P1117 TITLE IX SEXUAL HARASSMENT & COMPLAINT PROCEDURE

BOARD POLICY:

<u>SECTION A</u>: TITLE IX SEXUAL HARASSMENT. Wichita Public Schools prohibits sexual harassment in accordance with Title IX. Under Title IX, and for purposes of this policy, sexual harassment means conduct on the basis of sex, gender identity, and sexual orientation that satisfies as least one of the following:

1. **A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct ("quid pro quo" harassment);**
2. **Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; or**
3. **Sexual assault, dating violence, domestic violence, or stalking.**

An employee found to be responsible for sexual harassment will be subject to discipline, up to and including termination. A student found to be responsible for sexual harassment will be subject to discipline, up to and including suspension and expulsion.

This policy is intended to ensure compliance with the regulations implementing Title IX of the Education Amendments of 1972 (Title IX), including the amendments that became effective on August 14, 2020. This policy is distinct from BOE Policies P1115 and P1116, although the policies overlap. In the event of conflict between the requirements of this policy and P1115 or P1116, this policy shall control complaints of conduct prohibited by Title IX as described above. P1115 and P1116 will apply to complaints of conduct prohibited by said policies but not described above.

Administrative Implemental Procedures:

1. Sexual harassment may include a range of subtle and not-so-subtle behaviors that may involve individuals of the same or different gender. Depending on the circumstances and the severity, pervasiveness, and objective offensiveness, these behaviors may include, but are not limited to, unwanted sexual flirtation, advances or requests for sexual favors; offensive sexual jokes, teasing, and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess, or sexual deficiencies; leering, catcalls, or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail, social media, or text messages); and other offensive physical, verbal, or visual conduct of a sexual nature.

2. Complaints of sexual harassment based on conduct prohibited by Title IX will be addressed in accordance with the District's Title IX Sexual Harassment Complaint Procedure, as set forth in Section B of this policy and elsewhere. Complaints of conduct not meeting the definition of Title IX sexual harassment may nonetheless result in discipline as prohibited conduct under other District policies or procedures, including P1115 and P1116.

3. Wichita Public Schools prohibits retaliation, reprisals, intimidation, adverse action or the threat of adverse action, or coercion against any individual who in good faith complains about or reports sexual harassment, assists someone with a complaint of sexual harassment, attempts to intervene to prevent prohibited behavior, or participates in the District's reporting process. The initiation of a good faith complaint of sexual harassment will not cause any adverse reflection on the complainant.

4. For purposes of this policy, "good faith" does not mean that an individual's suspicions must be proven correct; it means that the reporter believes the information provided is true, and the reporter has provided all known, truthful information available. The making of intentionally false complaints, or intentionally providing false information regarding a complaint, are prohibited and may result in discipline.
5. Employees must report all instances of sexual harassment by following the procedure outlined in the Title IX Sexual Harassment Complaint Procedure.
6. The Superintendent or designee is responsible for appointing a Title IX Coordinator for Adults and Students, whose duties will include those described in this BOE Policy 1117 and elsewhere.

SECTION B: TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURE

Wichita Public Schools encourages the prompt reporting of all claims of sexual harassment. Timely reporting facilitates the investigation and resolution of such claims. All such allegations, including complaints of alleged Title IX sexual harassment, reported by students, parents/guardians, current or prospective employees, and other members of the school community will be promptly investigated in an impartial manner and as confidentially as reasonably possible, so that corrective action can be taken if necessary and supportive measures provided if requested and appropriate.

Administrative Implemental Procedures:

The complaint procedure for Title IX sexual harassment shall be as follows:

1. Any person who believes they have experienced or witnessed sexual harassment in violation of Title IX and Section A of this policy should report it to the Title IX Coordinator, a school counselor, principal, or other administrator Complaints may be submitted in person, by mail, by telephone, or by e-mail, 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.
2. Wichita Public Schools will investigate any formal complaint of sexual harassment. A form for the submission of a formal complaint can be found on the District's website and will also be provided to complainants. As it pertains to students, in appropriate circumstances, due to the age of the student making the complaint, a parent/guardian or school administrator may be permitted to fill out the form on the student's behalf.
3. If the alleged victim of sexual harassment does not submit a formal complaint, the Title IX Coordinator may submit a formal complaint to initiate an investigation.
4. If a formal complaint is submitted to a school counselor, principal, or other administrator, that person will notify the Title IX Coordinator for Adults and Students, who will make an initial determination as to whether the complaint describes behavior which would constitute sexual harassment as described in Title IX and Section A of this policy. Complaints that do not meet this definition shall not be subject to these procedures and shall be processed separately, and subject to possible discipline if the conduct violates other District Policies.
5. Except for complaints of employee-on-student sexual harassment, and with the voluntary, written consent of both the alleged victim of sexual harassment (the "complainant") and the

alleged perpetrator of sexual harassment (the "respondent"), complaints of conduct in violation of Title IX and Section A of this policy may be resolved through informal resolution, such as mediation or restorative justice. Informal resolution may be used at any time prior to a final determination of responsibility. In working to resolve the matter, the Title IX Coordinator ordinarily will interview the complainant and, as appropriate, others who may have knowledge of the facts underlying the complaint. At any point, including while the informal process is ongoing or afterwards, the complainant may elect to end the informal process in favor of filing a formal complaint.

6. For a complaint alleging conduct in violation of Title IX and Section A of this policy, the parties shall then be given a copy of these grievance procedures and written notice will be provided to the respondent(s). It is the responsibility of the Title IX Coordinator or designee to explain these procedures and answer any questions anyone has. In addition, if the complainant is a minor child, the Title IX Coordinator or designee should consider whether a child abuse report should be completed.

7. ~~Title IX sexual harassment complainants,~~ ~~w~~**W**ith or without a formal complaint, **supportive measures** will be offered ~~supportive measures~~ **that are** designed to preserve or restore a student's access to the school's education program or activity, protect student and employee safety, and deter sexual harassment. The Title IX Coordinator ~~for Adults and Students~~ shall provide information regarding such supportive measures as may be available.

8. After it is determined that a formal complaint alleges conduct that meets the definition of sexual harassment as defined in this policy, an investigation will promptly be conducted ~~by the Title IX Coordinator or a designee appointed by the Chief Human Resources Officer~~ **by an appointed investigator**, maintaining confidentiality insofar as reasonably possible while conducting an effective investigation. The investigator may conduct in-person meetings or interviews during the investigative process. The proceedings are confidential and should not be discussed outside of the investigative process. Records directly related to District students are further subject to the requirements of the Family and Educational Rights and Privacy Act (FERPA).

9. All parties will receive the same opportunity to have others present during the complaint proceeding, including having an advisor at any meeting or interview.

10. A presumption that the respondent is not responsible for the alleged conduct will be maintained until a determination regarding responsibility is made at the conclusion of the complaint process.

11. **A preliminary investigative report and** ~~A~~**a**ll evidence directly related to the allegations will be provided to the parties by the investigator. The parties will be provided at least ten days within which to inspect, review, and respond to this evidence prior to the investigator's completion of the investigative report.

12. In determining whether the respondent is responsible, a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment occurred) will be applied.

13. After the completion of the investigation, a written investigative report that summarizes the evidence will be sent to the parties **and to the decision-maker appointed to make a determination as to whether the respondent is responsible for conduct which constitutes**

sexual harassment under Title IX. The parties will then have ten days to review and respond to this report in writing.

14. After an investigative report is sent to all parties, and before reaching a determination regarding responsibility, each party will be given the opportunity to submit relevant, written questions that a party desires to be asked of any party or witness. Each party will be provided with the answers to these questions, and allowed to submit additional, limited follow-up questions. (Inappropriate questioning about prior sexual history and/or a party's medical, psychological or other treatment records will not be permitted.)
15. At the conclusion of the complaint process, a written determination regarding responsibility will be issued to the parties. Responsibility will be determined by **a decision-maker who is** someone other than the investigator, to be appointed by the Superintendent or designee. The written determination of responsibility will include findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any discipline imposed on the respondent, and whether supportive measures will be provided to the complainant. This written determination will be sent simultaneously to the parties, along with information about how to file an appeal.
16. A copy of the completed investigative report and written determination of responsibility shall be sent to the Title IX Coordinator.
17. The District will make reasonable efforts to complete the complaint process within sixty days of the filing of the formal complaint, however, this time frame may be extended based on the circumstances.
18. An employee found to be responsible for sexual harassment as defined in Section A will be subject to discipline, up to and including termination. A student found to be responsible for sexual harassment as defined in Section A will be subject to discipline, up to and including suspension or expulsion.
19. Conduct that does not meet the definition of Title IX sexual harassment may nevertheless be subject to discipline as prohibited misconduct in violation of other District policies.
20. Any party may appeal a determination of responsibility or a dismissal of a complaint on the bases of procedural irregularities that affected the outcome, previously unavailable evidence that could affect the outcome, or conflict of interest or bias by the Title IX Coordinator**, investigator, or decision-maker**. Appeals will be decided by an Appeal Adjudicator appointed by the Superintendent or designee. The Appeal Adjudicator may not be the same individual who ruled on the complaint in the first instance. Appeals should be submitted in writing to the Appeal Adjudicator within ten days of the determination of responsibility.
21. Upon receipt of an appeal, the Appeal Adjudicator shall forward the appeal to the other party. The non-appealing party will have five (5) calendar days to submit a written statement in support of or against the appeal to the Appeal Adjudicator.
22. Supportive measures will continue to remain in place during the appeal process. However, no Corrective or Preventative Measures will be implemented prior to the appeal process ending.
23. The Appeal Adjudicator will issue a written decision regarding the appeal and the rationale for appeal decision within ten (10) business days from the end of the five (5) calendar day period for the non-appealing party's statement deadline. This decision will be provided to both parties

simultaneously and will be a final determination regarding the Title IX Respondent's responsibility and cannot be further appealed.

Board counsel has approved this policy as to legal form and content.

Administrative Responsibility: Superintendent or designee
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