

CHESTER COUNTY INTERMEDIATE UNIT 24

SECTION: PROGRAMS
TITLE: NONDISCRIMINATION IN EDUCATIONAL PROGRAMS/SERVICES
ADOPTED: OCTOBER 27, 2010
REVISED: OCTOBER 21, 2020

103. NONDISCRIMINATION IN EDUCATIONAL PROGRAMS/SERVICES

<u>Policy Section</u>	<u>Policy Description</u>
1. Authority	<p>The Board declares it to be the policy of the Intermediate Unit to provide an equal opportunity for all students to achieve their maximum potential through the programs offered by the Intermediate Unit free from discrimination, regardless of actual or perceived race, color, age, creed, religion, sex, gender, sexual orientation, gender identity, gender expression, ancestry, national origin or handicap/disability. [1][2][3][4][5][6][7][8][9][10][11][12][13][14][15][16][17]</p> <p>The Board also declares it to be the policy of this Intermediate Unit to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the Intermediate Unit may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.</p> <p>The Intermediate Unit shall provide programs and services to all eligible students without discrimination. Therefore, the Intermediate Unit is committed to the maintenance of a safe, positive learning environment for all students that is free from discrimination by providing all students with course offerings, counseling, assistance, services, employment, athletics and extracurricular activities without any form of discrimination, including Title IX sexual harassment. Discrimination is inconsistent with the rights of students and the educational and programmatic goals of the Intermediate Unit and is prohibited at or, in the course of, Intermediate Unit-sponsored programs or activities, including transportation to or from school or school-sponsored activities.</p> <p>The Board requires a notice stating that the Intermediate Unit does not discriminate in any manner, including Title IX sexual harassment, in any Intermediate Unit education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the Intermediate Unit. All discrimination notices and information shall include the title, office</p>

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address, telephone number and email address of the individual(s) designated as the Compliance Officer and Title IX Coordinator.

Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages students and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination or retaliation to promptly report such incidents to designated employees., including but not limited to the building administrator or program supervisor, even if some elements of the related incident took place or originated away from school grounds, school activities or school conveyances. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

The student's parents/guardians or any other person with knowledge of conduct that may violate this policy is encouraged to immediately report the matter to the building administrator or program supervisor.

A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building administrator or program supervisor, as well as properly making any mandatory police or child protective services reports required by law.[22]

If the building administrator or program supervisor is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the Title IX Coordinator.

The Board directs that complaints of discrimination shall be investigated promptly, and corrective action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the Intermediate Unit's legal and investigative obligations.

No reprisals or retaliation shall occur as a result of good faith charges of discrimination.

Disciplinary Procedures When Reports Allege Title IX Sexual Harassment

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints outlined in Attachment 3. The Intermediate Unit shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.[18][20][23][24]

When an emergency removal, as described in Attachment 3, is warranted to address an immediate threat to the physical health or safety of an individual, and it is not feasible to continue educational services remotely or in an alternative setting, the normal procedures for suspension and expulsion shall be conducted to accomplish the removal, including specific provisions to address a student with a disability where applicable.[18][19][20][23]

When an emergency removal is not required, disciplinary sanctions shall be considered in the course of the Title IX grievance process for formal complaints. Following the issuance of the written determination and any applicable appeal, any disciplinary action specified in the written determination or appeal decision shall be implemented in accordance with the normal procedures for suspensions, expulsions or other disciplinary actions, including specific provisions to address a student with a disability where applicable.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report and the investigation related to any form of discrimination or retaliation, including Title IX

sexual harassment, shall be handled in accordance with applicable law, regulations, this policy, the attachments and the Intermediate Unit's legal and investigative obligations.[25][26][27][28][29]

Retaliation

The Board prohibits retaliation by the Intermediate Unit or any other person against any person for:[28]

1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.
2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The Intermediate Unit, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Title IX Coordinator immediately if retaliation is believed to have occurred.

Legal References: SC 1310; Title 22; Sec. 4.4, 12.1, 12.4,15.1 et seq; P.S. Sec. 5004; 43 P.S.; Sec. 951 et seq Title IX 20 U.S.C., Sec. 1681 et seq; 29 U.S.C.; Sec. 794; Title VI 42 U.S.C., Sec. 2000d et seq 42 U.S.C., Sec. 12101 et seq

2. Definitions

Definitions Related to Title IX Sexual Harassment

Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the Intermediate Unit investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator a party in the grievance process for formal complaints. The phrase “document filed by a complainant” refers to a document or electronic submission that contains the complainant’s physical or

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digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.[27][30]

Supportive measures shall mean nondisciplinary, nonpunitive 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.[30]

Supportive measures shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:[30]

1. Counseling.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Mutual restrictions on contact between the parties.
6. Changes in work or housing locations.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the campus.
10. Assistance from domestic violence or rape crisis programs.
11. Assistance from community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program (IEP) or Section 504 Service Agreement based on a student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations or Board policy.[17][18][23][24][31]

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:[30]

1. An Intermediate Unit employee conditioning the provision of an aid, benefit, or Intermediate Unit service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.
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 an Intermediate Unit education program or activity.

3. Sexual assault, dating violence, domestic violence or stalking.

- a. *Dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:[32]
 - i. Length of relationship.
 - ii. Type of relationship.
 - iii. Frequency of interaction between the persons involved in the relationship.
- b. *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.[32]
- c. *Sexual assault* means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.[33]
- d. *Stalking*, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:[32]
 - i. Fear for their safety or the safety of others.
 - ii. Suffer substantial emotional distress.

Such conduct must have taken place during an Intermediate Unit education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An education program or activity includes the locations, events or circumstances over which the Intermediate Unit exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of an Intermediate Unit's education programs or activities, whether such programs or activities occur on-campus or off-campus.[26][27][30]

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<p>3. Delegation of Responsibility</p>	<p>In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board appoints the Executive Director or designee as the Compliance Officer for the Intermediate Unit.</p> <p>The Compliance Officer/Title IX Coordinator can be contacted at:</p> <p>Address: 455 Boot Road, Downingtown, PA</p> <p>19335 Email: MaureenL@cciu.org</p> <p>Phone Number: 484-237-5088</p> <p>The Compliance Officer and Title IX coordinator shall fulfill designated to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the Intermediate Unit's nondiscrimination procedures in the following areas, as appropriate:</p> <ol style="list-style-type: none">1. Shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public. Nondiscrimination statements shall include the position, office address and telephone number of the Compliance Officer.2. Curriculum and Materials - Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.3. Training - Provide training for students and staff to prevent, identify and alleviate problems of discrimination.4. Resources - Maintain and provide information to staff on resources available to complainants in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, and available supportive measures such as assistance from domestic violence or rape crisis programs and community health resources including counseling resources.5. Student Access - Review of programs, activities and services to ensure that all students have equal access and are not segregated except when permissible by law or regulation.6. Support - Assure that like aspects of the educational program and activities receive like support as to staffing and compensation, facilities, equipment, and related matters.7. Student Evaluation - Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.8. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.
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<p>4. Guidelines</p>	<p>Title IX Sexual Harassment Training Requirements</p> <p>The Compliance Officer and Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the following training, as required or appropriate to their specific role:</p> <ol style="list-style-type: none"> 1. Definition of sexual harassment. 2. Scope of the Intermediate Unit’s education program or activity, as it pertains to what is subject to Title IX regulations. 3. How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable. 4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. 5. Use of relevant technology. 6. Issues of relevance including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant. 7. Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence. 8. How to address complaints when the alleged conduct does not qualify as Title IX sexual harassment but could be addressed under another complaint process or Board policy. <p>All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.</p> <p>All training materials shall be posted on the Intermediate Unit’s website.</p> <p>Disciplinary Consequences</p> <p>A student who is determined to be responsible for violation of this policy shall be subject to appropriate disciplinary action consistent with the Code of Student Conduct, which may include but is not limited to:[18][19][20]</p> <ol style="list-style-type: none"> 1. Loss of school privileges.
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2. Permanent transfer to another school building, classroom or school bus.
3. Exclusion from school-sponsored activities.
4. Detention.
5. Suspension.
6. Expulsion.
7. Referral to law enforcement officials.

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.[21][35]

Reports of Discrimination

Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.

Reports of Title IX Sexual Harassment

Any reports deemed by the Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 to this policy.

Deleted and now contained in Detailed Administrative Procedure A

Attachments:

1. Ar 103 Discrimination Complaint Procedure
2. Ar 103.1 Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints
3. Ar 103.2 Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form
4. Ar 103.3 Template for Letter Documenting Parental Objection to Child's Participation in an Investigation

References:

1. 22 PA Code 12.1
2. 22 PA Code 12.4
3. 22 PA Code 15.1 et seq 4. 22 PA Code 4.4
5. 24 P.S. 1301

6. 24 P.S. 1310
7. 24 P.S. 1601-C et seq
8. 24 P.S. 5004
9. 43 P.S. 951 et seq
10. 20 U.S.C. 1681 et seq
11. 34 CFR Part 106
12. 29 U.S.C. 794
13. 42 U.S.C. 12101 et seq
14. 42 U.S.C. 1981 et seq
15. 42 U.S.C. 2000d et seq
16. U.S. Const. Amend. XIV, Equal Protection Clause 17. Pol. 103.1
18. Pol. 113.1
19. Pol. 218
20. Pol. 233
21. Pol. 317
22. Pol. 806
23. Pol. 113.2
24. Pol. 113.3
25. 20 U.S.C. 1232g
26. 34 CFR 106.44
27. 34 CFR 106.45
28. 34 CFR 106.71
29. 34 CFR Part 99
30. 34 CFR 106.30
31. Pol. 113
32. 34 U.S.C. 12291
33. 20 U.S.C. 1092
34. 34 CFR 106.8
35. Pol. 317.1
18 Pa. C.S.A. 2709
20 U.S.C. 1400 et seq
28 CFR Part 41
28 CFR Part 35
34 CFR Part 100
34 CFR Part 104
34 CFR Part 110

U.S. Const. Amend. I
Bostock v. Clayton County, 590 U.S., 140 S. Ct. 1731 (2020)
Davis v. Monroe County Board of Education, 526 U.S. 629
(1999) Franklin v. Gwinnett County Public Schools, 503 U.S. 60
(1992)
Gebser v. Lago Vista Independent School District, 524 U.S. 274
(1998) Office for Civil Rights - Resources for Addressing Racial
Harassment Pol. 122
Pol. 138
Pol. 216
Pol. 220
Pol. 247
Pol. 249
Pol. 251
Pol. 252
Pol. 320
Pol. 701
Pol. 815
Pol. 832