

POLICY IV-L-3: Title IX Sexual Harassment

Summers County Board of Education

Scope: Title IX of the Education Amendments of 1972 (“Title IX”) prohibits sex discrimination in educational programs or activities receiving federal financial assistance.

Authority: Title IX of the Education Amendments of 1972; 34 CFR Part 106

Adopted: January 12, 1984 (see also, Policy VII-C-1)

Amended: July 27, 1989; May 11, 2005; (eff. August 14, 2020); April 22, 2021

Reviewed: April 8, 2021

TITLE IX SEXUAL HARASSMENT

PREAMBLE – In May of 2020, the United States Department of Education released new Title IX regulations that change the way school districts are required to respond to allegations of sexual harassment. This policy and the administrative procedures that implement it have been revised accordingly so as to comply with the new Title IX regulations which are currently in effect as of August 14, 2020.

PURPOSE – The Summers County Board of Education (“District”) does not discriminate and does not permit the discrimination on the basis of sex in its educational programs or activities that it operates. The purpose of this policy and the administrative procedures that implement it is to secure prompt and equitable resolutions of complaints based on sex discrimination, including complaints of sexual harassment, in violation of Title IX of the Education Amendments of 1972, and violation of District policies that prohibit this type of discrimination. This policy and administrative procedures only apply to complaints alleging discrimination on the basis of sex as prohibited by Title IX including sexual harassment, quid pro quo, sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a)).

DISTRIBUTION – This policy and the administrative procedures shall be available in every school site administrative office, posted on the District website, and included in student handbooks. Annually, the District will provide to applicants for admission and employment; students; parents or legal guardians of students; employees; and all unions or professional organizations notice of its grievance procedures and grievance process, including how to report or file a complaint of sexual discrimination or sexual harassment, how to report or file a formal complaint of sexual harassment, and how the District will respond.

SEXUAL HARASSMENT – “Sexual Harassment” is defined by this policy to mean conduct on the basis of sex that satisfies one or more of the following:

- (1) “**Quid Pro Quo**”- An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct; or
- (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 District’s educational program(s) or activity(ies); or
- (3) “**Sexual assault**” as defined in 20 U. S. C. 1092(f)(6)(A)(v), “**dating violence**” as defined in 34 U. S. C. 12291 (a)(8), or “**stalking**” as defined in 34 U. S. C. 12291 (a)(30).

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Employees are strictly prohibited from dating, attempting to cultivate a romantic relationship or becoming involved in an inappropriate relationship with students, regardless of the student's age or consent. This prohibition shall be in force as long as the student is considered a student within the school system, including during the summer break, holidays and other times away from school, and also shall apply to all graduated students for 12 months after the student's graduation.

Any District employee with actual knowledge of sex discrimination, including sexual harassment in an education program or activity as defined in the Policy, must report the sex discrimination to the Title IX Coordinator. Failure to report may result in disciplinary action, up to and including termination, being taken against the employee.

Any person may report sex discrimination, including sexual harassment as defined by this Policy, (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), to the Title IX Coordinator in person, by mail, by telephone, or by electronic mail. Reports may be made at any time, including during non-business hours.

Each employee shall be responsible to maintain learning and working environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment promptly in a manner that is not deliberately indifferent, which he/she observes or is informed about to the building principal, school based Title IX representative, or the Title IX coordinator.

The District shall 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 complaints of sexual harassment.

TITLE IX COORDINATOR – The District's Title IX Coordinator shall be tasked with coordinating the District's response to all allegations involving possible sexual harassment. The Title IX Coordinator's responsibilities are critical to the development, implementation, and monitoring of meaningful efforts to comply with District and Federal Title IX regulations.

The Title IX Coordinator can be reached at:

Dr. Linda Knott
Title IX Coordinator
Summers County Schools
116 Main Street
Hinton, West Virginia 25951
Telephone: (304) 466-6006
E-mail: lknott@k12.wv.us

COMPLAINANT – A "Complainant" is an individual, either student or employee, who is alleged to be the victim of conduct that could constitute sexual harassment. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party under this Policy, unless the Title IX Coordinator is alleged to be the victim of conduct that could constitute sexual harassment.

RESPONDENT – The "Respondent" is any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator will promptly contact the Complainant and discuss the following:

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- (a) The availability of supportive measures that are available to the Complainant to immediately restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party.
- (b) The availability of supportive measures with or without the filing of a formal complaint; and
- (c) The process for filing the formal complaint.

SUPPORTIVE MEASURES – “Supportive Measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant and/or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or class locations, leaves of absence, increased security and monitoring of certain areas of the District's facilities, and other similar measures. The District shall maintain as confidential any supportive measures provided to the Complainant and/or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures. The Title IX Coordinator will coordinate the effective implementation of supportive measures.

FORMAL COMPLAINT – A “Formal Complaint” is a document filed by a Complainant or by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation(s) of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the District with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or through the District's on-line portal on its webpage.

GRIEVANCE PROCESS – The “Grievance Process” shall be those provisions, rules, or practices included within this Policy and the administrative procedures for processing formal complaints of sexual harassment. The Grievance Process shall be applied equally to both the Complainant and the Respondent.

PREPONDERANCE OF THE EVIDENCE STANDARD – The “Preponderance of the Evidence Standard” is the evidentiary standard to be used during the investigation and final determination of a formal complaint. Preponderance of the Evidence means that the evidence shows that the action alleged is more likely to have occurred than not to have occurred.

The filing of a formal complaint does not preclude the District from responding to the complaint by also applying other District policy violations, such as Code of Conduct violations, violations of the Summers County Student or Employee Handbook, Safe Schools Act, to allegations that are not related to sexual harassment to allegations that are not related to sexual harassment. Non-sexual harassment allegations and/or findings shall be promptly reported to the principal of the student and/or the supervisor of the Respondent to process pursuant to the District's applicable policies, including its disciplinary policies.

If the Complainant refuses to initiate a formal complaint, the Title IX Coordinator may submit a signed, written formal complaint to initiate a formal investigation and complaint process, regardless of the Complainant/Complainant's parent's or guardian's consent, if based upon the allegations and information received there is the possible likelihood of sexual harassment.

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The Title IX Coordinator shall submit a signed, written formal complaint to initiate a formal investigation and complaint process, regardless of the Complainant/Complainant's parent's or guardian's consent, if the allegations and information received involve sexual harassment of a student by an employee.

Throughout the course of the investigation of the formal complaint and throughout the grievance process (collectively, "Formal Complaint Process"), the burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the parties.

Any individual designated by the District as a Title IX Coordinator, Investigator, Decision-Maker, or any person designated by a recipient to facilitate an informal resolution process, must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. If a conflict of interest or bias is alleged by any party, the Superintendent shall appoint another person to fulfill the role of the person alleged to have a conflict of interest.

The District will endeavor to complete investigations within sixty (60) days of the date on which the formal complaint was received, however, the District's primary objective is a thorough and equitable investigation and grievance process.

The District shall coordinate its investigation and grievance process with any other ongoing criminal investigation of the incident, if any. The District may determine whether to delay its investigation pending the conclusion of a criminal investigation or for criminal proceedings to begin. If the fact-finding portion of the investigation is suspended due to the existence of a criminal investigation, the District's investigation shall resume promptly once law enforcement officials have completed their evidence gathering state of the criminal investigation.

District employees and students are required to participate fully in an investigation, but in no event will a Complainant be subjected to any disciplinary sanctions or consequences for refusing or failing to participate.

An informal resolution process may be facilitated at any time after the Formal Complaint is filed and prior to the determination regarding responsibility, with the exception that an informal resolution is not permitted to resolve allegations that an employee of the District sexually harassed a student.

Upon a finding of responsibility, disciplinary sanctions against an employee may include any available sanction available for the discipline of employees, up to and including termination of their employment contract pursuant to W. Va. Code 18A-2-8. Disciplinary sanctions against a student may include any available discipline or sanction, up to and including expulsion, under the policies, rules and procedures that establish the District.

If an employee subject to possible discipline for violations of this Policy retires or resigns prior to the completion of the investigation, or before a final disposition is made, or during the course of a disciplinary hearing, the Superintendent shall report the allegations to the database maintained by the West Virginia State Superintendent of Schools pursuant to the requirements set forth in W. Va. Code 18A-2-8 and any revisions thereto.

No person shall, for the purpose of interfering with any right or privilege secured by Title IX or this Policy, intimidate, threaten, coerce, or discriminate against any individual who is the victim of or who reports alleged sexual harassment or testifies, assists, or participates in an investigation, final determination of any proceeding or hearing related to a sexual harassment complaint. Should retaliation occur, the victim shall promptly report the actions to principal or the Title IX Coordinator. Persons found guilty of retaliation shall be subject to discipline.