

TITLE IX SEXUAL HARASSMENT

I. Sexual Harassment Prohibited

- A. As mandated by the federal Title IX statutes and the regulations set forth in Chapter 106 of Title 34 of the Code of Federal Regulations (“the federal Title IX regulations”), the District does not unlawfully discriminate on the basis of sex in any education program or activity that the District operates. Title IX’s requirement not to discriminate in any education program or activity extends to District students, certain admissions processes, and District employment. Inquiries regarding how Title IX and the federal Title IX regulations apply to the District may be referred to the District’s Title IX Coordinator (as designated below), to the Assistant Secretary for Civil Rights at the U.S. Department of Education, or to both.
- B. Any person with a complaint of sex discrimination (not alleging sexual harassment under Title IX as defined below) shall seek to resolve his/her complaint following the procedures set forth in Board Policies 2260, 3122.01, or 4122.01. Notwithstanding the procedures in Board Policies 2260, 3122.01, or 4122.01, any person may report sex discrimination of themselves or others at any time (including during non-business hours), in person, by mail, by telephone, by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.
- C. Reports or complaints of sexual harassment under Title IX, as defined below, will follow the procedures set forth in this policy. At the time of filing the formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the recipient.
- D. For the purposes of Title IX and this Policy, "sexual harassment" is defined as conduct on the basis of sex that satisfies one or more of the following:
1. A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e. quid pro quo); or
 2. Unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
 3. Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.

II. Designation and Authorization of Nondiscrimination Coordinator(s)

- A. The District designates the following individual as the Title IX Coordinator:

Jennifer Sprague
Special Services Support Coordinator
Port Washington-Saukville School District
100 W. Monroe Street, Port Washington, WI 53074
262-268-6000
Jennifer.Sprague@pwssd.k12.wi.us

- B. In his/her capacity as a Title IX Coordinator, the above-identified individual is authorized to coordinate the District's efforts to comply with the District's responsibilities under Title IX and the federal Title IX regulations.

III. Any Person May Submit a Complaint or Report of Discrimination to the District

- A. Any person (including a witness, parent, or other third parties) may report sexual harassment to the Title IX Coordinator, using the contact information provided above and any of the following methods:

1. By U.S. mail, by electronic mail, or by telephone, at any time; or
2. By any other means that results in the Title IX Coordinator actually receiving the person's verbal or written report, including by submitting the report to the Title IX Coordinator in person (e.g., at an arranged meeting or when the coordinator is otherwise reasonably available during normal working hours).

- B. As an exception to the above reporting procedure, if the report or complaint identifies the Title IX Coordinator as a person responsible for the alleged prohibited conduct, then the person making the report may submit it to the Director of Special Services either in person, by mail, by telephone, or by electronic mail. The contact information for the Director of Special Services is as follows:

Duane Woelfel
Director of Special Services
Port Washington-Saukville School District
100 W. Monroe Street, Port Washington, WI 53074
262-268-6000
Duane.Woelfel@pwssd.k12.wi.us

IV. Filing a Formal Complaint of Title IX Sexual Harassment

- A. An individual who is alleged to be the victim of conduct that could constitute sexual harassment under the federal Title IX regulations (i.e., a Title IX “complainant”), or a parent or guardian who has a legal right to act on behalf of such an individual, may file a “formal complaint” of “sexual harassment,” as those terms are defined in 34 C.F.R. §106.30.
- B. No Title IX complainant is obligated to file a formal complaint, but a qualifying formal complaint is necessary for the District to start an investigation of Title IX sexual harassment allegations using the District’s formal Title IX grievance process. Even in the absence of a formal complaint that initiates the formal grievance process, the District still has obligations to respond to allegations of Title IX sexual harassment whenever the District has sufficient notice of the allegations (i.e., from any source).
- C. All of the following apply to a formal complaint of Title IX sexual harassment:
 1. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the District (including through employment). All written complaints must include the following information to the extent it is available: identification of the parties, date and location of alleged incident, a description of the alleged conduct, and a list of potential witnesses.
 2. The formal complaint must be in the form of a document or an electronic submission (e.g., an electronic mail message or a file attached to an email) that:
 - a. Alleges sexual harassment against a respondent (if the identity of the respondent is not known, it is not necessary to identify the respondent by name);
 - b. Requests that the District investigate the allegation(s) of sexual harassment; and
 - c. Contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

3. The formal complaint must normally be filed with the District's Title IX Coordinator by submitting the document or electronic submission either in person, by U.S. mail, or by electronic mail, using the District-designated contact information listed above in this policy. If the formal complaint identifies the Title IX Coordinator as a respondent, or if the Title IX Coordinator is affected by a conflict of interest or is otherwise unavailable, then the complainant may file the document or electronic submission directly with the Director of Special Services, either in person, by mail, or by electronic mail using the contact information provided above.
- D. When a formal complaint is not filed in person, complainants are encouraged to contact the District to confirm that their complaint was actually received as intended.
- E. If a complainant files a formal complaint of Title IX sexual harassment, or if a Title IX Coordinator signs such a formal complaint on behalf of the District, then:
1. The formal complaint must be resolved according to the federal regulations and District processes that specifically apply to such formal complaints; and
 2. Unless otherwise directed by the School Board or this policy, the Superintendent or his/her administrative-level designee is expected to designate and assign qualified individuals to perform the roles that are defined for District agents within the District's grievance process for formal complaints of Title IX sexual harassment. In addition:
 - a. The Superintendent may assign one or more of the roles to a qualified individual who is not an employee of the District, including an outside attorney or other contracted service provider, with notice to the Board.
 - b. The Title IX Coordinator and the Superintendent shall ensure that the individual(s) assigned to perform such roles have completed any training required by the federal Title IX regulations.
 - c. The Board or a person designated by the Board shall assign such roles with respect to any formal complaint in which the Superintendent is alleged to be the perpetrator of conduct that could constitute Title IX sexual harassment. The Title IX Coordinator and the Superintendent shall inform the Board of any such need to assign the roles.
- V. Deadline for Filing an Initial Report or Complaint

- A. There is no absolute deadline for the initial filing of a report or complaint of discrimination under this policy. The District always has an interest in being made aware of potential concerns with prohibited discrimination, harassment, or retaliation. However, any person who has a complaint or concern involving such a matter is encouraged to notify the District or pursue a complaint as soon as reasonably possible after the occurrence of the relevant events. A material gap in pursuing a complaint or concern can affect the extent to which it is practical to investigate the matter, and a delay may also limit the range of remedies and resolutions that are reasonably available.
- B. The following apply to any report or complaint of discrimination that has been filed under this policy, except for formal complaints of Title IX sexual harassment (which are instead subject to the dismissal and appeal provisions of the grievance process that the District has adopted for such complaints):
 - 1. At least one of the following administrators, acting in consultation as needed with District legal counsel, must authorize the dismissal or other alternative disposition of a report or complaint due to a lack of timeliness: The Superintendent, the Director of Special Services, and the Special Services Support Coordinator.
 - 2. Any actual party in interest to the allegations raised by the report or complaint (i.e., any alleged victim or any person alleged to be responsible for the discrimination) may appeal a decision authorized under the previous paragraph to the Superintendent. Or, if the Superintendent authorized the initial decision, the party may request reconsideration.
- C. Once the complaint process begins, the investigation will be completed in a timely manner, normally within approximately fifteen (15) business days.
- D. Following the investigation, the decision-maker will review the investigator's report, make a determination using the preponderance of the evidence standard, and issue a written determination of responsibility to the parties simultaneously. The written determination will also contain appeal rights and the bases for appeal.
- E. Administrative Guideline 2260.01 establishes the specific expectations and procedures for the prompt and equitable resolution of reports and complaints under this Policy.

VI. Confidentiality of Reports and Complaints

Although absolute confidentiality cannot be assured, the District will maintain the confidentiality of discrimination reports and complaints to the extent required by any applicable law, and the District will otherwise make efforts to maintain confidentiality where non-disclosure does not interfere with the District's ability to appropriately process and respond to the report or complaint. Nonetheless, investigating a matter often involves disclosing (directly or indirectly) the identity of persons involved in the particular events/issues. Individuals who have specific concerns about confidentiality should arrange to discuss those concerns with the District as early as possible in the process. The parties have the right to discuss the allegations of a formal Complaint and gather and present evidence related to the allegations.

VII. Retaliation Prohibited

No official, employee, or agent of the District or any other person may intimidate, threaten, coerce, or unlawfully discriminate against any individual for the purpose of interfering with any right or privilege secured by any nondiscrimination statute or related regulation, or because the individual has made a report or complaint, or testified, assisted, participated, or exercised a legal right to refuse to participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy.

VIII. Prohibition on Bad Faith Conduct/Abuse of Process

To the extent permitted by law, the District prohibits and reserves authority to appropriately address and impose consequences for bad-faith conduct by individuals who make a report or complaint, testify, assist, or participate in any manner in an investigation or proceeding conducted under this policy or any other District nondiscrimination policy. For example, the District may impose lawful consequences for making a materially false statement in bad faith in the course of any proceeding that is conducted under this policy or any other District nondiscrimination policy. Examples of abuse of process include, but are not limited to, the pursuit of allegations that the complaining party knows to be wholly frivolous or the use of dilatory tactics that have the purpose or reasonably foreseeable result of unreasonably interfering with a prompt and equitable resolution of alleged discrimination or retaliation.

IX. Consequences for Violations

- A. Any person who is determined to be responsible for sexual harassment, any act of prohibited retaliation, or other violation of this policy is subject to appropriate disciplinary action and/or other appropriate consequences that are within the District's lawful authority, up to and including expulsion for students and termination

- B. In addition, any employee or authorized agent of the District who, considering the duties, responsibilities, and expectations established for their position/role, fails to reasonably respond to complaints or reports of alleged discrimination or retaliation, or who otherwise fails to reasonably act on their knowledge of a possible violation of a nondiscrimination law or a District nondiscrimination policy, is also subject to possible disciplinary action.
- X. Maintenance of Complaint Records; Report Preparation
- A. The following records shall be retained for not less than seven (7) years, but longer if required by the District's records retention schedule:
1. Records of each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions issued to the respondent, and any supportive measures and remedies provided to the complainant;
 2. Records of any appeal and the result of the appeal;
 3. Records of any informal resolution and the result of the informal resolution;
 4. Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. (The District will also make these materials available on its website.)

Legal reference:

Subch. III of Ch. 106m, Subch. II of Ch. 111, and Sections 118.13, 118.134, 118.195, 118.20 Wis. Stats. PI 9, 41 Wis. Adm. Code
20 U.S.C. §1681 et seq., 20 U.S.C. §1400 et seq., 20 U.S.C. §6312(e)(3)(D), 42 U.S.C. §2000e et seq., 42 U.S.C. §2000d et seq., 42 U.S.C. §12111 et seq., 42 U.S.C. §12131 et seq., 29 U.S.C. §794 et seq., 29 U.S.C. §621 et. seq, 8 U.S.C. §1324b(a) Federal Laws

Cross reference:

Administrative Guideline 2260.01 – Title IX Sexual Harassment

Adopted: 9/14/20

The Port Washington-Saukville School District does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies: Director of Special Services, Port Washington-Saukville School District, 100 W. Monroe Street, Port Washington, WI 53074 - Duane.Woeffel@pwssd.k12.wi.us