

Sexual Harassment and Title IX Policy 5027

The equal treatment of all individuals who desire access to our education programs and activities must be guaranteed. Every effort is made to ensure this access; however, if concern exists with respect to sexually harassing, harassing, discriminatory, or bullying conduct the following represents the steps to be followed to have the concern resolved.

In accordance with the informal or formal procedures below, whichever is applicable, all concerns related to violations of this policy, or questions related to this policy should be directed to the Title IX Coordinator identified below:

Stacey Duchrow

Principal

Stacey.duchrow@ktecschools.org

Hailey Deluca

Assistant Principal

hailey.deluca@ktecschools.org

The Title IX Coordinator identified above is charged with coordinating KTEC High School's compliance with Title IX and other applicable state and federal laws.

Informal Complaint Procedure

Any person who believes they have a valid basis for a complaint may choose to initially discuss the concern with a Title IX Coordinator prior to filing a Formal Complaint. Absent the following circumstances, a Title IX Coordinator will allow a Complainant the opportunity to refrain from filing a Formal Complaint alleging a violation of this policy:

- The alleged offending conduct involves allegations of an employee sexually harassing a student; or
- The failure to initiate a Formal Complaint process by the Title IX Coordinator, despite the Complainant's objection to filing a Formal Complaint, would be clearly unreasonable considering the known circumstances.

If the circumstances exist, the Title IX Coordinator shall be obligated to file and sign a Formal Complaint on behalf of the Complainant in accordance with the Formal Complaint Procedure below. A Title IX Coordinator's filing and signing of a Formal Complaint on behalf of a Complainant shall not render the Title IX Coordinator a party to the complaint. The School's Title IX Coordinators must comply with Title IX's requirements, including the obligation to remain free from conflict and bias throughout the Title IX complaint and grievance procedure.

Following an informal discussion of a potential violation of this policy, the Title IX Coordinator shall contact the Complainant confidentially to discuss the Complainant's wishes to file a Formal Complaint, the availability of supportive measures with or without the filing of a Formal Complaint and explain the process for filing a Formal Complaint. The Title IX Coordinator shall inform all Complainants in writing that, if a Formal Complaint is filed alleging sexual harassment, all evidence gathered during a formal investigation of the complaint is required by law to be shared with all parties involved.

If circumstances do not warrant a Title IX Coordinator to file a Formal Complaint on behalf of the Complainant and the Complainant decides not to file a Formal Complaint him or herself, the Title IX Coordinator is responsible for ensuring any available and mutually agreed upon supportive measures are provided to the Complainant and that any other reasonably necessary actions are taken to end the alleged offending conduct. Such other reasonably necessary actions may include an investigation, disciplinary action, or other remedial steps.

Formal Complaint Procedure

Step 1

Any person can report suspected violations of this policy to the School's Title IX Coordinator, including persons who are not the target of the alleged offending conduct, in person, by mail, by telephone, by e-mail, or by any other means that result in a Title IX Coordinator receiving the person's verbal or written report. If the allegations relate to an employee sexually harassing a student or failure to initiate a Formal Complaint would be clearly unreasonable considering the known circumstances, the Title IX Coordinator may also be obligated to file and sign a Formal Complaint on behalf of a Complainant.

Within five (5) calendar days after receiving a person's verbal or written report of an alleged violation of this policy, the Title IX Coordinator shall contact the person for purposes of confirming receipt of the report and having the person complete a Formal Complaint Form. The Title IX Coordinator shall also direct the person to provide any other evidence he or she may have in his or her possession relevant to the underlying allegations, including the identity of all relevant witnesses.

Upon receipt of a Formal Complaint, the Title IX Coordinator will assess the complaint, as well as any written statement or letter provided by the Complainant, to determine the required process to be followed. If the Formal Complaint involves allegations of harassment (other than sexual harassment), discrimination, or bullying, the Title IX Coordinator shall proceed to Step 2.A. If the Formal Complaint involves allegations of sexual harassment, the Title IX Coordinator shall proceed to Step 2.B.

Step 2.A.

Within five (5) calendar days of receiving a Formal Complaint involving allegations of harassment (other than sexual harassment), discrimination, or bullying, the Title IX Coordinator shall contact the Complainant confidentially to discuss the Formal Complaint and the availability of supportive measures, and to explain that the school will select an investigator to promptly, thoroughly, and impartially investigate the Formal Complaint. The Title IX Coordinator or his/her designee shall conduct the investigation, which may include retention of legal counsel.

The investigator selected by the school shall conduct the investigation in a confidential manner to the extent practicable and required by law. The investigator shall be charged with conducting an equitable and objective evaluation of all evidence.

The investigator shall prepare a written report regarding the investigation, including a description of the relevant facts, conclusions, and any recommended action, within forty (40) calendar days after the Title IX Coordinator receives the Formal Complaint. The investigator, if someone other than the Title IX Coordinator, shall send a copy of the report to the Title IX Coordinator, who shall then share the report with the CEO or designee. The Complainant and the Respondent shall be provided with written notice of the outcome of the investigation.

The Title IX Coordinator shall be authorized to dismiss a Formal Complaint if the Complainant seeks to withdraw the complaint, the Respondent is no longer employed by the school or a pupil in the school, or if special circumstances prevent the investigator from gathering sufficient evidence to make a determination.

Appeals

Following an investigation, if either party is not satisfied with the results of the investigation, he or she may appeal the decision to the KTEC Schools Governance Board. To appeal the decision, a party must submit a written appeal to the Board within ten (10) calendar days after the Title IX

Coordinator sends the investigation report to the parties. The Governance Board will review the report and allow the parties to submit written responses to the Board for consideration. The Board may, in its discretion, hold a private conference with the parties within thirty (30) calendar days after the Board receives the written appeal. A written determination of the complaint shall be made by the Board within ten (10) calendar days of receipt of its decision.

If either party is still not satisfied with the results of the investigation following the Board's written determination, they are entitled to file a complaint with the federal government at the Office for Civil Rights, U.S. Department of Education, 500 W. Madison St. Suite 1475, Chicago, Illinois 60661, (312-730-1560). In addition, the Complainant may appeal directly to the State Superintendent if the Board has not provided written acknowledgment within ten (10) days of receipt of the complaint or made a determination within ninety (90) days of receipt of the written complaint. Appeals should be addressed to State Superintendent, Wisconsin Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin 53707-7841.

Step 2.B.

Within five (5) calendar days of receiving a Formal Complaint involving allegations of sexual harassment, the Title IX Coordinator shall determine whether the allegations set forth in the Formal Complaint meet the definition of sexual harassment under this policy and whether the alleged sexual harassment occurred in a education program or activity.

If it is determined the allegations do not meet the definition of sexual harassment under this policy or the alleged sexual harassment did not occur in a School education program or activity against a person in the United States, the Title IX Coordinator shall dismiss the complaint and no longer process it under Step 2.B.; however, the Title IX Coordinator shall address the allegations in accordance with other applicable School policies, which may require an investigation of the allegations and, if appropriate, disciplinary action.

The Title IX Coordinator shall be authorized to dismiss a Formal Complaint if the Complainant seeks to withdraw the complaint (provided permitting withdrawal of the Formal Complaint would not be clearly unreasonable in light of the known circumstances), the Respondent is no longer employed by the School or a pupil in the School, or if special circumstances prevent the School from gathering sufficient evidence to make a determination.

A Complainant's wishes with respect to whether a Formal Complaint is filed will be respected unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the Complainant is not clearly unreasonable in light of the known circumstances. Before filing Formal Complaint, the Title IX Coordinator shall consult

with School legal counsel regarding the reasonableness of the response, among other considerations.

When the Title IX Coordinator receives a Formal Complaint or signs a Formal Complaint, the School will follow its grievance procedure, as set forth herein. The School will undertake an objective evaluation of all relevant evidence and provide that credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.

If it is determined the allegations meet the definition of sexual harassment under this policy and occurred in a School education program or activity against a person in the United States, then within five (5) calendar days of such determination, the Title IX Coordinator shall contact the Complainant confidentially to discuss the Formal Complaint, the availability of supportive measures, and the School's grievance procedure and the availability of an informal resolution process, if applicable.

The following grievance procedure must be utilized prior to the imposition of any disciplinary sanctions or other actions against the Respondent that are not supportive measures.

Grievance Procedure

1. Selection of Investigator and Decision-Maker. Upon receipt of a Formal Complaint, the Title IX Coordinator shall select an investigator and a decision-maker. The Title IX Coordinator may serve in the role of investigator if s/he believes s/he may impartially and objectively investigate the allegations of the Formal Complaint. The decision-maker cannot be the same person(s) as the Title IX Coordinator or the investigator(s). The Title IX Coordinator has the discretion to designate the investigator and decision-maker as he or she deems appropriate based on the needs of the allegations described in the Formal Complaint. Possible designees include, but are not limited to, school level or school level administrators, legal counsel, and independent hearing officers.

2. Notice. Within ten (10) calendar days of receiving a Formal Complaint, the Complainant and Respondent shall be provided with written notice of this grievance process, including the informal resolution process. The parties shall also be provided with written notice of the allegations of sexual harassment five (5) calendar days prior to any initial interview to allow for sufficient time to prepare a response. Parties shall be provided advance written notice of the date, time, location, and purpose of any proceeding a party is required to attend.

The written notice of the allegations of sexual harassment must inform the parties of the following:

- a. Sufficient details regarding the alleged conduct, if known, including the identifies of the parties involved in the incident, the conduct alleged to constitute sexual harassment, and the date, time, and location of the alleged incident;
- b. That the Respondent is presumed not responsible for the alleged conduct and such determination is made at the conclusion of the grievance process;
- c. That the parties may each have an advisor of their choice, who may be, but is not required to be, an attorney;
- d. That the parties will be given an equal opportunity to inspect and review evidence obtained as a part of the investigation that is directly related to the allegations of sexual harassment; and
- e. The provision in the School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, the School decides to investigate allegations about the Complainant or Respondent that were not included in the original notice, the School shall provide notice of the additional allegations to the parties prior to investigating such allegations.

3. Representation. The Complainant and Respondent may each be accompanied by an advisor of their choice to any meeting or proceeding related to the grievance procedure. The advisor may be, but is not required to be, an attorney. The School may establish restrictions regarding the extent to which the advisor may participate in the proceedings. Such restrictions, if any, shall apply equally to both parties.

4. Delay or Extension of Timeframes. Grievance procedure timeframes may be temporarily delayed, and limited extensions may be granted, for good cause with written notice to the Complainant and Respondent detailing the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The Title IX Coordinator shall have sole discretion in determining whether good cause exists for delaying or extending the timelines set forth herein.

5. Investigation. The designated investigator shall commence the investigation as soon as practicable after providing the requisite notices to the parties. The investigation shall include: interviews with the Complainant; interviews with the Respondent; interviews with other relevant witnesses, as determined by the investigator; and consideration of all relevant documentation or other evidence.

Both parties will have an equal opportunity to submit evidence to the investigator. Evidence regarding the Complainant's sexual predisposition or prior sexual behavior is not relevant and will not be permitted, unless such evidence is offered to prove that someone other than the Respondent committed the alleged conduct or if the evidence concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is offered to prove consent.

To the extent that access to a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional are necessary in order to allow the School to conduct the investigation, the School shall request the voluntary, written consent from the parent, student, or employee to access such records.

The School shall not require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The investigator shall objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations shall not be based on a person's status as a Complainant, Respondent, or witness.

6. Investigative Report. The investigator shall draft an investigative report that fairly summarizes the relevant evidence. This investigative report shall be provided to the parties and their advisors, if any, at least ten (10) calendar days before a determination regarding responsibility is rendered. Prior to the investigator's completion of the investigative report, the investigator shall send the Complainant and Respondent, and their advisors, if any, copies of any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including inculpatory and exculpatory evidence and evidence the School intends to rely on in reaching a determination regarding responsibility. In sharing the evidence obtained during the investigation with the Complainant and Respondent, the School shall maintain the confidentiality of any pupil records to the extent required by law.

The parties shall have five (5) calendar days to inspect and review this evidence and submit a written response to the investigator, which the investigator will consider prior to completion of the investigative report. The completed report shall be provided to the decision-maker.

7. Exchange of Questions and Determination. Prior to the decision-maker making a determination regarding responsibility, the Complainant and Respondent may submit written, relevant questions to the decision-maker that they want asked of any party or witness within ten (10) calendar days of being sent the investigative report. After the decision-maker provides the written responses to the parties, each party has three (3) calendar days to submit additional, limited follow-up questions based on the provided answers. The ability of either party to submit further follow-up questions will be up to the discretion of the decision-maker.

Questions regarding the Complainant's sexual predisposition or prior sexual behavior are not relevant and will not be permitted, unless such questions are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. The decision-maker shall explain any decision to exclude a question as not relevant to the party proposing the question.

Within ten (10) calendar days of receiving answers to all written questions, the decision-maker shall review the investigative report and all other relevant materials and make a determination regarding responsibility, applying a preponderance of the evidence standard. The written determination must be provided to the parties simultaneously, within seventy (70) calendar days after the Formal Complaint is received.

The written determination must include the following:

- a. Identification of the allegations potentially constituting sexual harassment as defined by this policy;
- b. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of the School's code of conduct, Board policy, or Employee Handbook to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions being imposed on the Respondent, and whether the School shall provide any remedies designed to restore or preserve equal access to the School's education program or activity to the Complainant; and
- f. The School's procedures and permissible bases for the parties to appeal.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance procedure.

A substantiated charge against a student may result in corrective or disciplinary action up to and including expulsion. A substantiated charge against an employee shall result in disciplinary action up to and including termination. The decision-maker will recommend appropriate remedies including disciplinary sanctions/consequences. The discipline of student, employee, and third-party Respondents will be implemented in accordance with all applicable federal and state law and Board policy. Disciplinary consequences or sanctions shall not be initiated against the Respondent until the grievance process has been completed. Unless there is an immediate threat to the physical health or safety of any student arising from the allegation of sexual harassment that justifies removal, the Respondent's placement shall not be changed. If the Respondent is an employee, he/she may be placed on administrative leave or suspension during the pendency of the grievance procedure. The Title IX Coordinator is responsible for the effective implementation of any remedies.

If an appeal is filed, the determination becomes final on the date the School provides the parties with the written determination of the results of the appeal. If an appeal is not filed, the determination becomes final on the date on which an appeal would no longer be considered timely.

8. Supportive Measures. After a determination of responsibility is made, the Title IX Coordinator shall work with the Complainant to determine if further supportive measures are necessary. The Title IX Coordinator shall also determine whether any other actions are necessary to prevent reoccurrence of the sexual harassment.

Informal Resolution Process

If a Formal Complaint is filed, the Title IX Coordinator may offer to the parties access to an informal resolution process. If the parties voluntarily and mutually agree in writing to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination under the grievance procedure. The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

If the Title IX Coordinator is going to propose an informal resolution process, the Title IX Coordinator shall provide to the parties a written notice, including: (a) the allegations of the complaint; (b) the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same

allegations; and (c) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Under no circumstances shall a Complainant be required to waive any right to an investigation and determination of a Formal Complaint of sexual harassment. Likewise, no party shall be required to participate in an informal resolution process. Any time prior to agreeing to a resolution, any party may withdraw from the informal resolution process and continue through the grievance procedure with respect to the Formal Complaint.

During the pendency of informal resolution, the requisite investigation and determination processes and all related deadlines set forth herein, shall be suspended.

Informal resolution is not available with respect to: (a) allegations that an employee sexually harassed and student; and (b) allegations of sexual assault involving a student Complainant and student Respondent.

Step 3 - Appeals

Either party may appeal a determination of responsibility on the following grounds: (1) a procedural irregularity that affected the outcome; (2) new evidence that was not reasonably available at the time of the determination that could affect the outcome; (3) an alleged conflict of interest on the part of the Title IX Coordinator or any personnel chosen to facilitate the grievance procedure; or (4) the initial decision was substantively erroneous in that the facts did not adequately support the conclusion.

Appeals shall be submitted to the Title IX Coordinator within five (5) calendar days of a determination of responsibility.

The Title IX Coordinator shall select the Appeal Decision-Maker. The Appeal Decision-Maker shall not be an employee of the School. The Appeal Decision-Maker may be an employee of another school, a retired school administrator, a lawyer, a professional mediator/arbitrator, or other qualified individual. The cost of the Appeal Decision-Maker will be the responsibility of the School.

Upon receipt of an appeal, the Title IX Coordinator shall: (1) inform the decision-maker within five (5) calendar days of receipt of the appeal; and (2) notify the parties in writing.

During the appeal process, the parties shall have a reasonable, equal opportunity to submit written statements. Within ten (10) calendar days of notice of the appeal from the Title IX Coordinator, the Appeals Decision-Maker shall issue a written decision describing the result of the appeal and the rationale for the result. The written decision shall be provided simultaneously to both parties.

Confidentiality

The School will confidentially maintain the identity of any individual who has made a report under this policy, 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, any Respondent, and any witness, except as may be permitted by the Wisconsin Public Records Law, Wis. Stat. § 19.32, et seq., the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. 1232g, Wis. Stat. § 118.12, 34 CFR part 99, as required by law, or to carry out the purposes of 34 CFR part 106.

Training

The Title IX Coordinator, any investigator(s), decision-maker(s), or facilitator(s) shall receive training as to: (1) the definition of sexual harassment; (2) the scope of the School’s education program or activity; (3) how to conduct an investigation and implement the grievance process, appeals, and informal resolution processes; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

All employees shall be trained as to the obligation to report sexual harassment to the Title IX Coordinators. The training shall include how to identify and report sexual harassment. The School will make its training materials publicly available on its website.

Maintaining Documentation

The Title IX Coordinators shall be responsible for ensuring the creation and maintenance, for a period of seven (7) calendar years, documentation and records of all actions taken under this policy, including supportive measures, as well as documentation supporting each decision made hereunder.

Retaliation

Retaliation against any person who makes a report or complaint or assists, participates, or refuses to participate in any investigation of any act alleged in violation of this policy is prohibited. Retaliation may result in further disciplinary action, up to and including expulsion, in the case of a student, or termination of employment in the case of an employee. Complaints alleging retaliation may be filed in accordance with the procedures set forth herein.

Adopted 2/27/23

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