Book	Policy Manual
Section	100 Programs
Title	Sexual Harassment
Code	103.2
Status	Active
Adopted	March 9, 2022

Purpose

The purpose of this policy is to set forth the Greensburg Salem School District's (hereafter, district) procedures for responding to and investigating allegations of sexual harassment, and to ensure compliance with Title IX and its implementing regulations as amended.

Scope

This policy applies to all applicants for employment, to all employees, students and to all individuals who attend, conduct business, or participate in programs and activities operated by or controlled by the district.

Nondiscrimination Notice

The district does not discriminate on the basis of sex in its education program or activities. The district recognizes it is required by Title IX to not discriminate in such manner and that this requirement not to discriminate extends to employment. Any inquiries about the application of Title IX to the district's program or activities may be referred to the Title IX Coordinator.[1][2]

This notice is required to be shared with all employees, applicants for employment, students, and parent/legal guardians.

Policy

Introduction

It is the policy of the district to maintain an educational and work environment that is free from sexual harassment. The district is committed to providing and promoting an atmosphere where employees and students can engage fully in the workplace and in the learning process. All staff and students of the district must understand that sexual harassment, sexual discrimination, and sexual exploitation of students and employees violates this policy and will not be tolerated. The district will take every step to resolve complaints in a prompt manner as outlined in this policy.

Sexual Harassment Definitions

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:[3]

1. An employee of the district conditioning the provision of an aid, benefit or service of the district on an individual's participation in unwelcome sexual conduct;

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 school district's education program or activity; or

3. **Sexual assault** as defined in 20 U.S.C. 1092(f)(6)(A)(v) of the Clery Act, **dating violence** as defined in 34 U.S.C. 12291(a)(10) of the Violence Against Women Act (VAWA), or **stalking** as defined in 34 U.S.C. 12991(a)(30) of the VAWA.[4][5]

Supportive Measures

Non-disciplinary, non-punitive individualized services are offered as appropriate and as reasonably available without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are designed to restore or preserve equal access to the district's programs or activities without unreasonably burdening the other party, including measures to protect the safety of all parties or the educational environment, or to deter sexual harassment. Examples include counseling, extensions of deadlines or other course-related adjustments, modifications to schedule, monitoring, mutual restrictions on contact, and other similar measures.[3]

Penalties

Penalties will be determined based on facts of each case and will focus on the restoration or preservation of equal access to the district's educational program and activities to the complainant.

With regard to students, possible penalties are set forth in the district's Student Handbook.[6][7][8]

With regard to professional employees, penalties are governed by the collective bargaining agreement and the teacher disciplinary procedures in the Pennsylvania Public School Code.[9][10]

With regard to administrative employees, penalties are based on the Act 93 policy.[9]

Other employees will be penalized in accordance with the terms of the collective bargaining agreement. If the employee is not covered by a collective bargaining agreement, penalties are imposed at the discretion of the district.[9]

Emergency Removal

A respondent to a complaint of sexual harassment may not be removed from the district's educational program or activity, unless the district conducts an individualized safety and risk assessment and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The respondent shall be given notice and an opportunity to be heard to challenge the decision consistent with disciplinary procedures set forth in the Pennsylvania School Code.

Anti-Retaliation Assurance

Retaliation is prohibited. No person may intimidate, threaten or coerce or discriminate against any individual for the purpose of interfering with any right of privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or

refused to participate in any manner in an investigation under this policy. This policy is intended to encourage any individuals to express freely, responsibly, and in an orderly way any complaints or concerns with sexual harassment.[11]

Responsibility for Reporting

Actual knowledge of sexual harassment means notice of sexual harassment or allegations of sexual harassment to any employee of the district.

Any employee who has direct knowledge of sexual harassment or has received a complaint of sexual harassment is obligated to immediately inform the Title IX Coordinator. Failure to do so may result in serious consequences for the district and may be considered grounds for disciplinary action up to and including termination from employment.[9]

Vicarious or constructive notice is insufficient to constitute actual knowledge of harassment.

Education and Training

The district will annually train, educate and advise all employees of their responsibilities under this policy. With respect to the investigation process for formal complaints, the district will ensure that the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process under this policy, receives training on the scope of the district's program or activity, how to conduct an investigation, how to serve impartially, including avoiding prejudgment of the facts, conflicts of interest, and understanding rules of relying upon relevant evidence.

The district will engage its students in educational programming to understand sexual harassment and its effects on the educational environment and how to file a complaint.

Procedures

Definitions

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

Formal 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 recipient investigate the allegation of sexual harassment.[3][12]

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

Clear and Convincing means that the evidence is highly and substantially more likely to be true than untrue.

Decision-Maker means the district Superintendent, who will adjudicate all disputes and issue written determinations pursuant to this policy.

Title IX Coordinator means the person in charge of operating, managing, and overseeing the formal complaint and informal dispute resolution processes and procedures.

Investigator means a person appointed by the Title IX Coordinator to investigate a complaint.

Conflict of Interest

No individual designated by the district as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, shall have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Formal Complaints

Formal complaints regarding sexual harassment are filed by a complainant and signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting the district to investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed below.[13]

Title IX Coordinator:

Office address: Greensburg Salem School District
1 Academy Hill Place, Greensburg, PA 15601

Phone number: (724) 832-2900

Review of Formal Complaints/Dismissal

The district shall investigate the allegations in a formal complaint.

The district must dismiss the complaint if the conduct alleged (1) does not constitute sexual harassment as defined in this policy; (2) did not occur in the district's educational program or activity; or (3) did not occur in the United States.

The district may dismiss the formal complaint or any allegations therein, if at any time during the investigation, (1) a complainant notifies the Title IX Coordinator in writing of intent to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by the district; or (3) specific circumstances exist that prevent the district from gathering evidence sufficient to reach a determination.

Upon dismissal, the district will promptly send written notice of the dismissal and reasons for the dismissal to both parties along with the procedures to appeal.

Notice of Allegations

Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator must provide to the complainant and respondent:

1. Notice of the investigation process including the availability of an informal resolution process.
2. Notice of the allegations constituting sexual harassment, including sufficient details known at the time for a respondent to prepare a response prior to the initial interview. Sufficient details include the identity of the parties involved, the conduct allegedly constituting sexual harassment, the date and location of the alleged incident, if known.
3. A statement that the respondent is presumed not responsible for the alleged conduct.
4. Each party may have an advisor of their choice who may be, but is not required to be, an attorney.
5. Each party will have equal opportunity to present evidence and inspect and review evidence received.

6. A statement referencing the district's conduct and disciplinary policies that prohibit knowingly making false statements or knowingly submitting false information during the investigation process.

Informal Resolution

Upon the filing of a Formal Complaint, the district may use an informal resolution process, such as mediation, which does not involve a full investigation and adjudication, provided that both parties consent in writing to informal resolution of the Complaint.

The district shall provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations.

Any party may withdraw from the informal resolution process and resume the formal investigation process.

The district may not use the informal resolution process when an employee is alleged to have sexually harassed a student.

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this policy.

Investigation and Adjudication

Burden of Proof -

The district bears the burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility.

Access to Evidence -

Both parties shall be given an equal opportunity to present witnesses, including fact and expert witnesses and other inculpatory and exculpatory evidence. Each party will have an 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; including evidence the district does not intend to rely in reaching a determination and inculpatory and exculpatory evidence so that each party may meaningfully respond to the evidence prior to the conclusion of the investigation.

Notice of Meetings -

Both parties shall receive written notice of the date, time, location of investigative interviews; or other meetings with at least ten (10) calendar days prior notice for the party to prepare to participate.

Written Response to Evidence -

Following review of all evidence, each party shall have ten (10) calendar days to submit a written response to the investigator. The investigator must consider the written responses prior to completion of the investigative report.

Investigative Report -

The investigative report must fairly summarize relevant evidence and must be provided to both parties at least ten (10) calendar days prior to submission to a decision-maker.

Written Cross-Examination -

Each party may submit relevant written cross-examination questions to the decision-maker to distribute to the other party. Each party will have ten (10) calendar days to prepare and file a response to the written cross-examination with the decision-maker.

Written Determination -

The decision-maker, who may not be the Title IX Coordinator or the investigator, will conduct an objective review of all relevant evidence. The standard of responsibility will be determined by clear and convincing evidence. The decision-maker shall issue a written determination regarding responsibility or dismissal within thirty (30) calendar days of the parties' completion of responses to written cross-examination. The written determination shall include identification of the allegations; a description of the procedural steps, including notice to the parties, interviews and other methods used to gather evidence; findings of fact to support the determination; conclusions regarding the district's conduct policies to the facts; rationale for determination and whether the remedy is designed to restore or preserve equal access to the district's education program or activity.

The written determination shall be issued to both parties simultaneously and shall include the process to appeal.

The written determination becomes a final adjudication unless a timely appeal is filed.

Implementation of Remedies -

The Title IX Coordinator is responsible for effective implementation of any remedies set forth in the written determination.

Appeals

Upon receipt of a written determination, either party may file notice of an appeal to the Greensburg Salem School Board (Board) within fifteen (15) calendar days of receipt of the written determination.

The Board shall hear appeals:

1. Involving a procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the determination and that could affect the outcome of the matter; and
3. Allegations that the Title IX Coordinator, investigator or decision-maker had a conflict or interest or bias against the complainant or respondent that affected the outcome of the matter.

The Board has the discretion to offer an appeal on additional grounds.

A notice of appeal may be filed electronically, in person or by regular mail written to the attention of the district's Superintendent.

The party taking the appeal must notify the other party in writing when an appeal is filed.

Upon notification of the filing of a notice of appeal, and in light of the Board's role as decision-maker on appeal, each party shall have thirty (30) calendar days to submit a written statement in support of, or in opposition to, the outcome of the written determination.

The Board shall issue a written decision simultaneously to both parties describing the result of the appeal and the rationale within forty-five (45) calendar days of the submission of both parties' written statements.

Recordkeeping

The district shall maintain for a period of seven (7) years records of each sexual harassment investigation including any determination, any disciplinary sanctions, and any remedies provided to the complainant designed to restore or preserve equal access to the district's programs or activity; records regarding any appeals; and records of informal resolutions and results therefrom.[14]

The district will maintain records for a period of seven (7) years of all material used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These training materials will be available on the district's website.[14]

Legal

1. Pol. 103
2. Pol. 104
3. 34 CFR 106.30
4. 20 U.S.C. 1092
5. 34 U.S.C. 12291
6. Pol. 113.1
7. Pol. 218
8. Pol. 233
9. Pol. 317
10. Pol. 317.1
11. 34 CFR 106.71
12. 34 CFR 106.45
13. 34 CFR 106.8
14. Pol. 800

24 P.S. 5004
20 U.S.C. 1232g
20 U.S.C. 1681 et seq
34 CFR Part 99
34 CFR Part 100
34 CFR Part 104
34 CFR Part 106
34 CFR Part 110