



**Title IX Policy  
West Chester Area School District**

**Policy No. 104**

**Section 100**

**Title: Policy on Non-Discrimination Based On Sex**

**Purpose**

The West Chester Area School District (“District”)<sup>1</sup> is an educational entity that believes in ensuring a safe, nurturing, healthy and non-discriminatory learning and teaching environment for all members of the school community. The Board also believes in ensuring the opportunity for all members of the school community to reach their full potential through access and participation all District educational activities and programs.

**Statement on Non-Discrimination**

The West Chester Area School District does not discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, disability, ethnicity, national origin or age in its education programs and activities. The protection against discrimination extends to employment.

**Definitions**

For the purposes of this policy, the terms below have the following definitions:

***Complainant*** is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

***Consent*** exists when all parties exchange mutually understandable affirmative words or actions indicating their agreement to participate voluntarily in sexual activity. Consent must be informed, voluntary, and actively given. Resistance by the complainant is not required. Consent does not exist if the sexual act was by forcible compulsion which is the use of physical, intellectual, moral, emotional or psychological force. Consent does not exist if a person is threatened, unconscious, incapacitated due to the influence of drugs and/or alcohol, or suffers from a mentally disability that makes them incapable of giving consent. Consent may be withdrawn by either party at any time. Once withdrawal of consent has been expressed through words or actions, sexual activity must cease. Pennsylvania defines the age of consent as age 16 or above. Children under age 13 cannot consent to sexual activity. Children between the age of 13-15 cannot consent to sexual intercourse with a person four or more years older than them.

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<sup>1</sup> This policy is designed to meet the needs of school districts, intermediate units, technical education schools, and other K-12 school entities. For simplicity’s sake, the terms “district” and “school district” is used throughout.

**Decision- Maker** is the person or panel of people assigned by the Title IX Coordinator to conduct a fair and impartial review of all the facts and evidence in making a determination on the responsibility or non-responsibility of a respondent on a complaint of sexual harassment or in reviewing an outcome on appeal. A decision maker or decision- making panel must be unbiased and trained on the policies and procedures under Title IX that are applicable to serving as an adjudicator.

**Delays or Extensions** The overall time frame to conclude a grievance process must be “reasonably prompt”. A school can have good cause for any short-term delays or extensions, with written notice to the parties and an explanation for the delay or extension. Any delay or extension must be temporary or limited. Examples of good cause delays may include considerations such as concurrent law enforcement activity, the need for language assistance or accommodation of disabilities.

**Formal complaint** is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate (i.e. seeking admission or acceptance) in the education program or activity of the school district. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in this policy.

**Informal resolution** is an option to resolve a formal complaint in a mediation or restorative justice manner. An informal resolution can only be offered as an option to the parties if a formal complaint is filed. Once a formal complaint is received, at any time prior to reaching a determination regarding responsibility the school may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The Complainant and Respondent must each agree in writing that they want to participate in an informal resolution process. The District will provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution and that any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process. The informal resolution process is not available and cannot be offered to resolve any reported incident of an employee sexually harassing a student.

**Informal Resolution Facilitator** is the person assigned by the Title IX Coordinator to manage the Informal Resolution process. The informal resolution facilitator must be fair, impartial and trained in Title IX policy and procedures, specifically those dealing with mediation and restorative justice best practices.

**Investigator** is the person(s) assigned by the Title IX Coordinator to conduct a prompt fair and impartial investigation into the formal complaint. Investigator must be unbiased and trained in Title IX policy and procedures.

**Respondent** is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Sexual harassment** is conduct on the basis of sex that satisfies one or more of the following:

- (1) Quid Pro Quo - An employee of the school conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct;
- (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 the school's education program or activity; or
- (3) Sexual Assault is defined as –an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
- (4) Dating violence is violence committed by a person—
  - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - (i) The length of the relationship,
    - (ii) The type of relationship, and
    - (iii) The frequency of interaction between the persons involved in the relationship.
- (5) 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 grant monies, 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.
- (6) Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

**Standard of Proof:** [Insert the standard of review that the District determines they want to apply. Options are preponderance of the evidence, which is defined as “more likely than not” or clear and convincing. The same standard of proof is applied for matters involving students and matters involving employees]

**Supportive measures** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant regardless of whether a formal complaint has been filed or to the respondent after the filing of a formal complaint. Such measures are designed to restore or preserve equal

access to the school's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school's educational environment, or deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extensions of deadlines, modifications of work or class schedules, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the school, and other similar measures. School must keep confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the school to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

***Emergency removal.*** Schools may remove a respondent from the school's education program or activity on an emergency basis, provided that the school undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

***Administrative leave.*** A school can place a non-student employee respondent on administrative leave during the pendency of a grievance process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

### **Authority**

Title IX states "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal Financial Assistance."

In accordance with Title IX, the Board prohibits sexual harassment and discrimination on the basis of sex. Violations of this policy may result in disciplinary action in accordance with the Code of Student Conduct, Board policy, and applicable federal, state, and local law and regulations.

### **Guidelines**

#### **Title IX Coordinator**

Title IX Coordinator is responsible for ensuring the prompt, equitable and supportive response to all reports received under this policy. Specifically, the Title IX Coordinator responsibility includes, but is not limited to:

1. Monitoring the school district's compliance with Title IX, which includes explaining and providing supportive measures (to one or both parties);
2. Providing ongoing education and training on Title IX;
3. Overseeing, managing and directing the response to a reported complaint and, if applicable, investigation into any complaint that is covered under Title IX; and
4. Taking appropriate action to eliminate the harassing behavior, prevent its recurrence, and remedy its effect.

The school district has also designated a Deputy Title IX Coordinator (s) who may assist the Title IX Coordinator in the discharge of these responsibilities.”

Any questions regarding Title IX or the application of this policy can be directed to the Title IX Coordinator. The following person has been designated as the District's Title IX Coordinator:

Dr. Jeffrey Ulmer  
Title IX Coordinator  
Address  
Phone Number  
Email address

### Reporting

Any report of sex based discrimination or harassment will be taken seriously, addressed promptly and with sensitivity.

A student may report an incident of sexual discrimination or harassment verbally or in writing to any District employee. All reports shall be directed *immediately* to the Title IX Coordinator. All non-students can report any incident of sex based harassment to the Title IX Coordinator. Reports can be made at any time by phone, email, or by completing and submitting the Discrimination/Harassment Incident Reporting Form

Additionally, if the person who received a complaint of sexual harassment is a mandated reporter and has reasonable cause to suspect that a student is the victim of child abuse, the incident should immediately be reported to the appropriate agency as directed by state law. This mandated reporting obligation is *in addition* to a report being made to the Title IX Coordinator.

### Retaliation

This policy prohibits retaliation against an individual who files a complaint in response to conduct that s/he reasonably believes violates this policy, or against an individual who participates or cooperates with an investigation, as provided by both Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964. Anyone

who experiences retaliation should report it to the Title IX Coordinator [or Deputy Coordinator or other designee]. Such retaliation, if founded, will result in the same disciplinary action applicable to one who engages in harassment. Reporting harassment will not affect the reporting individual's status with respect to either an employee's future employment or work assignments or a student's future academic opportunity, progress or record.

### Confidentiality

Confidentiality will be maintained to the extent possible to effectively respond to a reported incident of sexual harassment. If a request for confidentiality is received, the school will evaluate any confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. A request for confidentiality may limit the school's ability to respond. All efforts shall be made to maintain the confidentiality of any person initiating or involved in a reported incident of sex-based harassment to protect the privacy of all parties, consistent with the District's responsibility to promptly address and investigate such complaints based on applicable state and federal laws.

Based on the content of what is reported to the District, all incidents that are required by law to be reported to law enforcement and/or ChildLine will be. [Childline website included as a hyperlink) ChildLine 1-800-932-0313.

### Scope of Title IX

Title IX covers those reported incidents of sexual harassment that take place in the United States and in the context of an education program or activity which includes locations, event or circumstances over which the school/school exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.

If a reported incident does not fall under the scope of Title IX, the reported incident will be reviewed and appropriate steps taken under other applicable District policies, such as bullying and harassment.

This Title IX policy runs concurrently with and parallel to all applicable laws, regulations and existing district policies and procedures to the extent allowable under the law.

### Resources

The District is committed to providing an educational environment that promotes safety and wellness for the entire school community. Any student or employee is encouraged to seek the assistance of available school-based and community resources to provide support and/or emergency assistance.

- Ms. Patricia Alston, Supervisor of Caseworkers
- Mr. Steven Werner, Supervisor of School Psychologists
- Ms. Carol Rothera, Supervisor of Pupil Services
- Health Advocate 866-799-2728 (for employees]
- Chester County District Attorney's Office 610-344-6801
- Crime Victim's Center 610-692-7420

### **Delegation of Authority**

The Board directs the Superintendent or designee to develop administrative regulations to implement this policy. The Superintendent shall publish this policy to students, employees, and the community through posting on the school district's website, newsletters, and other appropriate means.

### **Legal References**

Title IX of the Educational Amendments of 1972, 20 U.S.C. §§1681-1688;  
 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a);  
 EEOC Policy Guidelines on Sexual Harassment, 29 C.F.R. §1604.11;  
 PA Human Relations Act, 43 Pa. Cons. Stat. Ann. § 951-960 (Purdon 1964 & Supp. 1991);  
 Pennsylvania Child Abuse Reporting §6311,  
<https://www.compass.state.pa.us/CWIS/Public/ReferralsLearnMore> ;  
 29 C.F.R. §1604.11  
 20 U.S.C. 1092(f)(6)(A)(v)  
 34 U.S.C. 12291(a)(10)  
 34 U.S.C. 12291(a)(8)  
 34 U.S.C. 12291(a)(30)  
 Human Relations Commission Guidelines on Sexual Harassment, 11 Pa. Bulletin No. 5 (Jan. 31, 1981).