

PRINCE GEORGE’S COUNTY PUBLIC SCHOOLS
Board of Education
Upper Marlboro, Maryland

0104
Policy No.

BOARD OF EDUCATION POLICY

BASIC COMMITMENTS

Title IX - Discrimination and Harassment on the Basis of Sex

I. POLICY STATEMENT

- A. The Prince George’s County Board of Education (“Board”) affirms its responsibility to provide safe and supportive learning and work environments that accept diversity and promote equity. The Board is committed to being in compliance with all anti-discrimination laws including Title IX of the Educational Amendments of 1972, which provides: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal Financial Assistance.
- B. Prince George’s County Public Schools (“PGCPS”) does not tolerate discrimination or harassment on the basis of sex in its education program and activities against students, employees, or applicants for either on the basis of actual or perceived sex, sexual orientation, gender identity or expression.

II. PURPOSE

- A. To prohibit sexual harassment, and discrimination on the basis of actual or perceived sex, sexual orientation, gender identity, or gender expression on PGCPS property and PGCPS activities against students, employees, or applicants for either.
- B. To establish a framework for effective procedures for addressing complaints of sexual harassment and/or discrimination based on sex.
- C. To mandate the development of educational professional development programs designed to help PGCPS employees and students recognize, understand, and report sexual harassment and/or discrimination based on sex.

III. III. DEFINITIONS¹

A. *Parties*

- i. **Complainant:** An individual who is alleged to be the recipient of conduct that could constitute sexual harassment or discrimination based on sex. A *Complainant* may be a student, employee, or applicant for either.
- ii. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or discrimination based on sex.

B. *Retaliation:* Intimidation, threats, coercion, or discrimination against an individual for code of conduct violations that do not involve discrimination based on sex or sexual harassment but arise out of the same facts or circumstances as a report or complaint of discrimination based on sex, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.

C. *Sex-Based Discrimination*

- i. **Discrimination on the Basis of Gender Identity or Expression:** Discrimination resulting from the gender identity or expression of an employee, student, or applicant for either. This includes the sexual harassment definitions below, but is not limited to, stereotyping an employee or student based on their gender identity/expression, excluding a student from school programs or employee from work due to their gender identity/expression, refusing to use a student or employee's preferred pronouns or name, or not allowing a student or employee to use facilities that are consistent with their gender identity.
- ii. **Discrimination Based on Sex:** Includes the sexual harassment definitions below, but is not limited to: failure to provide equal opportunities in athletics; discrimination in a school's science, technology, engineering, and math (STEM) courses and programs, and discrimination based on pregnancy, childbirth, related medical conditions, breastfeeding, or reproductive health decisions.

D. *Sexual Harassment:* Conduct on the basis of sex, including gender identity and/or expression, which satisfies one of the following:

- i. ***Hostile Environment:*** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to PGCPS's education program or activity or denies an employee equal access to employment.

¹ The 2020 Title IX Regulations provide the terminology used for definitions in this policy and requires their use in school policies and procedures when addressing Title IX matters.

- ii. *Quid Pro Quo*: Explicitly or implicitly conditioning the receipt of PGCPs program, activity, aid, benefit, or service on an individual's participation in or acceptance of unwelcome sexual conduct.
- E. *Sexual Assault*: An offense classified as a forcible or non-forcible sex offense under the Uniform Crime Reporting [UCR] system of the Federal Bureau of Investigation [FBI], including: rape, sodomy, sexual assault with an object, fondling, incest, statutory rape.
- i. *Rape*: The carnal knowledge of a person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - ii. *Sodomy*: The oral or anal sexual intercourse with another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - iii. *Sexual Assault with an Object*: The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - iv. *Statutory Rape*: Non-forcible sexual intercourse with a person who is under the statutory age of consent. Under Maryland law, the age of consent is 16 years of age, so long as the age of the participants is within three (3) years of each other.
 - v. *Fondling*: The touching underneath the clothing, of the private body parts (genitalia, buttock, or breast) of another person for the purpose of sexual gratification without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
 - vi. *Incest*: Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law including: (i) grandparent and grandchild; (ii) parent and child/stepchild/legally adopted child; (iii) siblings of half or full blood; or (iv) uncle or aunt and nephew or niece.
- F. *Dating Violence*: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the duration of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition:

- i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - ii. Dating violence does not include acts covered under the definition of domestic violence²

- G. *Domestic Violence* includes felony or misdemeanor crimes of violence committed by:
 - i. A current or former spouse or intimate partner of the Complainant,
 - ii. A person with whom the Complainant shares a child in common,
 - iii. A person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner,
 - iv. A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the Maryland and receives grant monies, or
 - v. Any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Maryland.

- H. *Stalking*: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. Fear for the person's safety or the safety of others; or
 - ii. Suffer substantial emotional distress.
 - iii. For the purposes of this definition:
 - a. Course of conduct means two (2) or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
 - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.

- I. *Supportive Measures*: Non-disciplinary, non-punitive 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. Such measures are designed to restore or preserve equal access to PGCP's education programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter discrimination based on sex and sexual harassment.

² Maryland law defines "abuse" as when someone with whom you have a specific relationship commits one of the following against you: assault in the 1st or 2nd degree; an act that places you in fear of immediate serious bodily harm or actually causes you seriously bodily harm; rape in the 1st and 2nd degree; attempted rape, in any degree; sexual offense in the 3rd or 4th degree; attempted sexual offense, in any degree; stalking; false imprisonment; or revenge porn. MD Code, Fam. Law § 4-501(b)(1).

- J. *Title IX*: Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*, and implementing regulations promulgated by the United States Department of Education, 34 C.F.R. Part 106. Title IX requires educational institutions to maintain policies, practices, and programs that do not discriminate against anyone based on sex. Under this law, males and females are expected to receive fair and equal treatment in all arenas of public schooling: recruitment, admissions, educational programs and activities, course offerings and access, counseling, financial aid, employment assistance, facilities and housing, health and insurance benefits, marital and parental status, scholarships, sexual harassment, and athletics.

IV. STANDARDS

- A. The Board prohibits sexual harassment and discrimination on the basis of sex of any person on school property, at school-sponsored activities or by the use of electronic technology or in any manner that substantially disrupts the orderly operation of a school or school-sponsored activity in PGCPS.
- B. In addition, the Board prohibits reprisal or retaliation against individuals who report acts of sex-based discrimination or who are Complainants, witnesses, bystanders, or others with reliable information about acts of sex-based discrimination.
- C. The Board recognizes that the following elements must be implemented to address discrimination based on sex and/or sexual harassment.
1. Professional Development – The Chief Executive Officer (“CEO”) shall require that appropriate staff conduct annual, mandatory professional development to support PGCPS employees in implementing this policy and its corresponding administrative procedure.
 2. PGCPS Reporting Options
 - a. The CEO shall display the Title IX Coordinator’s contact information on the PGCPS website, in the student code of conduct, and employee code of conduct.
 - b. Violations of this policy shall be reported by completing the Title IX Formal Complaint form, in writing, and submitting it to the Equity Assurance Office.
 - i. Student Complaints: Student reports of a violation of this policy may be made to any PGCPS employee, including the Title IX Coordinator, the school principal, or Associate Superintendent.
 - ii. Student Reports Received by PGCPS Employee, Volunteer or Contractor: Any school employee, volunteer or contractor who

receives a report by a student alleging harassment or discrimination based on sex by an employee, volunteer, or student should obtain the basic facts of the incident(s) alleged but should not conduct any further investigation without direction from the Title IX Coordinator. All information received from the student must be forwarded to the Title IX Coordinator, immediately.

- iii. Employee Complaints: Employee reports of violation of this policy may be made to supervisor(s)/directors, the Title IX Coordinator, or Associate Superintendent, where applicable.
- iv. Applicant for Employment or Applicant for Student Enrollment: Applicants for employment or applicants for student enrollment may report violations of this policy by submitting, in writing, the completed Title IX Formal Complaint form, to the Equity Assurance Office.

D. Equitable Investigation Process

1. PGCPS shall investigate formal complaints of sexual harassment and/or discrimination based on sex and gender identity and expression under Title IX if the acts occur within the United States and PGCP's education program or activity.
2. PGCP's Title IX Coordinator manages PGCP's response and investigation of reports or complaints of sexual harassment and/or discrimination based on sex and oversees PGCP's compliance with Title IX.
3. When PGCP has actual knowledge, with or without a formal complaint, of a Title IX violation, PGCP will promptly respond and take steps to end and remedy any unlawful discrimination based on sex and/or sexual harassment.

V. **IMPLEMENTATION RESPONSIBILITIES**

- A. The CEO shall develop administrative procedures consistent with this policy and monitor its implementation by providing reports to the Board, as needed.
- B. The CEO shall take immediate action to correct any violation of Title IX in the operation of the school system's programs.
- C. The CEO shall designate a Title IX Coordinator to oversee implementation and compliance with the regulations of the Title IX Educational Amendments of 1972.

VI. REFERENCES

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*
Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* 29 C.F.R. § 1604, 34 C.F.R 106.30(a)
Annotated Code of Maryland, Education Article, §§ 6-104, 6-113, 6-113.2, 7-303.1, 7-424, 7-424.1, and 7-424.3
Annotated Code of Maryland, State Government Article, Title 20, Human Relations
Code of Maryland Regulations §13A.12.05.02
Policy 0125 - Nondiscrimination
Policy 0127 – Reporting Suspected Child Abuse and Neglect
Policy 4400 – Inappropriate Relationships between Students, Employees, Volunteers, and Contractors
Policy 5143 - Bullying, Harassment or Intimidation
Administrative Procedure 0104 – Discrimination and Harassment on the Basis of Sex (Title IX)
Administrative Procedure 4170 – Discrimination and Harassment

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