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|                    | <p>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.</p>  |
| 4. Confidentiality | <p>The Board prohibits retaliation by the district or any other person against any person for:</p>  |
| 5. Retaliation     | <ol style="list-style-type: none"> <li>1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.</li> <li>2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.</li> <li>3. Acting in opposition to practices the person reasonably believes to be discriminatory.</li> </ol> <p>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 Title IX Coordinator immediately if they believe retaliation has occurred.</p> <p>Complainant shall mean an individual who is alleged to be the victim.</p> <p>Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.</p> <p>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.</p> |
| 6. Definitions     | <p>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:</p>  |
| 7. Discrimination  | <ol style="list-style-type: none"> <li>1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or</li> </ol>  |

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| <p>8. Definitions Related to Title IX Sexual Harassment</p> | <ol style="list-style-type: none"> <li>2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or</li> <li>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.</li> </ol> <p>Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the district investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator a party in the grievance process for formal complaints. The phrase "document filed by a complainant" refers to a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"> <li>1. Counseling or Employee Assistance Program.</li> <li>2. Extensions of deadlines or other course-related adjustments.</li> <li>3. Modifications of work or class schedules.</li> <li>4. Mutual restrictions on contact between the parties.</li> <li>5. Changes in work locations.</li> <li>6. Administrative leave.</li> <li>7. Increased security.</li> <li>8. Monitoring of certain areas of the school and/or district campus.</li> <li>9. Assistance from domestic violence or rape crisis programs.</li> <li>10. Assistance from community health resources including counseling resources.</li> </ol> <p>Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:</p> |
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|  | <p>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 <i>quid pro quo sexual harassment</i>.</p> <p>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.</p> <p>Sexual assault, dating violence, domestic violence or stalking.</p> <p><i>Dating violence</i> 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:</p> <ol style="list-style-type: none"> <li>1. Length of relationship.</li> <li>2. Type of relationship.</li> <li>3. Frequency of interaction between the persons involved in the relationship.</li> </ol> <p><i>Domestic violence</i> 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.</p> <p><i>Sexual assault</i> 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.</p> <p><i>Stalking</i>, 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:</p> <ol style="list-style-type: none"> <li>1. Fear for their safety or the safety of others.</li> <li>2. Suffer substantial emotional distress.</li> </ol> <p>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</p> |
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| <p>9. Delegation of Responsibility</p> | <p>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.</p> <p>In order to maintain a program of nondiscrimination practices that is in compliance with applicable law and regulations, the Board designates the Assistant Superintendent as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:</p> <p>Address: 7335 Carlisle Pike, York Springs, PA 17372</p> <p>Email: TitleIX@bermudian.org</p> <p>Phone Number: 717-528-4113</p> <p>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:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. Training - Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination.</li> <li>3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, and available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources including counseling resources.</li> <li>4. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.</li> </ol> |
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## 10. 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.

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|  | <p><u>Disciplinary Consequences</u></p> <p>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.</p> <p><u>Reports of Discrimination</u></p> <p>Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, genetic information, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.</p> <p><u>Reports of Title IX Sexual Harassment</u></p> <p>Any reports deemed by the Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 to this policy.</p> |
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|  | <p>References:</p> <p>Human Relations Commission Regulations – 16 PA Code Sec. 44.1 et seq.</p> <p>Pennsylvania Equal Pay Law – 43 P.S. Sec. 336.3</p> <p>Pennsylvania Human Relations Act – 43 P.S. Sec. 951 et seq.</p> <p>Equal Pay Act – 29 U.S.C. Sec. 206</p> <p>Age Discrimination In Employment Act – 29 U.S.C. Sec. 621 et seq.</p> <p>Section 504 of the Rehabilitation Act – 29 U.S.C. Sec. 794</p> <p>Genetic Information Nondiscrimination Act of 2008 – 42 U.S.C. Sec. 2000ff et seq.</p> <p>Americans With Disabilities Act – 42 U.S.C. Sec. 12101 et seq.</p> <p>Federal Anti-Discrimination and Civil Rights Laws –</p> <p style="padding-left: 40px;">20 U.S.C. Sec. 1681 et seq. (Title IX)</p> <p style="padding-left: 40px;">42 U.S.C. Sec. 1981 et seq.</p> <p style="padding-left: 40px;">42 U.S.C. Sec. 2000e et seq. (Title VII)</p> <p>Federal Anti-Discrimination Regulations, Title 28, Code of Federal Regulations – 28 CFR Sec. 35.140, Part 41</p> <p>Federal Equal Employment Opportunity Commission Regulations, Title 29, Code of Federal Regulations – 29 CFR Parts 1600-1691</p> <p>Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance –</p> <p style="padding-left: 40px;">34 CFR Part 106</p> <p style="padding-left: 40px;">34 CFR 106.44</p> <p style="padding-left: 40px;">34 CFR 106.45</p> <p style="padding-left: 40px;">34 CFR 106.71</p> <p style="padding-left: 40px;">34 CFR 106.30</p> |
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|  | <p>34 CFR 106.8</p> <p>U.S. Const. Amend. XIV, Equal Protection Clause</p> <p>Family Educational and Privacy Rights –</p> <p>20 U.S.C. 1232g</p> <p>34 CFR Part 99</p> <p>Definitions and Grant Provisions –34 U.S.C. 12291</p> <p>Institutional and Financial Assistance Information for Students - 20 U.S.C. 1092</p> <p>Crimes and Offenses—Harassment – 18 Pa. C.S.A. 2709</p> <p>Nondiscrimination on the Basis of Handicap in Federally Assisted Programs – 28 CFR Part 41</p> <p>EEOC Guidance –</p> <p>EEOC Enforcement Guidance on <i>Harris v. Forklift Sys., Inc.</i>, November 9, 1993</p> <p>EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999</p> <p>EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990</p> <p>Case Law –</p> <p><i>Burlington Industries, Inc. v. Ellerth</i>, 524 U.S. 742 (1998)</p> <p><i>Faragher v. City of Boca Raton</i>, 524 U.S. 775 (1998)</p> <p>Board Policy – 317, 317.1, 320, 806, 815</p> |
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