

DARIEN PUBLIC SCHOOLS
Darien, CT

Series 5000
Students

Policy 5275

**POLICY REGARDING TITLE IX OF THE EDUCATION AMENDMENTS OF
1972 - PROHIBITION OF SEX DISCRIMINATION AND SEXUAL
HARASSMENT (STUDENTS)**

It is the policy of the Darien Board of Education (the “Board”) for the _Darien Public Schools that any form of sex discrimination or sexual harassment is prohibited in the Board’s education programs and activities, whether by students, Board employees or third parties subject to substantial control by the Board. The Board does not discriminate on the basis of sex in the education programs or activities that it operates and the Board is required by Title IX of the Education Amendments of 1972 and its implementing regulations (“Title IX”) not to discriminate in such a manner. Students, Board employees and third parties are required to adhere to a standard of conduct that is respectful of the rights of students, employees and third parties. Any student or employee who engages in conduct prohibited by this policy shall be subject to disciplinary action, up to and including expulsion or termination, respectively.

For conduct to violate this Policy, the conduct must have occurred in an education program or activity of the Board; the conduct must have occurred within the United States of America; and the complainant must be participating in or attempting to participate in the education program or activity of the Board. Conduct that does not meet these requirements still may constitute a violation of another Board policy.

The Superintendent of Schools shall develop Administrative Regulations implementing this Policy and in accordance with Title IX (the “Administrative Regulations”).

Sex discrimination occurs when a person, because of the person’s sex, is denied participation in or the benefits of any education program or activity receiving federal financial assistance.

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

- (1) An employee of the Board conditioning the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (*i.e., quid pro quo*);
- (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 Board’s education programs or activities; or

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(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)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Reporting Sex Discrimination or Sexual Harassment

It is the express policy of the Board to encourage victims of sex discrimination and/or sexual harassment to report such claims. Students are encouraged to report complaints of sex discrimination and/or sexual harassment promptly in accordance with the appropriate process set forth in the Administrative Regulations-The Board directs its employees to respond to such complaints in a prompt and equitable manner. The Board further directs its employees to maintain confidentiality to the extent appropriate-and not tolerate any reprisals or retaliation that occur as a result of the good faith reporting of charges of sex discrimination and/or sexual harassment. Any such reprisals or retaliation will result in disciplinary action against the retaliator, up to and including expulsion or termination as appropriate.

Any Board employee with notice of sex discrimination and/or sexual harassment allegations shall immediately report such information to the building principal and/or the Title IX Coordinator, or if the employee does not work in a school building, to the Title IX Coordinator.

The Darien_ Public Schools administration (the “Administration”) shall provide training to Title IX Coordinator(s), investigators, decision-makers, and any person who facilitates an informal resolution process (as set forth in the Administrative Regulations) on the definitions of sex discrimination and sexual harassment, the scope of the Board’s education program and activity, how to conduct an investigation and grievance process, and how to serve impartially, including by avoiding prejudice of the facts at issue, conflicts of interest, and bias. The Administration shall make the training materials used to provide these trainings publicly available on the Board’s website. The Administration shall also periodically provide training to all Board employees on the topic of sex discrimination and sexual harassment under Title IX, which shall include but not be limited to when reports of sex discrimination and/or sexual harassment must be made. The Administration shall distribute this Policy and the Administrative Regulations to staff, students and parents and legal guardians and make the Policy and the Administrative Regulations available on the Board’s website to promote an environment free of sex discrimination and sexual harassment.

The Board’s Title IX Coordinator is Marjorie Cion, Director of Human Resources. Any individual may make a report of sex discrimination and/or sexual harassment directly to the Title IX Coordinator using any one, or multiple, of the following points of contact

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Darien Public Schools
35 Leroy Avenue
Darien, CT 06820
203.656.7406
mcion@darienps.org

Any individual may also make a report of sexual harassment and/or sex discrimination to the U.S. Department of Education: Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 Telephone (617) 289-0111).

Legal References: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq.

Title IX of the Education Amendments of 1972, 34 C.F.R § 106.1, et seq.

Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998)

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

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REVISED: February 2, 2021

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Appendix A

Sexual Assault: An offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Rape—(Except Statutory Rape) The carnal knowledge of a person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Sodomy—Oral or anal sexual intercourse with another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the victim, including instances where the victim is incapable of giving Consent because of the person's age or because of the person's temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of Consent.

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Dating Violence: 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 shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

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.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

Consent means affirmative Consent which is an active, clear and voluntary agreement by a person to engage in sexual activity with another person.

For the purposes of an investigation conducted pursuant to these Administrative Regulations, the following principles shall be applied in determining whether CConsent for sexual activity was given and/or sustained:

- A. CConsent is the standard used in determining whether CConsent to engage in sexual activity was given by all persons who engaged in the sexual activity.
- B. CConsent may be revoked at any time during the sexual activity by any person engaged in the sexual activity.
- C. It is the responsibility of each person to ensure that he or she has the Consent of all persons engaged in the sexual activity to engage in the sexual activity and that the affirmative CConsent is sustained throughout the sexual activity.
- D. It shall not be a valid excuse to an alleged lack of CConsent that the respondent to the alleged violation believed that the complainant CConsented to the sexual activity:
 - (i) because the respondent was intoxicated or reckless or failed to take reasonable steps to ascertain whether the complainant affirmatively Consented, or
 - (ii) if the respondent knew or should have known that the complainant was unable to Consent because such individual was unconscious, asleep, unable to communicate due to a mental or physical condition, unable to Consent due to the

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age of the individual or the age difference between the individual and the respondent, or incapacitated due to the influence of drugs, alcohol or medication.

E. The existence of a past or current dating or sexual relationship between the complainant and the respondent, in and of itself, shall not be determinative of a finding of affirmative Consent.

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