

WATERBURY PUBLIC SCHOOLS

Meeting Agenda

BOE Policy & Legislation Committee				
Group/Team:				
Location:	Date of Meeting:	Start Time:	Finish Time:	
Virtual Meeting via ZOOM 1-646-876-9923 Meeting ID: 92175774874	Thursday December 10, 2020	5:30 p.m.		

Team Norms:

1. All meetings will start on time
2. All issues will be approached with a positive attitude
3. A specific agenda will be set for all meetings
4. All teams members will agree to stay on specific agenda topics
5. Decisions regarding future directions will be based upon actual data

Purpose of Meeting – Instructional Focus:

[illegible]



TITLE IX UPDATE

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UPDATE MAILING NO. 1

NOVEMBER 17, 2020

What is Title IX?

Title IX of the education amendments of 1972 states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” (20 U.S.C. §1681)

The scope of this short statute is very broad. It protects any individual, not just for public schools. Any entity providing an education program or activity must comply with the law’s requirements as a condition of receiving federal funds.

How does Title IX apply to sexual harassment?

Until recently, Title IX did not specifically address sexual harassment. Two U.S. Supreme Court decisions established when a



school district could be held liable in court for sexual harassment under Title IX. The Court in *Gebser v. Lago Vista Independent School District* decided that a district may be liable for monetary damages when an employee with authority to take corrective action had actual notice of sexual harassment within a district program or activity but responds with deliberate indifference. (This case involved a teacher’s sexual harassment of a student.)

Davis v. Monroe County Board of Education established that when a student is sexually harassed by another student, the district can only be liable when the harassment is “severe, pervasive, and objectively offensive.” Therefore, teasing or name calling, even if based on a student’s sex, would not rise to the level of sexual harassment under Title IX.

What is the Office for Civil Rights?

The U. S. Department of Education’s Office for Civil Rights (OCR) enforces federal laws that prohibit discrimination in education, including Title IX. OCR has the authority to withhold federal funding if it finds a violation that the district is unwilling to resolve. An individual who believes he or she has been discriminated against may file a complaint with OCR, initiating an investigation. OCR also conducts compliance reviews and issues written policy guidance to assist districts to be in compliance with the laws it enforces.

The policy guidance promulgated by OCR through its “Dear Colleague Letters” established a higher standard for administrative enforcement than the two aforementioned Supreme Court cases. These advisories addressed bullying and issues contributing to the creation of a hostile environment.

During the Obama administration, OCR issued numerous letters regarding Title IX which resulted in debate about how to address sexual violence and harassment while protecting the due process and First Amendment rights of the accused. Critics also accused the Obama administration of “ruling by letter” rather than through the formal rulemaking process. Secretary of Education DeVos promised a new approach.



TITLE IX UPDATE

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What are the new Title IX regulations?

OCR on November 16, 2018 proposed new rules to amend Title IX regulations. The proposed new rules were designed to address sexual harassment and to address due process concerns raised by advocates for accused students in higher education. The proposed new rules treated K-12 schools and colleges identically in most instances.

After a lengthy comment period, in which almost 125,000 public comments were received, the new regulations were released on May 6, 2020 and became effective as of August 14, 2020.

The new regulations define sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct. (*quid pro quo* sexual harassment.)
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 education program or activity; or
3. *Sexual assault, dating violence, domestic violence, or stalking*, as these terms are defined in the federal Violence Against Women Act.

Districts are required to respond promptly, in a manner that is not deliberately indifferent, to actual knowledge of sexual harassment in an education program or activity of the district. The new rules provide that notice of potential sexual harassment by any employee of the school district is sufficient to trigger the district's duty to respond.

Are districts required to change its policies based on the new Title IX rules?

Yes. The CAFE Policy Service previously made available new sample policies and administrative regulations to assist districts in their compliance efforts. The new policies, #4000.1 and #5144.44, are applicable to employees and students. They replace CAFE's previous versions.

Some of the major changes to the policies as a result of the Title IX final rule include the following:

- The definition of prohibited conduct was revised to include conduct that meets the Title IX definition of sexual harassment.
- A new provision requires any employee who receives a report of prohibited conduct based on sex to notify the Title IX Coordinator.
- The new provisions directs the superintendent to develop a Title IX formal complaint process that complies with the elements of the new regulations. CAFE's sample administrative regulation fulfills this requirement.
- Districts must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints. Such process is required to be posted on the district's website.
- Schools are required to respond when they have "actual knowledge" of a complaint of sexual harassment, which can include a report to any employee of an elementary or secondary school. The previous Title IX guidance, which held schools responsible for incidents they "reasonably should" have been aware of.



TITLE IX UPDATE

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- Schools must respond when harassment occurs “in the school’s education program or activity.” The final rule expands the definition of “program or activity” to include locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs.
- The final rule allows parents or guardians of K-12 students to file complaints on their behalf, and requires parental notification of complaints against their children.
- Unlike colleges and universities, elementary and secondary schools are not required to hold hearings on student complaints.
- The rule requires schools to provide “supportive measures” to students, with or without a formal complaint. That might include providing counseling or changing class schedules to avoid sharing a classroom with the accused.

What is the impact of the new Title IX regulations on Connecticut school districts?

The new Title IX regulations, effective as of August 14, 2020, impose significant challenges to all school districts. Keeping up with the new rules’ extensive training, recordkeeping and documentation requirements will require additional staff time. Harmonizing the Title IX formal complaint procedures with districts’ existing policies and student codes of conduct may be difficult. In addition, the new regulations pose some legal questions to which there are no satisfying answers.

For example, the Trump administration has rescinded much of OCR’s past Title IX guidance, but has left the 2010 Dear Colleague Letter pertaining to bullying still in effect. This implies that OCR will continue to rely on its previous standards for complaints alleging harassment based on protected characteristics other than sex. The need exists, therefore, for school districts to follow their school attorney’s advice when allegations of harassment arise.

What should school districts now do?

The new Title IX regulations became effective as of August 14, 2020. In order to be in compliance, districts need to replace their previous policy. Employees in the district should be trained to recognize potential sexual harassment. Title IX Coordinators and other employees involved in the formal complaint process (investigators and decision-makers) must also be trained on the definition of sexual harassment and other specific topics listed in the regulations.

Policy Implications

As previously indicated, CABA has developed and made available new Title IX policies and administrative regulations applicable to staff (#4000.1) and to students (#5145.44).

In addition, policy personnel from school board associations, such as CABA, from across the country have collaborated on the development of new Title IX policies, administrative regulations, and related materials. The material jointly developed follows for your consideration and will serve as an in-depth review of the requirements. They serve as additional samples for Connecticut districts to consider.

Another version of this sample policy to consider.

Personnel -- Certified/Non-Certified

Students

Title IX

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following:

1. A District employee conditions the provision of an aid, benefit, or service 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 or activity; 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)(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).

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions (from 34 C.F.R. §106.30)

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

Education program or activity includes locations, events, or circumstances where the District has substantial control over both the Respondent and the context in which alleged sexual harassment occurs.

Personnel -- Certified/Non-Certified

Students

Title IX

Definitions (continued)

Formal Title IX Sexual Harassment Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.

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

Supportive measures mean non-disciplinary, non-punitive 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 Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed.

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program incorporates (a) age-appropriate sexual abuse and assault awareness and prevention programs in grades pre-K through 12, and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12. This includes incorporating student social and emotional development into the District's educational program as required by State law and in alignment with Board policy.
2. Incorporates education and training for school staff as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager.
3. Notifies applicants for employment, students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District's website, if any, and in each handbook made available to such persons.

Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking. A person who wishes to make a report may choose to report to a person of the same gender.

Personnel -- Certified/Non-Certified

Students

Title IX

Making a Report (continued)

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator.

Title IX Coordinator:

Name: _____ Address: _____

Email: _____ Telephone: _____

Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the Complainant to: (1) discuss the availability of supportive measures, (2) consider the Complainant's wishes with respect to supportive measures, (3) inform the Complainant of the availability of supportive measures with or without the filing of a Formal Title IX Sexual Harassment Complaint, and (4) explain to the Complainant the process for filing a Formal Title IX Sexual Harassment Complaint.

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it. For any report received, the Title IX Coordinator shall review appropriate Board policies pertaining to Uniform Grievance Procedure; Workplace Harassment; Abused and Neglected Child Reporting; Employee Ethics; Conduct; Conflict of Interest; Harassment of Students; Prevention of and Response to Bullying, Intimidation, and Harassment; Teen Dating Violence Prohibited; Student Behavior, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

Personnel -- Certified/Non-Certified

Students

Title IX (continued)

Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will appoint a qualified person to undertake the investigation. The Superintendent or designee shall implement procedures to ensure that all Formal Title IX Sexual Harassment Complaints are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.23. The District's grievance process shall, at a minimum:

1. Treat Complainants and Respondents equitably by providing remedies to a Complainant where the Respondent is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a Respondent.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent.
 - b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially.
4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Personnel -- Certified/Non-Certified

Students

Title IX

Formal Title IX Sexual Harassment Complaint Grievance Process (continued)

7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the preponderance of evidence standard.
10. Include the procedures and permissible bases for the Complainant and Respondent to appeal.
11. Describe the range of supportive measures available to Complainants and Respondents.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with student behavior policies.

Note: This sample policy uses the preponderance of the evidence standard, not the clear and convincing evidence standard. Preponderance of evidence is a standard used in civil cases. It means “the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force.” Clear and convincing is a higher standard, requiring more than preponderance of the evidence but less than proof beyond a reasonable doubt. It means “evidence indicating that the thing to be proved is highly probable or reasonably certain.” Consult the board attorney regarding the appropriate standard for the district.

Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action.

Personnel -- Certified/Non-Certified

Students

Title IX

Enforcement (continued)

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law.

Retaliation Prohibited

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation.

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

(cf. 0521 – Nondiscrimination)

(cf. 0521.1 – Grievance Procedure for Section 504, Title IX, and Title VII)

(cf. 4118.11/4218.11 – Nondiscrimination)

(cf. 4118.112/4218.112 – Sex Discrimination and Sexual Harassment in the Workplace)

(cf. 5131.911 – Bullying/Safe School Climate Plan)

(cf. 5145.5 – Sexual Harassment)

(cf. 5145.51 – Peer Sexual Harassment)

Legal Reference: United States Constitution, Article XIV

Civil Rights Act of 1964, Title VII, 42 U.S.C. §2000-e2(a).

Equal Employment Opportunity Commission Policy Guidance (N-915.035) on Current Issues of Sexual Harassment, Effective 10/15/88.

Title IX of the Education Amendments of 1972, 20 USCS §1681, *et seq.*

Title IX of the Education Amendments of 1972, 34 CFR §106, *et seq.*

Title IX Final Rule, 34 CFR §106.45, *et seq.*, May 6, 2020

34 CFR Section 106.8(b), OCR Guidelines for Title IX.

Personnel -- Certified/Non-Certified

Students

Title IX

Legal Reference: continued

Definitions, OCR Guidelines on Sexual Harassment, Fed. Reg. Vol 62, #49, 29 CFR Sec. 1606.8 (a0 62 Fed Reg. 12033 (March 13, 1997) and 66 Fed. Reg. 5512 (January 19, 2001)

The Clery Act, 20 U.S.C. §1092(f)

The Violence Against Women Act, 34 U.S.C. §12291(a)

Mentor Savings Bank, FSB v. Vinson 477 US.57 (1986)

Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26,1998)

Burlington Industries, Inc. v. Ellerth, No. 97-569, (U.S. Supreme Court, June 26,1998)

Gebbs v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26,1998)

Davis v. Monroe County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)

Connecticut General Statutes

46a-60 Discriminatory employment practices prohibited.

Conn. Agencies Regs. §46a-54-200 through §46a-54-207

Constitution of the State of Connecticut, Article I, Section 20.

P.A. 19-16 An Act Combatting Sexual Assault and Sexual Harassment

Policy adopted:

cps 11/20

Another version of this administrative regulation to consider. A complaint procedure is legally required.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

This procedure implements the District's investigation and response process to a Formal Title IX Sexual Harassment Complaint after a decision to pursue one has been made. (See 34 C.F.R. Part 106.) Use this procedure to comply with 34 C.F.R. §106.45, Grievance Process for Formal Complaints of Sexual Harassment. Use Appendix "Title IX Sexual Harassment Glossary of Terms," in conjunction with this procedure.

This procedure contains a Table of Contents and lettered Sections.

Table of Contents

- A. Overview of 34 C.F.R. §106.45 Grievance Process
- B. Notice of Allegations
- C. Consolidation of Formal Title IX Sexual Harassment Complaints
- D. Dismissal of Formal Title IX Sexual Harassment Complaint
- E. Informal Resolution of Formal Title IX Sexual Harassment Complaint
- F. Investigation of Formal Title IX Sexual Harassment Complaint
- G. Determination Regarding Responsibility; Remedies
- H. Appeals
- I. Recordkeeping

Section A – Overview of 34 C.F.R. §106.45 Grievance Process

The District treats Complainants and Respondents engaging in the Formal Title IX Sexual Harassment Complaint Grievance Process (Grievance Process) equitably and adheres to the following guidelines:

1. ***Presumption of Non-Responsibility.*** The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(1)(iv).
2. ***Grievance Process Required Before Imposing Sanctions.*** The District complies with this Grievance Process before imposing any disciplinary sanctions or other actions against a Respondent. 34 C.F.R. §106.45(b)(1)(i).
3. ***Supportive Measures.*** The District may provide 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 locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to Complainants and/or Respondents. 34 C.F.R. §106.45(b)(1)(ix). See Appendix, Title IX Sexual Harassment Glossary of Terms, for the definition of supportive measures.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section A – Overview of 34 C.F.R. §106.45 Grievance Process (continued)

4. **Evidence Considered.** All relevant evidence – including both inculpatory and exculpatory evidence – is objectively evaluated. Credibility determinations are not based on a person's status as a Complainant, Respondent, or witness. The District does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, e.g., attorney-client privilege, doctor-patient privilege, or spousal privilege, unless the person holding such privilege has waived the privilege 34 C.F.R. §106.45(b)(1)(ii) and (x).
5. **Standard of Proof.** All determinations are based upon the preponderance of evidence standard 34 C.F.R. §106.45(b)(1)(vii).
6. **Right to Appeal.** Each party may appeal any determination as described in Section H Appeals, below 34 C.F.R. §106.45(b)(1)(viii); 34 C.F.R. §106.45(b)(8)(i).
7. **Timeline.** This Grievance Process is concluded within 90 school business days after receipt of a Formal Title IX Sexual Harassment Complaint. As used in this Grievance Process, school business days means days on which the District's main office is open. For good cause, this Grievance Process may be temporarily delayed or extended for a limited time only if the Complainant and the Respondent are provided written notice of the delay/extension and the reasons for it. Good cause may include: the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities 34 C.F.R. §106.45(b)(1)(v).
8. **Disciplinary Sanctions and Remedies.** Following a determination of responsibility, the District may implement recommended disciplinary sanctions, up to and including: discharge, for a Respondent-employee; expulsion, for a Respondent-student; and termination of any existing contracts and/or prohibition from District property and activities, for a third-party Respondent. 34 C.F.R. §106.45(b)(1)(vi). Where a determination of responsibility for sexual harassment is made against a Respondent, remedies designed to restore or preserve equal access to the District's education program or activities are provided to a Complainant. Remedies may include the same individualized services described in Supportive Measures, above. Unlike Supportive Measures, however, remedies may be disciplinary or punitive, and they may burden the Respondent. 34 C.F.R. §106.45(b)(1)(i). The District may implement remedies up to and including the recommended disciplinary sanctions described above 34 C.F.R. §106.45(b)(1)(vi).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section A – Overview of 34 C.F.R. §106.45 Grievance Process (continued)

9. ***Training Requirements.*** The District ensures certain training requirements are met. At a minimum, any individual designated by the District as a Title IX Coordinator, investigator, decision-maker (including the Initial Decision-Maker and Appellate Decision-Maker), or any person designated by the District to facilitate an informal resolution process will:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent; and
 - b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and Grievance Process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias).

Any individual designated by the District as an investigator receives training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any individual designated by the District as a decision-maker receives training on issues of relevance of questions and evidence, including training about when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant to the allegations 34 C.F.R. §106.45(b)(1)(iii).

Section B – Notice of Allegations

Upon signing a Formal Title IX Sexual Harassment Complaint or receiving a Formal Title IX Sexual Harassment Complaint filed by a Complainant, the Title IX Coordinator:

1. Provides written notice to all known parties of the following information:
 - a. This procedure "Formal Title IX Sexual Harassment Complaint Grievance Process," including any available informal resolution process.
 - b. The allegations of sexual harassment potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment, and the date and location of the alleged incident, if known.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section B – Notice of Allegations (continued)

- c. That the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
 - d. That all parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - e. That all parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Sexual Harassment Complaint (including evidence the District does not intend to rely on in determining responsibility, and inculpatory or exculpatory evidence) so that each party can meaningfully respond to the evidence before the investigation concludes.
 - f. That the District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.
2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice.
3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

When the Complainant's Identity Is Unknown

If the Complainant's identity is unknown, e.g., where a third-party reports that a Complainant was victimized by sexual harassment but does not reveal the Complainant's identity, or a Complainant reports anonymously, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Title IX Sexual Harassment Complaint, even though the written notice provided in Section B.1, above, will not include the Complainant's identity 85 Fed. Reg. 30133. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.

When the Respondent's Identity is Unknown

If the Respondent's identity is unknown, e.g. where a Complainant does not know the Respondent's identity, the Grievance Process shall proceed because an investigation might reveal the Respondent's identity, even though the written notice provided in Section B.1, above, will not include the Respondent's identity. If the Respondent's identity is later discovered, the Title IX Coordinator provides another written notice to the parties 85 Fed. Reg. 30138.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section C – Consolidation of Formal Title IX Sexual Harassment Complaints

When the allegations of sexual harassment arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Formal Title IX Sexual Harassment Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party 34 C.F.R. §106.45(b)(4).

Section D – Dismissal of Formal Title IX Sexual Harassment Complaint

After an investigation, if the Title IX Coordinator determines that the conduct alleged would not constitute Title IX sexual harassment even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator dismisses the Formal Title IX Sexual Harassment Complaint with regard to that conduct for purposes of Title IX sexual harassment only. Such a dismissal does not preclude action under another applicable District policy or procedure.

At any time during the investigation, the Title IX Coordinator may dismiss the Formal Title IX Sexual Harassment Complaint, or any allegations contained in it, if any of the following occur:

1. The Complainant notifies the Title IX Coordinator in writing that he or she wants to withdraw the Formal Title IX Sexual Harassment Complaint or any allegations contained in it;
2. The Respondent is no longer enrolled or employed by the District; or
3. Specific circumstances prevent the District from gathering enough evidence to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations in it.

Upon dismissal, the Title IX Coordinator promptly sends simultaneous written notice to the parties of the dismissal, reason(s) for the dismissal, and the right to appeal the dismissal 34 C.F.R. §106.45(b)(3).

Section E – Informal Resolution of Formal Title IX Sexual Harassment Complaint

At any time prior to reaching a determination regarding responsibility, the District may facilitate informal resolution (Informal resolution may be offered only if a Formal Title IX Sexual Harassment Complaint is filed) of a Formal Title IX Sexual Harassment Complaint, such as mediation, that does not involve a full investigation and adjudication, provided that the District (34 C.F.R. §106.45(b)(9)):

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section E – Informal Resolution of Formal Title IX Sexual Harassment Complaint (continued)

1. Provides the parties written notice disclosing:
 - a. The allegations;
 - b. Informal resolution process requirements, including the circumstances where parties are precluded from resuming a Formal Title IX Sexual Harassment Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Grievance Process for the Formal Title IX Sexual Harassment Complaint; and
 - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Section F – Investigation of Formal Title IX Sexual Harassment Complaint

The Investigator or Title IX Coordinator follows these steps when investigating the allegations in a Formal Title IX Sexual Harassment Complaint.

Investigator or Title IX Coordinator:

During an investigation and throughout the Grievance Process (34 C.F.R. §106.45(b)(5)):

1. Ensures that the burden of proof and burden of gathering evidence rest on the District and not the parties involved 34 C.F.R. §106.45(b)(5)(i).
2. Provides an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence 34 C.F.R. §106.45(b)(5)(ii).
3. Refrains from restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence 34 C.F.R. §106.45(b)(5)(iii).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section F – Investigation of Formal Title IX Sexual Harassment Complaint (continued)

4. Provides the parties the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice (who may, but is not required to, be an attorney). 34 C.F.R. §106.45(b)(5)(iv).
5. Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. 34 C.F.R. §106.45(b)(5)(v).
6. Provides the parties an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence). 34 C.F.R. §106.45(b)(5)(vi).
7. Prior to the completion of the investigative report, sends to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy and provides each party with 10 school business days to submit a written response.
8. Upon receipt of a party's written response to the evidence, reviews the response and sends a copy to the other party in an electronic format or a hard copy.

Prepares an investigative report summarizing all relevant evidence. 34 C.F.R. §106.45(b)(5)(vii).

Sends to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response. Id. [**Note:** This step must occur at least 10 school business days before the Initial Decision-Maker's determination regarding responsibility.]

At the conclusion of the investigation, sends to the Initial Decision Maker in an electronic format or hard copy:

1. The Formal Title IX Sexual Harassment Complaint;
2. All evidence gathered during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence); and
3. The investigative report.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section G – Determination Regarding Responsibility; Remedies

Initial Decision Maker:

The Superintendent or designee acts as the Initial Decision-Maker for all Formal Title IX Sexual Harassment Complaints, unless it involves allegations against the Superintendent or designee or against a Board Member. In such cases, an outside consultant, e.g., an attorney or retired school administrator, acts as the Initial Decision-Maker.

Reviews Investigative Report and Corresponding Materials; Opportunity for Parties to Submit Questions.

Reviews all materials received from the Investigator.

Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, written, relevant questions that a party wants asked of any party or witness. 34 C.F.R. §106.45(b)(6)(ii). In the written notice, informs the parties that:

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless they: are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
2. Any questions must be submitted to the Initial Decision-Maker within five (5) school business days.

Reviews any questions received from each party for submission to any party or witness.

Determines which questions to forward to any party or witness for answers. If any proposed questions are excluded as not relevant, provides the proposing party with a written explanation of the decision to exclude a question as not relevant.

Forwards relevant questions to any party or witness with instructions to submit answers to the Initial Decision-Maker within five (5) school business days.

Upon receipt of answers to questions, provides each party with copies of them.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section G – Determination Regarding Responsibility; Remedies (continued)

Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, additional, limited follow-up written, questions that a party wants asked of any party or witness. Id. Informs the parties that any questions must be submitted to the Initial Decision-Maker within five (5) school business days.

Upon receipt of answers to the additional questions, provides each party with copies of them.

Determination and Written Notice of Determination

Basing all decisions on the preponderance of evidence standard, simultaneously issues to the parties a written determination regarding responsibility that (34 C.F.R. §106.45(b)(7)(ii)):

1. Identifies the allegations potentially constituting Title IX sexual harassment;
2. Describes the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
3. Contains findings of fact supporting the determination;
4. Contains conclusions regarding the application of the District's policies and procedures to the facts;
5. Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions for the District to impose on the Respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the Complainant; and
6. Outlines the District's procedures and permissible bases for the Complainant and Respondent to appeal.

Title IX Coordinator:

Implements any remedies for the Complainant as ordered by the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(iv).

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process (continued)

Section H – Appeals

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely 34 C.F.R. §106.45(b)(7)(iii).

Complainant or Respondent:

Within 10 school business days after receiving either the Initial Decision-Maker's written determination regarding responsibility or the notice of dismissal of Formal Title IX Sexual Harassment Complaint, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on:

1. Procedural irregularity that affected the outcome.
2. New evidence now available that could affect the outcome but that was not reasonably available at the time the determination.
3. The Title IX Coordinator, Investigator, or Initial Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome. 34 C.F.R. §106.45(b)(8)(i). [**Note:** The District may offer appeals on additional bases, so long as they are offered equally to both parties. 34 C.F.R. §106.45(b)(8)(ii). Consult the board attorney before offering additional appeal bases, as they may overlap with or impact related proceedings that occur separately from this Grievance Process, e.g., a student expulsion hearing or teacher dismissal hearing to impose recommended disciplinary sanctions as a result of this Grievance Process.]

Title IX Coordinator:

Upon receiving an appeal from one party:

1. Notifies the other party in writing that an appeal has been filed.
2. Provides both parties five (5) school business days to submit a written statement in support of, or challenging, the outcome.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Section H – Appeals (continued)

3. Promptly forwards all materials relative to the appeal to the Appellate Decision-Maker. [Note: The District must ensure that the Appellate Decision-Maker is not the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Board may, but is not required to, hear and decide the appeal. If the Board acts as the Appellate Decision-Maker, the Board must receive the training in Section A.9, above. [Note: Some school attorneys recommend that the appeal not go to the Board, so that the Board's objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. [Districts should discuss their options with their board attorney.]

Appellate Decision Maker:

Within 30 school business days, affirms, reverses, or amends the written determination regarding responsibility or the notice of dismissal.

Within five (5) school business days after its decision, simultaneously issues a written decision to both parties that describes the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(b)(8)(iii)(E), (F).

Section I – Recordkeeping

Title IX Coordinator:

Creates and maintains, for a period of at least seven (7) years, records of (34 C.F.R. §106.45(b)(10)(i)):

1. The sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore/preserve equal access to the District's education program or activity;
2. Any appeal and its result;
3. Any informal resolution and its result; and the footnotes should be removed before the material is used. These timelines are optional and used for ease of use and administration.
4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.

Personnel -- Certified/Non-Certified

Students

Title IX: Grievance Procedure/Complaint Process

Legal Reference: United States Constitution, Article XIV
Civil Rights Act of 1964, Title VII, 42 U.S.C. §2000-e2(a).
Equal Employment Opportunity Commission Policy Guidance (N-915.035) on Current Issues of Sexual Harassment, Effective 10/15/88
Title IX of the Education Amendments of 1972, 20 USCS §1681, *et seq.*
Title IX of the Education Amendments of 1972, 34 CFR §106, *et seq.*
Title IX Final Rule, 34 CFR 106.45 *et seq.*, May 6, 2020.
34 CFR Section 106.8(b), OCR Guidelines for Title IX.
Definitions, OCR Guidelines on Sexual Harassment, Fed. Reg. Vol 62, #49, 29 CFR Sec. 1606.8 (a) 62 Fed Reg. 12033 (March 13, 1997) and 66 Fed. Reg. 5512 (January 19, 2001)
The Clery Act, 20 U.S.C. §1092(f)
The Violence Against Women Act, 34 U.S.C. §12291(a)
Mentor Savings Bank, FSB v. Vinson 477 US.57 (1986)
Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26,1998)
Burlington Industries, Inc. v. Ellerth, No. 97-569, (U.S. Supreme Court, June 26,1998)
Gebbs v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26,1998)
Davis v. Monroe County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)
Connecticut General Statutes
46a-60 Discriminatory employment practices prohibited.
Conn. Agencies Regs. §46a-54-200 through §46a-54-207.
Constitution of the State of Connecticut, Article I, Section 20.
P.A. 19-16 An Act Combatting Sexual Assault and Sexual Harassment.

Title IX Sexual Harassment Glossary of Terms

This can be used to educate employees and students about Title IX terms, and with the required Title IX response and grievance process in Board policy 4000.1/5145.44, Title IX.

Glossary of Terms

Actual Knowledge – Notice of sexual harassment or allegations of sexual harassment to any District employee or to the District's Title IX Coordinator. Assumption of knowledge based solely on the District's status as an employer or other presumption under law does not constitute actual knowledge. This standard is not met when the only official of the District with actual knowledge is the Respondent. Notice as used here includes, but is not limited to, a report or complaint of sexual harassment to the Title IX Coordinator in person, by mail, by telephone, or by email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. 34 C.F.R. §§106.30, 106.8(a).

Appellate Decision-Maker – An individual or group, e.g., a Board-appointed appeal examiner or the Board, which reviews an appeal of the Initial Decision-Maker's determination regarding responsibility or a dismissal of a Formal Title IX Sexual Harassment Complaint (defined below). The Appellate Decision-Maker cannot be the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Appellate Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Complainant – An individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

Consent – Knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance. A person's manner of dress does not constitute consent. Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. Consent may be withdrawn at any time. A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (1) the person is incapacitated due to the use or influence of alcohol or drugs; (2) the person is asleep or unconscious; (3) the person is under age; or (4) the person is incapacitated due to a mental disability. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

Note: 34 C.F.R. §106.30, added at 85 Fed. Reg. 30574, states that Title IX recipients are not required to adopt a particular definition of consent with respect to sexual assault; however, in its 2020 Title IX rulemaking, the U.S. Dept. of Education (DOE) stated that “recipients must clearly define consent and must apply that definition consistently.” 85 Fed. Reg. 30125. Consult the Board Attorney if the District would like to customize this definition.

Education Program or Activity – Includes locations, events, or circumstances in the United States over which the District exercised substantial control over both the Respondent and the context in which the sexual harassment occurred. 34 C.F.R. §106.44(a).

Note: Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). The District’s Title IX obligations extend to off-campus sexual harassment incidents “if the off-campus incident occurs as part of the [district]’s ‘operations’ pursuant to 20 U.S.C. 1687 and 34 CFR 106.2(h)” or if the District “exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus pursuant to §106.44(a).” 85 Fed. Reg. 30196. No single factor is determinative of whether the District exercised substantial control or whether an incident occurred as part of the District’s operations. *Id.* at 30197. Operations may include computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in, the District’s operations. *Id.* at 30202. Consult the Board Attorney for further guidance.

Formal Title IX Sexual Harassment Complaint – A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation. At the time of filing a Formal Title IX Sexual Harassment Complaint, a Complainant must be participating in or attempting to participate in the District’s education program or activity with which the Formal Title IX Sexual Harassment Complaint is filed.

Note: Whether a Complainant is attempting to participate is a fact-specific inquiry. For example, a Complainant who has graduated may still be attempting to participate in an education program where he or she intends to remain involved in alumni programs or activities. 85 Fed. Reg. 30138. Consult the Board Attorney for further guidance.

Initial Decision-Maker – An individual designated by the Title IX Coordinator to reach an initial determination regarding responsibility in a Formal Title IX Sexual Harassment Complaint (defined above) by applying the standard of proof set forth in 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. See 85 Fed. Reg. 30054. The Title IX Coordinator cannot be the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(i). The Initial Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Investigator – The Title IX Coordinator or an individual designated by the Title IX Coordinator to investigate a Formal Title IX Sexual Harassment Complaint (defined above) according to 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. The Investigator must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

Respondent – An individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. 34 C.F.R. §106.30.

Supportive Measures – Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent before or after the filing of a Formal Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment 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 locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District will maintain as confidential any supportive measures provided to a Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. 34 C.F.R. §106.30.

Sexual Harassment Governed by Laws Other Than Title IX – The District must also address sexual harassment that does not meet the definition of Title IX sexual harassment. For each report or complaint received, the Title IX Coordinator reviews Board policies to determine if they require additional action by the District in addition to or at the exclusion of policy 4000.1/5145.44 Title IX. Policies to be reviewed include those pertaining to nondiscrimination, uniform grievance procedure, harassment, reporting of child abuse and neglect, sexual abuse, harassment, bullying, and student discipline/conduct.

Title IX Sexual Harassment – Conduct on the basis of sex that satisfies one or more of the following (34 C.F.R. §106.30):

- A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or
- 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 education program or activity; or

- 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).
 - **Sexual assault** means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI), and includes rape, fondling, incest, and statutory rape. 20 U.S.C. §1092(f)(6)(A)(v); 34 C.F.R. Part 668, Appendix A to Subpart D. For more information regarding the FBI UCR Program, see www.fbi.gov/services/cjis/ucr/.
 - **Dating violence** means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) 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. 34 U.S.C. §12291(a)(10).
 - **Domestic violence** includes any 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, 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. 34 C.F.R. §12291(a)(8).
 - **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 C.F.R. §12291(a)(30).

SAMPLE FORMAL COMPLAINT FORM (TITLE IX SEXUAL HARASSMENT)

Instructions for filling out this form: If you believe that you have been the victim of sexual harassment, please fill out this form, sign where indicated below, and submit it by hand delivery, electronic mail, or U.S. mail using the contact information listed for the Title IX Coordinator for Students at #5145.44 or the contact information listed for the Title IX Coordinator for Employees at #4000.1 or _____ ***[Insert any additional methods of filing this form designated by the district].***

This formal complaint form is intended for use by the alleged victim of Title IX sexual harassment (referred to in Title IX Regulations as the "complainant"). Under Title IX and the Family Educational Rights and Privacy Act (FERPA), a parent or legal guardian may sign a complaint form and otherwise act on behalf of a minor in the formal complaint process.

If you are not filling this form out as a parent or guardian and you intend to report sexual harassment against another person in the District's education program or activities, please report your concerns to the District's Title IX Coordinator so that the District can take further action. **Under federal law, only an alleged victim of sexual harassment who is currently participating or attempting to participate in the District's education program or activity (such as an enrolled student, an employee, or an applicant for employment or admission) has the right to use the formal complaint process to initiate an investigation.** The District will process all formal complaints in accordance with policy and grievance procedure 4000.1/5145.44.

Please print or type when completing this form:

Name of complainant: _____
Address: _____
Telephone number: _____
Email address: _____

Is the complainant
participating in or attempting
to participate in a District
education program or
activity? (See instructions.) ☐ Yes
☐ No

If you are a parent or guardian filling this form out on behalf of a minor complainant, please provide your contact information below.

Name: _____
Address: _____
Telephone number: _____
Email address: _____

You have the right to be represented by an advisor during the complaint process. The advisor may be, but does not have to be, an attorney. If you will be represented by an attorney or other advisor in presenting your complaint, please identify the person and provide the contact information below. If unknown at this time, you may provide this information at a later time.

Name: _____
Address: _____
Telephone number: _____
Email address: _____

Please list any additional individuals that you intend to bring with you to any meetings or interviews associated with this complaint and provide their contact information below. You may add additional pages or provide this information at a later time.

Name: _____
Address: _____
Telephone number: _____
Email address: _____

Please describe the facts and circumstances of the alleged sexual harassment causing this complaint. *(Give specific, factual details. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your complaint.)*

In a Title IX formal complaint process, the person who is alleged to have committed the sexual harassment is called the “respondent.” Please provide the name(s) of the person or people you allege to be the respondent(s) responsible for the alleged sexual harassment. If applicable, please include the person’s title or position:

When and where did the alleged sexual harassment occur? Please provide specific dates, times, and locations, if possible.

Please explain how the alleged sexual harassment has impacted you. This could include physical injuries as well as impacts on your ability to access or benefit from the District’s education program or activities.

Please provide the names and contact information of anyone who may have witnessed the alleged conduct.

If you have reported these allegations to another person, please state to whom you reported the alleged sexual harassment and provide their contact information (if known).

Title IX does not require complainants to attempt to resolve complaints of sexual harassment informally before filing a formal complaint. Nonetheless, if you have reported these allegations to a District employee, please state when, to whom, and what response you received.

Please list below any evidence that you believe is relevant to your allegations. This could include audio or visual media, physical objects, online materials, text messages, voicemail messages, screen captures, emails, or any other item you are attaching or intend to make available for the purpose of this complaint. If known, please also identify any information in the District's possession that you believe to be relevant to your allegations and would like the District to review (such as emails or security camera footage).

Please provide any other information that would be helpful for the District in reviewing your allegations.

Please describe the outcome or remedy you seek for this complaint.

Please provide below your physical or digital signature.

Complainant name: _____

Signature of complainant: _____

If complainant is under 18,
parent's name: _____

Signature of parent: _____

Date of filing: _____

If this formal complaint is being signed by the District's Title IX Coordinator instead of a complainant:

Title IX Coordinator Name: _____

Title IX Coordinator Signature: _____

Date of filing: _____

Notice to Complainant: This document is a legal record of the allegations of sexual harassment that you have reported to the District in order to request a formal investigation. Please keep a copy of this completed form and any supporting documentation for your records. Please also review your rights and responsibilities at 4000.1/5145.44 which is attached to this form and also available online at: _____ ***[Insert link or web address to your district's policy]***. Any questions or concerns that you may have during this process may be directed to the District's Title IX Coordinator.

If, after reviewing your complaint form, the Title IX Coordinator finds that the allegations are not appropriate for a Title IX sexual harassment formal complaint process but should be investigated by the District under a different policy or procedure, your formal complaint form will be forwarded to the appropriate District personnel in accordance with District policies. You have the right to appeal the dismissal of your formal complaint, as explained in Policy 4000.1/5145.44 and the District's Title IX formal complaint process.

The sample language below contains the minimum information that must be prominently displayed on the District's website to comply with Title IX regulations.

Sample Website Posting Regarding Title IX Compliance

The following information is provided in response to 34 C.F.R. Part 106.8 of the 2020 Title IX Regulations, mandating notice of a nondiscrimination policy and adoption and publication of grievance procedures that provide for the prompt and equitable resolution of student and employee complaints. In accordance with Title IX, the district does not, and is required not to, discriminate on the basis of sex in its educational programs or activities. The requirement not to discriminate extends to employment. As a school district serving students in kindergarten through grade 12, the district is not subject to provisions in Title IX Regulations (Subpart C) prohibiting discrimination on the basis of sex in admissions and recruitment. However, the district does not discriminate on the basis of sex in admissions or transfer requests.

The district has designated and authorized the following employee as the Title IX Coordinator to address concerns or inquiries regarding discrimination on the basis of sex, including sexual harassment, sexual assault, dating violence, domestic violence, stalking, and gender-based harassment:

Title IX Coordinator: _____

Physical Address: _____

Email Address: _____

Telephone Number: _____

Any individual may report sex discrimination, including sexual harassment, at any time, including during non-business hours, by mail, phone or email.

During district business hours, reports made be made in person.

To view an electronic copy of the District's Title IX policies, please go to: _____
(Insert website address.)

To obtain a copy of the District's Title IX policies, including the grievance process that complies with 34 C.F.R. §106.45(b) of the 2020 Title IX Regulations, please contact:

Upon receiving an allegation of sex-based harassment, the Title IX Coordinator will promptly respond in accordance with Board policies #4000.1 and #5145.44.

Inquiries about the application of Title IX may be referred to the District's Title IX Coordinator.

Title IX Training Materials

All materials used to train Title IX personnel are available for inspection upon request by contacting: _____

Policy 9012**Powers, Purposes, and Duties**

The board of education shall be responsible for the maintenance and operation of the public schools as required by law and by the Charter of the City of Waterbury. The board shall be responsible for carrying out the following duties:

- Interpret the needs of the community and the desired educational requirements to its professional organization.
- Elect the superintendent of schools, and approve the appointment of principals and anyone above the rank of principal.
- Work with the Superintendent of Schools to draft a proposed budget for transmittal to the Mayor.
- Provide the Board of Aldermen with statements of the need for additional school facilities, including proposed additions to or extensions of existing school buildings, and set forth such information as the Board of Education may deem appropriate.
- Approve preliminary and final plans and specifications for all new buildings and additions.
- Evaluate the total program of the schools in Waterbury and appraise the efficiency of executive personnel.
- Keep people intelligently informed of purposes, values, conditions and need of public education in Waterbury.
- Consider any other specific actions recommended by the superintendent of schools.
- Take any other actions required by law.

Legal Reference:

Connecticut General Statutes

10-221 Boards of education to prescribe rules

10-240 Control of schools

10-241 Powers of school districts

Resignation/Censure

Resignation

If for reasons of health, change in domicile, or any other compelling reason a member does decide to terminate service, the board requests as early as possible notification of intent to resign so that the board may plan appropriately. When a member of a board of education shall cease to be a bona fide resident of the City of Waterbury, membership in the board shall immediately cease.

Censure

The board may vote to censure or reprimand a member by a two-thirds majority vote of the membership of the whole board.

(cf. 9120 - Officers and Auxiliary Personnel)

(cf. 9221 - Filling Vacancies).

Conflict of Interest/Code of Ethics

The Board desires its members not only to adhere to all laws regarding conflict of interest, but to be continually aware of situations which have the appearance of conflict of interest and to avoid actions that might embarrass themselves or the board.

Board members shall comply with all statutes and ordinances governing conflicts of interest, including, but not limited to the provisions of Chapter 39 of the Waterbury Code of Ordinances, which sets forth the City's Code of Ethics and the rules regarding Conflicts of Interest for persons elected to City Boards.

Legal Reference:

Connecticut General Statutes:

7-479 Conflicts of Interest

10-156e Employees of boards of education permitted to serve as elected officials; exception.

10-232 Restrictions on employment of members of the board of education.

Chapter 39 of the Waterbury Code of Ordinances

Suspension of Policies

The Board sets policy. The Superintendent's administration develops regulations to carry out said policies. The Board may review regulations at its discretion.

Policies, bylaws, and Board-adopted regulations may be suspended for a specified purpose, and for a limited time, by a majority vote of all voting members of the Board.

Reference: Robert's Rules of Order, Newly Revised

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Quorum/Parliamentary Procedure/Rules of Order

A majority of the voting Board membership shall constitute a quorum of the Board of Education. A quorum of any Board committee is defined as a majority of the assigned committee members.

The rules contained in Robert's Rules of Order, Newly Revised shall govern the proceedings of the Board of Education in all instances in which they are not inconsistent with the bylaws of the Board, state and local law.

The President shall preserve order and decorum, may speak to points of order in preference to other members, and shall decide all such questions, subject to an appeal to the Board by motion made and seconded; and no other business shall be in order until the question on the appeal shall have been decided.

Reference: Robert's Rules of Order, Newly Revised at Article VII, §43.
Board Policy No. 9010.

Electronic Mail Communications

Board member assigned E-mail addresses are intended facilitate the expeditious distribution of information. Communication among Board members via e-mail should conform to the same standards as other forms of communication. (i.e., committee meetings, etc.) as directed by the Freedom of Information Act.

Guidelines for Board E-Mail Usage

The Freedom of Information Act (the “Act”) mandates that all meetings of public bodies such as school Boards be open to the public. It is the policy of the Board of Education that E-mail shall not be used in such a manner as to deprive the public of the rights given to it under the Act. To that end, this bylaw sets forth guidelines for E-mail use by Board members when communicating with other Board members.

1. E-mail, like other written forms of communication relating to the conduct of public business is subject to the Freedom of Information Act and subject to disclosure unless otherwise privileged or exempt under the Act.
2. Board members shall not use email as a substitute for deliberations at public Board meetings, and/or shall not discuss policy matters or vote informally on any issues.
3. E-mail should be used to pass along factual information.
4. Discussion of personnel issues and other sensitive subjects should be avoided in e-mail communications. The confidentiality of employee data, student data, and other sensitive subjects must always be maintained.

Legal Reference: Connecticut General Statutes
The Freedom of Information Act.
1-200 Definitions.
1-210 Access to public records. Exempt records.
1-211 Disclosure of computer-stored public records.

UPDATED 12/10/2020