

It is the policy of the Richmond Board of Education to maintain a work environment free from all forms of harassment and to insist that all employees are to be treated with dignity, respect, and courtesy. Any comments, gestures, or conduct relating to a person's protected status are unacceptable as are any threats to, or intimidation of, an employee.

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship and will not be tolerated in the District. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment does not refer to occasional compliments. It refers to behavior which is not welcome, which is personally offensive, which debilitates morale, and which, therefore, interferes with the work performance of its victims and their co-workers or creates an intimidating, hostile or offensive work environment.

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (i) A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo harassment); or
- (ii) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity (hostile environment); or
- (iii) Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

It is the responsibility of school administrators, supervisors and all employees to ensure that these prohibited activities do not occur.

The Board of Education recognizes that employees and students of both sexes work together and communicate. All employees are required to conduct themselves in accordance with the guidelines set forth above. The Board of Education will not tolerate conduct that fails to comply with the letter and spirit of these guidelines. Disciplinary measures up to and including discharge may be imposed for violation of this policy.

Individuals who experience sexual harassment from co-workers or others should make it clear that such behavior is offensive to them and may file a complaint in accordance with the District's employment discrimination complaint procedures. A "complainant" as an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Parents and legal guardians of a student may act on behalf of a student, including the ability to file a complaint on behalf of the student. If the person to whom the complaint is to be filed is the alleged harasser, or respondent defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment, the complaint should be filed with the next highest authority listed in the procedures. All sexual harassment complaints shall be promptly and thoroughly investigated. The District shall respect the confidentiality of both the complainant and the accused consistent with the District's legal obligations and with the necessity to investigate allegations of misconduct and to take corrective action.

A "formal complaint" is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the

allegation of sexual harassment. The term document filed by a complainant is a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. These services are available without fee or charge to both the complainant and respondent, and confidentiality will be maintained to the extent practicable.

The Education Program or Activities are locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

Procedures for Filing a Complaint

At the time of filing, a complainant must be participating in or attempting to participate in the education program or activity of the school.

A complainant will be permitted to file a formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator, which is located on the Richmond website.

When a Title IX Coordinator signs a formal complaint, the Title IX Coordinator must not be a complainant or otherwise a party during the grievance procedure, and the Title IX Coordinator will comply with Title IX's requirements throughout and, during the proceedings to be free from conflicts and bias.

Title IX Coordinator Requirements

The district must designate and authorize at least one employee to coordinate the school's efforts to comply with Title IX responsibilities, and that employee or those employees must be referred to as the "Title IX Coordinator(s)."

Any person can report in a verbal or written report of sex discrimination, including sexual harassment (whether or not the person reporting is the alleged target of the 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 (school principal and/or school psychologist).

The Title IX Coordinator's contact information will be prominently displayed on the school's website.

Mandatory Response Obligations

Supportive measures will be offered to the complainant or, if no formal complaint has been filed, the person alleged to be the target of the harassment.

The Title IX Coordinator will promptly contact the complainant confidentially 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 complaint is filed, the school will provide for a legally compliant grievance process before imposing any disciplinary sanctions or other actions that are not supportive measures, against a respondent.

A school cannot restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with Title IX.

A school must investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by a Title IX Coordinator.

A complainant's wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

If the allegations in a formal complaint do not meet the definition of sexual harassment under Title IX, or did not occur in the school's education program or activity against a person in the United States, the school must dismiss such allegations for purposes of Title IX but may still address the allegations in any manner the school deems appropriate under the school's own code of conduct.

A school district may dismiss a complaint if the complainant seeks to withdraw the complaint, the alleged perpetrator is no longer employed by the school district or a pupil in the school district, or if special circumstances prevent a school district from gathering sufficient evidence to make a determination.

Grievance Procedures

All parties will be given written notice of the allegations, an opportunity to select an advisor, and an opportunity to submit and review evidence throughout the investigation.

All parties will be given at least 10 days to inspect, review, and respond to all evidence directly related to the allegations prior to the completion of the investigative report.

There will be an objective evaluation of all relevant evidence, inculpatory and exculpatory, which will avoid credibility determinations based on a person's status as a complainant, respondent, or witness.

Trained Title IX personnel will objectively investigate all reports of sexual harassment. Investigators with conflicts or bias will be prohibited from being utilized.

An investigative report will summarize the relevant evidence.

Parties will be given at least 10 days to review and provide a written response to the investigative report.

Either a live-hearing or the opportunity for each party to submit written questions to be answered by the opposite party (a live-hearing is optional for elementary and secondary schools) will be provided.

There will be an applied presumption of innocence on the respondent during the grievance process and utilize either a preponderance of the evidence or a clear and convincing evidence standard in

making findings. Either standard may be selected by a school, but once selected, the school must use the same standard for all formal complaints of sexual harassment.

The burden of proof and the burden of gathering evidence lies on the institution, not the parties.

The investigator will be a different person than the final decision maker in a formal complaint.

Any inappropriate questioning about prior sexual history, unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent, is prohibited.

The privacy of a party's medical, psychological, or similar treatment records absent voluntary, written consent from that party, is protected.

Written determination, will be sent simultaneously to both parties, with an analysis as to the findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant will be provided. The determination must also identify applicable appeal rights.

The possible remedies a school may provide a complainant and disciplinary sanctions a school might impose on a respondent, following determinations of responsibility, will be provided.

An opportunity to appeal a final determination will be offered.

- An appeal can be filed by either the complainant or the respondent on the following bases: procedural irregularity, newly discovered evidence, and/or bias of the Title IX personnel that affected or could affect the outcome of the matter.
- Provide a process for appeal.

Protection from retaliation for any individual that participates in a Title IX grievance process will be provided.

Informal Resolution

In addition to a grievance procedure, the option of an informal resolution will be offered upon a formal complaint being filed, such as mediation or restorative justice; however, it is required the parties' voluntary, informed, written consent to initiate the informal resolution process and will prohibit the use of the informal resolution process with respect to an employee's alleged sexual harassment of a student. Parties will be permitted to withdraw from an informal resolution process at any time.

Training

Title IX personnel will be trained on the definition of sexual harassment, the scope of the school's education program or activity, how to conduct an investigation and the grievance process, including appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

District employees shall be informed of this policy and related complaint procedures annually.

Legal References:

Wisconsin Statutes

Section 106.8: [Addressing the designation of a Title IX Coordinator, the adoption of grievance procedures, and notice/dissemination of policies]

Section 106.30: [Important definitions added by the Final Rule]
Section 106.44: [Addressing the requirements for school districts to respond to each report or complaint of sexual harassment of which the district has actual knowledge]
Section 106.45: [Requiring school districts to establish and administer a grievance process for formal complaints of sexual harassment; also addressing training and recordkeeping requirements]
Section 111.32(13) [definition of sexual harassment in employment]
Section 111.36 [sex discrimination prohibited in employment, including sexual harassment]

Federal Laws and Regulations

Title VII of the Civil Rights Act of 1964 [sex discrimination prohibited in employment]
Regulations Implementing Title VII of the Civil Rights Act (29 C.F.R. - Part 1604.11) [sex discrimination in employment; sexual harassment]
Regulations Implementing Title IX of the Education Amendments of 1972 (34 C.F.R. - Part 106.51)
[sex discrimination in employment in educational programs]

Cross References: Employee Handbook

Adopted: 5/13/02

Reviewed: 1/14/08, 6/12/17, 7/13/20