, 317.1, 805.1, 806, 824)

Timeframes

Reasonably prompt timeframes shall be established for completing each step of the discrimination complaint procedures, including timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent,

and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities.

PROCEDURES FOR COMPLAINTS OF DISCRIMINATION

Step 1 – Reporting

An employee or individual who believes they have been subject to discrimination by any district student, employee or third party is encouraged to immediately report the incident to the building principal using the Discrimination/Sexual Harassment/Retaliation Report Form or by making a general report verbally or in writing to the building principal or building administrator. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

If a student is identified as a party in the report, parents/guardians have the right to act on behalf of the student at any time.

Any person with knowledge of discrimination in violation of Board policy or this procedure is encouraged to immediately report the matter to the building principal or building administrator.

The building principal or building administrator shall immediately notify the Compliance Officer/Title IX Coordinator ~~and Compliance Officer~~ of the reported discrimination.

If the building principal or building administrator is the subject of a complaint, the person making the report shall report the incident directly to the Compliance Officer/Title IX Coordinator ~~and/or Compliance Officer~~.

The complainant or reporting individual shall be encouraged to use the Discrimination/Sexual Harassment/Retaliation Report Form, however, complaints shall be accepted in person, by telephone, by mail or email, or by any other means that results in the appropriate individual receiving the individual's verbal or written report. Verbal reports shall be documented using the Discrimination/Sexual Harassment/Retaliation Report Form, and these procedures shall be implemented.

The Compliance Officer/Title IX Coordinator shall review reports and complaints, and may gather additional information from the individual submitting the report and other parties identified in the report using the Discrimination/Sexual Harassment/Retaliation Report Form. The Compliance Officer/Title IX Coordinator

shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in this Attachment 2, or if the reported circumstances meet the definition and parameters of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other applicable Board policies.

If the Compliance Officer/Title IX Coordinator determines that the report should be addressed through the discrimination complaint procedures, ~~the Compliance Officer shall be notified and~~ the complaint procedures in this Attachment 2 shall be implemented.

When a party is an identified student with a disability, or thought to be a student with a disability, the Compliance Officer/Title IX Coordinator shall notify the Director Supervisor of Special Education and coordinate to determine whether additional steps must be taken for the party, while the discrimination complaint procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations or Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2, 113.3)

Step 2 – Initial Communications/Supports

The complainant shall be informed about the Board's policy on discrimination, including the right to an investigation of both verbal and written reports of discrimination.

The building principal, building administrator or designee, in consultation with the Compliance Officer, ~~and~~ Title IX Coordinator and other appropriate individuals, shall promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The building principal, building administrator or designee may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. The person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The building principal or Compliance Officer/Title IX Coordinator shall provide relevant information on resources available in addition to the discrimination complaint procedure, such as

making reports to the police, available assistance from domestic violence or rape crisis programs and community health resources, including counseling resources.

Informal Remedies -

At any time after a complaint has been reported, if the Compliance Officer/Title IX Coordinator believes the circumstances are appropriate, the Compliance Officer/Title IX Coordinator may offer the parties involved in the complaint the opportunity to participate in informal remedies to address the reported conduct. Informal remedies can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services such as an Employee Assistance Program, or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal remedies shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation to indicate agreement with the resolution and receive a copy, and forward it to the Compliance Officer/Title IX Coordinator.

The Compliance Officer/Title IX Coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies, and shall document all appropriate actions.

*If the informal remedies result in the final resolution of the complaint, the following steps are not applicable.

Step 3 – Investigation

The Compliance Officer/Title IX Coordinator shall assess whether the investigation should be conducted by the building principal, building administrator another district employee, the Compliance Officer/Title IX Coordinator or an attorney and shall promptly assign the investigation to that individual.

The Compliance Officer/Title IX Coordinator shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination and retaliation issues and Board policy, and how to conduct investigations and draft an investigative report.

The investigator shall work with the Compliance Officer/Title IX Coordinator to assess the anticipated scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the respondent may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from school-district property, school-district-sponsored activities or school district conveyances, the investigation may include inquiries related to these allegations to

determine whether they resulted in continuing effects such as harassment in school-district settings.

The investigation may consist of individual interviews with the complainant, the respondent, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians, if applicable, and witnesses shall be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer/Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations.

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation, and the reason for such delay shall be documented by the investigator.

Step 4 – Investigative Report

The investigator shall prepare and submit a written report to the Compliance Officer within

{ } twenty (20) school days

{ X } thirty (30) school days

{ } _____ school days

of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Compliance Officer/Title IX Coordinator to establish a different due date. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The investigative report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated Board Policy 104 and of any other violations of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into discrimination or harassment shall consider

the record as a whole and the totality of circumstances in determining whether a violation of Board policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the respondent shall be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written investigative report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The respondent shall not be notified of the individual remedies offered or provided to the complainant.

Step 5 – District Action

If the investigation results in a finding that some or all of the allegations of the discrimination complaint are founded and constitute a violation of Board policy, the district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the district education program or activity. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer/Title IX Coordinator shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If an investigation results in a finding that a different policy was violated separately from or in addition to violations of Policy 104 or these procedures, or that there are circumstances warranting further action, such matters shall be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary. (Pol. 113.1, 218, 233, 317)

Disciplinary actions shall be consistent with Board policies and administrative regulations, the Code of Student Conduct for students, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations. (Pol. 103, 104, 113.1, 218, 233, 317, 317.1)

Appeal Procedure

If the complainant or the respondent is not satisfied with a finding made pursuant to these procedures or with recommended corrective action, they may submit a written appeal to the Compliance Officer/Title IX Coordinator within fifteen (15) school days of receiving notification of the outcome of the investigation. If the Compliance Officer/Title IX Coordinator investigated the complaint, such appeal shall be made to the Superintendent.

The individual receiving the appeal shall review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The person handling the appeal shall prepare a written response to the appeal within

{ } five (5) school days.

{ } ten (10) school days.

{ } twenty (20) school days.

| { X } thirty (30) school days.

Copies of the response shall be provided to the complainant, the respondent and the investigator who conducted the initial investigation.

TITLE IX SEXUAL HARASSMENT PROCEDURES AND GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

The Title IX sexual harassment procedures and grievance process for formal complaints prescribed in this attachment apply only when a report includes allegations of sexual harassment subject to Title IX regulations. (34 CFR 106.44, 106.45)

All other reports or complaints of discrimination or retaliation shall follow the complaint procedures established in Policy 104 Attachment 2 regarding discrimination.

[Note: a live hearing process is not required for the grievance process for formal complaints in the K-12 setting. Language on a live hearing process is not included in these procedures, but the district may add language in consultation with the school solicitor.]

Definitions

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the district's **Compliance Officer**/Title IX Coordinator or any district official who has the authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school, other than the respondent.

Exculpatory evidence means evidence tending to exonerate the accused or helps to establish their innocence.

Inculpatory evidence means evidence tending to incriminate the accused or indicate their guilt.

Formal complaint means a document filed by a complainant or signed by the **Compliance Officer**/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation. The authority for the **Compliance Officer**/Title IX Coordinator to sign a formal complaint does not make the **Compliance Officer**/Title IX Coordinator the complainant or other party during the grievance process. The phrase “**document filed by a complainant**” refers to a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report conduct that may constitute discrimination or harassment, including Title IX sexual harassment, in accordance with Board policy and procedures, participate in an investigation or other process addressing discrimination or Title IX sexual harassment, or act in opposition to discriminatory practices.

The following actions shall not constitute retaliation:

1. An individual exercising free speech under the rights protected by the First Amendment.

2. The assignment of consequences consistent with Board policy when an individual knowingly makes a materially false statement in bad faith in an investigation. The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

Supportive measures mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Supportive measures shall be designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:

1. Counseling or Employee Assistance Program.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Mutual restrictions on contact between the parties.
6. Changes in work locations.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the campus.
10. Assistance from domestic violence or rape crisis programs.
11. Assistance from community health resources including counseling resources.

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. A district employee conditioning the provision of an aid, benefit, or district service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a district education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
 - a. **Dating Violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:
 - 1) Length of relationship.
 - 2) Type of relationship.
 - 3) Frequency of interaction between the persons involved in the relationship.
 - b. **Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
 - c. **Sexual assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - d. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:
 - 1) Fear for their safety or the safety of others.
 - 2) Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sexual harassment subject to Title IX regulations. An **education program or activity** includes the locations, events or circumstances over which the district exercises substantial control over both the respondent and the context in which the harassment occurs.

TITLE IX SEXUAL HARASSMENT PROCEDURES

General Response – (with or without a formal complaint)

Any person, whether the alleged victim or not, may report Title IX sexual harassment using the Discrimination/Sexual Harassment/Retaliation Report Form or by making a general report verbally or in writing to the building principal or building administrator, or by using the contact information listed for the Compliance Officer/Title IX Coordinator, or by any other means that results in the Compliance Officer/Title IX Coordinator receiving the person's verbal or written report. Upon receipt of a report, ~~school~~-district staff shall immediately notify the building principal or building administrator.

A report may be made at any time, including during nonbusiness hours. Verbal reports shall be documented by the Compliance Officer/Title IX Coordinator or employee receiving the report using the Discrimination/Sexual Harassment/Retaliation Report Form, and these procedures shall be implemented appropriately.

District staff who become aware of harassment or other discrimination affecting a staff member shall promptly report it to the building principal or building administrator.

If a student is identified as a party in the report, parents/guardians have the right to act on behalf of the student at any time.

When the district has actual knowledge of Title IX sexual harassment, the district is required to respond promptly and in a manner that is not deliberately indifferent, meaning not clearly unreasonable in light of the known circumstances.

All sexual harassment reports and complaints received by the building principal or building administrator shall be promptly directed to the Compliance Officer/Title IX Coordinator, in accordance with Board policy. The Compliance Officer/Title IX Coordinator shall use the Discrimination/Sexual Harassment/Retaliation Report Form to gather additional information from the reporter and/or other parties identified in the report, to determine if the allegations meet the definition and parameters for Title IX sexual harassment.

The Compliance Officer/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall initially assess whether the reported conduct:

1. Meets the definition of Title IX sexual harassment.

2. Occurred in a district program or activity under the control of the district and against a person in the United States.
3. Involves other Board policies or the Code of Student Conduct.
4. Indicates, based on an individualized safety and risk analysis, that there is an immediate threat to the physical health or safety of an individual.
5. Involves a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. (Pol. 103.1, 113)

If the result of this initial assessment determines that none of the allegations fall within the scope of Title IX sexual harassment, but the matter merits review and possible action under other Board policies, the Code of Student Conduct or Attachment 2 addressing Discrimination Complaints, then the Compliance Officer/Title IX Coordinator shall redirect the report to the appropriate administrator to address the allegations. (Pol. 103, 103.1, 113.1, 218, 317, 317.1)

If the result of the initial assessment determines that the allegations may constitute Title IX sexual harassment, the Compliance Officer/Title IX Coordinator shall promptly explain to the complainant the process for filing a formal complaint and inform the complainant of the continued availability of supportive measures with or without the filing of a formal complaint.

The Compliance Officer/Title IX Coordinator shall also determine what supportive measures may be offered to the respondent.

If any party is an identified student with a disability, or thought to be disabled, the Compliance Officer/Title IX Coordinator shall contact the Director-Supervisor of Special Education to coordinate the required actions in accordance with Board policy. (Pol. 113, 113.1, 113.2, 113.3)

Confidentiality regarding the supportive measures offered and the identity of the following individuals shall be maintained, except as may be permitted by law or regulations relating to the conduct of any investigation: (20 U.S.C. Sec. 1232g; 34 CFR Parts 99, 106; Pol. 113.4, 216, 324)

1. Individuals making a report or formal complaint.
2. Complainant(s).
3. Respondent(s).
4. Witnesses.

The district shall treat complainants and respondents equitably by:

1. Offering supportive measures to the complainant and may offer such measures to the respondent.

2. Following the grievance process for formal complaints before imposing disciplinary sanctions or other actions that are not supportive measures on the respondent.

Supportive Measures -

All supportive measures provided by the district shall remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. (34 CFR 106.44)

When a party is an identified student with a disability, or thought to be a student with a disability, the Compliance Officer/Title IX Coordinator shall notify the Director-Supervisor of Special Education and coordinate to determine whether additional steps must be taken as supportive measures for the party while the Title IX procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations or Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2, 113.3)

Reasonable Accommodations –

Throughout the Title IX sexual harassment procedures, the district shall make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for any party, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 104, 113, 832, 906)

Employee Disciplinary Procedures When Reports Allege Title IX Sexual Harassment -

When reports allege Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.

Administrative Leave –

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused, nonstudent district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

Required Reporting Under Other Policies -

In addition to implementing the Title IX sexual harassment procedures, the Compliance Officer/Title IX Coordinator shall ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents under the Safe Schools Act, reports of educator misconduct, threats, or reports of suspected child abuse. (Pol. 317.1, 805.1, 806, 824)

Timeframes

Reasonably prompt timeframes shall be established for the conclusion of the grievance process for formal complaints, including timeframes for the informal resolution process and timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action shall be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party, a party's advisor or a witness.
2. Concurrent law enforcement activity.
3. Need for language assistance or accommodation of disabilities.

Redirection or Dismissal of Title IX Formal Complaints

Formal complaints may be dismissed, if at any time during the investigation or written determination steps described below:

1. A complainant provides written notification of withdrawal of any allegations or of the formal complaint.
2. The respondent is no longer enrolled or employed by the district in a district program or activity.
3. Specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.

Only alleged conduct that occurred in the district's education program or activity, and against a person in the United States, may qualify as Title IX sexual harassment within the district's jurisdiction. If it is determined during the investigation or written determination steps below that none of the allegations, if true, would meet the definition and parameters of Title IX sexual harassment within the district's jurisdiction, the Compliance Officer/Title IX Coordinator shall dismiss the formal complaint under Title IX. If the matter merits review and possible action under other Board policies, the Code of Student Conduct or Attachment 2 addressing Discrimination Complaints, then the Compliance Officer/Title IX Coordinator shall redirect the report to the appropriate administrator to address the allegations.

Written notification shall be promptly issued to the parties simultaneously of any allegations found not to qualify or that are dismissed in compliance with Title IX. Written notification shall state whether the allegations will continue to be addressed pursuant to other Board policies, the Code of Student Conduct or Attachment 2 addressing Discrimination Complaints.

A dismissal may be appealed via the appeal procedures set forth in this Attachment.

Consolidation of Title IX Formal Complaints

The district may consolidate formal complaints against more than one (1) respondent, or by more than one (1) complainant against one or more respondents, or by one (1) individual against another individual, where the allegations of sexual harassment arise out of the same facts or circumstances.

GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

Step 1 – Formal Complaint

The district is required to initiate the grievance process for formal complaints when a complainant files a formal complaint. The Compliance Officer/Title IX Coordinator is also authorized to initiate this process despite a complainant's wishes when actions limited to supportive measures are not a sufficient response to alleged behavior, or when a formal complaint process is necessary to investigate and address the situation adequately. For example, if disciplinary action would be warranted if allegations are true, if the respondent is a supervisor, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be clearly unreasonable not to initiate the formal complaint process. Only the Compliance Officer/Title IX Coordinator is authorized to initiate the formal complaint process despite a complainant's wishes, but the Compliance Officer/Title IX Coordinator may consult with the school-district solicitor and other district officials in making this decision.

The complainant or the Compliance Officer/Title IX Coordinator shall use the designated section of the Discrimination/Sexual Harassment/Retaliation Report Form to file or sign a formal complaint.

The Compliance Officer/Title IX Coordinator shall assess whether the investigation should be conducted by the building principal, another district employee, the Compliance Officer/Title IX Coordinator or an attorney and shall promptly assign the investigation to that individual.

The Compliance Officer/Title IX Coordinator, investigator, decision-maker, or any individual designated to facilitate the informal resolution process, each must have completed the required training for such roles as designated in Board policy and shall not have a conflict of interest or bias for or against an individual complainant or respondent, or for or against complainants or respondents in general.

The respondent shall be presumed not responsible for the alleged conduct until a written determination regarding responsibility has been made at the conclusion of the grievance process for formal complaints.

Notice Requirements -

Upon receipt of a formal complaint, or when the Compliance Officer/Title IX Coordinator signs a formal complaint to initiate the grievance process for formal complaints, the Compliance Officer/Title IX Coordinator shall provide written notice to all known parties, and the parents/guardians of known parties, if applicable, providing the following information:

1. Notice of the district's grievance process for formal complaints and any informal resolution process that may be available.
2. Notice of the allegations potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
 - a. The identity of the parties involved, if known.
 - b. The conduct allegedly constituting sexual harassment.
 - c. The date and location of the alleged incident(s), if known.
3. A statement that a written determination regarding responsibility shall be made at the conclusion of the grievance process for formal complaints and, until that time, the respondent is presumed not responsible for the alleged conduct.
4. Notice that parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may inspect and review evidence.
5. Notice that Board policy and the district's Code of Student Conduct prohibits knowingly making false statements or knowingly submitting false information to school-district officials in connection with reports of misconduct or discrimination complaints.

6. Notice to all known parties of any additional allegations that the district decides to investigate during the course of the investigation.

Step 2 – Informal Resolution Process

[Note: The informal resolution process cannot be offered or used to facilitate a resolution for any formal complaint where the allegations state that an employee sexually harassed a student.]

At any time after a formal complaint has been filed, but prior to reaching a determination of responsibility, if the [Compliance Officer](#)/Title IX Coordinator believes the circumstances are appropriate, the [Compliance Officer](#)/Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process, which does not involve a full investigation and adjudication of the Title IX sexual harassment complaint.

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal Title IX sexual harassment complaints. Similarly, a district may not require the parties to participate in an informal resolution process.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services such as an Employee Assistance Program, or supportive measures.

When offering an informal resolution process, the [Compliance Officer](#)/Title IX Coordinator shall:

1. Provide the parties a written notice disclosing the following:
 - a. The allegations.
 - b. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process for formal complaints.

- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- 2. Obtain the parties' voluntary, written consent to the informal resolution process. As part of the consent process, all parties shall be informed of the rights being waived by agreeing to the informal resolution process, and shall acknowledge such agreement in writing.
- 3. The informal resolution process shall be conducted within
 - { } five (5) school days
 - { } ten (10) school days
 - { } twenty (20) school days
 - | {X } thirty (30) school days

of the parties' signed agreement for the informal resolution process.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal resolution process shall document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation and receive a copy, and forward it to the Compliance Officer/Title IX Coordinator. Within

{ } ten (10) school days

{ } twenty (20) school days

| {X } thirty (30) school days

after the complaint is resolved in this manner, the Compliance Officer/Title IX Coordinator shall contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies. The Compliance Officer/Title IX Coordinator shall document the informal resolution process, responses from all parties, and an explanation of why the district's response was not deliberately indifferent to the reported complaint of sexual harassment.

***If Step 2 Informal Resolution Process results in the final resolution of the complaint, the following steps are not applicable.**

Step 3 – Investigation

The designated investigator, if other than the Compliance Officer/Title IX Coordinator, shall work with the Compliance Officer/Title IX Coordinator to assess the scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation. The investigation stage shall be concluded within

{ } twenty (20) school days.

| { X } thirty (30) school days.

{ } _____ school days.

When investigating a formal complaint, the investigator shall:

1. Bear the burden of proof and gather evidence and conduct interviews sufficient to reach a written determination. During the process of gathering evidence, unless the district obtains the voluntary, written consent of the party, or the party's parent/guardian when legally required, the district cannot access, consider, disclose or otherwise use a party's records which are protected by legal privilege, such as those records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with providing treatment to the party. (For students - Pol. 113.4, 207, 209, 216; Safe2Say Something Procedures)
2. Objectively evaluate all available evidence, including inculpatory and exculpatory evidence.
3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

| { X } However the district may request a nondisclosure agreement be signed by the parties and their advisor(s), if any, stating that they will not disseminate or disclose evidence and documents exchanged in the investigation.

5. Provide the parties with the same opportunities to have others present during any interview or other meeting, including an advisor of the party's choice. The district may establish restrictions, applicable to both parties, regarding the extent to which the advisor may participate.
6. Provide written notice to any party whose participation is invited or expected during the investigation process with the following information, in sufficient time for the party to prepare to participate:
 - a. Date.
 - b. Time.
 - c. Location.

- d. Participants.
 - e. Purpose of all investigative interviews or other meetings.
7. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations, including evidence the district does not intend to rely on to reach a determination regarding responsibility and any inculpatory and exculpatory evidence, whether obtained from a party or other source.

If at any point the investigation expands to include additional allegations that were not included in the initial notice provided upon initiation of the grievance process for formal complaints, the investigator shall alert the Compliance Officer/Title IX Coordinator. The Compliance Officer/Title IX Coordinator shall provide written notice of the new allegations to the known parties.

Prior to the completion of the investigative report, the investigator shall:

1. Send to each party and the party's advisor, if any, the evidence subject to inspection and review in electronic or hard copy format.
2. Provide the parties at least ten (10) school days following receipt of the evidence to submit a written response.
3. Consider the written response prior to drafting the investigative report.

The investigator shall draft an investigative report that fairly summarizes relevant evidence and shall provide the investigative report to all parties and to the designated decision-maker.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer/Title IX Coordinator, who shall promptly inform law enforcement authorities about the allegations and make any additional required reports, in accordance with law, regulations and Board policy. (Pol. 218, 317.1, 805.1, 806)

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to request for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation and the reason for such delay shall be documented by the investigator.

In the course of an investigation, it is possible that conduct other than, or in addition to, Title IX sexual harassment may be identified as part of the same incident or set of circumstances. The fact that there may be Title IX sexual harassment involved does not preclude the district from

addressing other identified violations of Board policy or the Code of Student Conduct. If such other conduct is being investigated and addressed together with Title IX sexual harassment as part of the Title IX grievance process for formal complaints, disciplinary action normally should not be imposed until the completion of the Title IX grievance process for formal complaints; however, an employee may be placed on administrative leave in accordance with the provisions of this Attachment. A decision whether and when to take disciplinary action should be made in consultation with the ~~school~~district solicitor.

Step 4 – Written Determination and District Action

Designation of Decision-Maker -

To avoid any conflict of interest or bias, the decision-maker cannot be the same person as the Compliance Officer/Title IX Coordinator or the investigator. The responsibility as the decision-maker for complaints of Title IX sexual harassment shall generally be designated to the

{ } building principal.

{ X } Superintendent.

{ } Director of Student Services.

{ } _____ Other.

If the Superintendent has a conflict of interest or is a party in the formal complaint process, they shall disclose the conflict and the Compliance Officer/Title IX Coordinator shall designate another individual to serve as the decision-maker.

Written Determination Submissions -

A written determination of responsibility (written determination) must not be finalized less than ten (10) days after the investigator completes the investigative report and provides it to all parties. Before the decision-maker reaches a determination regarding responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, shall provide each party with the answers, and shall allow for additional, limited follow-up questions from each party.

Relevant questions for a party or witness must be submitted by each party within

{ } three (3) school days

{ } five (5) school days

{ X } ten (10) school days

following receipt of the investigative report. Follow-up questions must be submitted by each party within

{ } three (3) school days

{ } five (5) school days

{ X } ten (10) school days

of being provided the answers to the initial questions.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant as part of the follow-up questions and responses, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The decision-maker shall explain to the party proposing the questions about any decision to exclude a question as not relevant.

Written Determination -

The decision-maker must issue a written determination for the conduct alleged in formal complaints. To reach this determination, the decision-maker shall apply the preponderance of the evidence standard, meaning that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.

{ X } *[Note: Districts may consult with their school solicitor and decide to use the "clear and convincing evidence" standard, as permitted by the federal regulations, in place of the "preponderance of the evidence" standard. However, the legal disadvantages of this should be carefully considered with the school solicitor.]* ¶ The clear and convincing evidence standard, meaning that the party bearing the burden of proof must show that the truth of the allegations is highly probable.

In considering evidence, the decision-maker shall ensure credibility determinations are not based on an individual's status as a complainant, respondent or witness.

After considering all relevant evidence, the decision-maker shall issue a written determination that includes:

1. Identification of the allegations potentially constituting Title IX sexual harassment.
2. A description of the procedural steps taken from the receipt or signing of the formal complaint through the written determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence.
3. Findings of fact supporting the determination.
4. Conclusions regarding the application of the district's Board policies or Code of Student Conduct to the facts.
5. A statement of, and rationale for, the result as to each allegation, including:
 - a. Determination regarding responsibility.
 - b. Disciplinary sanctions.
 - c. Remedies designed to restore or preserve equal access to the district's education program or activity that will be provided by the district to the complainant. Such remedies may be punitive or disciplinary and need not avoid burdening the respondent.
6. The procedures, deadline and permissible bases for the complainant and respondent to appeal.

The written determination shall be provided to the parties simultaneously. The determination becomes final either:

1. On the date that the district provides the parties with the written decision of the result of the appeal, if an appeal is filed;
2. Or, if an appeal is not filed, on the date on which an appeal would no longer be considered timely, in accordance with the timeframe established for appeals in this Attachment.

The Compliance Officer/Title IX Coordinator shall be responsible to ensure that any remedies are implemented by the appropriate district officials and for following up as needed to assess the effectiveness of such remedies. Disciplinary actions shall be consistent with Board policies and administrative regulations, the Code of Student Conduct, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations, including specific requirements and provisions for students with disabilities. (Pol. 113.1, 218, 233, 317, 317.1)

Appeal Process

Districts must offer both parties the right to appeal a determination of responsibility and the right to appeal the district's dismissal of a Title IX formal complaint or any allegation in the Title IX formal complaint. The scope of appeals related to Title IX sexual harassment are limited to the following reasons for appeal as stated in the Title IX regulations:

1. A procedural irregularity that affected the outcome of the matter.
2. New evidence that that could affect the outcome was not reasonably available at the time the decision to dismiss or determination of responsibility was made.
3. The Compliance Officer/Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents generally that affected the outcome of the matter.

Written notice of a party's appeal shall be submitted to the Compliance Officer/Title IX Coordinator within

☐ five (5) school days

☒ ten (10) school days

☐ _____ school days

after the date of the written determination. Notice of appeal shall include a brief statement describing the basis for the appeal.

The Compliance Officer/Title IX Coordinator shall ensure that the designated appeal authority is not the same person as the decision-maker that reached the determination, the investigator, or the Compliance Officer/Title IX Coordinator. The designated appeal authority shall be the:

☐ District solicitor or outside counsel.

☐ Outside hearing officer.

☒ Business Manager (Other).

For all appeals, the designated appeal authority shall:

1. Provide written notice to the other party when notice of an appeal is filed and implement appeal procedures equally for both parties.
2. Provide both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the stated basis for the appeal. Supporting statements shall describe in detail as applicable the procedural irregularities asserted to have affected the outcome of the determination, the nature of any new evidence asserted to have affected the outcome, and the

nature of any bias asserted to have affected the outcome, with an explanation of how the outcome was affected by such factors. If evidence exists supporting the basis for appeal, it shall accompany the supporting statement, or it shall identify where such evidence may be found.

Supporting statements must be submitted to the appeal authority and provided to the other party within

{ } five (5) school days

{ X } ten (10) school days

{ } _____ school days

of the written notice of appeal.

Statements in opposition to the appeal shall be submitted within five (5) school days of the submission of supporting statements. If a statement in opposition to an appeal refers to any evidence beyond what is described in a supporting statement, it shall accompany the statement in opposition, or it shall identify where such evidence may be found.

The appeal authority may accept and consider evidence in support of or in opposition to an appeal in making any conclusions necessary to deciding the appeal. Alternatively, when the appeal authority determines that factors exist making it necessary for the decision-maker to further develop the evidentiary record relevant to the basis for appeal, the appeal authority may return the matter to the decision-maker for that limited purpose.

3. Determine whether the appeal meets the grounds for permitted reasons for appeal and justifies modifying the written determination.
4. Issue a written decision setting forth the respects, if any, in which the written determination is modified and the rationale for the result within

{ } five (5) school days.

{ X } ten (10) school days.

{ } twenty (20) school days.

{ } _____ school days.

5. Provide the written decision simultaneously to both parties. A copy of the written decision shall also be provided to the Compliance Officer/Title IX Coordinator.

Recordkeeping

The district shall maintain the following records for a period of a minimum of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies, or in the case of a complainant or respondent who is a minor, until the expiration of the longest statute of limitations for filing a civil suit applicable to any allegation:

1. Each Title IX sexual harassment investigation, including any written determination and any audio or audiovisual recording or transcript, and disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity.
2. Any appeal and the result.
3. Any informal resolution and the result.
4. All materials used to train the Compliance Officer/Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process.
5. Records of any district actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment. In each instance, the district shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.



Book	Policy Manual
Section	100 Programs
Title	Home Education Programs
Code	137
Status	First Reading
Adopted	December 14, 2020

Authority

Home education programs for students of compulsory school age residing in the district shall be conducted in accordance with state law and regulations.[\[1\]](#)[\[2\]](#)[\[3\]](#)

Definitions

Appropriate education - a program consisting of instruction in the required subjects for the time required by law and in which the student demonstrates sustained progress in the overall program.[\[2\]](#)

Hearing examiner - shall not be an officer, employee or agent of the Department of Education or of the district or intermediate unit of residence of the child in the home education program.

Home education program - a program conducted in compliance with law by the parent/guardian or person having legal custody of a child. A home education program shall not be considered a nonpublic school under the provisions of law.

Supervisor - the parent/guardian or person having legal custody of a child who is responsible for providing instruction, provided that such person has a high school diploma or its equivalent.

Delegation of Responsibility

The Superintendent or designee shall develop and distribute administrative regulations for registering and monitoring home education programs and maintaining appropriate records in accordance with law.

Guidelines

Notarized Affidavit

Prior to the commencement of the home education program, and annually thereafter on or before August 1, the parent/guardian or other person having legal custody of the child or children shall file a notarized affidavit with the Superintendent, ~~setting forth~~ which contains certification that the supervisor of the home education program and all adults living in the home and persons having legal custody of a child or children in the home education program have not been convicted of criminal offenses enumerated in School Code, in accordance with law. The affidavit shall include all the information required by law.[\[2\]](#)

Instructional Program

The instructional program for home education students shall include such courses as required by law.[\[2\]](#)

Loan of Instructional Materials

At the request of the supervisor, the district shall lend to the home education program copies of the school's planned courses, textbooks and curriculum materials appropriate to the student's age and grade level.[\[2\]](#)

Student Portfolio and Evaluations

For each student participating in the home education program, the supervisor shall:[\[2\]](#)

1. Maintain a portfolio of records and materials in accordance with applicable law.
2. Provide an annual written evaluation of the student's educational progress in accordance with the provisions of applicable law.

Graduation Requirements

The following minimum courses in grades 9 through 12 are established as a requirement for graduation in a home education program: four (4) years of English; three (3) years of mathematics; three (3) years of science; three (3) years of social studies; and two (2) years of arts and humanities.[\[2\]](#)

Diplomas

Students who complete all of the graduation requirements of the home education program shall receive a high school diploma issued by the supervisor or an approved diploma-granting organization.[\[2\]](#)

Students With Disabilities

A home education program meets compulsory attendance requirements for a student with a disability only when the program addresses the specific needs of the student and is approved by a teacher with a valid Pennsylvania certificate to teach special education, a licensed clinical psychologist or a certified school psychologist. Written notice of such approval must be submitted with the required affidavit.[\[1\]](#)

The supervisor may request that the district or intermediate unit of residence provide services that address the specific needs of a student with a disability.[\[1\]](#)

When the provision of services is agreed to by both the supervisor and the district or intermediate unit, all services shall be provided in ~~district~~ public schools or in a private school licensed to provide such programs and services.[\[1\]](#)

Appropriate Education/Compliance Determination

A home education evaluator shall certify that an appropriate education is occurring in the home education program. The supervisor shall submit the certification to the Superintendent by June 30 of each year. If the supervisor fails to submit the certification, the Superintendent shall send a letter to the supervisor notifying the supervisor that s/he has ten (10) days to submit the certification.[\[2\]](#)

If the Superintendent has a reasonable belief at any time during the school year that appropriate education may not be occurring in the home education program, ~~s/he~~ the Superintendent may submit a letter to the supervisor requiring an evaluation be conducted and that an evaluator's certification stating that an appropriate education is occurring shall be submitted to the district by the supervisor within thirty (30) days. The letter shall include the basis for the Superintendent's reasonable belief.[\[2\]](#)

If the Superintendent has a reasonable belief that the home education program is out of compliance, ~~s/he~~ the Superintendent shall submit a letter to the supervisor requiring a certification be submitted within thirty (30) days indicating the program is in compliance. The letter shall include the basis for the Superintendent's reasonable belief.[\[2\]](#)

As required by law, all letters shall be sent by certified mail, return receipt requested, and the time for submission of the requested documentation begins upon receipt of the letter.[\[2\]](#)

Hearings

If the supervisor fails to submit a certification as required, the Board shall provide a hearing by a qualified and impartial hearing examiner within thirty (30) days.[\[2\]](#)

If the hearing examiner finds that an appropriate education is not taking place in the home education program, the home education program will be determined out of compliance; and the student will be enrolled promptly in ~~the district~~ a public school, a nonpublic school or a licensed private academic school.[\[2\]](#)

If a home education program has been determined to be out of compliance, the supervisor or spouse of the supervisor of the home education program is prohibited by law from supervising a home education program for that child or children for a period of twelve (12) months from the date of such determination.

Appeal

The supervisor or Superintendent may appeal the decision of the hearing examiner to the Secretary of Education, Commonwealth Court or Court of Common Pleas. The home education program may continue during the appeals process.[\[2\]](#)

Transfers

If a home education program is relocating to another Pennsylvania school district, the supervisor must request from the Superintendent a letter of transfer for the home education program. The request must be made by registered mail thirty (30) days prior to relocation.[\[2\]](#)

The Superintendent shall issue the letter of transfer within thirty (30) days after receipt of the supervisor's registered mail request.[\[2\]](#)

The supervisor shall file the letter of transfer with the Superintendent of the new district of residence.[\[2\]](#)

If a home education program is out of compliance, the Superintendent shall inform the home education supervisor and Superintendent of the new district of residence of this status and the reason for denial of the transfer letter.[\[2\]](#)

If a home education program is in hearing procedures, the Superintendent shall inform the home education supervisor, hearing examiner and Superintendent of the new district of residence of this status and the reason for denial of the transfer letter.[\[2\]](#)

If the Superintendent is informed of pending proceedings related to a home education program relocating from a previous district to ~~the~~ this district, ~~s/he~~ the Superintendent shall continue the home education program until the appeal process in the previous district is finalized.[\[2\]](#)

Legal

[1. 24 P.S. 1327](#)

[2. 24 P.S. 1327.1](#)

[3. 22 PA Code 11.31a](#)

[24 P.S. 111](#)

[22 PA Code 11.33](#)

Pol. 203

Pol. 209



Book	Policy Manual
Section	100 Programs
Title	Extracurricular Participation by Home Education Students
Code	137.1
Status	First Reading
Adopted	December 14, 2020

Authority

The Board ~~shall~~ approves participation in the district's extracurricular activities and interscholastic athletic programs by a student enrolled in a home education program who meets all the ~~conditions~~ requirements stated in law and Board policy.^{[1][2][3][4][5]}

The Board shall not provide individual transportation for students enrolled in home education programs who participate in the district's extracurricular activities or interscholastic athletic programs. When the district provides transportation to and from an away competition, game, event or exhibition and requires district students to use district transportation, home education students shall be required to use the transportation provided by the district.

The Board may require the home education program to pay the cost of the expenses for a home education students' participation in the district's extracurricular activities or interscholastic athletic programs, when the same is expected of district students.

Guidelines

Students attending home education programs shall be given an equal opportunity to compete for positions and participate in district extracurricular activities and interscholastic athletic programs.

A home education student may participate in extracurricular activities and interscholastic athletic programs only at the school building the student would be assigned to if s/he was enrolled in the district.

Prior to trying-out or joining an activity, a home education student shall submit required documents and written verification of eligibility to the building principal or designee. Verification may include, but not limited to, attendance records, weekly grades or academic achievement or other documents demonstrating completion of eligibility criteria.

To be considered in attendance in accordance with Board policy, the home education student must participate in a full, normally scheduled academic program, in accordance with the planned home education program and submitted documentation.^{[5][6]}

The following conditions shall govern participation in the district's extracurricular activities and interscholastic athletic programs by home education students, who shall:

1. Be a resident of the district.
2. Meet the required eligibility criteria.[3][4]
3. Maintain appropriate insurance coverage, consistent with the coverage requirements for district students.[4]
4. Comply with Board policies and school rules and administrative regulations regarding extracurricular activities, interscholastic athletics, and student discipline conduct.[3][4][7]
5. Comply with policies, rules and regulations, or their equivalent, of the activity's governing organization.[1][2]
6. Meet attendance and reporting requirements established for all participants of the activity or program. [6]
7. Meet the requirements for physical examinations and physical fitness and any height and/or weight restrictions.[2][4]
8. Comply with all requirements and directives of the district staff, coaches, activity advisors, and administrators involved with the extracurricular activity or interscholastic athletic program.

Delegation of Responsibility

The ~~building principal~~ Superintendent or designee shall ~~ensure that home education students have access to information regarding the district's extracurricular activities and interscholastic athletic programs~~ post information regarding the availability of the district's extracurricular activities and interscholastic athletics programs, as well as a copy of this Board policy, on the district's publicly available website and provide participation information upon request by students enrolled in home education programs or their parents/guardians.

The building principal or designee shall receive and review verification from the parent/guardian or home education supervisor that a student has met and continues to meet the established eligibility criteria for an extracurricular activity or interscholastic athletic program.

The building principal or designee shall distribute information regarding eligibility criteria and student participation in extracurricular activities and interscholastic athletics ~~to all affected by them,~~ and information on the dates and times of physical examinations or medical tests provided to students by the district. Such information shall be distributed through student handbooks, other publications and on the district's publicly available website.

Legal

[1. 24 P.S. 511](#)

[2. 24 P.S. 1327.1](#)

3. Pol. 122

4. Pol. 123

5. Pol. 137

6. Pol. 204

7. Pol. 218



Book	Policy Manual
Section	100 Programs
Title	Participation in Cocurricular Activities and Academic Courses by Home Education Students
Code	137.2
Status	First Reading

Authority

The Board approves participation in the district's cocurricular activities and academic courses by a student enrolled in a home education program who meets all the requirements stated in law and Board policy.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)

Definition

Cocurricular activities - district activities that merge extracurricular activities with a required academic course, including but not limited to, band, orchestra and other activities that include a for-credit component that takes place during the school day.[\[1\]](#)[\[2\]](#)[\[4\]](#)

Guidelines

Students attending home education programs shall be given an equal opportunity to compete for positions and participate in district cocurricular activities and academic courses in accordance with Board policy on the same basis as other students enrolled full-time in the district.[\[1\]](#)[\[6\]](#)[\[7\]](#)

~~{ } including Junior Reserve Officers' Training Corps (JROTC) units offered for credit.[\[8\]](#)~~

A home education student may participate in cocurricular activities and academic courses only at the school building the student would be assigned to if the student was enrolled in the district.

Prior to trying-out or auditioning for a cocurricular activity or enrolling in an academic course, a home education student shall submit required documents and written verification of eligibility or completion of prerequisites to the building principal or designee. Verification may include, but not be limited to, attendance records, portfolio records documenting completion of curriculum or other documents demonstrating completion of eligibility criteria.[\[1\]](#)

The following conditions shall govern participation in the district's cocurricular activities and academic courses by home education students, who shall:

1. Be a resident of the district.
2. Meet the required eligibility criteria or their equivalent for the cocurricular activity or the prerequisites for the academic course.[\[1\]](#)[\[2\]](#)[\[9\]](#)
3. Comply with Board policies and ~~school~~ district rules and administrative regulations regarding student conduct in school and at ~~school~~ district-sponsored activities.[\[1\]](#)[\[2\]](#)[\[10\]](#)[\[11\]](#)[\[12\]](#)[\[13\]](#)

4. Comply with policies, rules and regulations, or their equivalent, of the cocurricular activity's governing organization, where applicable.
5. Meet attendance and reporting requirements established for all participants of the cocurricular activity or academic course, including any sign-in and sign-out procedures for school building attendance purposes. Home education students must participate in the full class period for an academic course, unless an exception has been granted in accordance with Board policy and ~~school~~ district rules.[14]
6. Comply with all Board policies, ~~school~~ district rules and requirements and directives of the district staff, activity advisors and administrators involved with the cocurricular activity or academic course.
[1]

Academic Courses

Students attending home education programs are eligible to enroll in district academic courses in accordance with law and Board policy, and may participate in academic courses equaling up to one-quarter (¼) of the school day for full-time district students.[1]

{X } Students enrolled in home education programs shall only be eligible to participate in cocurricular activities and/or academic courses that are scheduled in consecutive time periods during the school day if the student's parent/guardian is not able to provide supervision for the student between the scheduled cocurricular activities and/or academic courses.[1]

The district shall provide the student's home education program supervisor with a grade for each cocurricular activity and academic course completed by a student enrolled in a home education program, in accordance with Board policy and administrative regulations. The home education program supervisor shall be responsible for maintaining the material in the student's portfolio of records.[1][3][15]

Transportation

Parents/Guardians of home education students shall be responsible for transportation of students participating in district cocurricular activities and academic courses, except that a home education student may utilize district transportation to or from school during the times a bus is otherwise already operating, and space is available.[1]

Delegation of Responsibility

The Superintendent or designee shall post information regarding the district's cocurricular activities and academic courses, as well as a copy of this Board policy, on the district's publicly available website and provide participation information upon request by students enrolled in home education programs or their parents/guardians.

The building principal or designee shall request and review verification from the parent/guardian or home education program supervisor that a student has met and continues to meet the established eligibility criteria for a cocurricular activity or academic course.

~~{ } The Superintendent or designee shall establish administrative regulations for prioritization of enrollment in district cocurricular activities and academic courses based on the established number of allowable participants in designated activities and courses.[1]~~

{ } Prioritization may be based on academic achievement, demonstration of skills or competencies, record of conduct, and other designated criteria. Students attending home education programs shall have an equal opportunity to compete for enrollment in district activities and courses, in accordance with established administrative regulations.[1][6][7]

Legal

[1. 24 P.S. 1327.1](#)

2. Pol. 122

3. Pol. 137

4. Pol. 137.1

5. Pol. 137.3

6. Pol. 103

7. Pol. 103.1

[8. 10 U.S.C. 2031](#)

9. Pol. 105

10. Pol. 218

11. Pol. 222

12. Pol. 227

13. Pol. 235

14. Pol. 204

15. Pol. 212



Book	Policy Manual
Section	100 Programs
Title	Participation in Career and Technical Education Programs by Home Education Students
Code	137.3
Status	First Reading

Authority

The Board approves participation in a career and technical education program by a student enrolled in a home education program who meets all the requirements stated in law and Board policy.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)

Students attending home education programs shall be eligible to participate in a career and technical education program

[Choose one or both options below, based on the district's career and technical education programs and the language in Policy 115.]

{X } at _____ (~~Career and Technical Center~~) a career and technical education program outside this district, in accordance with the Articles of Agreement and center admission policy and procedures, on the same basis as other district students.

{X } in this district, based on the requirements for admission to that program and Board policy, on the same basis as other district students.

Guidelines

Students attending home education programs shall be given an equal opportunity to [\[1\]](#)[\[3\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)

[Choose one or both options below, based on the district's career and technical education programs and the language in Policy 115.]

{X } apply for placement in available programs at _____ (~~Career and Technical Center~~), a career and technical education program outside this district.

{X } participate in district career and technical education programs.

Prior to enrolling in a career and technical education program, a home education student shall submit required documents and written verification of eligibility or completion of prerequisites to the building principal or designee. Verification may include, but not be limited to, attendance records, portfolio records documenting completion of curriculum or other documents demonstrating completion of eligibility criteria.

[\[1\]](#)

The following conditions shall govern participation in career and technical education programs by home education students, who shall:

1. Be a resident of the district.

2. Meet the required eligibility criteria or their equivalent or the prerequisites for the career and technical education program.[\[1\]](#)[\[4\]](#)[\[6\]](#)[\[9\]](#)

3. Comply with applicable policies and school rules and administrative regulations
[Choose one or both options below, based on the district's career and technical education programs and the language in Policy 115.]

{X } of _____ (~~Career and Technical Center~~) a career and technical education program outside the district

{X } of the district

regarding student conduct in ~~school~~ the district and at ~~school~~ district-sponsored activities.[\[1\]](#)[\[10\]](#)[\[11\]](#)[\[12\]](#)[\[13\]](#)

4. Meet attendance and reporting requirements established for all participants of the career and technical education program, including any sign-in and sign-out procedures for building attendance purposes. Home education students must participate in the required courses for the program on the same basis as students enrolled in the district, unless an exception has been granted in accordance with applicable Board policy and school or program rules.[\[14\]](#)

[Choose this option only for a career and technical education program operated by the district.]

{X } Students attending home education programs who enroll in a career and technical education program operated by the district shall be eligible to participate in the academic courses required for that career and technical education program in accordance with law and Board policy on participation in academic courses by home education students.[\[1\]](#)[\[6\]](#)

The

[Choose one or both options below, based on the district's career and technical education programs and the language in Policy 115.]

{X } _____ (~~Career and Technical Center~~) career and technical program outside the district

{X } district

shall provide the student's home education program supervisor with a grade for each career and technical education program course completed by a student enrolled in a home education program, in accordance with Board policy and administrative regulations. The home education program supervisor shall be responsible for maintaining the material in the student's portfolio of records.[\[1\]](#)[\[5\]](#)[\[15\]](#)

Transportation

Students attending home education programs who participate in career and technical education programs may use district transportation to or from the career and technical education program during the times when district transportation is already operating, and space is available in addition to full-time district students.[\[1\]](#)

Delegation of Responsibility

The Superintendent or designee shall post information regarding the district's options for career and technical education programs, as well as a copy of this Board policy, on the district's publicly available website and provide information upon request by students enrolled in home education programs or their parents/guardians.

The building principal or designee shall request and review verification from the parent/guardian or home education program supervisor that a student has met and continues to meet the established eligibility criteria for participation in career and technical education programs.

~~{ } The Superintendent or designee shall establish administrative regulations for prioritization of enrollment in career and technical education programs, [1]~~

~~{Choose one or both options below, based on the district's career and technical education programs and the language in Policy 115.}~~

-

~~{ } in accordance with the Articles of Agreement and the established number of allowable participants for designated programs at _____ (Career and Technical Center);~~

-

~~{ } based on the established number of allowable participants in designated district programs;~~

-

~~{ } Prioritization may be based on academic achievement, demonstration of skills or competencies, record of conduct, and other designated criteria. Students attending home education programs shall have an equal opportunity to compete for program enrollment, in accordance with established administrative regulations. [1][4][7][8]~~

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Legal

[1. 24 P.S. 1327.1](#)

[2. 24 P.S. 1801](#)

[3. 22 PA Code 4.31](#)

4. Pol. 115

5. Pol. 137

6. Pol. 137.2

7. Pol. 103

8. Pol. 103.1

9. Pol. 105

10. Pol. 218

11. Pol. 222

12. Pol. 227

13. Pol. 235

14. Pol. 204

15. Pol. 212