

## **SEX DISCRIMINATION AND SEXUAL HARASSMENT**

Pursuant to Title IX of the Education Amendments of 1972 and its implementing regulations, the Board of Education of the Steubenville City School District does not discriminate on the basis of sex in its educational programs or activities. When such discrimination is found to have occurred, the District shall take prompt and effective steps to eliminate the discrimination, prevent its recurrence, and address its effects.

The following person has been designated as the Title IX Coordinator to handle inquiries regarding this Policy:

Shana Wydra  
1400 West Adams Street  
Steubenville, OH 43952  
(740) 284-5613

The Title IX Coordinator is trained on the requirements of this Policy and is responsible for coordinating the District's efforts to comply with and carry out its responsibilities under Title IX, including the oversight of any investigation of any complaint brought under this policy.

Inquiries regarding Title IX may be referred to the Title IX Coordinator or the U.S. Department of Education's Office for Civil Rights, Cleveland Location, 1350 Euclid Avenue, Suite 325, Cleveland, OH 44115-1812, (216) 522-4970.

### **I. Prohibited Conduct**

This Policy applies to students, employees, and third parties.

"Prohibited Conduct" under this Policy includes all of the following, when they occur in the context of a District program or activity:

1. Discrimination on the basis of sex ("Discrimination")
2. Sexual Harassment
3. Gender-based, non-sexual harassment
4. Retaliation against individuals participating in an informal complaint or formal complaint brought under this Policy.

Prohibited Conduct is prohibited in connection with all District programs and activities, including all educational extracurricular, co-curricular, athletic, and other program of the District, regardless of whether those programs take place in District facilities, on a school bus, at a class or training program sponsored by the District at another location, or elsewhere.

A determination as to whether Prohibited Conduct has occurred can take into account incidents that occurred off school grounds and/or outside of the District's educational programs or activities, if the conduct is alleged to have created a hostile environment within the District's programs or activities.

For purposes of this Policy, it is presumed that all conduct of a sexual nature by a District employee directed toward a student is “unwelcome,” regardless of the age of the student. While such conduct may not always rise to the level of Prohibited Conduct under this Policy, such conduct is inappropriate, unprofessional, and shall result in disciplinary, educational, or other actions against the employee as appropriate.

#### **A. Discrimination**

Discrimination, for purposes of this Policy, includes any of the following, when they occur on the basis of sex:

1. Treating one student differently from another in determining whether the student satisfies any requirement or condition for the provision of any aid, benefit, or service;
2. Providing different aid, benefits, or services or providing aid, benefits, or services in a different manner;
3. Denying any student any such aid, benefit, or service;
4. Subjecting students to separate or different rules of behavior, sanctions, or other treatment;
5. Aiding or perpetuating discrimination against a student by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students; and
6. Otherwise limiting any student in the enjoyment of any right, privilege, advantage, or opportunity.

#### **B. Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature under one of the following circumstances:

1. Submission to or rejection of this conduct explicitly or implicitly affects an individual’s employment, academic performance, or educational environment; or
2. The conduct is sufficiently severe, persistent, or pervasive such that it limits the ability to participate in or benefit from the education program, or creates an intimidating, threatening, or abusive educational environment. This is considered from both an objective and subjective standpoint and takes into account relevant circumstances, expectations, and relationships.

Sexual harassment includes, but is not limited to:

1. unwelcome sexual advances;
2. request for sexual favors;
3. verbal, nonverbal, or physical conduct of a sexual nature;
4. sexual assault;
5. sexual violence.

### **C. Gender-Based, Non-Sexual Harassment**

Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, constitutes gender-based, non-sexual harassment under one of the following circumstances:

1. Submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, academic performance, or educational environment; or
2. The conduct is sufficiently severe, persistent, or pervasive such that it limits the ability to participate in or benefit from the education program, or creates an intimidating, threatening, or abusive educational environment. This is considered from both an objective and subjective standpoint and takes into account relevant circumstances, expectations, and relationships.

### **D. Retaliation**

Retaliation against any individual who files a complaint or participates in a harassment inquiry is strictly prohibited.

## **II. All Employees Must Report Prohibited Conduct**

All District employees who become aware of Prohibited Conduct are obligated to report such conduct to the Title IX Coordinator as soon as possible but in no case later than two (2) business days. District employees who fail to report Prohibited Conduct may be subject to discipline, up to and including termination.

Where Prohibited Conduct also may constitute child abuse or neglect, employees who are mandatory reporters are also required to report such abuse or neglect to Children Services and/or Law Enforcement, as is required by law. The Title IX Coordinator should be informed that such a report has been made when Prohibited Conduct is involved.

Where Prohibited Conduct may constitute a felony, all employees are required by law to make a report to law enforcement. See Section VI, below, for more information.

## **III. How to File a Complaint**

If a student, employee, or community member believes that they have been subject to Prohibited Conduct, they should immediately contact the Title IX Coordinator to discuss their options and rights under this Policy, as well as other available resources, including filing a complaint with law enforcement, accessing counseling services, or working with other community agencies that may provide assistance.

A Complainant is a person who has allegedly been subject to Prohibited Conduct, even if they are not the person who reports the Prohibited Conduct initially. A Respondent is a person who has allegedly committed Prohibited Conduct under this Policy.

A Complainant may pursue a complaint informally or formally. If allegations of Prohibited Conduct are reported by someone other than the Complainant, the Title IX Coordinator shall consult with the Complainant before determining, in his or her discretion, how to handle the allegations.

When a complaint comes to the attention of the Title IX Coordinator, the Title IX Coordinator shall consider whether interim measures of protection should be implemented during the complaint process to help ensure the safety and well-being of the Complainant and the school community. The Title IX Coordinator shall consult with the Complainant and/or their parent/guardian before determining the appropriate interim measures of protection, but interim measures of protection are within the sole discretion of the Title IX Coordinator.

Examples of interim measures that may be available include, but are not limited to, class/work schedule changes, seating changes, counseling, additional supervision of students, restrictions on contact between the parties, and academic or work accommodations.

#### **A. Informal Complaint Resolution**

Complainants may choose to file a complaint informally. The Complainant may submit a written statement, or, if preferred, speak with the Title IX Coordinator or another administrator who will write a summary of the allegations. The Title IX Coordinator will discuss with the Complainant and/or parent/guardian, if appropriate, ways in which the situation could be address informally. This may include dispute resolution mechanisms such as informal discussions, confidential mediation, educational sessions, or other informal resolutions as deemed appropriate by the Title IX Coordinator and agreed to by both the Complainant and Respondent. Informal resolution does not require that the Complainant resolve the problem directly with the Respondent.

Informal Complaint Resolution is generally available in all situations except where the allegations involve sexual assault. Either party may end the Informal Complaint Resolution process at any time, and the Complainant may choose instead to file a formal complaint. The Title IX Coordinator may also, in his or her discretion, determine that Informal Complaint Resolution is inappropriate in a given situation, such as where the allegations are sufficiently serious as to suggest a need for additional investigation and response by the District.

Where a complaint is resolved informally, the Title IX Coordinator shall document the resolution.

#### **B. Formal Complaint Resolution**

Complainants may choose to file a formal complaint with the Title IX Coordinator. The Complainant may submit a written statement; otherwise, the Title IX Coordinator will write a summary of the allegations. The Title IX Coordinator may conduct the investigation or may designate an unbiased individual, generally a building-level

administrator, to conduct the investigation. Where the Title IX Coordinator conducts the investigation, he or she may review and use initial investigative information provided by the building-level administrator if applicable. Investigations will be conducted in an adequate, reliable, and impartial manner.

Both the Complainant and Respondent will be provided with notice of the investigation and will be offered an equal opportunity to provide information regarding the allegations, suggest witnesses, and provide evidence to the investigator. The complaint may be investigated without the participation of one or both parties.

The investigation will generally be completed within thirty (30) business days, although this timeline may be extended for good cause by the Title IX Coordinator, such as where the investigation is complex, where the alleged conduct is serious or extensive, where there is a concurrent criminal investigation, or where the investigation occurs partially during school breaks. The Title IX Coordinator may, if appropriate, provide the parties with updates about the status of the investigation.

At the conclusion of the investigation, the investigator shall prepare a written report that identifies:

1. the allegations investigated;
2. the policies, handbook provisions, or other requirements that are alleged to have been violated;
3. a brief summary of the steps taken to investigate the allegations;
4. a brief summary of the evidence that was discovered;
5. a determination by a preponderance of the evidence as to whether there is sufficient information to support a finding that the policies/provisions were violated with regard to the allegations; and
6. if Prohibited Conduct is found to have occurred, whether any steps have already been or will be taken to eliminate the discrimination or harassment, prevent its recurrence, and address its effects.

If the Title IX Coordinator did not conduct the investigation, the investigator shall provide a copy of the written report to the Title IX Coordinator and the Title IX Coordinator shall, if appropriate, refer the report to the appropriate administrator(s) for disciplinary action, if such action has not already been taken. The range of disciplinary sanctions that may be available and appropriate include but are not limited to educational programs, detentions, in-school suspension, out-of-school suspension, expulsion, reprimand, involuntary leave, termination, and prohibition against entering District property or attending District activities.

In addition to the above, where the Title IX Coordinator did not conduct the investigation, the Title IX Coordinator shall consider whether any further steps are necessary to eliminate the discrimination or harassment, prevent its recurrence, and address its effects, and if so, such steps shall be documented in an attachment to the report.

At the conclusion of the process, each party shall be notified by the Title IX Coordinator as to whether Prohibited Conduct was determined to have occurred and any steps taken to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects. Notice provided shall be consistent with state and federal laws regarding confidentiality of student records.

#### **IV. Appeals**

Either party may appeal the determination by providing written notice to the Superintendent within five (5) business days of receiving notice of the conclusion of the investigation. Such appeal may be on the grounds of:

- Newly discovered evidence not available during the investigation;
- Procedural errors that substantively affected the outcome of the investigation to the appealing party's detriment; and/or
- An abuse of discretion on the part of the investigator.

The grounds for the appeal must be stated in the written appeal.

The other party will be notified of the appeal and will be given three (3) business days to respond to the appeal in writing to the Superintendent. The Superintendent will notify the parties in writing of his or her decision within ten (10) business days of receiving the appeal. The Superintendent may affirm the findings, reverse the findings, or alter the findings as deemed appropriate in his or her discretion. There is no further appeal from the determination of the Superintendent.

Any of the deadlines in this section may be extended by the Superintendent for good cause shown.

Note that appeals of disciplinary sanctions are not handled through this policy. Instead, they will be handled through the appeals procedures that would typically apply based on the identity of the respondent.

#### **V. Confidential Reporting and/or Request for No Action**

The District has an obligation to make reasonable efforts to investigate and address instances of Prohibited Conduct when it knows or should have known about such instances, regardless of the Complainant's cooperation and involvement.

Complainants may make a confidential report through the Title IX Coordinator. The Title IX Coordinator will evaluate the request for confidentiality and make a determination in his or her discretion as to the extent to which the District can adequately fulfill its obligations to address instances of Prohibited Conduct without revealing the identity of the Complainant. All complaints made under this Policy will be kept private to the extent possible consistent with the District's obligations under this Policy.

If allegations of Prohibited Conduct are brought to the attention of the Title IX Coordinator but the Complainant does not wish to pursue a complaint through this process, requests that such allegations are held in confidence, or refuses to respond to the Title IX Coordinator, the Title IX Coordinator will review the available information and make a determination in his or her discretion as to whether an investigation will be conducted.

Factors to consider in determining whether the District will pursue an investigation in these circumstances may include, but are not limited to, the ages and relationship of the Complainant and Respondent, the seriousness of the alleged misconduct, whether the complaint can be reasonably pursued without cooperation from the Complainant, whether any laws are alleged to have been violated, whether the Licensure Code of Professional Conduct for Ohio Educators is implicated, where the allegations include circumstances that suggest an increased risk of future Prohibited Conduct by the Respondent, and whether other Prohibited Conduct has been previously reported against the Respondent.

## **VI. Reporting to Law Enforcement**

Except in certain limited circumstances involving privileged communications, such as those between a counselor and patient, all Ohioans are required to report when they know that a felony has been or is being committed. Therefore, when a District employee has reason to believe that a sexual assault may have occurred, regardless of whether the assault is alleged to have occurred in relation to the District's programs or activities, the District employee is obligated to report that information to law enforcement as soon as possible. If the sexual assault occurs in relation to the District's programs or activities, the District employee must also report that information to the Title IX Coordinator and provide the Coordinator with information on when contact was made with law enforcement.

The District will cooperate fully with law enforcement investigations regarding Prohibited Conduct, and will communicate with law enforcement to coordinate its investigation under this Policy. It may be necessary to suspend the District's investigation temporarily to allow law enforcement to investigate criminal allegations while the law enforcement agency is in the process of gathering evidence. However, because legal standards for criminal investigations are different from those involved in investigating violations of District policy, police investigations or reports may or may not be determinative of whether Prohibited Conduct occurred under this Policy. If a temporary suspension in the District's investigation is requested by law enforcement, the District will promptly resume its Title IX investigation as soon as it is notified by the law enforcement agency that it may do so.

Where law enforcement requests personally identifiable information from educational records for purposes of its investigation, the District will comply with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g and 34 C.F.R. Part 99.

## **VII. Education**

The Title IX Coordinator shall work with other District staff members and/or outside resources as appropriate to plan and promote education and training sessions for employees and/or students regarding topics relevant to this policy.