

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 1 of 10

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### Discrimination Based on Sex Prohibited

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

This policy adopted pursuant to Title IX of the Education Amendments of 1972 ("Title IX") and updated in accordance with regulations issued by the United States Department of Education (“USDOE”), implements Title IX by prohibiting all sex-based discrimination in connection with all WPS programs or activities.

This means that the District shall not, on the basis of sex, treat one person differently from another in determining whether that person satisfies conditions for the provision of any aid, benefit, or service; provide any aid, benefit, or service in a different manner; deny any person aids, benefits, or services; or subject any person to separate or different rules of behavior, sanctions, or treatment.

This also means that the District shall not, on the basis of sex, exclude any person from participation in, deny a person the benefits of, or subject a person to discrimination in employment, or recruitment, consideration, or selection, whether full-time or part-time. The District shall make all employment decisions in its education program or activity in a non-discriminatory manner and shall not limit, segregate, or classify applicants or employees in any way that could adversely affect any applicant’s or employee’s employment opportunities or status because of sex.

Finally, the District shall not enter into any contractual or other relationship that directly or indirectly has the effect of subjecting employees or students to discrimination on the basis of sex, including relationships with employment and referral agencies, labor unions, and with organizations providing or administering fringe benefits to WPS employees.

WPS “programs or activities” include employment-related programs and activities, and all academic, extracurricular, and athletic programs and activities of the District, whether on or off school grounds, including virtual teaching and learning. “Programs or activities” also include events and incidents that may take place on school buses, at sports games, and on field trips. In complaints alleging sex-based hostile environment harassment, “programs and activities” shall in some instances extend to conduct that occurred outside of the District’s program or activity if alleged to be contributing to the hostile environment.

### Notice of Nondiscrimination

WPS administration shall ensure publication of a notice of nondiscrimination in accordance with the USDOE’s Title IX regulations.

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 2 of 10

---

### Definitions

*Complainant* – An individual who is alleged to have been subjected to conduct that could constitute sex discrimination under the District’s program or activity. A complainant can be a student, an employee, or a person other than a student or employee who was participating or attempting to participate in the District’s education program or activity at the time of the alleged sex discrimination.

*Respondent* – An individual who is alleged to have violated the District’s prohibition on sex discrimination. 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.

*Complaint* – An oral or written request that objectively can be understood as a request to investigate and make a determination about alleged sex discrimination. A complaint triggers this policy’s grievance procedure (or informal resolution process, if appropriate).

*Sex Discrimination* – Unlawful discrimination on the basis of sex.

*Sex-based Harassment* – Sexual harassment is a category of sex discrimination. It is further defined to fall within one of the following three subcategories:

- *Quid pro quo harassment*: This occurs when an employee, agent, or other person authorized by the District to provide an aid, benefit, or service under its education program or activity explicitly or impliedly conditions the provision of such an aid, benefit, or service on a complainant’s participation in unwelcome sexual conduct.
- *Hostile environment harassment*: This occurs when a respondent directs unwelcome sex-based conduct at a complainant that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or otherwise denies the complainant’s ability to participate in or benefit from the District’s education program or activity.
- *Specific offense*: This occurs when a respondent perpetrates one of the following specific offenses, defined under the Title IX regulations, against a complainant when such offenses occurred under the District’s program or activity: sexual assault, dating violence, domestic violence, or stalking.

### Title IX Coordinator

The Title IX Coordinator is responsible for coordinating the District’s compliance with its obligations under Title IX. All questions regarding Title IX or this policy may be referred to the Title IX Coordinator. The District shall maintain up-to-date information about the Title IX Coordinator,

# Policies

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including their name and title, office address, and contact information on the WPS website and in student handbooks.

## **Title IX Protections for Students Related to Parental, Family, and Marital Status; Pregnancy; and Related Conditions**

The District shall not discriminate against any student based on the student's current, potential, or past pregnancy or related conditions (including childbirth, termination of pregnancy, and lactation, medical conditions related to the same, and recovery from the same).

When a student, or a person who has a legal right to act on behalf of the student, informs any WPS employee of the student's pregnancy or related condition(s), the employee shall promptly provide that student or person with the Title IX Coordinator's contact information and inform them that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's education program or activity. The Title IX Coordinator shall explain the District's obligations under Title IX, the Title IX Regulations, and this Policy and shall ensure the student receives the District's notice of nondiscrimination.

The District shall make reasonable modifications to its policies, practices, or procedures, as necessary and based on the student's individualized needs, to prevent sex discrimination and ensure equal access to its education program or activity; provided, however, that a modification that would fundamentally alter the nature of the education program or activity is not a reasonable modification. Reasonable modifications may include, but are not limited to: breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies; and elevator access.

## **Reporting Sex Discrimination**

The following procedures apply to reporting allegations of sex discrimination, including sex-based harassment. The District maintains separate policies concerning other forms of discrimination against students and employees, such as discrimination based on race, color, religion, disability, and age.

### *1. Employee Obligation to Report*

Any and all WPS employee(s) who have information about conduct that reasonably may constitute sex discrimination must notify the Title IX Coordinator of the information. ***An employee who fails to notify the Title IX Coordinator of such information is in violation of this policy and subject to discipline.***

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 4 of 10

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### *2. Voluntary Reporting*

Any complainant may make an oral or written request that the District investigate and make a determination about alleged sex discrimination. In addition, a parent, guardian, or other authorized legal representative with the legal right to act on behalf of a student may make a complaint of alleged sex discrimination.

### *3. Where to report?*

Students or their parents/guardians may report to the Title IX Coordinator or to any trusted District employee, such as a teacher, principal, assistant principal, school nurse, guidance counselor, social worker, or coach.

Any applicant or employee who believes they have been subjected to conduct that could constitute sex discrimination may file a report with the Title IX Coordinator.

### *4. When to report?*

All reports should be made as soon as possible. While there is no time limit for making a report, the sooner the District knows about the conduct, the sooner it can take steps to stop any discrimination and remedy its effects.

### *5. How to report?*

Reports may be made orally or in writing. The contents of a report generally should include the complainant's name (and if the person making the report is someone other than the complainant, include the reporting person's name as well); the respondent's name; a description of the conduct, including the date, time, and location; the names of any witnesses; and the complainant's requested supportive measures, if any.

## **Response to Reports of Sex Discrimination**

Once the Title IX Coordinator has been notified of conduct that reasonably may constitute sex discrimination, the Title IX Coordinator must take the following actions promptly to effectively end any sex discrimination, prevent its recurrence, and remedy its effects. These actions include:

### *1. Supportive Measures.*

The Title IX Coordinator must offer and coordinate supportive measures to the complainant. These measures shall be designed to restore or preserve equal access to education or employment, protect student and employee safety, and deter sex discrimination. Supportive measures shall not unreasonably burden either party and shall not be imposed for punitive or disciplinary reasons. The Title

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 5 of 10

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IX Coordinator must also offer and coordinate supportive measures to the respondent if the District has initiated the grievance procedure or offered an informal resolution process to the respondent.

Examples of supportive measures include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of class, extracurricular, or work schedules, escort services, leaves of absence, restrictions on contact between the parties, and training and education programs related to sex-based harassment. Parties may request the modification or reversal of a decision regarding supportive measures from the Superintendent, who shall have the authority to modify or reverse the decision if it was inconsistent with this policy.

Except as otherwise prohibited by law, nothing in this policy precludes the District from removing a student respondent from the premises on an emergency basis where, after conducting an individualized safety and risk analysis, the District determines that an imminent and serious threat to the health or safety of any individual arising from the allegations of sex discrimination justifies removal. The District shall provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. Further, nothing in this policy precludes the District from placing an employee respondent on administrative leave during the pendency of the investigation and grievance process.

### ***2. Initial Notification to Complainant and Respondent.***

The Title IX Coordinator must notify the complainant (or the individual who reported the conduct, if the complainant is unknown) of the District's grievance procedure and informal resolution process. If a complaint is made, the Title IX Coordinator must also notify the respondent of the grievance procedures and the informal resolution process.

### ***3. Initiate Grievance Procedures or Informal Resolution Process.***

In response to a complaint, the Title IX Coordinator shall initiate the grievance procedures or the informal resolution process, if available and appropriate and requested by all parties.

In some circumstances, the Title IX Coordinator may initiate a complaint of sex-based discrimination if, after consideration of specific factors, the Title IX Coordinator determines that the conduct alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity. If the Title IX Coordinator initiates the complaint, the Title IX Coordinator will notify the complainant prior to doing so and address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

## **Grievance Procedures**

Once a complaint is made, the District will initiate its grievance procedure (or informal resolution process, if appropriate). The District's grievance procedure is designed to be:

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

---

No. 2050/4146  
page 6 of 10

- *Equitable.* This means that the complainant and the respondent will have the same opportunities to present their side of the story to the investigator and to present and review evidence, and that the burden remains on the District (not the parties) to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- *Objective.* This means that the Title IX Coordinator, investigator, and decisionmaker will be free from actual or perceived bias or conflict of interest.
- *Prompt.* This means that the District will endeavor to meet the timeframes set forth in this policy. Extensions of the grievance timeframes will be permitted on a case-by-case basis for good cause and with notice to the parties that includes the reason for the delay (such as the absence of a party or witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities).

The grievance procedure consists of the following steps:

1. ***Evaluation.*** The Title IX Coordinator will first determine whether to dismiss the complaint or proceed with the grievance procedure and whether informal resolution is appropriate.  
**Target timeframe: up to 10 calendar days.**

The Title IX Coordinator may dismiss a complaint if: (i) unable to identify the respondent after taking reasonable steps to do so; (ii) the respondent is neither a student nor employee; (iii) the complainant voluntarily withdraws some or all of the allegations in the complaint and, as a result, the conduct that remains alleged in the complaint (if any) would not constitute sex discrimination even if proven; or (iv) after making reasonable efforts to clarify the allegations in the complaint, the conduct alleged in the complaint would not constitute sex discrimination even if proven.

If the Title IX Coordinator dismisses a complaint, they will notify the complainant (and the respondent, if they have already been notified of the allegations) of the basis for the dismissal. A party may appeal the decision to dismiss a 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. The District will continue to offer supportive measures, as appropriate, and to take such other prompt and effective steps as are appropriate to ensure that sex discrimination does not continue or recur.

2. ***Investigation.*** If the Title IX Coordinator does not dismiss the complaint, or commence the informal resolution process, they will initiate the investigation by designating an investigator (“Investigator”). This person may be the Title IX Coordinator, a Human Resources Department administrator, or one of the WPS Principals. In some instances, the Title IX Coordinator may recommend to the District that it engage an individual from outside the

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 7 of 10

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District who has expertise in conducting Title IX investigations. **Target timeframe: up to 60 calendar days.**

**2(a).** The Investigator will provide 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 to allow a response. At a minimum, the notice will specify the identities of the parties involved, the conduct alleged to constitute sex discrimination (*e.g.*, the sex harassment or other sex discrimination conduct by the respondent against the complainant), and the date(s) and location(s) of the alleged conduct or incident(s), if known. The notice will also include a statement that retaliation is prohibited and that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. (If the Investigator provides a description of the evidence, the parties are nonetheless entitled to access the relevant and not otherwise impermissible evidence upon request of either party).

**2(b).** The Investigator will interview the complainant and respondent. The Investigator will offer both parties an equal opportunity to present fact witnesses and other inculpatory or exculpatory evidence that is relevant and not otherwise permissible. 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.

**2(c).** The Investigator will provide each party with an equal opportunity to access and respond to: (a) any relevant and not otherwise impermissible evidence obtained as part of the investigation, or (b) an accurate description of the same. If the Investigator provides a description of the evidence, they must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon request of any party. The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this step of the grievance procedure.

- 3. Determination.** The Investigator, the Superintendent, or the Superintendent's designee shall serve as the Decisionmaker and make a determination, using the preponderance of the evidence standard, as to whether sex discrimination occurred. The question and standard for the decisionmaker will be: *Did the respondent engage in conduct or direct conduct at the complainant on the basis of sex that had the effect of limiting or denying the complainant equal access to the District's education program or activity?* In reaching that decision, the Decisionmaker will evaluate the relevant and not otherwise impermissible evidence. To the extent the Decisionmaker has not done so as part of the investigative process, the Decisionmaker may question parties and witnesses directly to assess the credibility of each party or witness if credibility is in dispute and relevant to evaluating one or more allegations of sex discrimination. **Target timeframe: up to 20 calendar days.**

# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 8 of 10

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4. *Notice and Rights of Appeal.* The Decisionmaker will notify the parties in writing of the determination whether sex discrimination occurred under Title IX, the rationale for the determination, and information about the appeals process, if applicable.
5. *Remedies.* If there is a determination that sex discrimination occurred, the Title IX Coordinator will coordinate the provision and implementation of remedies to the complainant and other persons identified as having had equal access to the District's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on the respondent (including notification to the complainant of such sanctions) and take any other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur. The District may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

### Informal Resolution Process

At any time prior to determining whether sex discrimination has occurred, the Title IX Coordinator may offer the parties the option to pursue an informal resolution process that does not involve a full investigation and determination. The Title IX Coordinator: (i) shall not require or pressure the parties to participate in an informal resolution process; (ii) must obtain the parties' voluntary consent to participate; and (iii) must not require waiver of the right to an investigation and determination of a complaint as a condition of the exercise of any right.

The Title IX Coordinator shall provide notice to the parties before initiating an informal resolution process which shall explain the allegations, the requirements of the process, the parties' rights to withdraw from the process and initiate or resume the grievance procedure (except after the parties have agreed to a resolution at the conclusion of an informal resolution process), the potential terms that may be requested or offered in an informal resolution agreement, and what information the District will maintain and whether and how it could disclose such information for use in grievance procedures (if initiated or resumed).

The facilitator of the informal resolution process (i) shall not be the same person as the investigator or decisionmaker; (ii) shall be free from any conflict of interest or bias for or against complainants/respondents generally or an individual complainant/respondent; and (iii) shall be trained in accordance with this Policy.

The option for informal resolution does not apply where the complaint includes allegations that an employee engaged in sex-based harassment of a student or where such process would conflict with applicable law. The Title IX Coordinator may decline to allow informal resolution based on the circumstances of each individual case, including but not limited to cases in which the alleged conduct would present a risk of future harm to others.



# Policies

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## Westerly Public Schools Title IX and Grievance Procedure Policy

No. 2050/4146  
page 9 of 10

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### Appeals Process

Either party may appeal from the District's decision to dismiss a complaint or from the investigator's determination that sex discrimination occurred. The appealing party must submit their appeal, in writing, to the Superintendent within ten (10) days of receiving the notice of dismissal or determination of responsibility. Both parties will have the opportunity to submit a written statement in support of or challenging the outcome.

Appeals will be decided by the Superintendent or, if the Superintendent served as the decisionmaker, by the School Committee. The outcome of the appeal will be in writing and issued to both parties at the same time. **Target timeframe: up to 14 calendar days from receipt of the appeal.**

### Confidentiality

The District will strive to maintain confidentiality throughout the investigatory process to the extent practical and appropriate under the circumstances. The District may, however, have a legal obligation to share information received during an investigation. For example, the District is required to report known and suspected cases of child abuse to the Department of Children, Youth and Families. The District may also have an obligation to report known or suspected violations of the law to local law enforcement. The District will not disclose information about supportive measures to persons other than the person to whom they apply unless necessary to provide the supportive measure or to restore or preserve a party's access to the education program or activity.

### Students with Disabilities

If a complainant or respondent is a student with a disability, the Title IX Coordinator shall consult with one or more members, as appropriate, of the student's IEP Team to ensure compliance with applicable law governing the education of students with disabilities throughout the implementation of the grievance procedure in this policy.

### 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.

# Policies

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## Westerly Public Schools No. 2050/4146 Title IX and Grievance Procedure Policy page 10 of 10

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### Retaliation Prohibited

The District prohibits retaliation against any individual who makes a report of sex 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. Employees must report any instance of retaliation against a student to the Title IX Coordinator. The District will initiate the grievance procedures or informal resolution process set forth in this Policy in response to a complaint alleging retaliation.

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

### Employee Training

The Superintendent shall ensure that all District staff receive training regarding their obligation to address sex discrimination, the scope of conduct that constitutes sex discrimination, applicable notification and information requirements, and this Policy in accordance with the USDOE's Title IX regulations. The training shall not rely on sex stereotypes.

The Title IX Coordinator, any staff serving as investigators or decisionmakers, any staff responsible for implementing the District's grievance procedures, any staff serving as facilitators of informal resolution processes, and any staff having authority to modify or terminate supportive measures shall receive additional training in accordance with the Title IX regulations.

### Legal References

Title IX of the Education Amendments of 1972

34 C.F.R. § 106.1 et seq.

R.I. Gen. Laws § 16-38-1.1

R.I. Gen. Laws § 16-85-2

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