

HARASSMENT / TITLE IX POLICY AND PROCEDURES

I. Policy.

A. Introduction.

It is the policy of the Blackstone Valley Vocational Regional School District (the “District”) not to discriminate on the basis of race, color, religion, national origin, age, sex, gender identity, sexual orientation, disability or other legally protected classification. This prohibition includes Sexual Harassment. The District is committed to maintaining a school environment free of unlawful Sexual Harassment. This Policy and Procedures specifically addresses Sexual Harassment, as defined below, as a form of gender discrimination under Title IX.

The District will promptly and reasonably investigate all allegations of sexual harassment through the designated and authorized Title IX Coordinator, as set forth below.

B. Scope.

This Policy applies to individuals participating in any Educational Program or Activity, as defined below, whether such programs or activities occur on or off of school grounds if the school exercises “substantial control” over the alleged harasser and the context in which the alleged Sexual Harassment occurred. Although Title IX only applies to incidents occurring within the United States, this Policy applies to allegations of Sexual Harassment brought by individuals participating in any Educational Program or Activity even if it occurs outside of the United States.

C. Definitions.

For purposes of this Policy and Procedures, the following definitions will apply:

- *A Complainant* is a person who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- *A Respondent* is an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment. A Respondent under Title IX can include other students, employees, vendors and other 3rd parties.
- *Actual Knowledge* of Sexual Harassment exists when any District employee, including, without limitation, administrators, teachers, educational support staff, clerical staff and custodians is aware of Sexual Harassment or allegations of Sexual Harassment. The District, through its staff, is required to act upon Actual Knowledge of such an incident or allegation.
- *Educational Program or Activity* includes any location, event, or circumstance over which the District exhibits substantial control of both the alleged harasser and the context in which the Sexual Harassment occurred. Sexual Harassment is not dependent on the method by which the Sexual Harassment is carried out. Actions carried out by

written instrument, e-mail, internet use or other technologies may constitute Sexual Harassment as much as in-person actions.

- A *Formal Complaint* is a document filed by a Complainant, who is participating in or attempting to participate in the Educational Program or Activity of the District, or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the District investigate the allegation of Sexual Harassment.
- *Supportive Measures* are individualized services reasonably available that are non-punitive, non-disciplinary, individualized, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety or deter Sexual Harassment. Supportive measures shall be offered even where no complaint has been filed. Supportive Measures may include counseling, course modifications, schedule changes and increased monitoring or supervision.
- *Remedies* can include the same actions described as Supportive Measures, or can punish or burden the Respondent.

D. Rule.

The District takes allegations of discrimination, including Sexual Harassment, seriously and will respond promptly to verbal and Formal Complaints. Where it is determined that conduct that violates the law and/or this Policy and Procedures has occurred, the District will act promptly to stop the conduct and impose corrective action as necessary, which may include school-related discipline.

If any student believes, in good faith, that the student has been subjected to Sexual Harassment, they should report the incident. Further, anyone may report Sexual Harassment regardless of whether they are the victim/Complainant. This includes, but is not limited to, parents on behalf of their child and other students or staff who observe alleged incidents of Sexual Harassment.

Sexual Harassment for purposes of this Policy and Procedures is defined as conduct of a written, verbal or physical nature on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (i.e., *quid pro quo* Sexual Harassment);
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive such that it effectively denies a person equal access to the District's Educational Program or Activity, or creates an intimidating or hostile learning environment; or
3. "Sexual assault," "dating violence," "sexual violence," "domestic violence" or "stalking" all as defined by applicable federal law.

Examples of Sexual Harassment include but are not limited to:

- written or verbal abuse of a sexual nature;
- use of sexually degrading words;
- jokes or language of a sexual nature;
- conversation or gossip with sexual overtones;
- obscene or suggestive gestures or sounds;
- sexually-oriented teasing;
- verbal comments of a sexual nature about an individual's appearance or sexual terms used to describe an individual;
- inquiries into one's sexual experiences;
- discussion of one's sexual activities;
- comments, jokes or threats directed at a person because of their sexual preference;
- unwelcome and repeated invitations (for lunch, dinner, drinks, dates, sexual relations);
- demand for sexual favors accompanied by an implied or overt threat concerning a student's participation in an Educational Program or Activity, including promises of preferential treatment;
- physical contact such as touching, hugging, kissing, stroking, fondling, patting, pinching or repeated brushing up against one's body;
- deliberate bumping, cornering, grabbing;
- assaults, molestations or coerced sexual acts;
- posting or distributing sexually suggestive objects, pictures, cartoons or other materials;
- sexually-oriented letters or notes;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, texting, blogging, voice mail and facsimile) which contain overt sexual language, sexual implications or innuendo, or comments that offensively address someone's sexual orientation;
- staring at parts of a person's body;

- sexually suggestive gestures, leering; and
- condoning Sexual Harassment.

Sexual Harassment can occur in a variety of circumstances. Here are some things to remember.

- A person of any gender identity may be the victim/Complainant or alleged harasser/Respondent of Sexual Harassment; and
- The victim/Complainant does not have to be of a different gender identity than the harasser/Respondent.

II. PROCEDURES.

A. Filing a Complaint.

A Formal Complaint of Sexual Harassment may be filed with the Title IX Coordinator by the Complainant or any other individual by contacting the Title IX Coordinator by mail, in-person, email or phone. An employee with actual knowledge of conduct that may violate this policy must report to the District's Title IX Coordinator:

Yvette Martin, Director of Student Services
ymartin@valleytech.k12.ma.us
508-529-7758 x3117

The Title IX Coordinator may delegate any and all of their responsibilities to another individual on a case-by-case basis. In the event of any such delegation, the actions of the designee shall be deemed to be the actions of the Title IX Coordinator for the purposes of this Policy and Procedures.

B. Supportive Measures.

After the Title IX Coordinator receives an allegation of Sexual Harassment, even if no Formal Complaint is made, the Title IX Coordinator will:

- Offer the Complainant and Respondent Supportive Measures;
- Consider the Complainant and Respondent's wishes with respect to Supportive Measures;
- Inform the Complainant and Respondent of the availability of Supportive Measures with or without the filing of a Formal Complaint;
- Explain the process for filing a Formal Complaint and how the Formal Complaint will be addressed to the Complainant;
- Consider whether to file a Formal Complaint based on the information presented, if the Complainant elects not to do so;
- Determine whether an immediate threat to the physical health or safety of a student or other individual exists that requires removal of a student from the Educational Program or Activity;
- If removal is deemed necessary, provide Respondent with notice and an opportunity to challenge the decision immediately after the removal; and
- Document what Supportive Measures are provided and, if none are provided, document why and what Supportive Measures were offered.

C. Formal Complaint Process.

In response to a Formal Complaint of Sexual Harassment, the District will use the following process for investigating, dismissing and/or determining responsibility with regard to the substance of a Formal Complaint.

1. Written Notice

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide written notice to all known parties. The Respondent will be given notice in sufficient time to prepare a response before an initial interview.

Written notice must include:

- (a) Notice of the Formal Complaint Process, including any informal resolution process;
- (b) Notice of the allegations, including sufficient detail (i.e., names of known parties, the conduct alleged to be Sexual Harassment, and the date and location of the conduct, if known) to allow the Respondent to prepare a response;

- (c) A statement that the Respondent is presumed to be not responsible and that responsibility will be determined at the conclusion of the Process;
- (d) Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney) and to inspect and review evidence; and
- (e) Notice of any provision in the student code of conduct or other policy or rule that prohibits knowingly making false statements or providing false information in the Process.

Written notice will be supplemented if new allegations open for investigation.

2. Investigation

Promptly after receiving or signing the Formal Complaint, the Title IX Coordinator will conduct the necessary investigation, using a preponderance of the evidence standard, including making good faith efforts to gather all relevant information. In the course of the Title IX Coordinator's investigation, the Title IX Coordinator will, along or with the assistance of another staff member:

- (a) Contact those individuals that have been referred to as having pertinent information related to the complaint, which, at a minimum, will include contacting the Complainant and the Respondent;
- (b) Consider relevant documentary evidence;
- (c) Notify Complainants and Respondents that they will have the opportunity to identify other witnesses and present other relevant information;
- (d) Provide the parties with the same opportunities to have an advisor present, who may, but is not required to be, an attorney;
- (e) Provide to a party who is invited or expected to attend, written notice of the date, time, participants, purpose, and location of any investigative interview, hearing or other meeting with enough time to allow the party to prepare to participate;
- (f) Provide both parties and their advisors, if any, an equal opportunity to review all evidence that is directly related to the allegations in the Formal Complaint, including evidence upon which the District does not intend to rely, and any exculpatory or inculpatory evidence from any source prior to the completion of the final investigation report and in time to give the parties at least ten (10) days to prepare a written response; and
- (g) Prepare a written investigation report that fairly summarizes the relevant evidence and provide the report to the parties and their advisors, if any, for their review and written response, at least 10 days before a hearing or other determination of responsibility.

The duration of an investigation will depend upon the nature and complexity of the allegations, the number of witnesses, the information to be gathered and the cooperation of all involved. As a guideline, the Complainant should expect to be interviewed within ten (10) school days. The interview of other witnesses and the Respondent will depend upon the number of witnesses and their availability and the availability of any advisor. The investigator should aim to complete interviews and fact-gathering within ten (10) school days, when feasible. Allowing time for both parties to provide a written response, a final investigation report will typically be completed within 45 calendar days after the filing or signing of the Formal Complaint. Delays may result from lack of witness availability, illness, involvement of law enforcement, the need for translation services or other good cause. The Title IX Coordinator will inform the Complainant and Respondent of any substantial delay and the reason for the delay.

Each party will have an equal opportunity to inspect, review, and respond to any evidence obtained. Prior to finalizing an investigative report, the investigator will send each party all evidence subject to inspection and review, and provide the parties at least ten (10) school days to provide a response to the investigator.

After the investigator drafts an investigatory report with all evidence obtained from the investigation, the report will be provided to the decision maker to send to all parties. The parties will then have ten (10) days to respond, including written relevant questions that each party wants asked of a party or witness.

3. Determination of Responsibility

Title IX does not require in-person hearings in elementary and secondary school District. It is the general policy of the District not to offer in-person hearings. The decision-maker, who will typically be a building administrator such as the Assistant Superintendent-Director/Principal or Assistant Principal and cannot be the investigator or Title IX coordinator, shall retain the right to conduct an in-person hearing if they believe it is necessary to their decision. Regardless of the form of the hearing, the decision-maker will allow the Complainant and the Respondent to submit relevant, written questions they want asked of the other party or other witnesses, provide each party with the answers to such question and provide for limited follow-up questions. Questions about a Complainant's prior sexual behavior or sexual predisposition are only allowed to establish that another person committed the alleged conduct or that the conduct was consensual.

After the hearing process is complete, the decision-maker will issue a final written determination of responsibility within twenty (20) school days of receipt of the report from the investigator, using the preponderance of the evidence standard, that:

- (a) Identifies the allegations covered by this Policy and Procedures;
- (b) Describes the District's procedural steps taken from the receipt of the Formal Complaint to the determination;
- (c) Includes findings of fact supporting the determination;

- (d) Includes conclusions regarding application of the code of conduct to the facts;
- (e) Includes a statement of, and a rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the District's Educational Program or Activity will be provided to the Complainant; and
- (f) Includes procedures and permissible bases for appeals.

The decision-maker shall provide the written determination to the Complainant and Respondent.

4. Appeals

Either party may appeal a determination of responsibility to the Superintendent-Director, or their designee, or the District's dismissal of a Formal Complaint, in whole or in part, within ten (10) school days for the following reasons: (1) a procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the determination and could affect the outcome; or (3) a conflict of interest on the part of the Title IX coordinator, investigator, or decision-maker that affected the outcome.

When an appeal is filed, the District shall ensure the individual deciding the appeal is not a Title IX Coordinator, the investigator, or the decision-maker who reached the determination regarding responsibility.

Upon receipt of an appeal, the District will provide written notice to both parties and provide both parties an equal opportunity to submit a written statement in support of, or challenging, the basis(es) for the appeal. The parties shall have ten (10) school days from the date of receipt of the notice of the appeal to submit written statements. The Superintendent-Director, or their designee, will issue a written decision to both parties, simultaneously, regarding their decision on the appeal usually within ten (10) school days of receipt of the non-appealing party's written statement, or the date the statement would have been due.

5. Potential Actions

Violation of this Policy and Procedures by the Respondent may result in corrective action including, but not limited to, loss of privileges to participate in extra-curricular activities or athletics, require participation in Sexual Harassment awareness training or restorative justice efforts, a letter home to parents, social probation, detention, in-school suspension, outside suspension, expulsion and/or referral to the local police department for consideration of criminal charges. This provision shall not preclude the District from referring allegations to the local police department prior to the determination of a violation.

Please note that while this policy sets forth goals of promoting an environment that is free of Sexual Harassment, the Policy and Procedures is not designed or intended to limit

the District's authority to discipline for conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of Sexual Harassment.

6. Dismissal

A Formal Complaint will be dismissed, without investigation, if the allegation(s), even if proven, would not constitute Sexual Harassment as defined above, or if the allegations did not occur in the District's Educational Program or Activity, or did not occur against a person in the United States. This does not preclude taking action under other policies or rules.

The Formal Complaint may be dismissed if the Complainant notifies the Title IX Coordinator at any time that they wish to withdraw the Formal Complaint or an allegation, if the Respondent's enrollment or employment ends, or if specific circumstances prevent the District from gathering evidence sufficient to reach a determination

If the Title IX Coordinator dismisses a Formal Complaint, written notice will be promptly provided to both parties simultaneously, including the reasons for dismissal.

7. Consolidation

The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent, by more than one Complainant against one or more Respondents, or by one party against another party, where the allegations arise out of the same facts or circumstances.

D. Informal Resolution.

When a Formal Complaint has been made, the District may offer to facilitate an informal process to resolve the Formal Complaint that does not require a full investigation, but will first provide all parties with written notice as described above and obtain written, voluntary consent from all parties. Informal resolution is **not** available when the Respondent is an employee.

E. Confidentiality.

The District will keep confidential the identity of the Complainant, the Respondent and other witnesses except as detailed above, permitted by Title IX or to carry out the purpose of the Title IX and its regulations.

F. Retaliation.

Retaliation by the District or any other person against any person for the purpose of interfering with Title IX rights or because the person has participated or refused to participate in any manner in a proceeding under Title IX regulations is prohibited. Complaints of retaliation may be addressed under this Policy and Procedures.

G. Recordkeeping.

The District will keep records related to reports of alleged Sexual Harassment for a minimum of seven (7) years, including investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken, including Supportive Measures, regardless of a Formal Complaint ever being filed. If no Supportive Measures were provided, each report should explain why that choice was not deliberately indifferent.

The District will also maintain, for the required 7-year period, any materials used to train Title IX coordinators, investigators, decision-makers, and any employee designated to facilitate an informal process. Such training materials will also be posted on the District's website.

H. External Complaints.

Any student or parent/guardian who chooses not to use the District's Process or who is not satisfied with the resolution of District's Process may file a complaint with the appropriate state or federal agency.

Any person may also file a complaint with an appropriate state or federal agency at the same time they file a Formal Complaint, after the completion of the process, or at any time they choose. If a complaint is filed with the Office for Civil Rights, it must be filed in writing no later than 180 days after the occurrence of the alleged Sexual Harassment.

Complaints may be filed with:

Office for Civil Rights, US Department of Education
8th Floor
5 Post Office Square, Suite 900
Boston, MA 02109-3921
Telephone: 617-289-0111
Fax: 617-289-0150
TTY: 877-521-2172
Email: OCR.Boston@ed.gov

OR

Massachusetts Commission Against Discrimination
One Ashburton Place
Sixth Floor, Room
601 Boston, MA 02108
Telephone: 617-994-6000
TTY: 617-994-6196
Email: mcad@mass.gov
128 Union Street, Suite 206
New Bedford, MA 02740
Telephone: 774-510-5801
TTY: 617 994-6196
Email: mcad@mass.gov

Massachusetts Commission Against Discrimination
436 Dwight Street, Rm 220
Springfield, MA 01103
Telephone: 413-739-2145
TTY: 617-994-6196
Email: mcad@mass.gov
484 Main Street, Room 320
Worcester, MA 01608
Telephone: 508-453-9630
TTY: 617 994-6196
Email: mcad@mass.gov

I. Notice Requirements.

A copy of this Policy and Procedures will be provided to students, parents or legal guardians, and unions or professional organizations holding agreements with the District.

LEGAL REF.: M.G.L. 151B:3A
Title IX of the Education Amendments of 1972
BESE 603 CMR 26:00
34 CFR 106.44 (a), (a)-(b)
34 CFR 106.45 (a)-(b) (1)
34 CFR 106.45 (b)(2)-(b)(3,4,5,6,7) as revised through June 2020

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