

CHESTER COUNTY INTERMEDIATE UNIT 24

NO.: 103.2

TITLE: TITLE IX SEXUAL HARASSMENT
PROCEDURES AND
GRIEVANCE PROCESS FOR
FORMAL COMPLAINTS

REVISED: AUGUST 14, 2020

Statement of Procedure

103.2 TITLE IX SEXUAL HARASSMENT PROCEDURES AND GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

Procedure Section	Procedure Description
1. Purpose	<p>The Title IX sexual harassment procedures and grievance process for formal complaints prescribed in this attachment apply only when a report includes allegations of sexual harassment subject to Title IX regulations. (34 CFR 106.44, 106.45)</p> <p>All other reports or complaints of discrimination or retaliation shall follow the complaint procedures established in Policy 103 Attachment 2 regarding discrimination.</p> <p>[Note: a live hearing process is not required for the grievance process for formal complaints in the K-12 setting. Language on a live hearing process is <u>not</u> included in these procedures, but the Intermediate Unit may add language in consultation with the school solicitor.]</p> <p>The purpose of these procedures is to effectuate Title IX’s prohibition against sex discrimination and to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims. These procedures apply only to complaints alleging discrimination prohibited by Title IX (including sexual harassment and sexual violence).</p> <p>These procedures shall be available in every school site administrative office, posted on the CCIU website, and included in student handbooks.</p>
2. Responsibility	The executive director or his designee.
3. General	<p>References: Policy 103 and Policy 104</p> <p>Attachments: Designation of Title IX Coordinator and Contact Information Form; Formal Complaint of Sexual Harassment under Title IX Form; Notification to Parties of Formal Complaint; Dismissal of Formal Complaint of Sexual Harassment under Title IX; Notice of Investigative Interview, Hearing or Other Meeting; Investigator Disclosure of Evidence; Investigative Report Template; Determination Regarding Formal Complaint of Sexual Harassment under</p>

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<p>4. Definitions</p>	<p style="text-align: center;">Title IX; Notification of Appeal of Final Determination; Notification Regarding Facilitated Informal Resolution; Record of Compliance</p> <p>Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:</p> <ol style="list-style-type: none">1. A 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 <i>quid pro quo sexual harassment</i>.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 a Intermediate Unit education program or activity.3. Sexual assault, dating violence, domestic violence or stalking.<ol style="list-style-type: none">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:<ol style="list-style-type: none">1) Length of relationship.2) Type of relationship.3) 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.c. Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.d. Stalking, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either:<ol style="list-style-type: none">1) Fear for their safety or the safety of others.2) Suffer substantial emotional distress.
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Such conduct must have taken place during a Intermediate Unit education program or activity and against a person in the United States to qualify as sexual harassment subject to Title IX regulations. 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.

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<u>Procedure Section</u>	<u>Procedure Description</u>
1. Purpose	<p>The purpose of these procedures is to effectuate Title IX’s prohibition against sex discrimination and to respond promptly and supportively to persons alleged to be victimized by sexual harassment, resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment, and effectively implement remedies for victims. These procedures apply only to complaints alleging discrimination prohibited by Title IX (including sexual harassment and sexual violence).</p> <p>These procedures shall be available in every school site administrative office, posted on the CCIU website, and included in student handbooks.</p>
2. Definitions	<p>Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the CCIU’s Title IX Coordinator (identified in Attachment A) or any official of the CCIU who has authority to institute corrective measures on behalf of the CCIU, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the CCIU with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the CCIU. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.</p> <p>Complainant means a student or employee of the CCIU who is alleged to be the victim of conduct that could constitute sexual harassment.</p> <p>Day, for the purpose of the calculation of days in complaint processing, except as otherwise expressly provided, shall exclude Saturdays, Sundays, and federal, state and school holidays or closures.</p> <p>Exculpatory evidence means evidence tending to exonerate the accused or helps to establish their innocence.</p> <p>Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the CCIU</p>

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investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the CCIU with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator in **Attachment A** and by any additional method designated by the CCIU. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the CCIU) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. The Form attached as **Attachment B** may be used for the submission of the Formal Complaint but is not required.

Inculpatory evidence means evidence tending to incriminate the accused or indicate their guilt.

Parties means Complainant(s) and Respondent(s).

Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation shall mean actions including, but not limited to, intimidation, threats, coercion, or discrimination against a victim or other person because they report conduct that may constitute discrimination or harassment, including Title IX sexual harassment, in accordance with Board policy and procedures, participate in an investigation or other process addressing discrimination or Title IX sexual harassment, or act in opposition to discriminatory practices.

The following actions shall not constitute retaliation:

1. An individual exercising free speech under the rights protected by the First Amendment.
2. The assignment of consequences consistent with Board policy and the Code of Student Conduct when an individual knowingly makes a materially false statement in bad faith in an investigation. The fact that the charges of discrimination were unfounded or unsubstantiated shall not be the sole reason to conclude that any party made a materially false statement in bad faith.

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

- A. An employee of the CCIU conditioning the provision of an aid, benefit, or service of the CCIU on an individual’s participation in unwelcome sexual conduct;
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal

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- access to the CCIU's education program or activity; or
- C. Sexual assault, dating violence, domestic violence, or stalking.

Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Dating violence means 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:
- i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

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 grant monies, 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.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for his or her safety or the safety of others; or
- B. Suffer substantial emotional distress.

Supportive measures 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.

Supportive measures shall be designed to restore or preserve equal access to the education 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:

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.

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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. (Pol. 103.1, 113, 113.1, 113.2, 113.3)

3. General
Response to Sexual
Harassment

If and when the CCIU obtains actual knowledge of sexual harassment in an education program or activity of the CCIU against a person in the United States, it must respond promptly in a manner that is not deliberately indifferent. The CCIU is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. "Education program or activity" includes locations, events, or circumstances over which the CCIU exercised substantial control over both the respondent and the context in which the sexual harassment occurs. The CCIU's response must treat complainants and respondents equitably by offering supportive measures as defined above to a complainant, and by following its grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX Coordinator must promptly contact the complainant 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.

Response to a formal complaint. In response to a formal complaint, the CCIU must follow its grievance process. With or without a formal complaint, the CCIU must comply with the previous subsection.

Emergency removal. Nothing in this process precludes the CCIU from removing a respondent from the CCIU's education program or activity on an emergency basis, provided that the CCIU undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Administrative leave. Nothing in this subpart precludes the CCIU from placing a non-student employee respondent on administrative leave during the pendency of its grievance. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

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<p>4. Basic Requirements for Grievance Process</p>	<p>This process requires the CCIU to:</p> <ul style="list-style-type: none">A. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. Remedies must be designed to restore or preserve equal access to the CCIU’s education program or activity. Such remedies may include the same individualized services described elsewhere in this grievance process as “supportive measures”; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;B. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person’s status as a complainant, respondent, or witness;C. Require that any individual designated by the CCIU as a Title IX Coordinator, investigator, decision maker, or any person designated by the CCIU to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The CCIU must ensure that Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the CCIU’s education program or activity, how to conduct an investigation and grievance process including hearings, 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. The CCIU must ensure that decision makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, as set forth elsewhere in this grievance process. The CCIU also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth elsewhere in this grievance process. Any materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;D. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;E. Include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the CCIU offers informal
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<p>5. Procedural Requirements</p>	<p>resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;</p> <p>F. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the CCIU may implement following any determination of responsibility;</p> <p>G. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;</p> <p>H. Include the procedures and permissible bases for the complainant and respondent to appeal;</p> <p>I. Describe the range of supportive measures available to complainants and respondents; and</p> <p>J. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.</p> <p>A. Time Limits. A complaint under this procedure should be filed as soon as possible after the time of occurrence and within 180 calendar days of the alleged violation(s) of Title IX. Failure of a complainant or appellant to comply with any time limitation in the complaint procedure may result in dismissal of the complaint and/or denial of the appeal. Dismissal shall not preclude the individual's right to pursue the complaint through other appropriate external agencies.</p> <p>B. Notice of allegations. Upon receipt of a formal complaint, the Title IX Coordinator must provide the following written notice to the parties who are known in the form (using Attachment C).</p> <p>C. Dismissal of a formal complaint.</p> <p>(i) The CCIU must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual</p>
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harassment as defined above even if proved or did not occur in the CCIU's education program or activity then the CCIU shall dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or this part; such a dismissal does not preclude action under another provision of the CCIU's code of conduct. The CCIU may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the CCIU; or specific circumstances prevent the CCIU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- (ii) Upon a dismissal required or permitted pursuant to this section, the CCIU must promptly send written notice (using **Attachment D**) of the dismissal and reason(s) therefor simultaneously to the parties.

D. **Consolidation of formal complaints.** The CCIU 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.

E. **Investigation of a formal complaint.** When investigating a formal complaint and throughout the grievance process, the CCIU must:

- i. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the CCIU and not on the parties provided that the CCIU cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the CCIU obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not 18 years old then the CCIU must obtain the voluntary, written consent of the party's parent or guardian, surrogate parent or guardian ad litem);
- ii. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- iii. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- iv. Provide the parties with the same opportunities to have others present

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during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the CCIU may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;

- v. Provide, to a party whose participation is invited or expected, written notice (using **Attachment E**) of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
- vi. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the CCIU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the CCIU must send (using **Attachment F**) to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The CCIU must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and
- vii. Create an investigative report (using **Attachment G**) that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required under this section or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

F. **Hearings.** Hearings will be held at the discretion of the decision maker(s). With or without a hearing, after the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if

the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.

G. Determination regarding responsibility.

- (i) The decision maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination (using **Attachment H**) regarding responsibility. To reach this determination, the CCIU must apply the clear and convincing standard of evidence.
- (ii) The written determination must include:
 - a. Identification of the allegations potentially constituting sexual harassment;
 - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c. Findings of fact supporting the determination;
 - d. Conclusions regarding the application of the CCIU's code of conduct to the facts;
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the CCIU imposes on the respondent, and whether remedies designed to restore or preserve equal access to the CCIU's education program or activity will be provided by the CCIU to the complainant; and
 - f. The CCIU's procedures and permissible bases for the complainant and respondent to appeal.
- (iii) The CCIU must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the CCIU provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- (iv) The Title IX Coordinator is responsible for effective implementation of any remedies.

H. Appeals.

- (i) The CCIU must offer both parties an appeal from a determination regarding responsibility, and from a CCIU's dismissal of a formal complaint or any allegations therein, on the following bases:
 - a. Procedural irregularity that affected the outcome of the matter;
 - b. New evidence that was not reasonably available at the time the

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	<p>determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and</p> <ul style="list-style-type: none">c. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. <ul style="list-style-type: none">(ii) The CCIU may offer an appeal equally to both parties on additional bases.(iii) As to all appeals, the CCIU must:<ul style="list-style-type: none">a. Notify (using Attachment I) the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;b. Ensure that the decision maker(s) for the appeal is not the same person as the decision maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;c. Ensure that the decision maker(s) for the appeal complies with the this section;d. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;e. Issue a written decision describing the result of the appeal and the rationale for the result; andf. Provide the written decision simultaneously to both parties. <p>I. Informal resolution. The CCIU may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the CCIU may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the CCIU may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the CCIU:</p> <ul style="list-style-type: none">(i) Provides to the parties a written notice (using Attachment J) disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, 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 process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;(ii) Obtains the parties' voluntary, written consent to the informal resolution process; and
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(iii) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

J. Recordkeeping.

- (i) The CCIU must maintain for a period of seven years records of:
- a. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the CCIU's education program or activity;
 - b. Any appeal and the result therefrom;
 - c. Any informal resolution and the result therefrom; and
 - d. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process. The CCIU must make these training materials publicly available on its website, or if the CCIU does not maintain a website the CCIU must make these materials available upon request for inspection by members of the public.
- (ii) For each complaint, the CCIU must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the CCIU must document (using **Attachment K**) the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the CCIU's education program or activity. If the CCIU does not provide a complainant with supportive measures, then the CCIU must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the CCIU in the future from providing additional explanations or detailing additional measures taken.

APPROVED:



Dr. George F. Fiore, Executive Director

DATE APPROVED: 9/15/93

DATE REVISED: 11/6/17 | 08/14/2020

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Attachment A

Designation of Title IX Coordinator and Contact Information

Title IX Coordinator:

Office address: _____

Email: _____

Telephone number: _____

Chester County Intermediate Unit is committed to complying fully with all Federal and state laws banning discrimination on the basis of gender, sexual orientation, gender identity/expression with regard to instructional programs, extracurricular activities, and employment practices. Any person who believes himself or herself to be a victim of sex discrimination by the CCIU should contact the Title IX Coordinator.

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Attachment B

Formal Complaint of Sexual Harassment under Title IX

Date: _____

I am making a formal complaint of sexual harassment under Title IX

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the CCIU investigate the allegation of sexual harassment (defined below).

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the CCIU with which the formal complaint is filed.

A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator below.

As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the CCIU) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party.

The following is the information pertinent to the complaint:

Complainant(s) _____

Respondent(s) _____

Date of alleged incident: _____

Location of alleged incident: _____

Allegations:

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

- A. An employee of the CCIU conditioning the provision of an aid, benefit, or service of the CCIU on an individual's participation in unwelcome sexual conduct;
- B. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the CCIU's education program or activity; or
- C. Sexual assault, dating violence, domestic violence, or stalking.

Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

Dating violence means 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:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

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 grant monies, 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.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- A. Fear for his or her safety or the safety of others; or
- B. Suffer substantial emotional distress.

Attachment C

Notification to Parties of Formal Complaint

Complaint No. _____

Date: _____

Pursuant to the enclosed Title IX Grievance Process (“Grievance Process”), this constitutes formal notice to you that you have been identified as a party to a formal complaint under the CCIU’s Title IX Grievance Process. The pertinent information is set forth below:

Complainant(s) _____

Respondent(s) _____

Date of alleged incident: _____

Location of alleged incident: _____

Allegations:

(use additional sheets if necessary)

Please note the following:

- A determination regarding responsibility is made at the conclusion of the grievance process. Until that determination is made, respondent is presumed not responsible for the alleged conduct.

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- The parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- The parties may inspect and review evidence as provided in the Grievance Process.
- The CCIU's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the Grievance Process.
- If, in the course of an investigation, the CCIU decides to investigate allegations about the complainant or respondent that are not included in this notice, the CCIU must provide notice of the additional allegations to the parties whose identities are known.

Title IX Coordinator

Enclosure: Title IX Grievance Process

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Attachment D

Dismissal of Formal Complaint of Sexual Harassment under Title IX

Complaint No. _____

Date: _____

To all parties and advisors:

This Formal Complaint is dismissed for the following reason(s) checked below:

- The complainant has notified the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein.
- The conduct alleged in the formal complaint would not constitute sexual harassment as defined above even if proved.
- The conduct alleged did not occur in the CCIU's education program or activity.
- The respondent is no longer enrolled or employed by the CCIU.
- Specific circumstances prevent the CCIU from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. List details:

A dismissal does not preclude action under another provision of the CCIU's code of conduct.

Please refer to the enclosed Grievance Process for rights to appeal this dismissal.

Title IX Coordinator
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Attachment E

Notice of Investigative Interview, Hearing or Other Meeting

Complaint No. _____

Date: _____

The following meeting has been scheduled in connection with the above referenced complaint:

Type of meeting (check whichever applies):

Investigative Interview

Hearing

Other meeting (specify): _____

Date and Time of meeting:

Location of meeting: _____

Date of notice: _____

Each party has an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the CCIU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

By: _____

Title: _____

Cc: Title IX Coordinator

Complainant advisor, if any

Respondent advisor, if any

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Attachment F

Investigator Disclosure of Evidence

Complaint No. _____

Date: _____

To all parties:

I enclose any and all evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the CCIU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Each party has 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

By: _____
Investigator

Cc: Title IX Coordinator
Complainant advisor, if any
Respondent advisor, if any

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Attachment G

Investigative Report Template

Complaint No. _____

Date: _____

To all parties and advisors:

The following constitutes the investigative report with respect to this Formal Complaint:
Identification of the allegations potentially constituting sexual harassment:

Parties/Witnesses interviewed and Date (s)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Evidence Disclosed to Parties (Using Attachment F)

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Attachment H

Determination Regarding Formal Complaint of Sexual Harassment under Title IX

Complaint No. _____

Date: _____

To all parties and advisors:

The following constitutes the written determination with respect to this Formal Complaint:
Identification of the allegations potentially constituting sexual harassment:

Notifications to Parties

1. Parties/Witnesses interviewed and Date(s)

2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____

Other procedural steps taken from the receipt of the formal complaint through the determination, including site visits, methods used to gather other evidence, and hearings held:

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Please refer to the enclosed Grievance Process for rights to appeal this dismissal. The permissible bases for appeal are:

- Procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

By: _____
Decision-maker

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Attachment I

Notification of Appeal of Final Determination

Complaint No. _____

Date: _____

To all parties and advisors:

This is to notify you that an appeal has been filed by Complainant Respondent

The bases for the appeal is/are:

Procedural irregularity that affected the outcome of the matter. The specific procedural irregularities are:

New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. The New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made is:

The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. The specific conflict of interest:

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Be advised that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.

Each party may submit a written statement in support of, or challenging, the outcome within 10 days of the date of this notice by submitting at the address below.

By: _____

Appeal decision-maker

[insert contact information]

Enclosure: Title IX Grievance Process

Attachment J

Notification Regarding Facilitated Informal Resolution

Complaint No. _____

Date: _____

To all parties and advisors:

The CCIU may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the CCIU may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the CCIU may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the CCIU:

- (iv) Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, 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 process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (iv) Obtains the parties’ voluntary, written consent to the informal resolution process; and
- (v) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

The allegations are:

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Description of the Informal Resolution Process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations:

I voluntarily consent to the informal resolution process.

I do not voluntarily consent to the informal resolution process.

By: _____

Title IX Coordinator
[insert contact information]

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Attachment K

Record of Compliance

Complaint No. _____

Date: _____

The CCIU must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Date (Enter N/A if not applicable)

- _____ Receipt of Formal Complaint (Attachment B)
- _____ Notification to Parties of Formal Complaint (Attachment C)
- _____ Notice of Dismissal (Attachment D)
- _____ Investigative Meeting Notice (Attachment E)
- _____ Investigator Disclosure of Evidence (Attachment F)
- _____ Investigative Report (Attachment G)
- _____ Final Determination (Attachment H)
- _____ Notification of Appeal (Attachment I)
- _____ Notification of Informal Resolution (Attachment J)

In each instance, the CCIU must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the CCIU's education program or activity. The basis is:

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If the CCIU does not provide a complainant with supportive measures, then the CCIU must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The basis is:

The documentation of certain bases or measures does not limit the CCIU in the future from providing additional explanations or detailing additional measures taken.

By: _____

Title IX Coordinator
[insert contact information]