

NONDISCRIMINATION ON THE BASIS OF SEX/
SEXUAL HARASSMENT

The U.S. Department of Education has published regulations for implementing Title IX of the Education Amendments of 1972, which prohibits sex discrimination in federally assisted education programs.

Title IX states, in part: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal financial assistance."

The Board ensures compliance with Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964 and the regulations promulgated through the U.S. Department of Education.

All persons associated with the District, including, but not limited to, the Board, administration, staff, students, and third parties are expected to conduct themselves at all times so as to provide an atmosphere free from sex discrimination and sexual harassment. Sex discrimination and sexual harassment, whether verbal or nonverbal, occurring inside or outside of District buildings, on other District-owned property or at school-sponsored social functions/activities, is illegal and unacceptable and will not be tolerated. The District may have an obligation to investigate and/or respond to sexual harassment occurring off school grounds, when the harassment creates a hostile environment within the school setting. Any person who engages in sexual harassment while acting as a member of the school community is in violation of this policy.

The District takes measures to eliminate harassment, prevent its recurrence and address its effects, and will implement interim measures as deemed necessary.

Definition of Sexual Harassment: Unwelcome sexual advances, requests for sexual favors or other verbal, nonverbal, or physical conduct of a sexual nature may constitute sexual harassment when:

1. submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment or status in a class, educational program or activity;
2. submission to, or rejection of, such conduct by an individual is used as the basis for employment or education decisions affecting such individual or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance by creating an intimidating, hostile or offensive environment, or by interfering with one's ability to participate in or benefit from a class or educational program or activity.

Sexual violence is a form of sexual harassment and refers to physical sexual acts perpetrated against a person's will, or where a person is incapable of giving consent. Examples of sexual violence include but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

Sexual harassment includes gender-based harassment, which refers to unwelcome conduct based on an individual's actual or perceived sex, (including harassment based on gender identity and nonconformity with sex stereotypes), and not necessarily involving conduct of a sexual nature.

Examples of sexual harassment-type conduct may include, but are not limited to, unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; grooming; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic verbal commentary relating to an individual's body, sexual prowess or sexual deficiencies; coerced sexual activities; any unwanted physical contact; sexually suggestive or obscene comments or gestures; or displays in the workplace of sexually suggestive or obscene objects or pictures. Whether any act or comment constitutes sexual harassment-type conduct is often dependent on the individual recipient.

All of these types of harassment are considered forms of sex discrimination prohibited by Title IX.

The Board has developed informal and formal discrimination and harassment complaint procedures. The procedures provide for impartial investigation free from conflicts of interest. The Board also has identified disciplinary measures that may be imposed upon the offender. Nothing in this policy or procedure prevents an individual from pursuing action through State and/or Federal law, contacting law enforcement, or from filing a complaint with the United States Department of Education, Office of Civil Rights, the Ohio Civil Rights Commission or the Equal Employment Opportunity Commission.

The Board designates the following individual to serve as the District's Title IX Coordinator:

Title: Curriculum
Address: 6091 Ayers Rd., Albany, OH 45710
Phone number: (740) 698-8831

The Title IX Coordinator serves as the grievance officer and coordinates the District's efforts to comply with and carry out responsibilities under Title IX, including any complaint under Title IX. He/She is vested with the authority and responsibility for investigating all sexual harassment complaints in accordance with the procedures set forth in the accompanying regulation and staff and student handbooks.

Confidentiality/Retaliation

Sexual harassment matters, including the identity of both the charging party and the accused, are kept confidential to the extent possible, consistent with the Board's legal obligations to investigate. Although discipline may be imposed against the accused upon a finding of guilt, the District prohibits retaliation for an individual's participation in, and/or initiation of a sex discrimination/sexual harassment complaint investigation, including instances where the complaint is not substantiated. The District takes reasonable steps to prevent retaliation and takes strong responsive action if retaliation occurs.

[Adoption date: February 18, 2003]

[Re-adoption date: June 8, 2006]

[Re-adoption date: January 11, 2017]

LEGAL REFS.: Civil Rights Act, Title VI; 42 USC 2000d et seq.
Civil Rights Act, Title VII; 42 USC 2000e et seq.
Education Amendments of 1972, Title IX; 20 USC 1681 et seq.
Executive Order 11246, as amended by Executive Order 11375
Equal Pay Act; 29 USC 206
Ohio Const. Art. I, Section 2
ORC Chapter 4112

CROSS REFS.: AC, Nondiscrimination
GBA, Equal Opportunity Employment
GBD, Board-Staff Communications (Also BG)
GBH, Staff-Student Relations (Also JM)
IGDJ, Interscholastic Athletics
JB, Equal Educational Opportunities
JFC, Student Conduct (Zero Tolerance)
JFCF, Hazing and Bullying (Harassment, Intimidation and Dating Violence)
JHG, Reporting Child Abuse
Staff Handbooks
Student Handbooks

CONTRACT REFS.: Teachers' Negotiated Agreement
Support Staff Negotiated Agreement

NONDISCRIMINATION ON THE BASIS OF SEX/SEXUAL HARASSMENT GRIEVANCE PROCEDURES

The Board has created informal and formal discrimination and harassment grievance procedures, providing for a prompt and impartial investigation free of conflicts of interest. All students and District employees are required to fully cooperate when asked to participate in an investigation.

Members of the school community and third parties are encouraged to promptly report incidents of sex discrimination or sexual harassment. Complaints may be filed with any District employee, or directly with the Title IX Coordinator. District employees are required to report these incidents to the Title IX Coordinator upon becoming aware of an incident, and failure to do so may result in disciplinary action.

Complaints of sex discrimination or sexual harassment must be filed within 180 calendar days of the alleged incident, as delays in filing complaints can make it difficult to investigate. Both the informal and formal grievance procedures are completed within 60 days of the date the incident was reported to the Title IX Coordinator, unless extenuating circumstances exist. Periodic updates are made as appropriate during the investigation.

The Title IX Coordinator determines whether or not, by “a preponderance of the evidence,” the alleged victim’s allegations are true. “A preponderance of the evidence” means that evidence must show the alleged discrimination/sexual harassment was more likely than not to have occurred.

Pending the final outcome of an informal or formal investigation, the District institutes interim measures to protect the alleged victim and informs him/her of available support services. Interim measures may include, but are not limited to: a District-enforced no contact order, schedule changes, academic modifications for the alleged victim, and/or school counseling for the alleged victim. These measures should ensure the alleged victim continues to have equal access to all education programs and activities and the safety of all students is protected.

If any of the named officials are the accused or are the alleged victim, the Board designates an alternate investigator and retains final decision-making authority.

All matters involving sexual harassment complaints remain confidential to the extent possible.

Informal Procedure for Addressing Complaints

An informal grievance procedure can be used when the Title IX Coordinator deems it appropriate and/or when the parties involved (alleged victim and accused) agree that an informal process is appropriate and sufficient. The informal process is not used when the alleged discrimination or harassment may constitute sexual violence or any other criminal act.

The Title IX Coordinator gathers enough information during the informal process to understand and resolve the complaint. The Title IX Coordinator proposes an informal solution based on this fact-gathering process, which may include, but not be limited to: requiring the accused to undergo training on harassment/discrimination, requiring all students and staff to undergo such training, and instituting protective mechanisms for the alleged victim.

Either party has the right to terminate the informal procedure at any time and pursue a remedy under the formal grievance procedure.

Formal Procedure for Addressing Complaints

While the formal grievance procedure may serve as the first step toward the resolution of a charge of sex discrimination or sexual harassment, it also is available when the informal procedure fails to resolve the complaint.

Through the formal grievance procedure, the Title IX Coordinator attempts to resolve the complaint in the following way:

1. The Title IX Coordinator promptly confers with the charging party/alleged victim in order to obtain a clear understanding of that party's statement of the alleged facts. The statement is put in writing by the Title IX Coordinator and signed by the charging party/alleged victim as a testament to the statement's accuracy.
2. The Title IX Coordinator meets with the charged party in order to obtain his/her response to the complaint. The response is put in writing by the Title IX Coordinator and signed by the charged party as a testament to the statement's accuracy.
3. The Title IX Coordinator holds as many meetings with the parties and witnesses (if any) as are necessary to gather facts. The dates of meetings and the facts gathered are all put in writing. The investigation is adequate, reliable, impartial and prompt, and allows both parties an equal opportunity to present witnesses and other evidence.
4. At the conclusion of the investigation, the Title IX Coordinator prepares a written report summarizing: the evidence gathered during the investigation and whether the allegations were substantiated; whether any Board policies or student or employee codes of conduct were violated; any recommendations for corrective action. The investigation report indicates if any measures must be instituted to protect the alleged victim. Such measures may include, but are not limited to extending any interim measures taken during the investigation. The report also informs the alleged victim of available support services, which at a minimum includes offering school counseling services if the alleged victim is a student.

Notice of Outcome

Both the alleged victim and the accused are provided written notice of the outcome of the complaint.

If either party disagrees with the decision of the Title IX Coordinator, he/she may appeal to the Superintendent. After reviewing the record made by the Title IX Coordinator, the Superintendent may attempt to gather further evidence necessary to decide the case and to determine appropriate action to be taken. The decision of the Superintendent is final.

Disciplinary Action

Any disciplinary action is carried out in accordance with Board policies, student and employee codes of conduct, State and Federal law, and, when applicable, the negotiated agreement. When recommending discipline, the Title IX Coordinator considers the totality of the circumstances involved, including the ages and maturity levels of those involved. The Title IX Coordinator and the Superintendent determine if a recommendation for expulsion for an accused student or discharge for an accused employee should be made. If this recommendation is made and a hearing is required, the hearing shall be held in accordance with Board policy, State law and/or the negotiated agreement. Both the parties shall have an equal right to attend the hearing, have a representative and parent (if student) present, present evidence, and question witnesses.

(Approval date: February 18, 2003)

(Re-approval date: May 17, 2007)

(Re-approval date: January 11, 2017)