

Community Relations

SUBJECT: TITLE IX SEXUAL DISCRIMINATION POLICY FOR STUDENTS

It is the policy of the New Paltz Central School District to prohibit sexual discrimination involving students in the schools, at school activities and at events sponsored by the school district. To that end, all officers, supervisory personnel, employees, and students of the District shall be given a copy of this policy and training¹ regarding its terms, procedures, protections and penalties.

Definitions

“Sexual discrimination” is defined as discrimination against a person on the basis of sex (including sexual orientation, gender identity and sex characteristics) and is prohibited by both federal and state law.

Under federal regulations, sexual discrimination is defined as conduct on the basis of sex that is one or more of the following:

1. When an employee conditions the provision of an aid, benefit, or service of the school district on an individual’s participation in unwelcome sexual conduct (*quid pro quo*, which is sexual discrimination *per se*), or
2. Unwelcome conduct that creates a hostile environment as determined by a reasonable person to be so severe, pervasive, **and** objectively offensive that it effectively limits or denies a person’s ability to participate in or benefit from the school district’s education program(s) or activity(ies); or
3. Sexual assault, dating violence, domestic violence, or stalking, which is sexual discrimination *per se*.

Jurisdiction

Title IX Complaints will be processed as such where alleged conduct is subject to the District’s disciplinary authority or occurs in a location over which the District exercises substantial control over both the alleged harasser and the context in which the alleged discrimination occurred.

Notice of Sexual Discrimination

The District shall post on its website a notice of nondiscrimination which explains how reports of sexual discrimination may be made by any person through mail, telephone or email to a Title IX Coordinator.

The District will be deemed to be on notice of sexual discrimination when the District has actual knowledge of conduct that may reasonably constitute sexual harassment. Once the District is on notice of allegations of sexual discrimination there shall be a reasonably prompt and equitable response in light of the presenting circumstances.

¹ Materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an informal resolution process are to be made available to the public on the District’s website

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- Nonconfidential employees must promptly notify the Title IX coordinator when aware of “information about conduct that reasonably may constitute sex discrimination.”
- A confidential employee who receives information about possible sex-based harassment must explain their status as a confidential employee and provide the reporter with contact information for the Title IX coordinator and how to make a complaint.
- If notified of information “by a person during a public event to raise awareness about sex-based harassment” the District is not required to act unless there is “an imminent and serious threat” to a person’s health or safety, but must use the information in its efforts to prevent sex-based harassment.

Pregnancy and Related Conditions

If the District is informed of a student’s or students’ current, potential or past pregnancy related conditions, the student(s) may be entitled to reasonable modifications based on the student’s individualized needs. In determining what modifications are needed, the District will consult with the student. The Student may accept or reject the offered modifications.

Reasonable modifications may include, but are not limited to: Breaks during class for breast milk expression, breastfeeding or to attend to personal health needs (personal health needs may include, but are not limited to eating, using the bathroom, access to online instruction or home tutoring if appropriate, intermittent absences to attend medical appointments, changes in schedule, coursework and tests or examinations, changes in physical space or supplies, counseling or allowing a student to sit or stand). The student must be provided with a lactation space, other than a bathroom, that is clean, shielded from view and free from intrusion by others for the expression of breast milk.

A voluntary leave of absence must be granted to a student upon presentation of the period of time deemed medically necessary by the student’s licensed healthcare provider. When the student returns to school from a leave for pregnancy-related absence, they must be restored to their prior academic and, to the extent practical, to the extracurricular status that the student held prior to when the voluntary leave began.

The student may not be required to provide supporting documentation for pregnancy-related accommodations unless necessary and reasonable. Examples of accommodations that must be provided without additional documentation are bathrooms breaks, access to water, addressing lactation needs, and need for larger desk or uniforms.

The District is not required to make a modification that would fundamentally alter the nature of its education program or activity.

When a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members of the Committee on Special Education or Section 504 team to determine how to comply with the IDEA or Section 504 of the Rehabilitation Act of 1973. Note that emergency removals must not violate change in placement provisions of the IDEA or Section 504.

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Any student who believes that they have been subjected to sexual discrimination by an officer, employee, student, business invitee, volunteer, or visitor is encouraged to address the matter with any District Title IX Coordinator* who will promptly conduct an intake interview in order to determine whether the matter should be referred to a formal grievance process as a Title IX matter and to explain the following possible options for resolution, where appropriate:

1. Registering an informal complaint verbally or in writing;
2. Registering a formal complaint verbally or in writing;
3. Engaging in an informal resolution process such as mediation to arrive at a resolution of the matter; and/or
4. Placing the District on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

Only a Complainant or a parent/legal guardian acting on behalf of a minor child may file a formal complaint based upon the individual having been the alleged victim of conduct that could be found to constitute sexual discrimination. The Complainant must be enrolled in the District and/or participating in or seeking to participate in the activity or program at the time when the Complaint is being presented for the Complaint to be acted upon. A Title IX Coordinator may file a formal complaint at their initiative.

The Title IX Coordinator is authorized to proceed with any reported allegations as if they had been filed as an informal complaint or a formal complaint, at their discretion.

The Title IX Coordinator will provide an initial review of all reports of alleged sexual discrimination for a determination as to whether, if proven, alleged conduct would constitute a Title IX violation, and may file a formal complaint on behalf of the Complainant at their discretion. If a complaint has not been initiated or allegations have been withdrawn, the Title IX Coordinator must determine whether to independently initiate a complaint of sex discrimination. In considering whether to independently investigate a concern, the Title IX coordinator must consider eight specifically enumerated factors:

1. The complainant's request not to proceed with initiation of a complaint
2. The complainant's reasonable safety concerns" associated with initiation of a complaint
3. The risk that additional acts of sex discrimination would occur if a complaint is not initiated.
4. The severity of the alleged sex discrimination.
5. The age and relationship of the parties.
6. The scope of the alleged sex discrimination.
7. The availability of evidence.
8. Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures.

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If there is “an imminent and serious threat to the health or safety of the complainant or other person,” or the alleged conduct prevents equal access on the basis of sex, the Title IX Coordinator may initiate a complaint.

All formal complaints pursuant to Title IX will be processed in accordance with federal regulations, which require a mandatory grievance process and permit informal resolution upon consent of the parties, so long as the Respondent is not an employee if the Complainant is a student.

Dismissal of Complaint

The Title IX Coordinator may dismiss the Complaint if:

- i. They are unable to identify the alleged respondent after taking reasonable steps to do so;
- ii. The respondent is not participating in the District’s education program or activity and is not employed by the District;
- iii. The complainant voluntarily withdraws any or all of the allegations in the complaint;
- iv. They decline to initiate a complaint, and the Title IX Coordinator determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this policy even if proven; or
- v. The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.
- vi. Prior to dismissing the complaint under this paragraph, the District must make reasonable efforts to clarify the allegations with the complainant. Upon dismissal, a District must promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the District must also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing. The District must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then

the District must also notify the respondent that the dismissal may be appealed.

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- vii. If a dismissal is appealed, the Title IX Coordinator will notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent. The Decisionmaker for the appeal will not have taken part in an investigation of the allegations or dismissal of the complaint. The parties will have a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome. The parties will be informed of the result of the appeal and the rationale for the result.
- viii. If the Title IX Coordinator dismisses a complaint they must, at a minimum: offer supportive measures to the complainant and respondent (if notified of the allegations), and take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activities.

Consolidation of complaints.

A District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

Supportive Measures.

Supportive measures will promptly be offered to the complainant and respondent(s) by the Title IX Coordinator upon notice of allegations and will be designed to restore or preserve equal access to the school's educational programs and activities, but may not be punitive or "unduly burdensome" as against the respondent during the pendency of the Grievance. Supportive measures may include (but are not limited to): (1) counseling; (2) monitoring or supervision; (3) course-related adjustments, including extension of deadlines; (4) schedule changes (class and extra-curricular schedules); (5) campus security measures; (6) leaves of absence; and/or (7) additional academic support. The Title IX Coordinator will also explain that the parties (complainants and respondents) and any third-party witnesses may not be subjected to retaliation or retribution, and that confidentiality shall be maintained throughout the process, except as necessary to assure fair and due process.

Informal Complaints

When the District has knowledge of an alleged act of sexual discrimination or when a complainant does not file a formal Title IX complaint, or files an informal complaint (not alleging a violation of Title IX) there will be a prompt review by a Title IX Coordinator, who will issue a written report to the Superintendent of Schools, within ten (10) days. The Superintendent will take such further action necessary to reasonably deter any further act prohibited by this policy if corrective action is warranted. Such further action may include referring the matter to a Title IX Investigator as if it had been filed as a formal complaint.

Formal Complaints*Written Notice*

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If the Title IX Coordinator determines that the formal complaint alleges conduct that may, if proven, constitute a violation of Title IX, a Notice of Title IX Formal Complaint will be issued to the complainant and the respondent setting forth the following information:

1. Notice of a prompt Grievance Process, as described in this policy, and notice of available timeline extensions on a case-by-case basis.
2. Description of the alleged violation(s) of Title IX.
3. A statement regarding the presumption of the respondent's non-responsibility.
4. The right of both parties to representation during the Grievance Process, including a right to legal counsel.
5. Both parties' right to inspect, review, and rebut all evidence.
6. Both parties' right to a written determination upon conclusion of the Grievance Process which will be issued simultaneously to both parties.
7. That the Code of Conduct and District Policy prohibit false statements made knowingly or maliciously at any stage of the Grievance Process.
8. That any newly asserted allegations will be processed under this Policy, whether as a separate matter or through consolidation² as determined by the Title IX Coordinator.
9. The right of both parties and their respective representatives to present evidence and discuss evidence with the investigator, as well as an equal opportunity to present witnesses.
10. The District will not restrict the ability of any party to discuss the allegations under investigation or to gather and present relevant evidence.
11. The District will provide a party whose participation is invited or expected written notice of date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time to prepare for such participation.
12. That the District has the burden of proof in making findings of sexual discrimination based on the standard of "*a preponderance of the credible evidence.*"

All formal complaints shall be received in writing or reduced to writing by a Title IX Coordinator, who will personally, or by reference to a trained designee on the Board of Education's approval list of Investigators, conduct a full and fair investigation of the complaint. The processing of complaints will not require, allow, or rely upon information which is privileged information. Disciplinary action or other punitive remedies against a respondent will not be imposed until the investigation is completed, although enforcement of the Code of Conduct or discipline for other misconduct may be effectuated, even if arising from the same facts and circumstances that gave rise to the sexual discrimination complaint, so long as no retaliatory basis for such discipline may be imputed. The burden of proof in determining a finding of sexual discrimination is upon the District and requires a preponderance of credible and relevant evidence to establish a violation. Both the complainant and the respondent(s) will be equitably treated during the processing of the formal complaint. The

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² A District 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. Where a grievance process involves more than one complainant or more than one respondent, references in this section to the singular “party,” “complainant,” or “respondent” include the plural, as applicable.

investigation of a formal complaint will require an objective evaluation of all evidence and that determinations regarding the credibility of persons may not be based upon their status as a complainant, respondent or witness.

Conflicts of Interest

In the interest of due process, any Title IX Coordinator, Investigator, or designated Decision maker with any conflict of interest must recuse themselves from participation in the formal Title IX Grievance Process. Title IX Coordinators, Investigators, and Decisionmakers will proceed without bias toward any party, and will maintain the due process principle of “innocent until proven guilty” during the pendency of proceedings. If a party believes that a Title IX Coordinator has a conflict of interest, they should address such concerns, in writing if possible, to the Superintendent of Schools as early as possible during the Grievance Process, to request reassignment of the matter. Any concerns regarding the impartiality of an Investigator (other than the Title IX Coordinator) or the Decisionmaker should be immediately made known to the Title IX Coordinator.

Alternates

The Board of Education will appoint more than one Title IX Coordinator and several designated Title IX formal complaint Investigators. A complainant will have a choice of which Title IX Officer to approach regarding a Title IX complaint. If the complaint is about the Superintendent of Schools, the Board may stand in the Superintendent’s place for review or may engage independent counsel.

Removal of Respondent

A student respondent to a complaint of sexual discrimination will not be removed from attendance upon instruction based upon the filing of a Title IX complaint where supportive efforts are adequate to preserve or restore equal access to the educational environment for the complainant.

Where, upon an individualized safety and risk analysis, it is determined that the respondent poses an immediate threat to the physical health or safety of the complainant or others, an immediate suspension may be invoked pursuant to Education Law §3214 or, where the respondent is an employee, an immediate suspension or consensual leave implemented by the Superintendent of Schools in accordance with applicable laws and regulations may be effectuated.

Rights to Review Evidence

The Title IX Coordinator will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant, and not otherwise impermissible; to review all evidence

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gathered through the investigation and to determine what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with law; and provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible

The Title IX Coordinator must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence.

If the Title IX Coordinator provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party. The Title IX Coordinator must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence and must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures.

The complainant and the respondent must be advised in writing of the disposition of the complaint, which may include:

1. A finding that this policy has not been violated; or
2. A finding that this policy has been violated and corrective measures have been implemented; or
3. That disciplinary action will be taken or, where pre-disciplinary charges must be preferred, that they have been preferred in order to convene a disciplinary hearing.

Informal Resolution

At any time during the Title IX Grievance Process, a grievance may be referred to an informal resolution process instead of a full investigation. An informal process may be implemented if both parties provide written, voluntary consent and are provided a written notice of rights, but would not be available in a case in which sexual discrimination is alleged on the part of an employee. Informal resolution may involve conflict resolution strategies such as, but not limited to, arbitration, mediation, or restorative justice.

Dismissal of Complaints

Pursuant to federal Title IX regulations, the Title IX Coordinator must dismiss allegations that, even, if proven, would not constitute sexual discrimination as defined under Title IX regulations; did not occur within the school's program or activity over which the District has disciplinary authority; or did not occur within the United States. A complaint may be dismissed at the Title IX Coordinator's discretion if the complainant notifies the Title IX Coordinator at any time that they wish to withdraw the complaint, the respondent's employment or enrollment at the District ends, or specific circumstances prevent the District from gathering evidence sufficient to reach a determination.

Decisionmaker

Upon conclusion of the investigation and evidence summary, review and response process described herein, the

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designated Decisionmaker (who may or may not be the Title IX Coordinator or the Investigator) will receive and review the final investigation report and any responses submitted by the parties or their advisors. The Decisionmaker must apply the preponderance of evidence standard to the relevant, permissible evidence and issue a written determination of responsibility that:

1. Identifies the allegations that potentially constitute sexual discrimination;
2. Describes the procedural steps taken from the receipt of the complaint to the determination;
3. Includes findings of fact supporting the determination;
4. Includes conclusions regarding application of District policy to the facts;
5. Includes a statement of, and a rationale for, the result as to each allegation, including:
 - a. determination of responsibility;
 - b. any disciplinary sanctions to be imposed;
 - c. whether remedies to restore or preserve equal access will be provided to the complainant;
6. Explains procedures, timelines, and permissible bases for appeals; and
7. Reminds the parties of the prohibition on retaliation.

Appeal of Formal Complaints

An appeal of the Decisionmaker's determination may be brought to the District's appellate authority, the Superintendent of Schools, if submitted in writing within thirty (30) calendar days of the determination, based upon the following:

1. A procedural irregularity affecting the outcome;
2. New evidence that was reasonably not available at the time of the determination becomes available and could affect the outcome; or
3. A conflict of interest on the part of the Title IX Coordinator, Investigator, or Decisionmaker affected the outcome.

A party may appeal the Title IX Coordinator's dismissal of a complaint or any allegation therein within thirty (30) calendar days of such dismissal by written submission to the Superintendent.

Confidentiality

The District's Title IX Coordinators, Investigators, the Superintendent of Schools, and the Board of Education will, to the maximum extent possible, maintain as confidential the transaction(s) underlying the complaint and the proceedings as well as the outcome of any mediated agreement and action taken, other than formal discipline. The respondent, however, must be informed of the identity of the person who commenced the proceedings or complaint in order to provide fair and due process. Both the complainant and the respondent must be given written notice of the findings in the matter of a formal complaint.

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Any officer, supervisor, or employee who violates this policy will be subject to corrective action, up to and including, termination of office or employment, with due process provided, as necessary. Students who violate this policy will be subject to disciplinary or other corrective action, in the nature of in-school suspension, short-term principal's suspension or long-term suspension pursuant to a Superintendent's hearing, as well as being offered the opportunity to voluntarily participate in restorative practices, where applicable.

Any complaint that is determined to have been processed maliciously or in bad faith will be deemed to be in violation of this policy and may give rise to disciplinary consequences against the complainant.

Record-Keeping

The report and all documentation related to a Title IX complaint and investigation will be kept in a sealed file for a minimum of seven (7) years.

Training Materials

The District's Title IX training materials are accessible on the District website.

District Title IX Officers

Coordinator/ Investigator Dr. Linda Oehler-Marx Deputy Superintendent 196 Main Street New Paltz, NY 12561 845-256-4030 loehlermarx@newpaltz.k12.ny.us	Coordinator/ Investigator Llajaira Dessereau Elementary Principal 196 Main Street New Paltz, NY 12561 845-256-4305 ldessereau@newpaltz.k12.ny.us
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