Cape Henlopen School District Title IX Training For All Employees

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What is Title IX?

- Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance.
- Title IX states:
- No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX.

Changes in Title IX Regulations

- 34 CFR Part 106
- 2020 regulations-August 14, 2020
- March 8, 2021 Executive Order guaranteeing environment free from discrimination on basis of sex including sexual orientation and sexual identity
- 2024 regulations – August 1, 2024

Title IX Coordinator

- District employee who is responsible for coordinating efforts to comply with Title IX
- Know who your District's Title IX Coordinator is
- Contact the Title IX Coordinator with any questions related to Title IX

The District's Title IX Coordinator is:

Ned Gladfelter, Supervisor of Human Resources
Cape Henlopen School District
1270 Kings Highway
Lewes, DE 19958
Phone: 302-645-6686
Email: ned.gladfelter@cape.k12.de.us

Title IX Policy

- Cape Henlopen School District Website
- (Go to Departments/Human Resources/Title IX Information or click the link below):
- https://www.capehenlopenschools.com/Page/4231

Title IX Policy

- The District, in accordance with Title IX, does not discriminate on the basis of sex in education programs and activities (including admission)
- The District has an obligation to address sex discrimination in its education programs and activities
- Inquiries regarding the application of Title IX should be referred to the Title IX Coordinator

Title IX Policy:

- Complainants and respondents must be treated equitably.
- Title IX Coordinators, investigators, decisionmakers, and facilitators of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- There is a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of grievance procedures
- Parties shall be provided with adequate notice regarding allegations, dismissal, delays, meetings, proceedings, and determinations in the grievance procedures.
- The parties shall have an equal opportunity to present and access relevant and not otherwise impermissible evidence, a reasonable opportunity for each party to respond to that evidence.

Title IX Policy:

- The decisionmakers shall objectively evaluate each party's relevant and not otherwise impermissible evidence.
- The process will enable the decisionmaker to assess a party's or witness's credibility when credibility is in dispute and relevant.
- In evaluating evidence, the District will use the preponderance of the evidence standard of proof
- Disciplinary sanctions under Title IX will not be imposed on any person unless it determines at the conclusion of grievance procedures that sex discrimination for which the person was responsible has occurred.

ALL EMPLOYEES:

- Training requirements
- Be aware of who the Title IX Coordinator is and how to contact that person
- Understand what Title IX is and what type of conduct is covered/prohibited
- Know when you have an obligation to make a report to the Title IX Coordinator
- Nothing changes your other mandatory reporting obligations!!!!!

TRAINING REQUIREMENTS ALL EMPLOYEES

- All employees are required to be trained:
- Promptly upon hire,
- Promptly upon change in position that alters the employee's Title IX duties, and
- Annually thereafter.

- *Additional training requirements for investigators, decisionmakers, and other persons who are responsible for implementing the district's grievance procedures or have the authority to modify or terminate supportive measures

DEFINITIONS & TERMINOLOGY

Complainant – Definition

- A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX
- A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination

Respondent – Definition

- A person who is alleged to have violated the district's prohibition on sex discrimination

Sex Discrimination: Education Program or Activities

- No person shall on the basis of sex be excluded from participation in or be denied the benefits of, or otherwise be subjected to, discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient that receives Federal financial assistance.
- Limited circumstances where different treatment or separation by sex is permitted, it cannot subject an individual to more than de minimus harm

(106.30)

Sex Discrimination

- Discrimination on the basis of sex includes discrimination on the basis of:
  - sex stereotypes,
  - sex characteristics,
  - pregnancy or related conditions,
  - sexual orientation, and
  - gender identity
- Sex discrimination includes sex-based harassment
- (106.10)

Sex-Based Harassment – Definition

- **Prohibited form of sex discrimination under Title IX**
- Sexual harassment and other harassment on the basis of sex, including:
  - sex stereotypes,
  - sex characteristics,
  - pregnancy or related conditions,
  - sexual orientation, and
  - gender identity

Sex-Based Harassment – Definition Quid Pro Quo

- **Prohibited form of sex discrimination under Title IX**
- Sexual harassment and other harassment on the basis of sex that is:
- Quid Pro Quo: (1) An employee of the District conditioning the provision of aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

Sex- Based Harassment Hostile Environment

- Hostile environment Harassment
- (2) Unwelcome sex-based conduct that, based on a totality of the circumstances, is subjectively and objectively offensive and is so severe, or pervasive that it limits or denies a person's ability to participate in or benefit from the district's program or activity (i.e. creates a hostile environment)

Sex-Based Harassment Hostile Environment

- Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
- (i) The degree to which the conduct affected the complainant's ability to access the district's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the District's education program or activity

Sex-Based Harassment Specific Offenses

- Specific Offenses:
- Sexual assault- an offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the FBI

Sex-Based Harassment: Specific Offenses Dating Violence

- Violence committed by a person:
- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship

Sex-Based Harassment
Specific Offenses- Domestic Violence

- Felony or misdemeanor crimes committed by a person who:
- (A) Who is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating or has cohabitated, with a victim as a spouse or intimate partner;
- (C)Shares a child in common with the victim; or
- (D) Commits acts against youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Sex-Based Harassment Specific Offenses Stalking

- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress.

Application

- All sex discrimination occurring under a District's education program or activity in the United States
  - Conduct subject to District's disciplinary authority
- A District an obligation to address sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside of the District's education program or activity or outside the U.S.
  - Downstream (in program effects)- off campus and outside U.S. (brings the effect, not the external conduct within the jurisdiction)

District's Response to Sex Discrimination

- **A District with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively**

Employee Mandatory Report

- All employees who are not confidential employees **MUST notify the Title IX Coordinator** when the employee has information about conduct that **reasonably may constitute sex discrimination** under Title IX or Title IX regulations

Pregnancy and Related Conditions: EMPLOYEE OBLIGATIONS

- When a student, or person who has a legal right to act on behalf of the student, **informs any employee of student's pregnancy or related conditions**, unless the employee reasonably believes that the Title IX coordinator has been notified, **the employee must**:
- (1) promptly provide that person with the Title IX Coordinator's contact information; AND
- (2) inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure student's equal access to the District's education program or activity

Pregnancy or Related Conditions

- The District must not discriminate in its education program or activity against any student based on the student's current, potential, or past pregnancy or related condition.
- Pregnancy or related condition means:
  - (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
  - (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
  - (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactations, or related medical conditions

RETALIATION

RETALIATION

- Retaliation is prohibited!
- No intimidation, threatening, coercing or discrimination against a student, or an employee or other individual within the District providing services in the education program for the purpose of interfering with any right or privilege secured by Title IX because the individual has:
  - Reported info
  - Made a complaint
  - Testified
  - Assisted
  - Participated (or refused to participate)
  - In any manner in an investigation, proceeding or hearing

Peer retaliation

- Retaliation by a student against another student

RETALIATION PROHIBITED

- The District prohibits retaliation, including peer retaliation.
- If an employee has information about conduct that may reasonably constitute retaliation, the employee must notify the Title IX coordinator promptly so that it can be addressed.

Questions:

District's Title IX Coordinator: Ned Gladfelter, Supervisor of Human Resources

302.645.6686

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Questions

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