Book	Policy Manual
Section	100 Programs
Title	Discrimination/Title IX Sexual Harassment Affecting Students
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Authority

The Joint Operating Committee declares it to be the policy of the center to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the school 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 Joint Operating Committee also declares it to be the policy of the school 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 center may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The center 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 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 center and is prohibited at or, in the course of, center sponsored programs or activities, including transportation to or from the center or 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 Joint Operating Committee policy and procedures.[18][19][20][21]

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

The Joint Operating Committee requires a notice stating that the center does not discriminate in any manner, including Title IX sexual harassment, in any center education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding professional agreements with the center. 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 Joint Operating Committee 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 participating school district building administrator, even if some elements of the related incident took place or originated away from school grounds, school activities or school 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 participating school district building administrator.

A center's 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 administrator, as well as properly making any mandatory police or child protective services reports required by law.[22]

If the participating school district building administrator is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the 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 participating school district building administrator shall promptly notify the Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The 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 Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The 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 Joint Operating Committee 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 center 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.[19][21][23]

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][19][21][23]

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][21][23]

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 center (school)'s legal and investigative obligations. [24][25][26][27][28]

Retaliation

The Joint Operating Committee prohibits retaliation by the center or any other person against any person for:[27]

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 center, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the 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 the center.

Definitions Related to Title IX Sexual Harassment

Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the center investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the 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.[26][29]

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.[29]

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:[29]

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 Joint Operating Committee policy, and in coordination with the student's school district of residence.[17][23][30]

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:[29]

1. A center employee conditioning the provision of an aid, benefit, or 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 centers' 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:[31]

        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.[31]

    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. [32]

    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:[31]

        i. Fear for their safety or the safety of others.

        ii. Suffer substantial emotional distress.

Such conduct must have taken place during a center's 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 center exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a center's education programs or activities, whether such programs or activities occur on-campus or off-campus.[25][26][29]

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Joint Operating Committee designates the [33]

Administrative Director as the center's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: 145 East Cherry Street, McConnellsburg, PA 17233

Email: edamgaard@fcavts.org

Phone Number: 717-485-5813 Ext. 202

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 center'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 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. Center Support - Assure that like aspects of the center's programs and activities receive like support as to staffing and compensation, facilities, equipment, and related areas.

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, decision-maker, 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 center'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, conducting hearings (if applicable), 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 Joint Operating Committee 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 center'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][21]

1. Loss of school privileges.

2. Permanent transfer to another building, classroom or bus.

3. Exclusion from center sponsored activities.

4. Detention.

5. Suspension.

6. Expulsion.

7. Referral to law enforcement officials.

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Joint Operating Committee policy, and individual contract, up to and including dismissal and/or referral to law

enforcement officials.[20][34]

Reports of Discrimination

Any reports of discrimination that are reviewed by the 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 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.

PSBA Revision 7/20 © 2020 PSBA

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. 218
19. Pol. 233
20. Pol. 317
21. Pol. 113.1
22. Pol. 806
23. Pol. 113.2
24. 20 U.S.C. 1232g
25. 34 CFR 106.44
26. 34 CFR 106.45
27. 34 CFR 106.71
28. 34 CFR Part 99
29. 34 CFR 106.30
30. Pol. 113
31. 34 U.S.C. 12291
32. 20 U.S.C. 1092
33. 34 CFR 106.8
34. Pol. 317.1

18 Pa. C.S.A. 2709

20 U.S.C. 1400 et seq

28 CFR Part 41

28 CFR Part 35

34 CFR Part 100

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. 138

Pol. 216

Pol. 220

Pol. 247

Pol. 249

Pol. 251

Pol. 252

Pol. 320

Pol. 701

Pol. 815

Pol. 832

103-Attach 1 Report Form.pdf (169 KB)

103-Attach 2 Discrimination.docx (41 KB)

103-Attach 3 Title IX.docx (81 KB)

103-Attach 4 ConfidentialityTemplateLetter.docx (21 KB)