

BOARD POLICY

Descriptor Code: JCAC(2)

Supplement School Board Policy JCAC Sexual Harassment under Title IX

The Cherokee County Board of Education adheres to all federal, state and local civil rights laws prohibiting discrimination in education. As a recipient of federal financial assistance for educational activities, the School District is required by Title IX of the Education Amendments of 1972 to ensure that all of its educational programs and activities do not discriminate on the basis of sex as required by Title IX. The School District also prohibits retaliation against any person opposing discrimination or participating in any discrimination investigation or complaint process.

The School District will respond promptly and in a manner that is not deliberately indifferent when it has actual knowledge of conduct that may constitute sexual harassment under Title IX in its education program or activity.

This Policy is intended to reflect the requirements of the -current applicable federal regulations pertaining to Title IX of the Education Amendments Act of 1972. The Grievance Procedures included in this supplemental Policy are structured according to requirements of the current applicable Title IX regulations.

While all forms of discrimination and harassment are prohibited in the School District and addressed under Board Policy JCAC, the purpose of this supplemental policy is to address, and only to address, sexual harassment as defined in Title IX that occurs within the educational programs and activities of the School District, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment.

Reports or complaints outside the scope of this Policy may be addressed under other applicable Board policies, the School District's Code of Conduct, or applicable law.

This Policy establishes the roles and responsibilities of the applicable Title IX Investigator(s), Title IX Coordinator, Decision-Maker, and Appeals Decision-Maker. The Superintendent of Schools will also develop administrative guidelines and checklists to aid investigations.

Nothing in this Policy limits the School District's mandatory reporting obligations, including reporting to law enforcement, child protective services, the Professional Standards Commission, or other authorities when required by law.

I. DEFINITION

Sexual harassment (Title IX Prohibited Conduct) is conduct on the basis of sex as defined by applicable Title IX regulations and controlling law, occurring in the School District's educational programs or activities against a person in the United States that satisfies one or more of the following:

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

2. Unwelcome sex-based/related conduct occurring in the United States determined by a reasonable person to be so severe, pervasive, **AND** objectively offensive that it effectively denies a person equal access to the education program or activity (this standard requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority); **OR**,
3. Sexual assault, dating violence, domestic violence or stalking as defined by applicable federal law.

Behaviors that constitute sexual harassment may include, but are not limited to: Sexually suggestive remarks or jokes; verbal harassment or abuse; displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format); sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others; harassing or sexually suggestive or offensive messages that are written or electronic; subtle or direct propositions for sexual favors or activities; touching of a sexual nature or groping; and teasing or name-calling related to sexual characteristics or other sex-based conduct. Note: incidents of the above conduct would still need to satisfy one or more of the criteria in paragraphs 1-3 of this definition.

II. TITLE IX GRIEVANCE PROCESS

The Title IX Grievance Process is initiated by way of a Formal Complaint (“complaint” or “formal complaint”) filed by the Complainant, the Complainant’s parent/guardian or the Title IX Coordinator. The School District may offer supportive measures and may respond under other applicable policies even when no Formal Complaint is filed.

A. Formal Complaint Requirements

At a minimum, a formal complaint must:

1. Contain the name and address of the Complainant and the student’s parent or guardian if the complainant is a minor student;
2. Describe the alleged sexual harassment in sufficient detail to include the known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident;
3. Request an investigation of the matter; and,
4. Be signed by the Complainant, Complainant’s parent or Title IX Coordinator, as applicable.

The complaint may be filed with the Title IX Coordinator in person, by mail, or by email. Complaint forms may be obtained from the Title IX Coordinator, the School District’s Student Code of Conduct, or on the School District’s websites. The Title IX Coordinator may be contacted in person, by mail, by telephone, or by email, using the contact information contained within the Student Code of Conduct or posted on the School District’s website. Unless otherwise designated by the Superintendent and posted on the School District’s Title IX website notice, the School District Title IX Coordinator will be the individual designated

by the Superintendent, with current contact information posted on the School District's website and included in applicable notices.

B. Initial Steps and Notice of Formal Complaint.

1. The Title IX Coordinator will provide a Notice of Formal Complaint to the Complainant and the Complainant's parent/guardian, and to the Respondent (if known) and the Respondent's parent/guardian within five calendar days of receiving a Formal Complaint, which will include the following:
 - a. The School District's Title IX Grievance Process Administrative Guidelines;
 - b. A notice of the right to pursue informal resolution provided both the Complainant and Respondent agree;
 - c. The Rights and Responsibilities of Parties and Witnesses in Title IX Investigation;
 - d. The specific allegations of sexual harassment including any additional information obtained by the Title IX Coordinator;
 - e. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
 - f. Notice that each party may have an advisor of their choice, who may be, but is not required to be an attorney;
 - g. Notice that each party is entitled to inspect and review evidence; and
 - h. A reference to the School District's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information.
2. The Title IX Coordinator will then examine the allegations in the Formal Complaint, to determine whether even if assumed true, the allegations are sufficient to sustain a finding of sexual harassment under this Policy.
3. The Title IX Coordinator will contact the Complainant to discuss and offer supportive measures. The Title IX Coordinator may contact the Respondent to discuss, and offer, non-disciplinary supportive measures. Supportive measures may be offered as appropriate, as reasonably available, and without fee or charge.
4. If the Formal Complaint fails to satisfy the definition of sexual harassment in this Policy or otherwise must or may be dismissed under applicable Title IX regulations, the Complaint will be dismissed, or may be dismissed, as required or permitted by applicable Title IX regulations by the Title IX Coordinator. If a Complaint is dismissed, the decision to dismiss the Complaint may be appealed in accordance with the procedures described in Section E. Appeals of this policy to the Appeals Decision-Maker designated by the Superintendent and posted on the School District's Title IX website notice. Dismissal under this Policy does not preclude the School District from addressing the alleged conduct under another applicable Board policy, the Student Code of Conduct, employee policy, or applicable law.

5. If the Formal Complaint is not dismissed or informally resolved, the Title IX Coordinator will designate a school-based trained Title IX Investigator (Title Investigator), to conduct an investigation into the allegations. The Title Investigator will not be the Decision-Maker or Appeals Decision-Maker in the same matter.

C. Investigation.

1. The Title Investigator will:
 - a. Provide an equal opportunity for the parties to present witnesses, and other inculpatory and exculpatory evidence;
 - b. Provide the parties with the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - c. Provide, to a party (e.g., Respondent, Complainant, parent/guardian, and/or advisor, as appropriate), written notice of the date, time, location, participants, and purpose of investigative interviews or other meetings, with sufficient time for the party to prepare to participate within the timeframes established within this Policy; and,
 - d. Provide both parties an equal opportunity to inspect and review any evidence submitted and/or obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint.
2. The Title Investigator may collect relevant evidence, other information and may also interview parties and/or witnesses. In addition, a Complainant or Respondent may:
 - a. Submit evidence to the Title Investigator;
 - b. Submit a list of witnesses to be interviewed by the Title Investigator; and/or
 - c. Request that the Title Investigator attempt to collect non-privileged information not accessible to the requesting Party.
3. The School District will not require, allow, rely upon, or otherwise use questions or evidence protected by a legally recognized privilege unless the privilege has been waived as permitted by law.
4. At the conclusion of the investigation and response timeline, the Title Investigator will prepare a written investigative report.
5. The Title Investigator will provide the investigative report to the Title IX Coordinator, to each party, and each party's advisor, if any.
6. The Title Investigator will endeavor to complete the investigation and provide the Investigative Report within one calendar month of the date the Written Notice of Formal Complaint is sent to the Parties. With the Title IX Coordinator's express permission, this timeframe may be extended in complex matters or matters with

multiple witnesses to give the Title Investigator enough time to gather relevant evidence and schedule witness interviews.

7. The Title IX Coordinator will forward the investigative report and all evidence collected by the Title Investigator to the Decision-Maker for consideration and decision.

D. Decision-Maker

1. The Decision-Maker is the individual with the responsibility of making determinations of responsibility with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process. The Decision-Maker will have adequate training and will not be the Appeal Decision-Maker, the Title Investigator(s), or the Title IX Coordinator. Unless otherwise designated by the Superintendent and posted on the School District Title IX website notice, the School District's Title IX Decision-Maker will be the individual designated by the Superintendent and posted on the School District's Title IX website notice.
2. After the Title Investigator has concluded the collection of evidence and provided the Investigative Report, the Decision-Maker will afford each party 10 calendar days to submit written, relevant questions to the Decision-Maker for any party or witness.
3. The Decision-Maker may omit any questions as not relevant. Should the Decision-Maker exclude a question, the Decision-Maker will explain to the party proposing the questions why the question(s) was not relevant.
4. Questions and answers considered by the Decision-Maker should be included in the Decision-Maker's Written Determination of Responsibility. Questions not posed as being irrelevant along with a rationale regarding the question's relevance will also be included in the Decision-Maker's Written Determination of Responsibility.
5. The Decision-Maker will then provide the relevant questions to the party/witness, with copies to each party, and provide no less than 10 calendar days for written responses, likewise to be provided to each party.
6. The Decision-Maker will then provide five calendar days each for supplementary, limited follow-up questions and five calendar days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
7. The School District bears the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.
8. The standard of proof to be used for Formal Complaints in determining whether a violation has occurred and/or that the Respondent is responsible will be the

preponderance of the evidence standard, which is only met when the evidence shows that it is more likely than not that the alleged conduct occurred.

9. The Decision-Maker must issue a Written Determination of Responsibility within 10 calendar days after the close of the period for responses to the last round of follow-up questions.
10. The Decision-Maker may impose disciplinary sanctions and remedies if the Written Determination of Responsibility substantiates the allegations contained in the Formal Complaint. For student respondents, any disciplinary sanctions will be coordinated with the School District's Code of Conduct and applicable student disciplinary procedures. For employee respondents, disciplinary action will be coordinated with applicable employee policies, contracts, and law.

E. Appeals

Either party may appeal the Decision-Maker's Written Determination of Responsibility or the dismissal of a Formal Complaint by notifying the Appeals Decision-Maker designated by the Superintendent in writing ("written appeal") with a copy of the appeal to the Title IX Coordinator. The written appeal must be received by the Appeals Decision-Maker within 10 calendar days of the Decision-Maker issuing the Written Determination of Responsibility or the written notice of dismissal being communicated to the parties.

The Appeals Decision-Maker has the responsibility to decide any appeal with respect to formal complaints of sexual harassment in accordance with the Title IX Grievance Process. The Appeals Decision-Maker will have adequate training, be free from conflict of interest, and will not be the Decision-Maker, the Title Investigator(s) or the Title IX Coordinator.

For the purpose of this Policy, unless otherwise designated by the Superintendent and posted on the School District's Title IX website notice, the School District's Appeals Decision-Maker will be the individual designated by the Superintendent and posted on the School District's Title IX website notice.

1. Within three school days of receipt of the written appeal, the Appeals Decision-Maker will provide a Notice of Appeal to each party and to the Title IX Coordinator, with a copy of the written appeal.
2. Each party will have five school days from the date the Notice of Appeal is delivered to the parties to submit a written statement ("appeal statement") in support of or challenging, the determination of responsibility or dismissal with copies to Title IX Coordinator and other party.
3. Appeals will be considered on the grounds required by applicable Title IX regulations, including procedural irregularity that affected the outcome, new evidence not reasonably available at the time of the determination or dismissal that could affect the

outcome, conflict of interest or bias affecting the outcome, and any other basis offered equally to the parties by the School District.

4. The Appeals Decision-Maker may refer an appealed issue back to a prior point in the grievance process for clarification and/or further investigation with written notice to the parties and the Title IX Coordinator.
5. The Appeals Decision-Maker will provide a written appeals decision within 10 calendar days after considering the record and the parties' appeal statements.

F. Timeframe of Grievance Process.

The School District will make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the School District will seek to complete the investigation and make a determination within 80 calendar days from the filing of a Formal Complaint. In any event, the School District will not compromise a thorough and fair process in order to meet the 80-day timeframe from the filing of a Formal Complaint to the conclusion of the investigation and determination of responsibility by the Decision-Maker. If any party chooses to appeal the outcome, the timeframes below provide for an additional 30-day period to submit, respond to, and for the Appeals Decision-Maker to make a decision regarding the appeal. If any deadline under the guidelines set forth below falls on a weekend or holiday, there will be an automatic extension to the next business day. Timelines may be temporarily delayed or extended for good cause with written notice to the parties as required by applicable law.

If the Parties elect to engage in an Informal Resolution, the timeframes below will be suspended during the pendency of that process.

A person may also file a complaint with the appropriate federal, state or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the Federal Equal Employment Opportunity Commission (EEOC), Office for Civil Rights (OCR) of the U.S Department of Education, the Department of Justice and/or the Georgia Department of Education.

Within any resolution process related to this Policy, the School District will provide reasonable accommodations required by and consistent with state and federal law.

This Policy will be distributed to all students annually and published as required by law. Additionally, the Title IX Investigator(s), Title IX Coordinator, Decision-Maker, and Appeals Decision-Maker and other employees designated by the Superintendent will receive appropriate training in investigating, remediating and analyzing complaints of sexual harassment as required by law.

The School District will maintain records related to reports, supportive measures, investigations, determinations, appeals, informal resolutions, remedies, sanctions, and training materials for at least seven years or as otherwise required by applicable law.

To the extent this Policy conflicts with applicable federal or state law, applicable law will control. This Policy will be administered consistent with applicable law and does not create procedural rights beyond those required by applicable law.

APPROVED: November 19, 2020

REVISED: July 23, 2026

Cherokee County Board of Education