

# OCTORARA AREA SCHOOL DISTRICT WORK SESSION

May 13, 2024 – 7:00 p.m.

Jr. High School Multi-Purpose Room

## DISCUSSION GUIDE

1. Moment of Silence
  2. Pledge of Allegiance
  3. Roll Call
  4. Visitors' Comments – Agenda Items Only
  5. Presentations
    - A. Althouse Transportation
    - B. Homeland Security Protective Services Academy
  6. Information Items
  7. Presentation of Agenda Items for the May 20, 2024 Regular Monthly Public Meeting:
    - A. That the Octorara Board of School Directors elect \_\_\_\_\_ as Board Treasurer from July 1, 2024 through June 30, 2025.
    - B. That the Octorara Board of School Directors approve the list of current Class of 2024 seniors of the Octorara Area Sr. High School, having been individually considered for graduation by the Octorara Board of School Directors, contingent upon their successful completion of all local and state requirements.
    - C. That the Octorara Board of School Directors approve the following Physics and Chemistry curriculum:  
*Serway Physics for Scientists and Engineers (AP Physics C) 10<sup>th</sup> Student Edition*  
*Chemistry by Zumdahl and Zumdahl 10<sup>th</sup> Edition*  
*Serway College Physics AP 12 Edition*
    - D. That the Octorara Board of School Directors approve the following policies, second reading:  
*103 Discrimination/Title IX Sexual Harassment Affecting Students*  
*103.1 Nondiscrimination-Qualified Students with Disabilities*  
*104 Discrimination/Title IX Sexual Harassment Affecting Staff*
    - E. That the Octorara Board of School Directors approve the request for unpaid family medical leave for the purpose of child rearing for Ms. Karelis Delvalle-Acosta from approximately May 17, 2024 through the end of the 2023-2024 school year. (Ms. Delvalle-Acosta is a Spanish teacher at the Octorara Jr./Sr. High School.)
- Resignation Approvals:
- F. That the Octorara Board of School Directors accept, with regret, the resignation of Ms. Jennifer Zimath as Study Hall Monitor at the Octorara Jr./Sr. High School effective June 5, 2024. (Hired October 15, 2012)

- G. That the Octorara Board of School Directors accept, with regret, the resignation of Mr. Mark Durante as an Assistant Wrestling Coach at the Octorara Jr./Sr. High School effective April 12, 2024. (Hired for the 1998-1999 school year)
- H. That the Octorara Board of School Directors accept the resignation of Mr. Jude Unitis as Jr. High Football Coach effective May 10, 2024. (Hired for the 2023-2024 school year)

Hiring Approvals:

- I. That the Octorara Board of School Directors approve the list of professional and support staff employees for the Summer Literacy, Math, and Science and the Extended School Year Programs. These programs will run from Monday through Thursday beginning June 17 through July 18, 2024.
- J. That the Octorara Board of School Directors adjust the daily substitute rate for Ms. Rhonda Stoltzfus from \$135 per day to \$150 per day plus a stipend of \$81.96 per day for planning and grading responsibilities effective April 2, 2024. (Ms. Stoltzfus is a long-term substitute math teacher at the Jr./Sr. High replacing Brian Hood who resigned.)
- K. That the Octorara Board of School Directors approve Tyler Lusby (student) as an athletic game worker.
- L. That the Octorara Board of School Directors approve the following supplemental contract for the 2023-2024 school year:
 

Renee Shenk	Unified Indoor Bocce Coach	2 pts @ \$620	\$1,240
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- M. That the Octorara Board of School Directors approve the following supplemental contract for the 2024-2025 school year:
 

Jude Unitis	Sr. High Asst Football Coach	7 pts @ \$620	\$4,340
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8. Education Committee Report

9. Policy Committee Report

10. Facility Committee Report

11. Other Items/Concerns

12. Visitors' Comments – General

13. Administrator Comments/Announcements

14. Board Comments

15. Adjournment

Policy/Facility Committee Meeting – Monday, May 13, 2024 – 6:00 p.m. in the Jr. High School Multi-Purpose Room

Executive Session for Personnel and Legal - Monday, May 13, 2024 – Prior to the Work Session in room 102 at the Jr. High School

Finance Committee Meeting – Monday, May 20, 2024 – 6:00 p.m. in the Jr. High School Multi-Purpose Room

Next regularly scheduled Board Meeting – Monday, May 20, 2024 – 7:00 p.m. in the Jr. High School Multi-Purpose Room

# Octorara Administration Office

228 HIGHLAND ROAD, SUITE 1, ATGLEN, PA 19310-1603

Phone: (610) 593-8238 Fax: (610) 593-6425 [www.octorara.k12.pa.us](http://www.octorara.k12.pa.us)



**Christopher Shultz, Ed.D.**

Director of Curriculum and Instruction

May 10, 2024

To: Board Directors

From: Dr. Chris Shultz

RE: Physics and Chemistry Curriculum

Please find the links below to the textbooks and digital resources to support Physics and Chemistry instruction that we are asking the board to approve for implementation in the 2024-2025 school year. Please do not hesitate to contact me with any questions.

Thank you.

## **Serway Physics for Scientists and Engineers (AP Physics C) 10th Student Edition**

Digital Access: [Trial Portal](#)

Username: [teacher01@octoraraphysics.com](mailto:teacher01@octoraraphysics.com)

Password: welcome

**\*\*Note, you must log out, by clicking the three horizontal lines in the top left corner, then sign out in the bottom left corner to access the second book.\*\***

## **Chemistry Text Chemistry by Zumdahl and Zumdahl 10th Edition**

Digital Access: [Trial Portal](#)

Username: [teacher01@octorarchemistry.com](mailto:teacher01@octorarchemistry.com)

Password: welcome

## **For the Serway for College Physics AP 12th Edition**

<https://nqi.cengage.com/esamples/16230/106465/index.html>

Kind regards,

Chris Shultz



Book	Policy Manual
Section	100 Programs
Title	Discrimination/Title IX Sexual Harassment Affecting Students
Code	103
Status	Second Reading

### **Authority**

The Board declares it to be the policy of this district to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the ~~schools~~ district without discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.[\[1\]\[2\]\[3\]\[4\]\[5\]\[6\]\[7\]\[8\]\[9\]\[10\]\[11\]\[12\]\[13\]\[14\]\[15\]\[16\]\[17\]](#)

The Board also declares it to be the policy of this district 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 district may be referred to the Compliance Officer/Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The district is committed to the maintenance of a safe, positive learning environment for all students that is free from discrimination by providing all students 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 district and is prohibited at or, in the course of, district-sponsored programs or activities, including transportation to or from ~~school the district or school district~~ district-sponsored activities.

Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences under applicable Board policy and procedures.[\[18\]\[19\]\[20\]\[21\]](#)

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the district's website.

The Board requires a notice stating that the district does not discriminate in any manner, including Title IX sexual harassment, in any district 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 district. All discrimination notices and information shall include the title, office 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 the building principal, even if some elements of the related incident took place or originated away from school district grounds, school district activities or school district 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 principal.

A school district 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 principal, as well as properly making any mandatory police or child protective services reports required by law.[22]

If the building principal is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the Compliance Officer/Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building principal shall promptly notify the Compliance Officer/Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The Compliance Officer/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Compliance Officer/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Compliance Officer/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Board policies.

#### 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 district 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.

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][20][23][24]

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.[18][19][20][23]

### Discipline/Placement of Student Convicted or Adjudicated of Sexual Assault

Upon notification of a conviction or adjudication of a student in this district for sexual assault against another student enrolled in this district, the district shall comply with the disciplinary or placement requirements established by state law and Board policy.[25][26]

### 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 district's legal and investigative obligations.[27][28][29][30][31]

### Retaliation

The Board prohibits retaliation by the district or any other person against any person for:[30]

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

### Definitions

**Complainant** shall mean an individual who is alleged to be the victim.

**Respondent** shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

### Discrimination

**Discrimination** shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy, or handicap/disability.

**Harassment** is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance when such conduct is:

1. Sufficiently severe, persistent or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely

interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by ~~a school~~ the district.

### Definitions Related to Title IX Sexual Harassment

**Formal complaint** shall mean a document filed by a complainant or signed by the Compliance Officer/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation under the grievance process for formal complaints. The authority for the Compliance Officer/Title IX Coordinator to sign a formal complaint does not make the Compliance Officer/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 digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. [29][32]

**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. [32]

**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: [32]

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][33]

**Title IX sexual harassment** means conduct on the basis of sex that satisfies one or more of the following: [32]

1. A district employee conditioning the provision of an aid, benefit, or district 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 a district 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:[\[34\]](#)
    - 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.[\[34\]](#)
  - 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.[\[35\]](#)
  - 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:[\[34\]](#)
    - i. Fear for their safety or the safety of others.
    - ii. Suffer substantial emotional distress.

Such conduct must have taken place during a district 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 district exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus.[\[28\]](#)[\[29\]](#)[\[32\]](#)

### **Delegation of Responsibility**

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the [\[36\]](#).

*[The district may choose the same or different individuals to fulfill the roles of Compliance Officer and Title IX Coordinator. If designating one (1) individual to fulfill both responsibilities, select the first option and enter the appropriate position title. If designating two (2) individuals to fulfill the separate responsibilities, select the second option and enter the appropriate position titles.]*

{X} ~~Director of Student Services~~ **Business Manager** \_\_\_\_\_ as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: **228 Highland Road, Suite 1; Atglen, PA 19310**

Email: ~~ehilbelt@octorara.org~~ **sdomowicz@octorara.org**

Phone Number: **610-593-8238 ext 30519 30515**

~~{ } \_\_\_\_\_ as the district's Compliance Officer and  
\_\_\_\_\_ as the district's Title IX Coordinator.~~

~~The Compliance Officer can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

~~The Title IX Coordinator can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

The Compliance Officer ~~and~~ **/** Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the district's nondiscrimination procedures in the following areas, as appropriate:

1. Curriculum and Materials - Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training - Provide training for students and staff to prevent, identify and alleviate problems of discrimination.
3. Resources - Maintain and provide information to staff on resources available to complainants in addition to the ~~school district~~ **school district** 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.
4. Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
5. District Support - Assure that like aspects of the ~~school~~ **school district** programs and activities receive like support as to staffing and compensation, facilities, equipment, and related areas.[37]
6. Student Evaluation - Review of assessments, procedures, and guidance and counseling materials for stereotyping and discrimination.
7. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.

## **Guidelines**

### **Title IX Sexual Harassment Training Requirements**

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:

1. Definition of sexual harassment.
2. Scope of the district'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.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the district's website.

### **Disciplinary Consequences**

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]

1. {X} Loss of school privileges.
2. {X} Permanent transfer to another ~~school~~ district building, classroom or school bus.
3. {X} Exclusion from ~~school~~ district-sponsored activities.
4. {X} Detention.
5. {X} Suspension.
6. {X} Expulsion.
7. {X} 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][38]

### Reports of Discrimination

Any reports of discrimination that are reviewed by the **Compliance Officer**/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 **Compliance Officer**/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.

## **PSBA Revision 12/20 © 2020 PSBA**

### Legal

- [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. Pol. 218.3

[26. 24 P.S. 1318.1](#)

[27. 20 U.S.C. 1232g](#)

[28. 34 CFR 106.44](#)

[29. 34 CFR 106.45](#)

[30. 34 CFR 106.71](#)

[31. 34 CFR Part 99](#)

[32. 34 CFR 106.30](#)

33. Pol. 113

[34. 34 U.S.C. 12291](#)

[35. 20 U.S.C. 1092](#)

[36. 34 CFR 106.8](#)

37. Pol. 150

38. 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. 123

Pol. 138

Pol. 216

Pol. 220

Pol. 247

Pol. 249

Pol. 251

Pol. 252

Pol. 320

Pol. 701

Pol. 815

Pol. 832

 103-Attach 1 Report Form.pdf (161 KB)

 103-Attach 2 Discrimination.docx (40 KB)

 103-Attach 4 ConfidentialityTemplateLetter.docx (21 KB)

 103-Attach 3 Title IX.docx (76 KB)



Book	Policy Manual
Section	100 Programs
Title	Nondiscrimination - Qualified Students with Disabilities
Code	103.1
Status	Second Reading

### **Authority**

The Board declares it to be the policy of this district to ensure that all district programs and practices are free from discrimination against all qualified students with disabilities. The Board recognizes its responsibility to provide academic and nonacademic services and programs equally to students with and without disabilities.[\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)

The district shall provide to each qualified student with a disability enrolled in the district, without cost to the student or parent/guardian, a free and appropriate public education (FAPE). This includes provision of education and related aids, services, or accommodations which are needed to afford each qualified student with a disability equal opportunity to participate in and obtain the benefits from educational programs and extracurricular activities without discrimination, to the same extent as each student without a disability, consistent with federal and state laws and regulations.

The Board encourages students and parents/guardians who believe they have been subjected to discrimination or harassment to promptly report such incidents to designated employees.

The Board directs that complaints of discrimination or harassment shall be investigated promptly, and corrective or preventative action be taken for substantiated allegations.

### **Confidentiality**

Confidentiality of all parties, witnesses, the allegations, the filing of a complaint and the investigation shall be maintained, consistent with the district's legal and investigative obligations.

### **Retaliation**

The district shall not intimidate, threaten, coerce, discriminate or retaliate against any individual for the purpose of interfering with any right or privilege secured by this policy.

### **Definitions**

**Qualified student with a disability** - a student who has a physical or mental disability which substantially limits or prohibits participation in or access to an aspect of the district's educational programs, nonacademic services or extracurricular activities.[\[11\]](#)[\[12\]](#)

**Section 504 Team** - a group of individuals who are knowledgeable about the student, the meaning of the evaluation data and the placement options for the student. This could include, as appropriate, documentation or input from classroom teachers, counselors, psychologists, school nurses, outside care providers and the student's parents/guardians.[3][8]

**Section 504 Service Agreement (Service Agreement)** - an individualized plan for a qualified student with a disability which sets forth the specific related aids, services, or accommodations needed by the student, which shall be implemented in school the district, in transit to and from school the district, and in all programs and procedures, so that the student has equal access to the benefits of the school's district's educational programs, nonacademic services, and extracurricular activities.[13]

**Disability harassment** - intimidation or abusive behavior toward a student based on disability that creates a hostile environment by interfering with or denying a student's participation in or receipt of benefits, services, or opportunities in the school's district's educational programs, nonacademic services, or extracurricular activities.[10]

### Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable law and regulations, the Board designates the

☐ Superintendent

☐ Assistant Superintendent

☒ Other \_\_\_\_\_ (specify) Director of Student Services

as the district's Section 504 Coordinator.[14]

In addition, each school within the district shall have a Section 504 building administrator.

The district shall publish and disseminate this policy and complaint procedure on or before the first day of each school year by posting it on the district's website, if available, and in the student handbook. The district shall notify parents/guardians of students residing in the district of the district's responsibilities under applicable law and regulations, and that the district does not discriminate against qualified individuals with disabilities.[15][16]

### Guidelines

#### Identification and Evaluation

The district shall conduct an annual child find campaign to locate and identify every district student with a disability thought to be eligible for Section 504 services and protections. The district may combine this search with the district's IDEA child find efforts, in order to not duplicate efforts.[16][17]

If a parent/guardian or the district has reason to believe that a student should be identified as a qualified student with a disability, should no longer be identified as a qualified student with a disability, or requires a change in or modification of the student's current Service Agreement, the parent/guardian or the district shall provide the other party with written notice.[18][19][20]

The district shall establish standards and procedures for initial evaluations and periodic re-evaluations of students who need or are believed to need related services because of a disability.[20]

The district shall specifically identify the procedures and types of tests used to evaluate a student, and provide the parent/guardian the opportunity to give or withhold consent to the proposed evaluation(s) in writing.[\[20\]](#)

The district shall establish procedures for evaluation and placement that assure tests and other evaluation materials:

1. Have been validated and are administered by trained personnel.
2. Are tailored to assess educational need and are not based solely on IQ scores.
3. Reflect aptitude or achievement or anything else the tests purport to measure and do not reflect the student's impaired sensory, manual or speaking skills (except where those skills are what is being measured).

### Service Agreement

If a student is determined to be a qualified student with a disability, the district shall develop a written Service Agreement for the delivery of all appropriate aids, services, or accommodations necessary to provide the student with FAPE.[\[13\]](#)

The district shall not implement a Service Agreement until the written agreement is executed by a representative of the district and a parent/guardian.[\[13\]](#)

The district shall not modify or terminate a student's current Service Agreement without the parent's/guardian's written consent.[\[18\]](#)

### Educational Programs/Nonacademic Services/Extracurricular Activities

The district shall educate a qualified student with a disability with students who are not disabled to the maximum extent appropriate to the needs of the student with a disability. A qualified student with a disability shall be removed from the regular educational environment only when the district determines that educating the student in the regular educational environment with the use of related aids, services, or accommodations cannot be achieved satisfactorily. Placement in a setting other than the regular educational environment shall take into account the proximity of the alternative setting to the student's home.[\[21\]\[22\]](#)

The district shall not discriminate against any qualified student with a disability in its provision of nonacademic services and extracurricular activities, including but not limited to, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, and referrals to agencies which provide assistance to individuals with disabilities.[\[21\]\[22\]\[23\]\[24\]\[25\]\[26\]\[27\]](#)

### Parental Involvement

Parents/Guardians have the right to inspect and review all relevant ~~school~~-district records of the student, meet with the appropriate ~~school~~-district officials to discuss any and all issues relevant to the evaluation and accommodations of their child, and give or withhold their written consent to the evaluation and/or the provision of services.[\[13\]\[19\]\[20\]\[28\]](#)

### Confidentiality of Student Records

All personally identifiable information regarding a qualified student with a disability shall be treated as confidential and disclosed only as permitted by the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, state regulations, and Board policy.[\[29\]\[30\]\[31\]\[32\]](#)

### Discipline

When necessary, the district shall discipline qualified students with disabilities in accordance with state and federal laws and regulations and Board policies.[33][34]

### Referral to Law Enforcement and Reporting Requirements

For reporting purposes, the term **incident** shall mean an instance involving an act of violence; the possession of a weapon; the possession, use, or sale of a controlled substance or drug paraphernalia as defined in the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act; the possession, use, or sale of alcohol or tobacco; or conduct that constitutes an offense listed under the Safe Schools Act.[35][36][37]

The Superintendent or designee shall immediately report required incidents and may report discretionary incidents committed on ~~school district~~ property, at any ~~school district~~-sponsored activity or on a conveyance providing transportation to or from ~~a school the district or school district~~-sponsored activity by a qualified student with a disability, including a student for whom an evaluation is pending, to the local police department that has jurisdiction over the ~~school's district's~~ property, in accordance with state and federal laws and regulations, the procedures set forth in the memorandum of understanding with local law enforcement, and Board policies. The Superintendent or designee shall respond in a manner that is consistent with the student's Service Agreement and Behavior Support Plan, if applicable.[11][13][21][30][33][38][39][40][41][42][43][44][45][46][47][48]

In making a determination of whether to notify the local police department of a discretionary incident committed by a qualified student with a disability, including a student for whom an evaluation is pending, the Superintendent or designee shall use the same criteria used for students who do not have a disability.[10][39][48][49]

For a qualified student with a disability who does not have a Behavior Support Plan as part of the student's Service Agreement, subsequent to notification to law enforcement, the district, in consultation with the student's parent/guardian, shall consider whether a Behavior Support Plan should be developed as part of the Service Agreement to address the student's behavior.[13][40]

In accordance with state law, the Superintendent shall annually, by July 31, report to the Office for Safe Schools on the required form all new incidents committed by qualified students with disabilities, including students for whom an evaluation is pending, which occurred on ~~school district~~ property, at any ~~school district~~-sponsored activity or on a conveyance providing transportation to or from ~~a school the district or school district~~-sponsored activity.[36][48]

### **PROCEDURAL SAFEGUARDS**

The district shall establish and implement a system of procedural safeguards that includes notice of rights to the parent/guardian of a student suspected of being a qualified student with a disability, an opportunity for the parent/guardian to review relevant records, an impartial hearing with an opportunity for participation by the student's parent/guardian, and a review procedure.[28][50]

A student or parent/guardian filing a claim of discrimination need not exhaust these procedures prior to initiating court action under Section 504.[19]

### Parental Request for Assistance

Parents/Guardians may file a written request for assistance with the Pennsylvania Department of Education (PDE) if one (1) or both of the following apply:[28]

1. The district is not providing the related aids, services and accommodations specified in the student's Service Agreement.

## 2. The district has failed to comply with the procedures and state regulations.

PDE shall investigate and respond to requests for assistance and, unless exceptional circumstances exist, shall, within sixty (60) calendar days of receipt of the request, send to the parents/guardians and district a written response to the request. The response to the parents'/guardians' request shall be in the parents'/guardians' native language or mode of communication.[\[28\]](#)

### Informal Conference

At any time, parents/guardians may file a written request with the district for an informal conference with respect to the identification or evaluation of a student, or the student's need for related aids, services or accommodations. Within ten (10) school days of receipt of the request, the district shall convene an informal conference. At the conference, every effort shall be made to reach an amicable agreement.[\[28\]](#)

### Formal Due Process Hearing

If the matters raised by the district or parents/guardians are not resolved at the informal conference, the district or parents/guardians may submit a written request for an impartial due process hearing. The hearing shall be held before an impartial hearing officer and shall be conducted in accordance with state regulations.[\[28\]](#)[\[51\]](#)

### Judicial Appeals

The decision of the impartial hearing officer may be appealed to a court of competent jurisdiction.[\[28\]](#)

## **COMPLAINT PROCEDURE**

This complaint procedure is in addition to and does not prevent parents/guardians from using any option in the procedural safeguards system.[\[10\]](#)

### Step 1 – Reporting

A student or parent/guardian who believes s/he has been subject to conduct by any student, employee or third party that constitutes a violation of this policy is encouraged to immediately report the incident to the Section 504 building administrator. Any person with knowledge of conduct that may violate this policy, is encouraged to immediately report the matter to the Section 504 building administrator.

A ~~school~~ district 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 Section 504 building administrator, as well as properly making any mandatory police or child protective services reports required by law.[\[52\]](#)

If the Section 504 building administrator is the subject of a complaint, the student, parent/guardian or employee shall report the incident directly to the district's Section 504 Coordinator.

The complainant or reporting employee may be encouraged to use the district's report form, available from the Section 504 building administrator or Section 504 Coordinator, or to put the complaint in writing; however, oral complaints shall be accepted, documented and the procedures of this policy implemented. The person accepting the verbal or written complaint may provide factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. In all other respects, the

person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or those accused of a violation of this policy.

### Step 2 – Investigation

The Section 504 Coordinator shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination issues and this policy and how to conduct investigations.

The investigator shall work with the Section 504 Coordinator to assess the anticipated scope of the investigation, who needs to be interviewed and what records may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the accused may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from school district property, school district-sponsored activities or school district conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in school district settings.

The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians and witnesses shall be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Section 504 Coordinator, who shall promptly inform law enforcement authorities about the allegations.[10][52][53][54]

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a short delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation.

### Step 3 – Investigative Report

The investigator shall prepare and submit a written report to the Section 504 Coordinator within twenty (20) days of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Section 504 Coordinator to establish a different due date. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated this policy and of any other violations of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into disability harassment shall consider the record as a whole

and the totality of circumstances in determining whether a violation of this policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the accused shall be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written report to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The accused shall not be notified of the individual remedies offered or provided to the complainant.[\[29\]](#)[\[30\]](#)[\[31\]](#)[\[32\]](#)

#### Step 4 – District Action

If the investigation results in a finding that some or all of the allegations of the complaint are established and constitute a violation of this policy, the district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the school or school program environment. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Section 504 Coordinator shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If the investigation results in a finding that a different policy was violated separately from or in addition to violations of this policy, or that there are circumstances warranting further action, such matters shall be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary.

Disciplinary actions shall be consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws.

#### Appeal Procedure

1. If the complainant or the accused is not satisfied with a finding made pursuant to the policy or with recommended corrective action, s/he may submit a written appeal to the district's Section 504 Coordinator within fifteen (15) days.
2. The Section 504 Coordinator shall review the investigation and the investigative report and may also conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.
3. The Section 504 Coordinator shall prepare a written response to the appeal within twenty (20) days. Copies of the response shall be provided to the complainant, the accused and the investigator who conducted the initial investigation.

#### **PSBA Revision 12/18 © 2018 PSBA**

##### Legal

[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. 28 CFR Part 35](#)

[6. 28 CFR Part 36](#)

[7. 29 U.S.C. 794](#)

- [8. 34 CFR Part 104](#)
- [9. 42 U.S.C. 12101 et seq](#)
- 10. Pol. 103
- [11. 22 PA Code 15.2](#)
- [12. 42 U.S.C. 12102](#)
- [13. 22 PA Code 15.7](#)
- [14. 34 CFR 104.7](#)
- [15. 22 PA Code 15.4](#)
- [16. 34 CFR 104.32](#)
- 17. Pol. 113
- [18. 22 PA Code 15.5](#)
- [19. 22 PA Code 15.6](#)
- [20. 34 CFR 104.35](#)
- [21. 22 PA Code 15.3](#)
- [22. 34 CFR 104.34](#)
- [23. 34 CFR 104.37](#)
- 24. Pol. 112
- 25. Pol. 122
- 26. Pol. 123
- 27. Pol. 810
- [28. 22 PA Code 15.8](#)
- [29. 20 U.S.C. 1232g](#)
- [30. 22 PA Code 15.9](#)
- [31. 34 CFR Part 99](#)
- 32. Pol. 216
- 33. Pol. 218
- 34. Pol. 233
- [35. 22 PA Code 10.2](#)
- [36. 24 P.S. 1303-A](#)
- [37. 35 P.S. 780-102](#)
- [38. 22 PA Code 10.21](#)
- [39. 22 PA Code 10.22](#)
- [40. 22 PA Code 10.23](#)
- [41. 22 PA Code 10.25](#)
- [42. 24 P.S. 1302.1-A](#)
- 43. Pol. 113.2
- 44. Pol. 218.1
- 45. Pol. 218.2
- 46. Pol. 222
- 47. Pol. 227

48. Pol. 805.1

[49. 22 PA Code 15.1](#)

[50. 34 CFR 104.36](#)

[51. 22 PA Code 14.162](#)

52. Pol. 806

[53. 18 Pa. C.S.A. 2709](#)

54. Pol. 815

 [103\\_1Attach-ReportFormComplaints.doc \(30 KB\)](#)

 [103\\_1Attach-District-InitiatedEvalNotice.doc \(29 KB\)](#)

 [103\\_1Attach-ProceduralSafeguards.doc \(35 KB\)](#)

 [103\\_1Attach-Parent\\_GuardianRequest-PermissionToEvaluate.doc \(56 KB\)](#)



Book	Policy Manual
Section	100 Programs
Title	Discrimination/Title IX Sexual Harassment Affecting Staff
Code	104
Status	Second Reading

### **Authority**

The Board declares it to be the policy of this district to provide to all persons equal access to all categories of employment in this district, regardless of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. The district shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations. [\[1\]](#)[\[2\]](#)[\[3\]](#)[\[4\]](#)[\[5\]](#)[\[6\]](#)[\[7\]](#)[\[8\]](#)[\[9\]](#)[\[10\]](#)[\[11\]](#)[\[12\]](#)

The Board also declares it to be the policy of this district 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 district may be referred to the **Compliance Officer**/Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the district's website.

The Board requires a notice stating that the district does not discriminate in any manner, including Title IX sexual harassment, in any district 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 district. All discrimination notices and information shall include the title, office 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 employees 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 the building principal or building administrator. 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.

If the building principal or building administrator is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the **Compliance Officer**/Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building principal or building administrator shall promptly notify the **Compliance Officer**/Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The **Compliance Officer**/Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The **Compliance Officer**/Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The **Compliance Officer**/Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Board policies.

#### 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 district 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.

#### *Administrative Leave –*

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused, nonstudent district employee may be placed on administrative leave during the pendency of the grievance process for formal complaints, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

#### 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 district's legal and investigative obligations.[\[13\]](#)[\[14\]](#)[\[15\]](#)[\[16\]](#)[\[17\]](#)

#### Retaliation

The Board prohibits retaliation by the district or any other person against any person for:[\[16\]](#)

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 district, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the **Compliance Officer**/Title IX Coordinator immediately if they believe retaliation has occurred.

### **Definitions**

**Complainant** shall mean an individual who is alleged to be the victim.

**Respondent** shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

### **Discrimination**

**Discrimination** shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.

**Harassment** is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance, including when:[\[9\]](#)

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

### **Definitions Related to Title IX Sexual Harassment**

**Formal complaint** shall mean a document filed by a complainant or signed by the **Compliance Officer**/Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation under the grievance process for formal complaints. The authority for the **Compliance Officer**/Title IX Coordinator to sign a formal complaint does not make the **Compliance Officer**/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 digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.[\[15\]](#)[\[18\]](#)

**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.[\[18\]](#)

**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:[\[18\]](#)

1. Counseling or Employee Assistance Program.

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 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.

**Title IX sexual harassment** means conduct on the basis of sex that satisfies one or more of the following:[18]

1. A district employee conditioning the provision of an aid, benefit, or district 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 a district 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:[19]
    - 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.[19]
  - 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.[20]
  - 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: [\[19\]](#)

- i. Fear for their safety or the safety of others.
- ii. Suffer substantial emotional distress.

Such conduct must have taken place during a district 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 district exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a district's education programs or activities, whether such programs or activities occur on-campus or off-campus. [\[14\]](#)[\[15\]](#)[\[18\]](#)

### **Delegation of Responsibility**

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the [\[21\]](#)

*[The district may choose the same or different individuals to fulfill the roles of Compliance Officer and Title IX Coordinator. If designating one (1) individual to fulfill both responsibilities, select the first option and enter the appropriate position title. If designating two (2) individuals to fulfill the separate responsibilities, select the second option and enter the appropriate position titles.]*

{X} Director of Student Services Business Manager as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: 228 Highland Road, Suite 1; Atglen, PA 19310

Email: chilbolt@octorara.org sdomowicz@octorara.org

Phone Number: 610-593-8238 ext 30519 30515

{ } \_\_\_\_\_ as the district's Compliance Officer and  
\_\_\_\_\_ as the district's Title IX Coordinator.

~~The Compliance Officer can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

~~The Title IX Coordinator can be contacted at:~~

~~Address:~~

~~Email:~~

~~Phone Number:~~

The Compliance Officer ~~and~~ / Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the district's nondiscrimination procedures in the following areas, as appropriate:

1. Review - Review of personnel practices and actions for discriminatory bias and compliance with laws against discrimination to include monitoring and recommending corrective measures when appropriate to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; district designed performance evaluations; review of planned employee demotions, non-renewal of contracts, and proposed employee disciplinary actions up to and including termination.
2. Training - Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination.
3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the ~~school~~ district 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.
4. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.

## **Guidelines**

### **Title IX Sexual Harassment Training Requirements**

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:

1. Definition of sexual harassment.
2. Scope of the district'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.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the district's website.

### **Disciplinary Consequences**

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.[22][23][24][25]

### Reports of Discrimination

Any reports of discrimination that are reviewed by the **Compliance Officer**/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, genetic information, 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 **Compliance Officer**/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.

## **PSBA Revision 7/20 © 2020 PSBA**

### Legal

- [1. 43 P.S. 336.3](#)
- [2. 43 P.S. 951 et seq](#)
- [3. 34 CFR Part 106](#)
- [4. 20 U.S.C. 1681 et seq](#)
- [5. 29 U.S.C. 206](#)
- [6. 29 U.S.C. 621 et seq](#)
- [7. 29 U.S.C. 794](#)
- [8. 42 U.S.C. 1981 et seq](#)
- [9. 42 U.S.C. 2000e et seq](#)
- [10. 42 U.S.C. 2000ff et seq](#)
- [11. 42 U.S.C. 12101 et seq](#)
- [12. U.S. Const. Amend. XIV, Equal Protection Clause](#)
- [13. 20 U.S.C. 1232g](#)
- [14. 34 CFR 106.44](#)
- [15. 34 CFR 106.45](#)
- [16. 34 CFR 106.71](#)
- [17. 34 CFR Part 99](#)
- [18. 34 CFR 106.30](#)
- [19. 34 U.S.C. 12291](#)
- [20. 20 U.S.C. 1092](#)
- [21. 34 CFR 106.8](#)
22. Pol. 317
23. Pol. 317.1
24. Pol. 806
25. Pol. 824

[16 PA Code 44.1 et seq](#)

[18 Pa. C.S.A. 2709](#)

[28 CFR 35.140](#)

[28 CFR Part 41](#)

[29 CFR Parts 1600-1691](#)

[EEOC Enforcement Guidance on Harris v. Forklift Sys., Inc., November 9, 1993](#)

[EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999](#)

[EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990](#)

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)

Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Pol. 320

Pol. 815

Pol. 832

 104-Attach 1 Report Form.pdf (170 KB)

 104-Attach 2 Discrimination.docx (40 KB)

 104-Attach 3 Title IX.docx (75 KB)