

POLICY PROHIBITING SEXUAL HARASSMENT

Sexual Harassment Prohibited

It is the policy of the Barrington Public Schools (“BPS”) to maintain an educational and work environment that is free from sexual harassment. This policy, which is adopted pursuant to Title IX of the Education Amendments of 1972 (“Title IX”) and 34 CFR § 106.45, prohibits sexual harassment of students and employees in connection with any BPS program or activity, whether on or off school grounds, including on school buses, at sports games, on field trips, and while attending or engaging in school-sponsored activities. This policy applies to virtual learning.

Definitions

Complainant – A student or employee who is alleged to be the victim of conduct that could constitute sexual harassment.

Respondent – A person who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A respondent can be another student, a teacher, an administrator, any other BPS employee, or a third party. Respondents will be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Sexual Harassment – Unwelcome conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the district on the complainant’s participation in unwelcome sexual conduct;
- Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a complainant equal access to the district’s education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking.

This policy is not intended to limit BPS’s authority to address conduct that does not fit the definition of sexual harassment, but that violates other district policy or the student code of conduct. For example, conduct that constitutes harassment based on a protected category other than sex, or unlawful discrimination, hazing, or bullying, or any other violation of the student code of conduct or BPS workplace rules, will be investigated and addressed under applicable BPS policy and law.

Title IX Coordinator

BPS shall designate an employee to serve as the Title IX Coordinator. The Title IX Coordinator is responsible for coordinating the district’s response to complaints of sexual

harassment. All questions regarding Title IX or this policy may be referred to the Title IX Coordinator or to the U.S. Department of Education's Assistant Secretary for Civil Rights, or both.

BPS shall maintain up-to-date information about the Title IX Coordinator, including their name, title, office address, and contact information, on the district's website and in student handbooks.

Reporting Sexual Harassment

Any person may report sexual harassment under this policy, without regard to whether the person making the report is the person alleged to have been the victim of the conduct. A minor student's parent or guardian (including the parent or guardian of a minor complainant, minor respondent, or minor third party) may act on their child's behalf at any point in the district's reporting, investigation, and grievance processes, provided that the child is under the age of eighteen (18) years.

Any employee who becomes aware of conduct that may violate this policy must immediately notify the Title IX Coordinator, without regard to whether there is a formal or written complaint and even if a complainant requests that the employee do nothing. ***An employee's failure to notify the Title IX Coordinator of conduct that may violate this policy is its own violation of this policy and will result in discipline.***

Where to report

Students may report sexual harassment to the Title IX Coordinator or to any trusted BPS employee, such as a teacher, principal, assistant principal, school nurse, guidance counselor or social worker, or coach. Employees must report sexual harassment directly to the Title IX Coordinator.

When to report

All complaints should be made as soon as possible. While there is no time limit for making a complaint, BPS encourages prompt reporting of complaints so that rapid and appropriate action may be taken.

How to report

Complaints of sexual harassment may be made orally or in writing. The contents of a complaint generally should include: (i) the name of the person making the report and the name of the alleged victim; (ii) the name of the alleged perpetrator; (iii) a description of the conduct, including the date, time, and location; (iv) the names of any witnesses; and (v) requested supportive measures, if any.

Initial Response to Allegations of Sexual Harassment

Once BPS is on notice of an allegation of conduct that may violate this policy, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures. The Title IX Coordinator will consider the complainant's requested supportive measures, if any.

The Title IX Coordinator will also explain the complainant's option to file a formal complaint, and the process for filing a formal complaint. The Title IX Coordinator will explain that BPS has a legal obligation to investigate the allegations in a formal complaint, and that even if a formal complaint is not filed, the district may still investigate the report under other applicable policy.

Supportive Measures

Regardless of whether a complainant chooses to file a formal complaint, BPS shall offer individualized services to the complainant, which shall be designed to restore or preserve equal access to the district's education program or activity, protect student and employee safety, and deter sexual harassment. Examples of supportive measures include, but are not limited to, counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, and other similar measures.

Formal Complaints

A formal complaint is a written document or electronic submission (such as an e-mail) that alleges sexual harassment against a respondent and requests that BPS investigate the allegation. A complainant can file a formal complaint with the Title IX Coordinator in person, by mail, or by email. The Title IX Coordinator can also sign a formal complaint on behalf of a complainant.

Formal complaints will be investigated and decided according to the procedures set forth below. These procedures are intended to ensure that all investigations and adjudications are:

1. Equitable. This means that both parties will have the same opportunities to present their side of the story to the investigator, to present evidence, and to be accompanied by a representative of the party's choosing.
2. Objective. This means that the investigator and decision-maker will be free from actual or perceived bias or conflict of interest. It also means that the investigator and decision-maker will consider both inculpatory and exculpatory evidence; that credibility determinations will not be based on a person's status as a complainant, respondent, or witness; and that the district will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, legally privileged information.

3. Prompt. Temporary delays will be permitted only for good cause (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).

BPS will dismiss a formal complaint if the conduct alleged in the formal complaint: (i) would not constitute sexual harassment even if proved; (ii) did not occur on school grounds or at a school-sponsored activity; or (iii) took place outside of the United States. BPS may also dismiss a formal complaint if the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint.

If BPS dismisses a formal complaint, all parties will be notified. A party may appeal the district's decision to dismiss a formal complaint by following the Appeals Process set forth below. The complaint may also be referred for investigation and possible disciplinary action pursuant to other applicable BPS policy. For example, conduct that does not fit the definition of sexual harassment under this policy may constitute another form of discrimination (which BPS will investigate pursuant to the Non-Discrimination Policy) or bullying (which BPS will investigate pursuant to the Bullying Policy).

Investigation and Adjudication of Formal Complaints

1. The Title IX Coordinator will provide written notice of the investigation to all parties. The notice will include, among other things, a copy of this policy and a sufficiently detailed description of the allegations. The notice will specify the identities of the parties involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident, if known.
2. The Title IX Coordinator will select an investigator. In some instances, the investigator may be an outside investigator.
3. The investigator will interview the complainant, the respondent, and any witnesses, and gather documents (including electronic data), as appropriate. Examples of evidence that the investigator may consider include emails, text messages, social media, photographs, videos, surveillance footage, and medical reports. The parties will be permitted to bring an advisor, such as a parent, guardian, union representative, counselor, or attorney, with them to the interview.
4. The investigator will offer both parties the opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. Both parties will have ten (10) days to submit a written response to the evidence.
5. The investigator will create an investigative report that fairly summarizes the relevant evidence and will send copies of the report to both parties (and their advisors, if any)

for their review and written response.

6. The investigator will provide a copy of the final investigative report and the parties' written responses (if any) to the Superintendent, who will act as the decision-maker. The Superintendent will offer each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. Superintendent will then provide each party with the answers and allow for additional, limited follow-up questions from each party.
7. The Superintendent will apply a preponderance of the evidence standard to determine whether the alleged sexual harassment occurred. The Superintendent will issue a written decision to both parties at the same time.

Option for Informal Resolution

Where appropriate in light of the nature of the allegations and facts involved, BPS may offer the parties the option to pursue an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. All parties must voluntarily agree to pursue informal resolution after receiving a full written disclosure of the allegations and their options for formal resolution. BPS will not offer an informal resolution process to resolve allegations that an employee sexually harassed a student.

Appeals Process

Either party may appeal from a decision to dismiss a formal complaint or from the Superintendent's determination of responsibility. The appealing party must submit their appeal, in writing, to the Chair of the Barrington School Committee within ten (10) days of receiving the notice of dismissal or determination of responsibility.

Appeals will only be allowed for the following reasons: (i) procedural irregularity that affected the outcome of the matter; (ii) new evidence that was not reasonably available at the time the determination of responsibility or dismissal was made, that could affect the outcome of the matter; or (iii) the Title IX Coordinator, investigator, or Superintendent had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Both parties will be notified of the appeal in writing and will have the opportunity to submit a written statement in support of or challenging the outcome. Appeals will be decided by the Committee. The outcome of the appeal will be in writing and issued to both parties at the same time.

Confidentiality

BPS will strive to maintain confidentiality throughout the investigatory process to the extent practical and appropriate under the circumstances. BPS may, however, have a legal

obligation to share information received during an investigation. For example, BPS is required to report known and suspected cases of child abuse to the Department of Children Youth and Families. BPS may also have an obligation to report known or suspected violations of the law to law enforcement.

Discipline

Any student or employee who is determined to have violated this policy will be subject to discipline in accordance with applicable policy and law. The range of disciplinary consequences that may be imposed on a student for violations of this policy includes, but is not limited to, removal from extracurricular activities or other school-sponsored events, removal from athletic activities, and suspension (in-school or out-of-school). The range of disciplinary consequences that may be imposed on an employee for violations of this policy includes, but is not limited to, verbal or written reprimand, referral to counseling, suspension without pay, and termination from employment.

Complaints to External Agencies

Nothing in this policy is intended to discourage a complainant from reporting acts of unlawful sexual harassment or sexual violence to local law enforcement. In the event a complainant chooses to file a report with local law enforcement in addition to filing a complaint with BPS under this policy, the district will conduct its own investigation, independent of any law enforcement investigation.

In addition, any individual who believes they have been subjected sexual harassment may file a formal complaint with:

The United States Department of Education
Office for Civil Rights ("OCR")
5 Post Office Square
Boston, MA 02109
(617) 289-0111

Retaliation and Malicious Reporting Prohibited

BPS prohibits retaliation against any individual who makes a report of sexual harassment or who cooperates in an investigation. Any student or employee who believes they have been subjected to retaliation is encouraged to report the retaliation to the Title IX Coordinator.

Any individual found to have retaliated against a student or employee for reporting sexual harassment or for cooperating in the investigation of a complaint is in violation of this policy and will be subject to disciplinary action.

Similarly, if an investigation results in a finding that an individual knowingly and falsely accused another person of sexual harassment, that individual will be subject to disciplinary action.

Employee Training and Requirement of Impartiality

BPS shall ensure that the Title IX Coordinator and any employee acting as an investigator, decision-maker, or person facilitating an informal resolution process is adequately trained and free from conflicts of interest and bias.

[Title IX of the Education Amendments of 1972]
[34 C.F.R. § 106.30 et seq.]

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