

Grievance Procedures for Complaints of Sex Discrimination pursuant to Title IX of the Education Amendments Act of 1972 and accompanying regulations as defined within part 106 of title 34 of the Code of Federal Regulations

The Intermediate Unit has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

These grievance procedures apply to sex discrimination that allegedly occurred on or after August 1, 2024. With respect to sex discrimination that allegedly occurred prior to August 1, 2024, regardless of when the alleged sex discrimination was reported, the Intermediate Unit will address those reports by utilizing the grievance process in place at the time the alleged sex discrimination occurred. Additionally, the Intermediate Unit reserves the right to utilize other processes and previous grievance procedures in place to address complaints of discrimination if required by the Office for Civil Rights and/or in accordance with binding court orders, state and federal law, and regulations.

Complainants, as defined below, may request that the Intermediate Unit initiate the grievance process or an informal resolution as set forth below for reports of Title IX discrimination. However, if a complainant does not wish for the grievance process or informal resolution to be commenced, they can request that the Intermediate Unit address the subject of their report without using the grievance process or informal resolution, and the Intermediate Unit reserves the right to address their report in accordance with its policy, procedures, and practice for addressing non-Title IX issues.

Finally, Appendix A contains definitions of various terms, as defined within Title IX, including sex discrimination and sex-based harassment.

Title IX Coordinator

The Intermediate Unit's Title IX Coordinator is

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Complaints & Complainants

Complaint means an oral or written request to the Intermediate Unit that objectively can be understood as a request for the Intermediate Unit to investigate and make a determination about alleged discrimination under Title IX or its regulations. The Intermediate Unit may request that complainants complete the enclosed complaint form when making a Title IX complaint.

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the Intermediate Unit investigate and make a determination about alleged discrimination under Title IX:

- A “complainant,” which includes:
 - a student or employee of the Intermediate Unit who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of the Intermediate Unit who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the Intermediate Unit’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The Intermediate Unit’s Title IX Coordinator.

A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of the Intermediate Unit; or
- Any person other than a student or employee who was participating or attempting to participate in the Intermediate Unit’s education program or activity at the time of the alleged sex discrimination.

The Intermediate Unit 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. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Procedures for Addressing Complaints

The Intermediate Unit utilizes a single-investigator model to address complaints, meaning that the investigator and decision-maker will be the same person and will follow the below procedures for conducting an investigation and rendering a decision. If an appeal is taken, the Intermediate Unit will appoint an appeals officer to decide the appeal. Any appeals officer appointed will not be the same person as the investigator or decision-maker.

The Intermediate Unit requires that any Title IX Coordinator, investigator, decision-maker, or appeals officer not have a conflict of interest or bias for or against complainants or respondents

generally or an individual complainant or respondent. A decision-maker may be the same person as the Title IX Coordinator or investigator.

The Intermediate Unit presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Timeframes

The Intermediate Unit has established the following reasonably prompt timeframes for the major stages of the grievance procedures:

- The evaluation of a complaint, including the Intermediate Unit's decision whether to dismiss or investigate a complaint, is recommended to be completed within 10 days of receipt of a complaint.
- The investigation of a complaint is recommended to be completed within 30 days of receipt of a complaint. This timeframe does not include the production of evidence to parties.
- A written determination of a complaint should be issued within 20 days of completion of the investigation.
- Appeals, if taken, should follow the timeline described below.

The Intermediate Unit has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Specifically, the investigator, decision-maker, and/or appeals officer, in conjunction with the Title IX Coordinator, may extend the above-cited timeframes, including but not limited to the reasons listed below. If the Title IX Coordinator is serving in any of these roles, the Title IX Coordinator may extend the timelines based on their own discretion. The Title IX Coordinator will provide notice to parties in writing of any reasonable extension granted.

- The absence or unavailability of a party or a witness;
- A request from law enforcement or child welfare agency that would impact the progression of the grievance process;
- Need for language assistance or accommodation of disabilities; and/or
- Additional time to complete an investigation or render a decision.

Privacy

The Intermediate Unit will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to

obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Impermissible Evidence and Questions

The investigator will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the Intermediate Unit to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the Intermediate Unit obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations

Upon initiation of the Intermediate Unit's Title IX grievance procedures, the Intermediate Unit will notify the parties of the following:

- The Intermediate Unit's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. If the Intermediate Unit provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

If, in the course of an investigation, the Intermediate Unit decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the Intermediate Unit will notify the parties of the additional allegations.

Dismissal of Complaint

The Intermediate Unit may dismiss a complaint of sex discrimination if:

- The Intermediate Unit is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the Intermediate Unit's education program or activity and is not employed by the Intermediate Unit;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the Intermediate Unit 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 even if proven; or
- The Intermediate Unit determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the Intermediate Unit will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Intermediate Unit will 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 Intermediate Unit will 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 Intermediate Unit will notify the complainant that a dismissal may be appealed and will 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 Intermediate Unit will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the Intermediate Unit will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decision-maker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

Investigation

The Intermediate Unit will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the Intermediate Unit—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Intermediate Unit will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Intermediate Unit will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Intermediate Unit will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The Intermediate Unit will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the Intermediate Unit provides a description of the evidence, the Intermediate Unit may be required to provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- The Intermediate Unit will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The Intermediate Unit will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses

The Title IX regulations require the Intermediate Unit to provide a process that enables the decision-maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. To comply with this requirement, the investigator/decision-maker will afford the parties an opportunity to participate in at least one interview with the investigator/decision-maker. The investigator/decision-maker will conduct interviews with witnesses as the investigator/decision-maker deems appropriate.

Per the Title IX regulations, a party is not required to participate in this process, but is encouraged to do so. A decision to not participate (i.e., declining an interview and/or information requests) can be made. In the event of non-participation, a grievance process determination may be made without input from the individual who declines participation.

Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Intermediate Unit will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decision-maker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decision-maker will not determine that sex discrimination occurred;
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;

- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination;
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a complainant and other people the Intermediate Unit identifies as having had equal access to the Intermediate Unit's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the Intermediate Unit's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

Appeal of Determinations

The Intermediate Unit offers the following process for appeals from a determination whether sex discrimination occurred.

The Title IX Coordinator will inform the parties of their ability to file an appeal on the following grounds when they are notified about the written determination about whether sex discrimination occurred. The bases for an appeal are as follows:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
3. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Each party will have 5 business days to submit an appeal to the Title IX Coordinator, who will then appoint an appeals officer to determine the appeal. A party filing an appeal should explain (1) the bases for appeal, in detail and (2) what relief the appealing party is looking for.

If an appeal is filed, the non-appealing party will have the opportunity to file a response. The Title IX Coordinator and/or appeals officer will provide the non-appealing party with the information about the grounds for the appeal and will provide the non-appealing party with 5 days to respond upon receipt of that information.

The appeals officer should strive to decide the appeal within 10 school days of receiving the above information from the parties. The appeals officer will provide the decision of the appeal to the parties.

Informal Resolution

In lieu of resolving a complaint through the Intermediate Unit's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The Intermediate Unit does not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, restorative practices, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services or supportive measures.

When offering an informal resolution process, the Title IX Coordinator will adhere to all requirements, including notice requirements, in the Title IX regulations, which includes notifying parties that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance procedures.

The informal resolution should be completed within 10 days after both parties provide consent agreement to participate in an informal resolution.

Supportive Measures

The Intermediate Unit will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the Intermediate Unit's education program or activity or provide support during the Intermediate Unit's Title IX grievance procedures or during the informal resolution process. Supportive measures may include, but are not limited to the following:

1. counseling;
2. extensions of deadlines and other course-related adjustments;
3. campus escort services;

4. increased security and monitoring of certain areas of the campus;
5. restrictions on contact applied to one or more parties;
6. leaves of absence;
7. changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative;
8. training and education programs related to sex-based harassment; and
9. other similar measures.

Disciplinary Sanctions

For students, following a determination that sex-based harassment occurred, the Intermediate Unit may impose disciplinary sanctions in accordance with Intermediate Unit policy, applicable student code(s) of conduct, and related Intermediate Unit practice, which may include, but is not limited to:

1. Loss of school privileges,
2. Permanent transfer to another school building, classroom or school bus,
3. Exclusion from school-sponsored and co-curricular, and/or extracurricular activities,
4. Detention,
5. Suspension, and
6. Expulsion

For employees, the Intermediate Unit may impose disciplinary sanctions in accordance with applicable policy, regulation, practice, and applicable collective bargaining agreements and state and federal laws.

Nothing within this grievance process limits the Intermediate Unit's ability to comply with its legal reporting obligations to law enforcement and/or the Department of Human Services.

Appendix A: Definitions

Complainant means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who

was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Disciplinary sanctions means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Party means a complainant or respondent.

Pregnancy or related conditions means: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Relevant means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged sex discrimination occurred.

Remedies means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sex discrimination is discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient's education program or activity

(3) *Specific offenses*.

- (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- (ii) Dating violence meaning violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship;
- (2) The type of relationship; and
- (3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
- (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (C) Shares a child in common with the victim; or
- (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for the person's safety or the safety of others; or
- (B) Suffer substantial emotional distress.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures or during an informal resolution process.

Complaint of Title IX Discrimination

Date: _____
Reporter Name: _____
Phone / Email Address: _____

Complainant Name: _____
Complainant Grade: _____
Complainant School: _____

Respondent Name: _____
Respondent Grade: _____
Respondent School: _____

Date of Reported Incident: _____

Description of Incident. Please describe the conduct you believe constitutes Title IX discrimination.

Witnesses to Incident:

Desired Outcome. Please describe the result or outcome you would like to see result from the grievance process:

Signature _____
Date _____

Title IX Complaints can be submitted to the Title IX Coordinator:

- Name:** Maureen Linahan
- Position:** Director, Human Resources
- Address:** 455 Boot Road, Downingtown, PA 19335
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