

TITLE IX

WHEREAS, Title IX of the education Amendments of 1972 requires that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance.”

I. PURPOSE: This policy is to ensure compliance with Title IX’s requirements regarding the Bristol Warren Regional School District’s (BWRSD) response to claims of sexual harassment as the BWRSD strives to maintain a learning and work environment free from harassment and discrimination on the basis of sex.

II. DESIGNATION OF COORDINATOR, DISSEMINATION OF POLICY AND ADOPTION OF GRIEVANCE PROCEDURES:

The BWRSD shall designate an employee as its “Title IX Coordinator” and backup Title IX Coordinator. The BWRSD will notify all students, enrolling students, parents or guardians, employees, applicants for employment, and unions of the name, title, office address, email address, and telephone number of the Title IX Coordinator and backup coordinator.

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 email, 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. The Title IX Reporting form, found in Exhibit A, may be used to file complaints in writing. Such a report can be made at any time of day, including non-business hours.

The BWRSD shall notify all students, enrolling students, parents or guardians, employees, applicants for employment, and unions that the BWRSD does not discriminate on the basis of sex, and that it is required by Title IX and applicable regulations not to discriminate in any of its education programs or activities as well as employment and that inquiries about how these rules apply to the BWRSD may be referred to the Title IX Coordinator. The BWRSD shall notify all students, enrolling students, parents or guardians, employees, applicants for employment, and unions of its grievance procedures and 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 the BWRSD will respond thereto, all as further delineated herein.

The BWRSD shall prominently display the Title IX Coordinator’s aforesaid contact information and this policy on its website, and in all student and employee handbooks.

III. DEFINITIONS OF SPECIFIC TERMS USED HEREIN:

- **Complainant** shall mean a current student, a student who is attempting to enroll in the BWRSD, or a current employee who is alleged to be the victim of conduct that could constitute sexual harassment.

- **Formal Complaint** shall mean a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the BWRSD investigate the allegation of sexual harassment.
- **Respondent** shall mean an individual who is a current or former student or current employee and who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Sexual harassment** shall mean any conduct on the basis of sex that satisfies one or more of the following:
 - (1) An employee of the BWRSD conditioning the provision of an aid, benefit, or service of the BWRSD 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 BWRSD education programs and/or activities; or
 - (3) Any form of sexual assault, dating violence, domestic violence, or stalking.
- **Supportive measures** shall mean any and all non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and 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. Such measures are designed to restore or preserve equal access to the BWRSD education program or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the BWRSD educational environment, or deter sexual harassment.

IV. BRISTOL WARREN REGIONAL SCHOOL DISTRICT RESPONSE TO SEXUAL HARASSMENT

Once the BWRSD has actual knowledge of sexual harassment in one of its education programs or activities, it must respond promptly and in a manner that treats Complainants and Respondents equitably. The Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.

If a formal complaint is filed, the BWRSD shall adhere to the grievance process as set forth in Section IV, below. The BWRSD may only remove the Respondent from the educational program or activity on an emergency basis, provided that the BWRSD undertakes an individualized safety and risk analysis, 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, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

"Education programs or activities" shall include all locations, events, or circumstances over which the BWRSD exercises substantial control over the Respondent and the context in which the harassment occurs.

V. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT

A. Allegations

The BWRSD shall investigate all allegations set forth in a formal complaint. The grievance process shall be concluded and a written determination of responsibility shall be issued in a reasonably prompt time frame and up to ninety (90) days from the date of the filing of a formal complaint. This time frame may be extended in the event the parties elect to take part in an informal resolution process as set forth in this policy, or temporarily delayed for good cause as defined by applicable law.

Throughout the grievance process all relevant evidence will be objectively evaluated and credibility determinations shall not be based on a person's status as Complainant, Respondent, or witness. At no time shall the BWRSD require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless said privilege has been knowingly waived.

B. Written Notice

Upon receipt of a formal complaint of sexual harassment, the BWRSD shall provide a written notice to all known parties that shall include notice of the grievance process; notice of the allegations of sexual harassment to include the identities of the parties involved in the incident, if known, the alleged conduct, and the date and location of the alleged incident. The written notice shall also include 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. The notice shall inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence as part of the process. The notice shall inform the parties of the range of possible disciplinary sanctions as set forth in the Student Code of Conduct/Handbook. Furthermore, the notice shall inform the parties of any provision in the BWRSD's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

C. Additional Allegations

If in the course of an investigation, the BWRSD decides to investigate additional allegations concerning the parties that are not included in the aforesaid initial written notice, the BWRSD must provide notice of said additional allegations to the known parties.

D. Supportive Measures

Supportive measures are available as set forth herein. The range of supportive measures may include, as appropriate and as reasonably available:

- referral to counseling services;
- extensions of deadlines or other course-related adjustments;
- modifications of work or class schedules;
- escort services while transferring between classes, clubs, etc.

- restrictions on contact between the Parties (no contact orders)

Supportive Measures will remain private to the extent possible.

E. Dismissal of a Formal Complaint

If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved, did not occur in the BWRSD's education program or activity, or did not occur against a person in the United States, then the BWRSD must dismiss the formal complaint. Such a dismissal does not preclude the BWRSD from taking action under any other relevant provision(s) of its code(s) of conduct.

The BWRSD may dismiss the formal complaint if at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that he/she would like to withdraw the formal complaint or any allegations therein;
- 2) The Respondent is no longer enrolled in, or employed by, the BWRSD; or
- 3) Specific circumstances prevent the BWRSD from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon the dismissal of a formal complaint, the BWRSD shall promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

F. Consolidation of Formal Complaints

The BWRSD may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

G. Investigation of Formal Complaints

The investigation of all formal complaints shall be completed in a reasonably prompt manner. Throughout the investigation process the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility shall remain on the BWRSD and not on the parties, provided that the BWRSD cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the BWRSD obtains that party's voluntary, written consent, or, if the party is a student under the age of 18, the written consent of his/her parent or legal guardian.

Upon receipt of a formal complaint, the Title IX Coordinator shall appoint an appropriately trained and unbiased investigator to create an investigative report that fairly summarizes the relevant evidence obtained during his/her investigation.

The investigation shall include equal opportunities for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The

BWRSD shall not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. Both parties shall be provided with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding.

The BWRSD shall provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

The investigation process shall provide both parties an equal opportunity to inspect and review any and all evidence obtained by the BWRSD that is directly related to the allegations raised in the formal complaint, including the evidence upon which the BWRSD does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The BWRSD shall send to each party and the party's advisor, if any, all such evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to his/her completion of the investigative report.

Once completed, the final investigative report shall be sent to each party and the party's advisor, if any, for their review and written response.

The Superintendent of Schools shall serve as the decision-maker. After having sent the final investigative report as set forth above, the Superintendent shall afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The Superintendent shall explain to the party proposing the questions any decision to exclude a question as not relevant.

H. Determination of Responsibility

The Superintendent shall issue a written decision and determination regarding responsibility. The standard of review shall be by the preponderance of the evidence. In no case shall a final determination be made inside of ten days from the sending of the final investigative report.

The written determination shall include:

1. Identification of the allegations potentially constituting sexual harassment;
2. 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, and methods used to gather other evidence;
3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the BWRSD's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the BWRSD imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the BWRSD's education program or activity will be provided to the Complainant; and
6. The BWRSD's procedures and permissible bases for the Complainant and Respondent to appeal.

The BWRSD shall provide the written determination to the parties simultaneously. The determination shall become final either on the date that the BWRSD provides the parties with the written determination of the result of any appeal, or on the date upon which an appeal would no longer be considered timely.

The Title IX Coordinator is responsible for effective implementation of any remedies to be provided to the Complainant.

I. Appeals

Both parties shall have the right to an appeal from a determination regarding responsibility, and from a BWRSD's dismissal of a formal complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter;
- B. New evidence that could affect the outcome of the matter that was not reasonably available at the time the determination regarding responsibility or dismissal was made,
- C. The Title IX Coordinator, investigator(s) 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.

The School Committee shall serve as the decision-maker for any appeal that is taken. If either party wishes to appeal from a written determination of responsibility, he/she must file a notice of appeal with the Title IX Coordinator within thirty (30) days from the date that the BWRSD provided said written determination. The BWRSD shall notify the other party in writing when an appeal is filed. Each party will then have ten days to submit a written statement in support of, or challenging, the outcome. Following this ten-day period, the BWRSD will take up the matter in executive session at its next business meeting. The BWRSD shall issue a written decision describing the result of the appeal and the rationale for the result and provide it to both parties simultaneously.

J. Informal Resolution

Once a formal complaint has been filed, and at any time prior to reaching a determination regarding responsibility, the BWRSD may facilitate an informal resolution process that does not involve a full investigation and adjudication. This process shall be in the form of mediation.

The Title IX Coordinator shall explain this process in a written notice that shall contain the allegations. In order for this informal resolution process to commence, both parties must provide his/her voluntary, written consent. At any time prior to reaching a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process. The BWRSD shall maintain all records involving this process in accordance with this policy and applicable law.

This informal resolution process shall not be available to resolve matters involving allegations that an employee sexually harassed a student.

K. Requisite Training

All individuals designated as a Title IX Coordinator, investigator, decision-maker, and any person who facilitates an informal resolution process shall remain free of all conflicts of interest and biases whether for or against complainants or respondents generally or an individual Complainant or Respondent. The BWRSD shall ensure that all such individuals receive training on the definition of sexual harassment, the scope of the BWRSD's education programs and activities, how to conduct an investigation and grievance process including appeals, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Furthermore, the BWRSD shall ensure that all decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators shall receive training on issues of relevance to create an investigative report that fairly summarizes all relevant evidence. All training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

L. Recordkeeping

The BWRSD shall maintain the following records for a period of seven years:

1. Each sexual harassment investigation including any determination regarding responsibility and any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the BWRSD's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The BWRSD must make these training materials publicly available on its website.

For each response required under this policy, the BWRSD must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the BWRSD must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the BWRSD's education program or activity. If BWRSD does not provide a Complainant with supportive measures, then the BWRSD must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the BWRSD in the future from providing additional explanations or detailing additional measures taken.

CROSS REFERENCE:

AC Anti-Discrimination/Anti-Harassment

AC-R Discrimination/Harassment Complaint Form

LEGAL REFERENCES:

Patsy Takemoto Mink Equal Opportunity in Education Act

ADOPTED: January 10, 2022

BRISTOL WARREN REGIONAL SCHOOL DISTRICT
TITLE IX Reporting Form

Complaints of sexual discrimination or harassment regarding the Bristol Warren Regional School District can be made to the following individuals in person, by mail, telephone, email or by submitting this form to the Title IX Officer.

Derek Swenson (Title IX Officer)
Chief Operating Officer
derek.swenson@bwrsd.org
401-253-4000 x5143

Courtney Monterey (Title IX Officer)
Assistant Superintendent
courtney.monterecy@bwrsd.org
401-253-4000 x5123

Name of Complainant _____ Date _____

School _____ Position _____

Phone _____ Email _____

Address _____

Nature of complaint. Please describe the specific sexual discrimination or harassment action that you object to.

Date(s) and Time(s) of action or refusal of action:

Name(s) of district staff or other person you believe has discriminated against or harassed you:

Name(s) of any witnesses:

The Title IX Officer will contact you upon receipt of this complaint and advise you of the process outlined in the BWRSD Title IX policy available on the district website.