

ALLEGHENY INTERMEDIATE UNIT 3

SECTION: PROGRAMS

TITLE: DISCRIMINATION/TITLE IX
SEXUAL HARASSMENT
AFFECTING STAFF

ADOPTED: FEBRUARY 28, 2011

REVISED:

<p>43 P.S. 336.3, 951 et seq 34 CFR Part 106 20 U.S.C.1681 et seq 29 U.S.C. 206, 621 et seq, 794 42 U.S.C. 1981 et seq, 2000e et seq, 2000f et seq, 12101 et seq. U.S. Const. Amend. XIV, Equal Protection Clause</p>	<p style="text-align: center;">104. DISCRIMINATION/TITLE IX SEXUAL HARASSMENT AFFECTING STAFF</p> <p>Authority</p> <p>The Board declares it to be the policy of the Intermediate Unit to provide to all persons equal access to all categories of employment, regardless of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. The Intermediate Unit shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.</p> <p>The Board also declares it to be the policy of this Intermediate Unit 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 Intermediate Unit may be referred to the Title IX Coordinator/Compliance Officer, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.</p> <p>The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the Intermediate Unit’s website.</p> <p>The Board requires a notice stating that the Intermediate Unit does not discriminate in any manner, including Title IX sexual harassment, in any Intermediate Unit education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the Intermediate Unit. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Title IX Coordinator/Compliance Officer.</p>
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Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages employees 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 building principal or program administrator. 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.

If the building principal or program administrator is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the Title IX Coordinator/Compliance Officer.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/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 building principal or program administrator shall promptly notify the Title IX Coordinator/Compliance Officer of all reports of discrimination, Title IX sexual harassment or retaliation. The Title IX Coordinator/Compliance Officer 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/Compliance Officer shall consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator/Compliance Officer 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 Board 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 Intermediate Unit 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.

<p>20 U.S.C. 1232g 34 CFR 106.44, 106.45, 106.71, Part 99</p> <p>34 CFR 106.71</p>	<p><i>Administrative Leave –</i></p> <p>When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.</p> <p>An accused, nonstudent Intermediate Unit employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.</p> <p>Confidentiality</p> <p>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 Intermediate Unit's legal and investigative obligations.</p> <p>Retaliation</p> <p>The Board prohibits retaliation by the Intermediate Unit or any other person against any person for:</p> <ul style="list-style-type: none"> • Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment. • Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing. • Acting in opposition to practices the person reasonably believes to be discriminatory. <p>The Intermediate Unit, 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/Compliance Officer immediately if retaliation is believed to have occurred.</p> <p>Definitions</p> <p>Complainant shall mean an individual who is alleged to be the victim.</p> <p>Respondent shall mean an individual alleged to be the perpetrator of the</p>
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<p>42 U.S.C. 2000e et seq.</p>	<p>discriminatory conduct.</p> <p>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, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.</p> <p>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 work performance, including when:</p> <ul style="list-style-type: none"> • Submission to such conduct is made explicitly or implicitly a term or condition of an employee’s status; or • Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or • Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant’s position would find that it unreasonably interferes with the complainant’s performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant’s working conditions.
<p>34 CFR 106.45, 106.30</p>	<p><u>Definitions Related to Title IX Sexual Harassment</u></p> <p>Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator/Compliance Officer alleging Title IX sexual harassment and requesting that the Intermediate Unit investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator/Compliance Officer to sign a formal complaint does not make the Title IX Coordinator/Compliance Officer 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.</p>
<p>34 CFR 106.30</p>	<p>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.</p>

<p>34 CFR 106.30</p>	<p>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:</p> <ul style="list-style-type: none"> • Counseling or Employee Assistance Program. • 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 locations. • Leaves of absence. • Increased security. • Monitoring of certain areas of the campus. • Assistance from domestic violence or rape crisis programs. • Assistance from community health resources including counseling resources.
<p>34 CFR 106.30</p>	<p>Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:</p> <ul style="list-style-type: none"> • An Intermediate Unit employee conditioning the provision of an aid, benefit, or Intermediate Unit service on an individual's participation in unwelcome sexual conduct, commonly referred to as <i>quid pro quo sexual harassment</i>. • Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to an Intermediate Unit education program or activity. • Sexual assault, dating violence, domestic violence or stalking.
<p>34 U.S.C. 12291</p>	<ul style="list-style-type: none"> • <i>Dating violence</i> 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: <ul style="list-style-type: none"> - Length of relationship. - Type of relationship. - Frequency of interaction between the persons involved in the relationship. - Frequency of interaction between the persons involved in the relationship.

<p>34 U.S.C. 12291</p>	<ul style="list-style-type: none"> • <i>Domestic violence</i> 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.
<p>20 U.S.C. 1092</p>	<ul style="list-style-type: none"> • <i>Sexual assault</i> 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.
<p>34 U.S.C. 12291</p>	<ul style="list-style-type: none"> • <i>Stalking</i>, 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: <ul style="list-style-type: none"> - Fear for their safety or the safety of others. - Suffer substantial emotional distress.
<p>34 CFR 106.44, 106.45, 106.30</p>	<p>Such conduct must have taken place during an Intermediate Unit 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 Intermediate Unit exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of an Intermediate Unit’s education programs or activities, whether such programs or activities occur on-campus or off-campus.</p> <p>Delegation of Responsibility</p> <p>In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Director of Human Resources and Labor Relations as the Title IX Coordinator/Compliance Officer for the Intermediate Unit.</p> <p>The Title IX Coordinator/Compliance Officer 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 Intermediate Unit’s nondiscrimination procedures in the following areas, as appropriate:</p>

	<p>Review - Review of personnel practices and actions for discriminatory bias and compliance with laws against discrimination to include monitoring and recommending corrective measures when appropriate to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; Intermediate Unit-designed performance evaluations; review of planned employee demotions, non-renewal of contracts, and proposed employee disciplinary actions up to and including termination.</p> <p>Training - Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination.</p> <p>Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources including counseling resources.</p> <p>Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.</p> <p>Guidelines <u>Title IX Sexual Harassment Training Requirements</u></p> <p>The Title IX Coordinator/Compliance Officer, investigator(s), decision-maker(s), 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:</p> <ul style="list-style-type: none">- Definition of sexual harassment.- Scope of the Intermediate Unit’s education program or activity, as it pertains to what is subject to Title IX regulations.- How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable.- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.- Use of relevant technology.- Issues of relevance including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant.- Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence.
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<p>Pol. 317, 317.1</p>	<ul style="list-style-type: none">- 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 Board policy. <p>All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.</p> <p>All training materials shall be posted on the Intermediate Unit’s website.</p> <p><u>Disciplinary Consequences</u></p>
<p>Pol. 317, 317.1</p>	<p>An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.</p> <p><u>Reports of Discrimination</u></p> <p>Any reports of discrimination that are reviewed by the Title IX Coordinator/Compliance Officer 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.</p> <p><u>Reports of Title IX Sexual Harassment</u></p> <p>Any reports deemed by the Title IX Coordinator/Compliance Officer 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.</p>

References:

43 P.S. 336.3, 951 et seq.

34 CFR Part 106, CFR 106.44, 106.45, 106.71, 106.8, 106.30, Part 99, 12291

20 U.S.C. 1092, 1232g, 1681 et seq.

29 U.S.C. 206, 621 et seq, 794 et seq.

42 U.S.C. 1981 et seq, 2000e et seq, 2000ff et seq, 12101 et seq.

U.S. Const. Amend. XIV, Equal Protection Clause

Board Policy – 317, 317.1, 806, 824