



Book	Policy Manual
Section	100 Programs
Title	TITLE CHANGE FROM: Nondiscrimination in School and Classroom Practices TO DISCRIMINATION/TITLE IX SEXUAL HARASSMENT AFFECTING STUDENTS
Code	103 - REVISED POLICY DRAFT (Revisions Reviewed by Solicitor)
Status	DRAFT - Under Construction
Adopted	June 24, 1981
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## **Authority**

The Board declares it to be the policy of the Spring Grove Area School District (Ddistrict) to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in these schools, without discrimination on the basis of age, race, color, creed, religion, sex, sexual orientation, gender, gender identity, ancestry, national origin, marital status, pregnancy, or handicap/disability.[1][2][3][4][5][6][7][8][9][10][11][12][13][14][15][16][17][18][19]

The Board also declares it to be the policy of this District to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the District may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The Ddistrict shall provide to all students, ~~without discrimination,~~ course offerings, counseling, assistance, ~~services,~~ employment, athletics and extracurricular activities ~~without any form of discrimination, including Title IX sexual harassment.~~ ~~The equitable distribution of district resources is one means the district shall use to ensure all students receive a quality education. The district shall make reasonable accommodations for identified physical and mental impairments that constitute handicaps and disabilities, consistent with the requirements of federal and state laws and regulations.~~ Discrimination is inconsistent with the rights of students and the educational and programmatic goals of the District and is prohibited at or, in the course of, District-sponsored programs or activities, including transportation to or from school or school-sponsored activities.

Violations of this policy, including acts of retaliation as described in this policy, or knowingly providing false information, may result in disciplinary consequences under applicable Board policy and procedures. [18][19][20][21]

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy and related attachments be posted to the District's website.

The Board requires a notice stating that the District does not discriminate in any manner, including Title IX sexual harassment, in any District education program or activity, to be issued to all students, parents/guardians, employment applicants, employees, and all unions or professional organizations holding collective bargaining agreements with the District. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Office and the Title IX Coordinator.

~~The Board encourages students, parents/guardians and third parties who believe they or others have been subject to discrimination to promptly report such incidents to designated employees.~~

~~The Board directs that verbal and written complaints of discrimination shall be investigated promptly, and corrective or preventative action be taken when allegations are substantiated. Confidentiality of all parties shall be maintained, consistent with the district's legal and investigative obligations.~~

~~The Board prohibits retaliation against any person for making a report of discrimination or participating in a related investigation or hearing, or opposing practices the person reasonably believes to be discriminatory. A complaint of retaliation shall be handled in the same manner as a complaint of discrimination.~~

#### Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages students and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination or retaliation to promptly report such incidents to the building principal, even if some elements of the related incident took place or originated away from school grounds, school activities, or school conveyances. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

The student's parents/guardian or any other person with knowledge of conduct that may violate this policy is encouraged to immediately report the matter to the building principal.

A school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building principal, as well as properly making any mandatory police or child protective services reports required by law.[22]

If the building principal is the subject of a complaint, the student, third party or a reporting employee shall report the incident directly to the Title IX Coordinator.

The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form (Attachment 1) attached to this policy for purposes of reporting an incident or

incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building principal shall promptly notify the Title IX Coordinator of all reports of discrimination, Title IX sexual harassment or retaliation. The Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator shall conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in Attachment 2 to this policy, or if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3, or other Board policies.

#### Disciplinary Procedures When Reports Allege Title IX Sexual Harassment

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints outlined in Attachment 3. The District shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process for formal complaints.[18][20][23]24]

When an emergency removal, as described in Attachment 3, is warranted to address an immediate threat to the physical health or safety of an individual, and it is not feasible to continue educational services remotely or in an alternative setting, the normal procedures for suspension and expulsion shall be conducted to accomplish the removal, including specific provisions to address a student with a disability where applicable.[18][19][20][23]

When an emergency removal is not required, disciplinary sanctions shall be considered in the course of the Title IX grievance process for formal complaints. Following the issuance of the written determination and any applicable appeal, any disciplinary action specified in the written determination or appeal decision shall be implemented in accordance with the normal procedures for suspensions, expulsions or other disciplinary actions, including specific provisions to address a student with a disability where applicable.

#### Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report and the investigation related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be maintained in accordance with applicable law, regulations, this policy, the attachments and the District's legal and investigative obligations.[25][26][27][28][29]

#### Retaliation

The Board prohibits retaliation by the District or any other person against any person for:[28]

Reporting or making a formal complaint of any form report of discrimination or retaliation, including Title IX sexual harassment.

Testifying, assisting, participating, or refusing to participate in a related investigation, process or other proceeding or hearing.

Acting in opposition to practices the person reasonably believes to be discriminatory. The District, its employees, and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Title IX Coordinator immediately if retaliation is believed to have occurred.

## **Definitions**

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

**Discriminatory harassment**, for the purposes of this policy, shall mean to treat individuals differently, or to harass or victimize based on a protected classification including is harassment by students, employees or third parties on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy, or handicap/disability, or for participation in reports or investigations of alleged discrimination is a form of discrimination and is subject to this policy. A person who is not necessarily an intended victim or target of such harassment but is adversely affected by the offensive conduct may file a report of discrimination on his/her own behalf.

**Harassment** is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related performance when such conduct is:

1. Sufficiently severe, persistent or pervasive; and
2. A reasonable person in the complainant's position would find that it creates an intimidating, threatening or abusive educational environment such that it deprives or adversely interferes with or limits an individual or group of the ability to participate in or benefit from the services, activities or opportunities offered by a school.

## **Definitions Related to Title IX Sexual Harassment**

Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the District investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator a party in the grievance process for formal complaints. The phrase "document filed by a complainant" refers to a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.[27][30]

Supportive measures shall mean nondisciplinary, nonpunitive 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.[30]

Supportive measures shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment. Supportive measures may include, but are not limited to:[30]

1. Counseling.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Mutual restrictions on contact between the parties.
5. Changes in work location.
6. Administrative leave or attendance accommodations.
7. Increased security.
8. Monitoring of certain areas of the school/District campus.
9. Assistance from domestic violence or rape crisis programs.
10. Assistance from community health resources including counseling resources.

Supportive measures may also include assessments or evaluations to determine eligibility for special education or related services, or the need to review an Individualized Education Program (IEP) or Section 504 Service Agreement based on student's behavior. This could include, but is not limited to, a manifestation determination or functional behavioral assessment (FBA), in accordance with applicable law, regulations or Board policy.[18][23][24][17][31]

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:[30]

A District employee conditioning the provision of an aid, benefit, or District service on an individual's participation in unwelcome sexual conduct, commonly referred to as quid pro quo harassment.

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a District education program or activity.

Sexual assault, dating violence, domestic violence or stalking.

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:[32]

1. Length of relationship.
2. Type of relationship.
3. Frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.[32]

Sexual assault means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.[33]

Stalking, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:[32]

1. Fear for their safety or the safety of others.
2. Suffer substantial emotional distress.

Such conduct must have taken place during a District education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An education program or activity includes the locations, events, or circumstances over which the District exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of a District's education programs or activities, whether such programs or activities occur on-campus or off-campus.[26][27][30]

### **Delegation of Responsibility**

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, ~~and for purposes of this policy,~~ the Board designates the Assistant Superintendent as the [District's Compliance Officer and Title IX Coordinator](#). [34]

The Compliance Officer/Title IX Coordinator can be contacted at:-

Address: [Educational Service Center, 100 East College Avenue, Spring Grove, PA 17362](#)

Email: [grovem@sgasd.org](mailto:grovem@sgasd.org)

Phone Number:  [\(717\) 225-4731, extension 3023](tel:(717)225-4731)

~~The Assistant Superintendent shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public. Non-discriminatory statements shall include the position, office address and telephone number of the Assistant Superintendent.~~

The Compliance Officer and Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications Assistant Superintendent is responsible to monitor the implementation of the District's non-discrimination procedures in the following areas, as appropriate:

1. Curriculum and Materials - Review current and proposed curriculum guides and textbooks and supplemental materials for discriminatory bias.
2. Training - ~~Provision of~~ Provide training for students and staff to identify and alleviate problems of discrimination.
3. Resources – Maintain and provide information to staff on resources available to complainants in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, available supportive measures such as assistance from domestic violence or rape crisis programs and community health resources including counseling resources.
4. Student Access - Review current and proposed programs, activities and practices to ensure that all students have equal access and are not segregated except as may be permitted by law and regulations.
5. District Support - ~~Assurance~~ Assure that like aspects of the school programs and activities receive like support as to staffing and compensation, facilities, equipment and related matters.[35]
6. Student Evaluation - Review of tests, procedures and guidance and counseling materials for stereotyping and discrimination.
7. Reports/Formal Complaints – Monitor and provide technical assistance to individuals involved in managing/informal reports and formal complaints.

~~The building administrator or designee shall be responsible to complete the following duties when receiving a complaint of discrimination:~~

- ~~1. Inform the complainant of the right to file a complaint and the complaint procedure.~~
- ~~2. Immediately notify the Assistant Superintendent of the complaint.~~
- ~~3. Inform the complainant that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure. When a parent/guardian requests confidentiality and will not consent to the alleged victim's participation in an investigation, explain that the school shall take all reasonable steps to investigate and respond to the complaint consistent with that request for confidentiality as long as doing so does not preclude the school from responding effectively to the discrimination and preventing discrimination of other students.~~
- ~~4. Notify the complainant and the accused of the progress at appropriate stages of the procedure.~~
- ~~5. Refer the complainant to the Assistant Superintendent if the building administrator is the subject of the complaint. When a parent/guardian has requested confidentiality and will not consent to the alleged victim's participation in an investigation, the Assistant Superintendent shall provide the parent/guardian with a letter containing information related to the district's legal obligations to conduct an investigation and address violations of this policy, and any other information appropriate to the specific complaint.~~
- ~~6. After consideration of the allegations, and in consultation with the Assistant Superintendent, promptly implement interim measures, as appropriate, to protect the complainant during the course of the investigations.~~

## **Guidelines**

## Title IX Sexual Harassment Training Requirements

The Compliance Officer and Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the following training, as required or appropriate to their specific role:

- Definition of sexual harassment.
- Scope of the District's education program or activity, as it pertains to what is subject to Title IX regulations.
- How to conduct an investigation and grievance process for formal complaints, including examination of evidence, drafting written determinations, handling appeals and informal resolution processes, as applicable.
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
- Use of relevant technology.
- Issues of relevance including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- Issues of relevance, weight of evidence and application of standard of proof and drafting investigative reports that fairly summarize relevant evidence.
- How to address complaints when the alleged conduct does not qualify as Title IX sexual harassment but could be addressed under another complaint process or Board policy.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the District's website.

### Disciplinary Consequences

A student who is determined to be responsible for violation of this policy shall be subject to appropriate disciplinary action consistent with the Code of Student Conduct, which may include but is not limited to:[18][19][20].

- Loss of school privileges
- Permanent transfer to another school building, classroom, or school bus
- Exclusion from school-sponsored activities
- Detention
- Suspension
- Expulsion
- Referral to law enforcement officials

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral of law enforcement officials.[21][36]

### Reports of Discrimination

Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability shall follow the Discrimination Complaint Procedures in Attachment 2 to this policy.

### Reports of Title IX Sexual Harassment

Any reports deemed by the Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Grievance Process for Formal Complaints in Attachment 3 to this policy.

~~When a student believes that s/he is being discriminated against, the student should immediately inform the discriminator that his/her behavior is unwelcome, offensive or inappropriate. If the unwelcome, offensive or inappropriate behavior continues, the student shall follow the established complaint procedure.~~

### Complaint Procedure — Student / Third Party

#### **Step One – Reporting**

~~A student or third party who believes s/he has been subject to conduct by any student, employee, or third party that constitutes a violation of this policy is encouraged to immediately report the incident to the building administrator or a district employee.~~

~~A district employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the building administrator as well as make any mandatory police or Child Line reports as required by law.~~

~~If the building administrator is the subject of a complaint, the student, third party or employee shall report the incident directly to the Assistant Superintendent.~~

~~The complainant or reporting employee is encouraged to use the report form available from the building administrator, but oral complaints shall be acceptable and shall be properly documented.~~

#### **Step Two – Investigation**

~~Upon receiving a complaint of discrimination, the building administrator shall notify the Assistant Superintendent, within two (2) business days of receipt of the complaint. The Assistant Superintendent shall authorize his/her designee to investigate the complaint, unless the designee is the subject of the complaint or is unable to conduct the investigation. The Assistant Superintendent shall ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination issues and this policy and how to conduct investigations.~~

~~The investigator shall conduct an adequate, reliable, and impartial investigation.~~

~~The investigation may consist of individual interviews with the complainant, the accused, and others with knowledge relative to the incident. The investigator may also evaluate any other information and materials relevant to the investigation. The complainant and the accused may suggest additional witnesses and provide other evidence during the course of the investigation.~~

~~If the investigation results in a determination that the conduct being investigated may involve a violation of criminal law, the building administrator shall inform law enforcement authorities about the incident.~~

~~The obligation to conduct this investigation shall not be negated by the fact that a criminal investigation of the incident is pending or has been concluded.~~

~~The parties shall be informed of the prohibition against retaliation and shall be instructed to keep the matter confidential.~~

### **Step Three — Investigative Report**

~~The designee shall prepare a written report to the Assistant Superintendent within fifteen (15) business days, unless additional time to complete the investigation is required. The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual and whether it is a violation of this policy, and a recommended disposition of the complaint.~~

~~The findings of the investigation, as well as the recommended disposition, shall be provided to the complainant, the accused, and the Assistant Superintendent, for example, whether the investigator believes the allegations to be founded or unfounded to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The accused shall not be notified of the individual remedies offered or provided to the complainant.~~

### **Step 4 — District Action**

~~If the investigation results in a finding that the complaint is factual and constitutes a violation of this policy, the district shall take prompt, corrective action to ensure that such conduct ceases and that no retaliation occurs. District staff shall document the corrective action taken, and where not prohibited by law, inform the complainant. The district shall promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the school environment.~~

~~Disciplinary actions shall be consistent with the Student Code of Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws.~~

### Appeal Procedure

- ~~1. If the complainant or the accused are not satisfied with a finding of no violation of the policy or with the corrective action recommended in the investigative report, s/he may submit a written appeal to the Assistant Superintendent within fifteen (15) business days. If the Assistant Superintendent investigated the complaint, such appeal shall be made to the Superintendent.~~

2. ~~The Assistant Superintendent shall review the investigation and the investigative report and may also conduct a reasonable investigation.~~
  3. ~~The Assistant Superintendent shall prepare a written response to the appeal within fifteen (15) business days. Copies of the response shall be provided to the complainant, the accused and the designee who conducted the initial investigation.~~
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## Legal

1. 20 U.S.C. 1681 et seq
2. 22 PA Code 12.1
3. 22 PA Code 12.4
4. 22 PA Code 15.1 et seq
5. 22 PA Code 4.4
6. 24 P.S. 1301
7. 24 P.S. 1310
8. 24 P.S. 1601-C et seq
9. 24 P.S. 5004
10. 29 U.S.C. 794
11. 42 U.S.C. 12101 et seq
12. 42 U.S.C. 1981 et seq
13. 42 U.S.C. 2000d et seq
14. 43 P.S. 951 et seq
15. Pol. 103.1
16. Pol. 218
17. Pol. 247
18. Pol. 249
19. U.S. Const. Amend. XIV, Equal Protection Clause
- 18 Pa. C.S.A. 2709
- 20 U.S.C. 1232g
- 34 CFR Part 99
- 28 CFR Part 35
- 28 CFR Part 41
- 29 CFR 1604.11
- 29 CFR 1606.8
- 34 CFR Part 100
- 34 CFR Part 104
- 34 CFR Part 106
- 34 CFR Part 110
- Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)
- Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)
- Office for Civil Rights - Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability

(Oct. 26, 2010)

Office for Civil Rights - Resources for Addressing Racial Harassment

Office for Civil Rights - Revised Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties Title IX (January 2001)

Pol. 113

Pol. 122

Pol. 123

Pol. 138

Pol. 216

Pol. 701

Pol. 806

Pol. 815