

Sexual Discrimination and Sexual Harassment

Sexual discrimination and/or harassment will not be tolerated in the Ellington School District. The Board of Education strictly forbids any form of sexual discrimination and/or sexual harassment by students, personnel, individuals under contract, or volunteers subject to the control of the Board of Education. Students are expected to adhere to a standard of conduct that is respectful and courteous to fellow students, school employees, and to the public.

The Board encourages victims of sexual discrimination or sexual harassment and any school employee who has actual knowledge of such alleged conduct, to promptly report such claims. The District will respond promptly to actual knowledge of sexual harassment that occurs in an educational program or activity operated by the Board of Education and/or that receives federal financial assistance in a manner that is not deliberately indifferent. Timely reporting of improper conduct facilitates implementation of supportive measures and prompt resolution of any formal complaint that may be filed.

The Superintendent of Schools, at the direction of the Board, shall develop a comprehensive Administrative Regulation in furtherance of this Policy, which shall include due process procedures for compliance with Title IX of the Education Amendments of 1972 and the revised Regulations issued by the United States Department of Education on May 6, 2020.

Definitions

Sex Discrimination - occurs when a person, because of his or her sex, is denied participation in or the benefits of any educational program or activity operated by the Board of Education and/or receives federal financial assistance.

Sex Harassment - is defined as any one of the following three types:

Quid pro quo sexual harassment, meaning that an employee or contractor of the Board conditions the provision of an aid, benefit, or service of the educational program or school activity on an individual's participation in unwelcome sexual conduct;

Hostile educational environment, meaning unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Board's educational programs or activities; or

Any instance of sexual assault, as defined in 20 U.S.C. 1092(f)(6)(A)(v), dating violence, as defined in 34 U.S.C. 12291 (a)(10), domestic violence, as defined in 34 U.S.C. 12291(a)(8), and stalking, as defined in 34 U.S.C. 12291(a)(30).

Actual knowledge – notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any employee of the Board of Education, including, but not limited to, a report of sexual harassment to the Title IX Coordinator.

Sexual Discrimination and Sexual Harassment

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

Formal complaint - a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.

Respondent - an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Title IX Coordinator - the employee(s) designated and authorized by the Board of Education to coordinate its efforts to comply with its responsibilities under Title IX.

Additional definitions are set forth in the Administrative Regulations for this Policy.

Reporting of Discrimination / Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment.

Reports may be made at any time (including during non-business hours); and may be filed in person, by mail, by telephone, or by electronic mail, using the contact information listed for the District's Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Any school employee who makes a report of alleged sexual harassment to the Title IX Coordinator should consider whether a bullying complaint and/or a child abuse report should be completed in accordance with Board Policy and state law.

The Title IX Coordinator shall be responsible for promptly responding once the District has actual knowledge of sexual harassment or discrimination, which shall include discussing with the complainant available supportive measures designed to restore or preserve equal access to the Board's educational programs or activities without unreasonably burdening the other party.

Further details regarding the District's procedures for responding to reports of sexual discrimination and/or harassment are set forth in the Administrative Regulation to this Policy.

Grievance Process

A complainant may file a formal Title IX grievance complaint alleging sexual discrimination and/or harassment against a respondent and requesting that the District investigate the allegation(s). The complaint should contain the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where necessary, the Title IX Coordinator may sign a formal complaint to commence the grievance process.

Sexual Discrimination and Sexual Harassment

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity operated by the Board of Education and/or that receives federal financial assistance.

Once the Title IX Coordinator has received a formal complaint of sexual harassment, the District shall follow a transparent grievance process that complies with the detailed Title IX regulations. The grievance process, which is described fully in the Administrative Regulation to this Policy, shall adhere to the due process principles set forth in the revised May 6, 2020 Title IX Regulations.

At any time, a complainant alleging sex discrimination or sexual harassment may file a formal complaint with the Office for Civil Rights, Boston Office, U.S. Department of Education, 8th Floor, 5 Post Office Square, Boston, MA 02109-3921 (Telephone # (617) 289-0111).

The District may investigate any reported allegation of misconduct through its traditional student discipline procedures if a complainant is not willing to file a formal Title IX complaint.

The District is forbidden from requiring a respondent to waive the right to a formal Title IX investigation and formal resolution of a sexual harassment complaint as a condition of continuing enrollment, or enjoyment of any other right in the District.

Further details regarding (a) filing of formal complaints; (b) notice of formal complaints, (c) investigation of complaints, (d) determination of responsibility regarding alleged sexual discrimination and/or harassment, (e) appeals of said determinations; (f) remedies for any Title IX violations; and (g) record keeping regarding investigations are set forth in the Administrative Regulation to this Policy.

Informal Resolution

If a formal complaint is filed, the District may offer complainants and respondents the opportunity to engage in informal resolution, which encompasses mediation and other similar methods. But the District may not offer an informal resolution process to resolve a formal complaint that an employee sexually harassed a student, and, at no time may the District compel either the complainant or the respondent to participate in an informal resolution process.

Training

The District will take steps to ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the following topics: (a) the definition of sexual harassment, (b) the scope of the Board's programs and activities, (c) how to conduct an investigation and the grievance process, (d) the appeal process; (e) informal resolution processes, and (f) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Sexual Discrimination and Sexual Harassment

Any materials the District utilizes for training must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Additional information regarding training is set forth in the Administrative Regulation to this Policy.

Retaliation

The District, its employees and students may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.

Individuals alleging retaliation in violation of Title IX may follow the same grievance procedures outlined in the Administrative Regulation to this Policy.

Publication

The District shall make the following information publicly available on its website: (a) training materials for Title IX Coordinators, and all individuals involved in the formal complaint process; (b) contact information for the Title IX Coordinator and (c) details regarding the Title IX formal complaint procedures.

Confidentiality

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except (a) as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or (b) as required by law, or (c) to carry out the purposes of the Title IX regulations.

Record Keeping

The District will maintain records regarding responses to its actual knowledge of sexual discrimination and/or harassment, the conduct of the formal complaint grievance process, and training of all applicable individuals for a period of seven years.

The records should document that the District responded promptly and appropriately to reports of sexual harassment, and that measures were taken to restore or preserve equal access to its educational programs or activities.

Non-Discrimination

Notice of the Board's nondiscrimination policy and formal complaint procedure, including how to file or report sexual discrimination and/or harassment and how the District will respond to any filing or report shall be provided to students, parents or legal guardians; unions or professional organizations holding agreements with the District, and applicants for employment. This notice of nondiscrimination shall be posted on the District website and each individual school's

Sexual Discrimination and Sexual Harassment

websites and placed in any handbooks provided to the above cited groups, including such documents published exclusively online.

- Legal Reference: United States Constitution, Article XIV
- Constitution of the State of Connecticut Article I, Section 20.
- Title IX of the Education Amendments of 1972, 20 U.S.C. §1681, *et seq.*
- Title IX of the Education Amendments of 1972, 34 C.F.R. §106.1, *et seq.*
- Title IX Final Rule, 34 CFR §106.45, *et seq.*, May 6, 2020
- Gebser v Lago Vista Independent School District* 524 U.S. 274 (1998)
- Davis v Monroe County Board of Education* 526 U.S 629 (1999)
- Office for Civil Rights, U.S. Department of Education, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* 66 Fed. Reg. 5512 (January 19, 2001).
- P.A. 19-16, An Act Combatting Sexual Assault and Sexual Harassment

Policy revised: _____, 2020

ELLINGTON PUBLIC SCHOOLS
Ellington, Connecticut