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Pembroke Public Schools Title IX Grievance Procedures

Purpose:

To ensure Pembroke Public Schools is compliant with the US Department of Education Title IX rules and regulations as they relate to required notifications. Title IX prohibits all forms of sexual discrimination and harassment.

Pembroke Public Schools prohibits sexual harassment, a form of sex discrimination. It is a violation of policy for any student or staff member to engage in sexual harassment, as defined in these procedures, or to retaliate against anyone that reports sex-based discrimination or sexual harassment or who participates in a Title IX investigation. These grievance procedures apply to student and employee complaints that fall within the scope of Title IX which are specific to school programs.

Title IX Coordinators:

Jessica DeLorenzo, Director of Student Services

Michael Murphy, Principal Hobomock Elementary

Definitions:

Sexual Harassment is defined as unwelcomed sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to one's education program or activity ("hostile environment").

In the employment context, Sexual Harassment is considered sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature constitutes sexual harassment under Title IX and Massachusetts law when such conduct is either explicitly or implicitly a term or condition of an individual's advancement, submission to or rejection of such conduct by an individual is used as the basis for employment decisions, such conduct interferes with an individual's job duties or the conduct creates an intimidating, hostile or offensive work environment.

For purposes of these procedures, terms shall have the following meanings:

Title IX Coordinator: the employee designated to coordinate Pembroke Public Schools efforts to comply with Title IX responsibilities.

Recipient – an institution that operates as a school and receives any type of Federal funding.

Complainant: an individual who alleges to be the victim of conduct that could constitute sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

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

Investigator: the individual trained and assigned to conduct an impartial investigation designed to gather sufficient evidence to reach a determination regarding responsibility. The investigator may be the Title IX Coordinator but may not be the decision maker.

Decision-maker: the individual assigned to assess relevant evidence and issue a written determination regarding the act of sexual harassment. The decision-maker may not be the Title IX Coordinator or the investigator.

Supportive measures: non-disciplinary, non-punitive, individualized services or supports offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Appeals Coordinator: The Title IX Appeals Coordinator handles all appeals of the decision made by the Title IX Decision Maker in the event either party requests an appeal through the appeal process.

Actions and Notifications:

Title IX regulations require certain actions and notifications as listed below.

(a) Designation of Coordinator. Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part. The recipient must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator pursuant to this paragraph. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic 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. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

(b) Dissemination of policy— (1) Notification of policy. Each recipient must notify persons entitled to a notification under paragraph (a) of this section that the recipient does not discriminate based on sex in the education program or activity that it operates, and that it is required by Title IX and this part not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment. Each recipient must prominently display the contact information required to be listed for the Title IX Coordinator on its website, if any, and in each handbook.

(c) Adoption of grievance procedures. A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process for formal complaints. A recipient must provide to persons entitled to a notification under paragraph (a) of this section notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment and how they will respond.

Procedures:

Fair and Equitable Process

No individual designated as a Title IX Coordinator, investigator, decision-maker, or appeal decision-maker may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Pembroke Public Schools will not make credibility determinations based on a person's status as a complainant, respondent, or witness.

A respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Reports of Sexual Harassment

Any person may report sex discrimination, including sexual harassment, at any time. Such a report may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or by any other means that results in the Title IX Coordinator receiving the verbal or written report. Any school employee who receives a report of sexual harassment, or otherwise has notice of sexual harassment or allegations of sexual harassment, must promptly report the allegations to the Title IX Coordinator. An alternate Title IX Coordinator will be designated if it is alleged that the Title IX Coordinator committed harassment or if any other conflict of interest exists.

Supportive Measures

Wherever there is a report of sexual harassment, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures (even in the absence of a formal complaint), consider the complainant's wishes with respect to supportive measures, and explain to the complainant the process for filing a formal complaint.

The Title IX Coordinator must also offer supportive measures to a respondent, regardless of whether a formal complaint has been filed against the respondent.

The purpose of supportive measures is to restore or preserve equal access to the school's education program or activity without unreasonably burdening the other party. They include measures designed to protect the safety of all parties or the school's educational environment and to deter sexual harassment.

Supportive measures may include but are not limited to 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 or housing locations; leaves of absence; increased security and monitoring of certain areas of campus; or other similar measures.

Supportive measures do not include disciplinary sanctions. A Title IX grievance process must be completed before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent. Pembroke Public Schools will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair the school's ability to provide the supportive measures.

Formal Complaints

Formal complaints must be filed with the Title IX Coordinator. While there are no time limitations, at the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the school's education program or activities.

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to the known parties, which must include: a) notice of the school's Title IX grievance procedures; b) notice of the allegations of sexual harassment, including sufficient details known at the time and with sufficient time to prepare for any initial interview; c) a statement 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) notice to the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney; and e) a statement that the parties may inspect and review any evidence obtained through the investigation that is directly related to the allegations raised in the formal complaint.

Pembroke Public Schools will make a good faith effort to complete the investigation and grievance process within an average of 60 to 90 days, without jeopardizing the rights of either party. The grievance process may be temporarily delayed for good cause. Good cause may include considerations 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. Pembroke Public Schools will provide written notice to the parties for any delay or extension of any timeframe in these procedures and the reasons for the delay or extension.

Each party may have an advisor of their choice who may, but is not required to be, an attorney. A party's advisor may accompany the party to any meeting, interview, or proceeding related to this Title IX grievance process. However, an advisor may not speak on the party's behalf (for instance, when a party is asked questions by

the investigator or decision-maker) and may not appear on behalf of a party when the party's attendance is expected. Pembroke Public Schools reserves the right to place a school employee respondent on administrative leave during the pendency of the grievance process.

Dismissal of Formal Complaints

The Title IX Coordinator must dismiss a formal complaint if: the alleged conduct would not constitute sexual harassment as defined in these procedures even if proved; the alleged conduct did not occur within Pembroke Public Schools education program or activity; or the alleged conduct did not occur against a person in the United States.

The Title IX Coordinator may dismiss a formal complaint or any allegations therein, if, at any time during the grievance process: the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the school; or specific circumstances prevent the school from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon dismissal of a formal complaint, the school will promptly send written notice of the dismissal and reasons for the dismissal to all parties. A dismissal from the Title IX grievance does not prohibit the complainant from pursuing other remedies under state or federal law, nor does it prohibit Pembroke Public Schools from addressing the allegations pursuant to separate law, policy, or school code of conduct in any manner the school deems appropriate.

Informal Resolution of Formal Complaints

At any time prior to reaching a determination regarding responsibility, Pembroke Public Schools may facilitate an informal resolution process, such as mediation or restorative justice, that does not involve a full investigation and adjudication to resolve a formal complaint. The school will never require any party to participate in informal resolution and may not condition enrollment, employment, or enjoyment of any other right or privilege upon agreeing to informal resolution. Informal resolution is not an option where allegations concern a school employee sexually harassing a student.

To engage in informal resolution, Pembroke Public Schools will provide a written notice to all parties that discloses the allegations; the requirements of the informal resolution process; the right of any party to withdraw from informal resolution and

resume the grievance process with respect to the formal complaint; and any potential consequences that may result from participating in informal resolution.

The school must then obtain each party's voluntary, written consent to the informal resolution process. An informal resolution process may result in the parties, and the school, agreeing on a resolution of the formal complaint that involves sanctioning or disciplining a respondent.

Investigation of Formal Complaints

Pembroke Public Schools will investigate the allegations in a formal complaint. Pembroke Public Schools has the burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility. The investigator will begin and carry out the investigation in a reasonably prompt manner. If, during an investigation, the school decides to investigate allegations about either party that were not included in the earlier written notice, it will provide notice to the parties of the additional allegations.

During the investigation, each party will have an equal opportunity to present witnesses and evidence. The investigator will provide, to any 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.

Each party has the right to request copies of all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, whether the school intends to rely on such evidence in reaching a determination regarding responsibility.

Upon the completion of the investigation, the parties will receive a draft investigation report. Parties will then have ten (10) days upon receipt of the draft investigative report to submit a written response to the investigator, which the investigator will consider prior to completion of the final investigative report. Upon receipt is defined as the day Pembroke Public Schools receives notice (i.e., USPS delivery receipt) that the parties received the report.

Following the ten (10) days the investigator will create a final investigative report that fairly summarizes the relevant evidence and any responses from either party; and submit this report to both parties and the decision-maker. Prior to the decision-maker's determination, the parties will have another ten (10) days upon receipt of the final investigation report to submit relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow for the submission of additional, limited follow-up questions from each party. The

Title IX Coordinator will advise the parties in writing of the deadline to submit written questions and a written response to the final investigative report. Only relevant questions may be asked of a party or witness. Before a party or witness answers a question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant to the party proposing the question.

After the opportunity for each party to submit and respond to written, relevant questions (as outlined above), the decision-maker must objectively evaluate all relevant evidence and issue a written determination of evidence applying the “preponderance of evidence” standard. “Preponderance of evidence” standard means that is more than likely than not that the alleged conduct occurred. The decision-makers written determination will include: a) identification of the allegations potentially constituting sexual harassment as defined by Title IX; b) a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; c) findings of fact supporting the determination; d) conclusions and/or recommendations regarding the application of the school’s student code of conduct and employee policies to the facts; e) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve equal access to the school’s education program or activity will be provided to the complainant; and f) the school’s procedures and permissible bases for appeal (contained in this document) Pembroke Public Schools will provide the written determination to the parties simultaneously.

Appeal

Either party may appeal the dismissal of a formal complaint or a determination of responsibility. A party may appeal only on one or more of the following bases:

- a) procedural irregularity that affected the outcome of the matter.
- b) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- c) the Title IX Coordinator, investigator, or 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 of the matter.

To appeal a dismissal or determination of responsibility, a party must notify the Title IX Coordinator in writing no later than ten (10) days after receipt of the

determination is received by the party. The written notice of appeal must state with specificity the issues being appealed and the bases for the appeal.

Upon receipt of a timely filed written notice of appeal, the Title IX Coordinator will notify the parties in writing: a) that the appeal was filed; and b) the process and deadline for submitting a written statement, in support of or against, the issues being appealed. The Title IX Coordinator must allow at least ten (10) days for the parties to submit written statements. c) The appeal, including any written statements submitted by the parties and any evidence and information considered by the decision-maker, will be considered by an appeal decision-maker. The appeal decision-maker cannot be the Title IX Coordinator, investigator, or the same decision-maker who issued the determination of responsibility. The appeal decision-maker will issue a written determination of appeal, which will describe the result of the appeal and the rationale for the result.

Recordkeeping

Pembroke Public Schools maintains for seven (7) years records of: a) records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment; b) each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant; c) any appeal and the result therefrom; d) any informal resolution and the result therefrom; and e) all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.