

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 1 of 7

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### Discrimination Based on Sex Prohibited

The Westerly Public Schools (“WPS” or the “District”) is committed to maintaining an education environment that is safe, supportive, and free from discrimination based on sex, including sexual harassment.

This policy, which is adopted pursuant to Title IX of the Education Amendments of 1972 ("Title IX") and 34 C.F.R. § 106.45, prohibits discrimination based on sex, including sexual harassment, in connection with all of the academic, extracurricular, athletic, and other programs of the District, whether on or off school grounds, including on school buses, at sports games, on field trips, and in virtual instructional environments.

### Definitions

*Complainant* – A person who is alleged to be the victim of conduct that could constitute sexual harassment.

*Respondent* – A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A respondent can be a student, a teacher, an administrator, any other WPS employee, or a third party. Respondents will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

*Sexual Harassment* – Unwelcome conduct on the basis of sex that satisfies one or more of the following:

- A WPS employee conditioning the provision of an aid, benefit, or service of the District on the student or employee’s participation in unwelcome sexual conduct;
- Unwelcome sexual 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, dating violence, domestic violence, or stalking.

Unwelcome sexual conduct can be perpetrated in person, over the phone, or online. This policy is not intended to limit the District’s authority to address conduct that does not fit the definition of sexual harassment, but that violates other WPS policy or the student code of conduct. For example, conduct that constitutes harassment based on a protected category other than sex, or other forms of unlawful discrimination, hazing, or bullying, or any other violation of the student code of conduct or WPS workplace rules, will be investigated and addressed under the applicable WPS policy and law.

# Policies

---

## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 2 of 7

---

### Title IX Coordinator

The Assistant Superintendent shall serve as the Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the District's response to complaints of sex-based discrimination. All questions regarding Title IX or this policy may be referred to the Title IX Coordinator or to the U.S. Department of Education's Assistant Secretary for Civil Rights, or both.

### Reporting Discrimination and Harassment

Any person may report sexual harassment under this policy, without regard to whether the person making the report is the person alleged to have been the victim of the conduct. A minor student's parent or guardian (including the parent or guardian of a minor complainant, minor respondent, or minor third party) may act on their child's behalf at any point in the District's reporting, investigation, and grievance processes, provided that the child is under the age of eighteen (18) years.

Any employee who becomes aware of conduct that may violate this policy must immediately notify the Title IX Coordinator, regardless of whether there is a formal or written complaint and even if a complainant requests that the employee do nothing. ***An employee's failure to notify the Title IX Coordinator of conduct that may violate this policy is its own violation of this policy and will result in discipline.***

#### *Where to report*

Students may report sexual harassment to the Title IX Coordinator or to any trusted WPS employee, such as a teacher, principal, assistant principal, school nurse, guidance counselor, social worker, or coach. Employees must report sexual harassment directly to the Title IX Coordinator.

#### *When to report*

All complaints should be made as soon as possible. While there is no time limit for making a complaint, the sooner WPS knows about the complaint, the sooner it can take steps to stop any discriminatory behavior and remedy its effects.

#### *How to report*

Complaints may be made orally or in writing. The contents of a complaint generally should include: (i) the name of the person making the report and the name of the alleged victim; (ii) the name of the alleged perpetrator; (iii) a description of the conduct, including the date, time, and location; (iv) the names of any witnesses; and (v) requested supportive measures, if any.

# Policies

---

## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 3 of 7

---

### Initial Response to Allegations of Sex Discrimination and Harassment

Once WPS is on notice of an allegation of conduct that may violate this policy, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures. The Title IX Coordinator will consider the complainant's requested supportive measures, if any.

The Title IX Coordinator will also explain the complainant's option to file a formal complaint and the process for filing a formal complaint. The Title IX Coordinator will explain that WPS has a legal obligation to investigate the allegations in a formal complaint, and that if a formal complaint is not filed, WPS may nevertheless still investigate the report (either under this or another applicable policy).

### Supportive Measures

Regardless of whether a complainant chooses to file a formal complaint or not, WPS shall offer individualized services to the complainant which shall be designed to restore or preserve equal access to education, protect student and employee safety, and deter sexual harassment. Examples of supportive measures include, but are not limited to, counseling, extensions of time or other course-related adjustments, modifications of class schedules, campus escort services, and mutual restrictions on contact between the parties.

### Formal Complaints

A formal complaint is a written document or electronic submission that alleges sexual harassment against a respondent and requests that WPS investigate the allegation(s). A complainant can file a formal complaint with the Title IX Coordinator in person, by mail, or by e-mail. The Title IX Coordinator can also sign a formal complaint on a complainant's behalf.

Formal complaints will be investigated and decided according to the procedures set forth below. These procedures are intended to ensure that all investigations and adjudications are:

1. Equitable. Both parties will have the same opportunities to present their side of the story to the investigator, to present evidence, and to be accompanied by a representative (which could be a parent, attorney, or other person of the party's choosing).
2. Objective. The investigator will be free from actual or perceived bias or conflict of interest. The investigator will consider both inculpatory and exculpatory evidence; credibility determinations will not be based on a person's status as a complainant, respondent, or witness; and WPS will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, legally privileged

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 4 of 7

---

information.

3. Prompt. Temporary delays will be permitted only for good cause (such as 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).

WPS will dismiss a formal complaint if the conduct alleged in the formal complaint (i) would not constitute sexual harassment even if proved; (ii) did not occur on school grounds or at a school-sponsored activity; or (iii) took place outside of the United States. WPS may also dismiss a formal complaint if the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint.

If WPS dismisses a formal complaint, all parties will be notified. A party may appeal the decision to dismiss a formal complaint by following the Appeals Process set forth below. The complaint may also be referred for investigation and possible disciplinary action pursuant to other applicable WPS policy. For example, conduct that does not fit the definition of sexual harassment under this policy may constitute another form of discrimination or bullying.

### **Investigation and Adjudication of Formal Complaints**

1. WPS will provide prior written notice of the investigation to all parties. The notice will include, among other things, a copy of this policy and a sufficiently detailed description of the allegations. The notice will specify the identities of the parties involved, the conduct allegedly constituting sex-based discrimination or sexual harassment, and the date and location of the incident, if known.
2. The Title IX Coordinator will select an investigator to investigate the allegations in the formal complaint. In some instances, the investigator may be an outside investigator.
3. The investigator will interview the complainant, the respondent, and any witnesses, and gather evidence, as appropriate. Examples of evidence that the investigator may consider include e-mails, text messages, social media, photographs, videos, surveillance footage, and medical reports. The parties will be permitted to bring an advisor, such as a parent, guardian, counselor, or an attorney, with them to the interview.
4. Before completing an investigative report, the investigator will offer both parties the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. Both parties will have ten (10) days to submit a written response to the evidence, which the investigator will consider prior to completion of the investigative report.

# Policies

---

## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 5 of 7

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5. The investigator will create an investigative report that fairly summarizes relevant evidence and send copies of the report to both parties (and their advisors, if any) for their review and written response.
6. The investigator will provide a copy of the final investigative report and the parties' written responses (if any) to the Superintendent or designee(s), who will act as decisionmaker. The decisionmaker will offer each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. The decisionmaker will then provide each party with the answers and allow for additional, limited follow-up questions from each party.
7. The decisionmaker will apply a preponderance of the evidence standard to determine whether the alleged sexual harassment occurred. The decisionmaker will issue a written decision to both parties at the same time.
8. If the decisionmaker finds that the alleged misconduct occurred, the decisionmaker will recommend the appropriate disciplinary consequence for the respondent in accordance with applicable policy and law.

### **Option for Informal Resolution**

Where appropriate in light of the nature of the allegations and facts involved, WPS may offer the parties the option to pursue an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. All parties must voluntarily agree to the informal resolution after receiving a full written disclosure of the allegations and their options for formal resolution. WPS will not offer an informal resolution process to resolve allegations that an employee sexually harassed a student.

### **Appeals Process**

Either party may appeal from the District's decision to dismiss a formal complaint or from the decisionmaker's determination of responsibility. The appealing party must submit the appeal, in writing, to the Chair of the Westerly School Committee within ten (10) days of receiving the notice of dismissal or determination of responsibility.

Appeals will only be allowed for the following reasons: (i) procedural irregularity that affected the outcome of the matter; (ii) new evidence that was not reasonably available at the time the determination of responsibility or dismissal was made, that could affect the outcome of the matter; or (iii) the Title IX Coordinator, investigator, or Superintendent had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

# Policies

---

## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 6 of 7

---

Both parties will be notified of the appeal in writing and will have the opportunity to submit a written statement in support of or challenging the outcome. Appeals will be decided by the Committee. The outcome of the appeal will be in writing and issued to both parties at the same time.

### **Confidentiality**

WPS will strive to maintain confidentiality throughout the investigatory process to the extent practical and appropriate under the circumstances. WPS may, however, have a legal obligation to share information received during an investigation. For example, WPS is required to report known and suspected cases of child abuse to the Department of Children, Youth and Families. WPS may also have an obligation to report known or suspected violations of the law to local law enforcement.

### **Discipline**

Any student or employee who is determined to have violated this policy will be subject to discipline in accordance with policy and applicable law. The range of disciplinary consequences that may be imposed on a student for violations of this policy includes, but is not limited to, removal from extracurricular activities or other school-sponsored events, removal from athletic activities, and suspension (in-school or out-of-school). The range of disciplinary consequences that may be imposed on an employee for violations of this policy includes, but is not limited to, verbal or written reprimand, referral to counseling, suspension without pay, and termination from employment.

### **Complaints to External Agencies**

Nothing in this policy is intended to discourage a complainant from reporting acts of unlawful sexual harassment or sexual violence to local law enforcement. In the event a complainant chooses to file a report with local law enforcement in addition to filing a complaint with WPS under this policy, WPS will conduct its own investigation, independent of any law enforcement investigation.

In addition, any individual who believes they have been subjected to sex-based discrimination, including sexual harassment and sexual violence, may file a formal complaint with:

The United States Department of Education  
Office for Civil Rights ("OCR")  
5 Post Office Square  
Boston, MA 02109  
(617) 289-0111

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 7 of 7

---

### **Retaliation and Malicious Reporting Prohibited**

WPS prohibits retaliation against any individual who makes a report of sex-based discrimination or who cooperates in an investigation. Any individual who believes they have been subjected to retaliation is encouraged to report the retaliation to the Title IX Coordinator.

Any individual found to have retaliated against another individual for reporting discrimination or harassment or for cooperating in the investigation of a complaint is in violation of this policy and will be subject to disciplinary action.

Similarly, if an investigation results in a finding that the complainant knowingly and falsely accused another person of discrimination or harassment, the complainant will be subject to disciplinary action.

### **Employee Training and Requirement of Impartiality**

WPS shall ensure that the Title IX Coordinator and any employee acting as an investigator, decision-maker, or person facilitating an informal resolution process is adequately trained and free from conflicts of interest and bias.

[Title IX of the Education Amendments of 1972]

[34 C.F.R. § 106.30 et seq.]

[R.I. Gen. Laws § 16-38-1.1]

[R.I. Gen. Laws § 16-85-2]

Adopted: February 24, 2010

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