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Intrepid College Prep

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| Monitoring: Review: Annually, in June | Descriptor Term: Title IX & Sexual Harassment | Descriptor Code: 6.3041 | RE-Issued Date: 07/01/22 |
| | | Rescinds: 6.3041 | Issued: 07/14/20 |

1 *General*

2 In order to maintain a safe, civil, and supportive learning environment, all forms of
3 sexual harassment and discrimination on the basis of sex are prohibited.¹ This policy
4 shall cover employee, and student behavior while on school property, at any school-
5 sponsored activity, on school-provided equipment or transportation, or at any
6 official school bus stop. This policy shall be disseminated annually to all school
7 employees, students, and parent(s)/guardian(s).² The Title IX Coordinator as well as
8 any personnel chosen to facilitate the grievance process shall not have a conflict of
9 interest against any party of the complaint.³ These personnel shall receive training
10 as to how to promptly and equitably resolve student and employee complaints.³

11 All employees shall receive training on complying with this policy and federal law.⁴

12 **TITLE IX COORDINATOR**⁵

13 The Title IX Coordinator shall respond promptly to all general reports as well as
14 formal complaints of sexual harassment. Title IX Coordinator shall be kept informed
15 by school-level personnel of all investigations and shall provide input on an ongoing
16 basis as appropriate. The Title IX Coordinator may deputize another employee to act
17 as Title IX Coordinator.

18 Any individual may contact the Title IX Coordinator at any time using the
19 information below:

20 Name: Abigail Rockey

21 Mailing address: 5221 Hickory Hollow Parkway Antioch, TN 37013

22 Phone number: 215.285.4622

23 Email: arockey@intrepidcollegeprep.org

24 **DEFINITIONS**⁴

25 "Complainant" is an individual who is alleged to be the victim of conduct that
26 could constitute sexual harassment.

27 "Respondent" is an individual who is reported to be the perpetrator of conduct
28 that could constitute sexual harassment.

1 “Sexual harassment” is conduct on the basis of sex that satisfies one or more of the
2 following:³

- 3 1. A school district employee conditioning an aid, benefit, or service of an
4 education program or activity on an individual’s participation in unwelcome
5 sexual conduct;
6
- 7 2. Unwelcome conduct determined by a reasonable person to be so severe,
8 pervasive, and objectively offensive that it effectively denies a person equal
9 access to the education program or activity; or
- 10 3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined
11 in state and federal law.

12 Behaviors that constitute sexual harassment may include, but are not limited to:

- 13 1. Sexually suggestive remarks;
14
- 15 2. Verbal harassment or abuse;
16
- 17 3. Sexually suggestive pictures;
18
- 19 4. Sexually suggestive gesturing;
20
- 21 5. Harassing or sexually suggestive or offensive messages that are written or
22 electronic;
23
- 24 6. Subtle or direct propositions for sexual favors; and
25
- 26 7. Touching of a sexual nature.

27 Sexual harassment may be directed against a particular person or persons, or a
28 group, whether of the opposite sex or the same sex.

29 “Supportive measures” are non-disciplinary, non-punitive, individualized services
30 and shall be offered to the complainant and the respondent, as appropriate. These
31 measures may include, but are not limited to, the following:

- 32 1. Counseling;
33
- 34 2. Course modifications;
35
- 36 3. Schedule changes; and
37
- 38 4. Increased monitoring or supervision.

1 The measures offered to the complainant and the respondent shall remain
2 confidential to the extent that maintaining such confidentiality would not impair
3 the ability of the school district to provide the supportive measures.

4 **GRIEVANCE PROCESS**

5 Upon learning of an instance of alleged sexual harassment, even if no formal
6 complaint is filed, the Title IX Coordinator or designee shall:

- 7 1. Inform the complainant of the availability of supportive measures;
8
- 9 2. Consider the complainant's wishes with respect to supportive measures;
10 and
- 11 3. Explain the process for filing a formal complaint.¹⁰
12

13 While the school district will respect the confidentiality of the complainant and
14 the respondent as much as possible, some information may need to be disclosed
15 to appropriate individuals. All disclosures shall be consistent with the school
16 district's legal obligations and the necessity to investigate allegations of
17 harassment and take disciplinary action.

18 Disciplinary consequences or sanctions shall not be initiated against the
19 respondent until the grievance process is complete. Unless there is an immediate
20 threat to the physical health or safety of any student arising from the allegation of
21 sexual harassment that justifies removal, the respondent's placement shall not be
22 changed.¹¹ If the respondent is an employee, he/she may be placed on
23 administrative leave or suspension without pay consistent with Tenn. Code Ann.
24 49-5-511(a)(3) during the pendency of the grievance process.¹² The Title IX
25 Coordinator shall keep the Director of Schools and the Chief of Human Resources
26 informed of any employee respondents so that they can make any necessary
27 reports to the State Board of Education in compliance with state law.¹³

28 **Complaints**

29 Any individual who has knowledge of behaviors that may constitute a violation of
30 this policy shall immediately report such information to the Title IX Coordinator,
31 however, nothing in this policy requires a complainant to either report or file a
32 formal complaint within a certain timeframe. If the complaint involves the Title IX
33 Coordinator, the complaint shall be filed with the Director of Schools.

1 If a report involves allegations of child abuse, including child abuse on school
2 grounds, appropriate notification shall be made per the board policy on reporting
3 child abuse.

4 Upon receipt of a formal complaint, the Title IX Coordinator shall promptly:¹⁴

- 5 1. Provide written notice of the allegations, and the grievance process to all
6 known parties to give the respondent time to prepare a response before an
7 initial interview;
8
- 9 2. Inform the parties of the prohibition against making false statements or
10 knowingly submitting false information;
11
- 12 3. Inform the parties that they may have an advisor present during any
13 subsequent meetings; and
14
- 15 4. Offer supportive measures in an equitable manner to both parties.

16 If the Title IX Coordinator dismisses a formal complaint, written notice, including the
17 reasons for dismissal, shall be provided to both parties simultaneously.¹⁵

18 **Investigations**¹⁶

19 For formal complaint of sexual harassment, the Title IX Coordinator shall assign an
20 investigator responsible for investigating formal complaints in an equitable manner
21 that involves an objective evaluation of all relevant evidence. Any trained
22 investigator may be required by the Title IX Coordinator to participate in the Title IX
23 grievance process. The burden of obtaining evidence sufficient to reach a
24 determination rests on the school district.

25 Once a complaint is received, the investigator shall initiate an investigation within
26 forty-eight (48) hours of receipt of the complaint. If an investigation is not initiated
27 within forty-eight (48) hours, the investigator shall provide the Title IX Coordinator
28 with appropriate documentation detailing the reasons why the investigation was
29 not initiated within the required timeframe.

30 All investigations shall be handled in a timely manner. In case of delay, the
31 investigator shall provide the Title IX Coordinator with appropriate documentation
32 detailing the reasons why the investigation has been delayed or not completed.

33 All investigations shall:

- 34 1. Provide an equal opportunity for the parties to present witnesses and
35 evidence;
36

- 1 2. Not restrict the ability of either party to discuss the allegations under
2 investigation or gather and present relevant evidence;
- 3
4 3. Refrain from requiring, allowing, relying upon, or otherwise using questions
5 or evidence that seek disclosure of information protected under a legally
6 recognized privilege unless such privilege has been waived;¹⁷
7
- 8 4. Provide the parties with the same opportunities to have others present
9 during any grievance proceeding;
- 10
11 5. Provide to parties whose participation is requested written notice of the
12 date, time, location, participants, and purpose of all investigative interviews,
13 or other meetings, with sufficient time for the party to prepare to
14 participate;
- 15
16 6. Provide both parties an equal opportunity to inspect and review any
17 evidence directly related to the allegations in the formal complaint;
- 18
19 7. Allow each party the opportunity to submit written questions that they want
20 asked of any party or witness prior to the determination of responsibility;
21 and
22
- 23 8. Result in the creation of an investigative report that fairly summarizes
24 relevant evidence.
25
 - 26 a. Prior to the completion of the investigative report, the investigator
27 shall send to each party the evidence subject to inspection and review.
28 All parties shall have at least ten (10) days to submit a written response
29 which shall be taken into consideration in creating the final report.

30 Within the parameters of the federal Family Educational Rights and Privacy Act,¹⁸
31 the Title IX Coordinator shall keep the complainant and the respondent informed
32 of the status of the investigation process. At the close of the investigation, a
33 written final investigative report will be delivered to the parent(s)/guardian(s) of
34 the complainant and of the respondent.

35 **Determination of Responsibility**¹⁹

36 The respondent is presumed not responsible for the alleged conduct until a
37 determination regarding responsibility is made at the conclusion of the grievance
38 process.²⁰ The preponderance of the evidence standard shall be used in making this
39 determination.²¹

40 A trained decision-maker shall receive the final investigative report. Any trained
41 decision-maker may be required by the Title IX Coordinator to participate in the

1 Title IX grievance process. Within ten (10) calendar days of receiving answers to all
2 written questions, the decision-maker shall make a determination regarding
3 responsibility and provide the written determination to the parties simultaneously
4 along with information about how to file an appeal.

5 A substantiated charge against a student may result in corrective or disciplinary
6 action up to and including expulsion. A substantiated charge against an employee
7 shall result in disciplinary action up to and including termination.

8 After a determination of responsibility is made, the Title IX Coordinator or designee
9 shall work with the complainant to determine if further supportive measures are
10 necessary. The Title IX Coordinator shall also determine whether any other actions
11 are necessary to prevent reoccurrence of the harassment.

12 **APPEALS**²²

13 Either party may appeal from a determination of responsibility based on a
14 procedural irregularity that affected the outcome, new evidence that was not
15 reasonably available at the time of the determination that could affect the outcome,
16 or an alleged conflict of interest on the part of the Title IX Coordinator or any
17 personnel chosen to facilitate the grievance process. Appeals shall be submitted to
18 the Title IX Coordinator within ten (10) calendar days of a determination of
19 responsibility.

20 Upon receipt of an appeal, the Title IX Coordinator shall:

- 21 1. Inform the Appeals Officer within five (5) days of receipt of the appeal; and
- 22 2. Notify the parties in writing.

24 During the appeal process, the parties shall have a reasonable, equal opportunity
25 to submit written statements. Within ten (10) calendar days, the Appeals Officer
26 shall issue a written decision describing the result of the appeal and the rationale
27 for the result. The written decision shall be provided simultaneously to both
28 parties.

29 **RETALIATION**²³

30 Retaliation against any person who makes a report or complaint or assists,
31 participates, or refuses to participate in any investigation of an act alleged in this
32 policy is prohibited. Retaliation may result in further disciplinary action being
33 warranted.

Legal References

1. 34 CFR § 106.1
2. 34 CFR § 106.8(b),(c)
3. 34 CFR § 106.45(b)(1)(iii); 34 CFR § 106.45(b)(10)(D)
4. 34 CFR § 106.30(a)
5. 34 CFR § 106.8(a)
6. 20 USCA 1092(f)(6)(A)(v); TCA 36-3-601(10); TCA 71-6-302
7. 34 USCA 12291(a)(10)
8. 34 USCA 12291(a)(8); TCA 40-14-109
9. 34 USCA 12291(a)(30); TCA 39-17-315; TCA 36-3-601(11)
10. 34 CFR § 106.44(a)
11. 34 CFR § 106.44(c)
12. 34 CFR § 106.44(d)
13. TRR/MS 0520-02-03-.09(2); TCA 49-5-417(c)
14. 34 CFR § 106.45(b)(2)
15. 34 CFR § 106.45(b)(3)
16. 34 CFR § 106.45(b)(5); 34 CFR § 106.45(b)(1)(v)
17. 34 CFR § 106.45(b)(1)(x)
18. 20 USCA § 1232g
19. 34 CFR § 106.45(b)(7)
20. 34 CFR § 106.45(b)(1)(iv)
21. 34 CFR § 106.45(b)(1)(vii)
22. 34 CFR § 106.45(b)(8)
23. 34 CFR § 106.71

Cross References

Section 504 and ADA Grievance Procedures 1.802
Discrimination/Harassment of Employees (Sexual, Racial, Ethnic, Religious) 5.500
Complaints and Grievances 5.501
Staff-Student Relations 5.610
Code of Conduct 6.300
Student Discrimination, Harassment, Bullying, Cyber-bullying, and Intimidation 6.304
Student Concerns 6.305
Reporting Child Abuse 6.409