The Board declares it to be the policy of the Intermediate Unit to provide an equal opportunity for all students to achieve their maximum potential through the programs offered by the Intermediate Unit without discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.

The Intermediate Unit strives to maintain a safe, positive learning environment for all students that is free from discrimination. Discrimination is inconsistent with the educational and programmatic goals of the Intermediate Unit and is prohibited on Intermediate Unit or school grounds, at school-sponsored activities and on any conveyance providing transportation to or from a school entity or school-sponsored activity.

The Intermediate Unit shall provide programs and services to all eligible students without discrimination. The Intermediate Unit 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.

The Board encourages students and third parties who believe they or others have been subject to discrimination to promptly report such incidents to designated employees, even if some elements of the related incident took place or originated away from Intermediate Unit or school grounds, school activities or school conveyances.

The Board directs that verbal and written complaints of discrimination shall be investigated promptly, and appropriate corrective or preventative action be taken when allegations are substantiated. The Board directs that any complaint of discrimination brought pursuant to this policy shall also be reviewed for conduct which may not be proven discriminatory under this policy but merits review and possible action under other Board policies.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a complaint and the investigation shall be handled in accordance with this policy and the Intermediate Unit's legal and investigative obligations.

Retaliation

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.

Definitions

“Actual Knowledge” - means notice of sexual harassment or allegations of such to the T9C or any official of the recipient who has authority to institute corrective actions, or to any employee of an elementary and secondary school.

“Education program or activity” - includes locations, events, or circumstances over which the recipient exercised substantial control over the respondent and the context in which the sexual harassment occurs, and includes any building owned or controlled by a student organization that is officially recognized by a postsecondary
Discriminatory Harassment

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, handicap/disability or for participation in or attempting to participate in the education program or activity of the recipient. [28]

"Harassment" shall consist 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 and which relates to an individual’s or group’s race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability 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.

Sexual Harassment

1. Sexual harassment is a form of discrimination on the basis of sex and is subject to this policy. "Sexual harassment" shall consist of conduct that satisfies one or more of the following: An employee of the recipient conditioning the provision of an aid, benefit, or service of the DCIU on an individual’s participation in unwelcome sexual conduct;

2. 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 DCIU’s education program or activity; or

3. Sexual assault (defined in 20 USC 1092(f)(6)(A)(v)), dating violence (defined in 34 USC 12291(a)(10)), domestic violence (defined in 34 USC 12291(a)(8)), or stalking (defined in 34 USC 12291(a)(30)). [28]

"Supportive Measures" - means non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, and without fee, before or after the filing of a formal complaint. Such measures are designed to restore or preserve equal access to the recipient’s education program/activity without unreasonably burdening the other party. [28]

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Assistant Executive Director as the Intermediate Unit’s Compliance Officer. The Human Resources Director shall be its Title IX Coordinator. All nondiscrimination notices or information shall include the position, office address, telephone number and email address of the Compliance Officer and Title IX Coordinator.

The Compliance Officer, in conjunction with the Director of Human Resources, shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees, employee unions and professional organizations, and the public to notify them of where and how to initiate complaints under this policy.

The Compliance Officer is responsible to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the Intermediate Unit’s nondiscrimination procedures in the following areas:

2. Training - Provision of training for students and staff to prevent, identify, report and alleviate problems of discrimination.

3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the complaint procedure, such as making reports to the police, available assistance from domestic violence or rape crisis programs and community health resources including counseling resources.

4. Student Access - Review of programs, activities and services to ensure that all students have equal access and are not segregated except when permissible by law or regulation.

5. Support - Assurance that like aspects of the educational program receive like support as to staffing and compensation, facilities, equipment, and related areas.


7. Complaints - Monitor and provide technical assistance to building administrators and program supervisors in processing complaints.

The building administrator or program supervisor shall be responsible to promptly complete the following duties upon receipt of a report of discrimination or retaliation from a student, employee or third party:

1. If the building administrator or program supervisor is the subject of the complaint, refer the student to the Compliance Officer to carry out these responsibilities.

2. Inform the student or third party about this policy including the right to an investigation of both oral and written complaints of discrimination.

3. Obtain consent from parents/guardians to initiate an investigation where the complainant or alleged victim is under age eighteen (18). Inform parents/guardians and students who are complainants or accused of violating this policy that s/he may be accompanied by a parent/guardian during all steps of the complaint procedure.

4. Provide relevant information on resources available in addition to the complaint procedure, such as making reports to the police, available assistance from domestic violence or rape crisis programs and community health resources including counseling resources.

5. Immediately notify the Compliance Officer and Title IX Coordinator of the complaint. The Compliance Officer shall assess whether the investigation should be conducted by the building administrator or program supervisor, another Intermediate Unit employee, the Compliance Officer or an attorney and shall promptly assign the investigation to that individual.

6. After consideration of the allegations and in consultation with the Compliance Officer and other appropriate individuals, promptly implement interim supportive measures as appropriate to protect the complainant and others as necessary from violation of this policy during the course of the investigation.

Guidelines

Response to Title IX Sexual Harassment

General

When the DCIU receives Actual Knowledge, it must respond promptly and reasonably in light of the known circumstances. The response must treat complainants and respondents equitably by offering supportive measures to the complainant, and following the grievance process before imposing disciplinary sanctions or other actions that are not supportive measures, against the respondent. The Title IX Coordinator must promptly contact the complainant to discuss the supportive measures, consider complainant's wishes, inform the complainant of the availability of supportive measures with/without filing a formal complaint, and explain the process for filing a formal complaint. [28]

Formal Complaint / Grievance Procedure [28]

Step 1 – Reporting
A student or other 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 program supervisor. Any person with knowledge of conduct that may violate this policy, is encouraged to immediately report the matter to the building administrator or program supervisor.

An Intermediate Unit 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 or program supervisor, as well as properly making any mandatory police or child protective services reports required by law.[25]

If the building administrator or program supervisor is the subject of a complaint, the student, other party or employee shall report the incident directly to the Compliance Officer/Title IX Coordinator.

The complainant or reporting employee may be encouraged to use the Intermediate Unit’s report form, available from the building administrator or Compliance Officer, or to put the complaint in writing; however, oral complaints shall be accepted, documented and the procedures of this policy implemented. The person accepting the verbal or written complaint may provide factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the right to file criminal charges. In all other respects, the person accepting the complaint shall handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or those accused of a violation of this policy.

Supportive measures should be put in place where practicable. The respondent must be presumed to be not responsible until a determination is made.

Upon receipt of a formal complaint, the DCIU must give written notice of the allegations of sexual harassment and the DCIU’s grievance procedure to the complainant and the respondent. [28]

**Step 2 – Investigation**

Where an attorney is not used to conduct an investigation into a discrimination complaint, only unbiased individuals who have received basic training on the applicable law, this policy and how to conduct a proper investigation shall be authorized to conduct an investigation of a complaint made pursuant to this policy. The parties shall be treated equitably.

The investigator shall work with the Compliance Officer/Title IX Coordinator to assess the anticipated scope of the investigation, who needs to be interviewed and what records may be relevant to the investigation.

The investigator shall conduct an adequate, reliable and impartial investigation. The complainant and the respondent shall be provided the opportunity to present witnesses and other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from Intermediate Unit or school property, school-sponsored activities or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in school settings.

The investigation may consist of individual interviews with the complainant, the respondent, and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The investigator may obtain voluntary written consent from an employee, student, and or parents/guardians to obtain confidential records not otherwise available to the DCIU. [28] The person making the report, parties, parents/guardians and witnesses shall be informed of the prohibition against retaliation for anyone’s participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation shall be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator shall promptly notify the Compliance Officer, who shall promptly inform law enforcement authorities about the allegations.[25][26][27]

The obligation to conduct this investigation shall not be negated by the fact that a criminal or child protective services investigation of the incident is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a short delay in fulfilling the Intermediate Unit’s investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays shall not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation.
Step 3 – Investigative Report

The investigator shall prepare and submit a written report to the Compliance Officer within five working (5) days after the conclusion of the investigation. The parties shall be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The report shall include a summary of the investigation, a determination of whether the complaint has been substantiated as factual by a preponderance of the evidence, the information and evaluation that formed the basis for this determination, whether the conduct violated this policy and of any other violations of law or Board policy which may warrant further Intermediate Unit action, and a recommended disposition of the complaint. An investigation into discriminatory harassment or sexual harassment shall consider the record as a whole and the totality of circumstances in determining whether a violation of this policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

In matters under Title IX, prior to finalization, the findings of the investigation shall be provided to the complainant and the respondent. The parties shall have 10 calendar days to submit a response to be considered by the investigator before the report is finalized. After the report has been finalized, it will be provided to the complainant, respondent, and Compliance Officer/Title IX Coordinator. [28] In all other matters, the parties shall be informed of the outcome of the investigation, within a reasonable time of the submission of the written report. The respondent shall not be notified of the individual remedies offered or provided to the complainant.

Step 4 – Intermediate Unit Action

If the investigation results in a finding that some or all of the allegations of the complaint are established and constitute a violation of this policy, the Intermediate Unit shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The Intermediate Unit 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 or program environment. The Intermediate Unit staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. Corrective actions may include but need not be limited to supportive measures previously put in place.

If an investigation results in a finding that a different policy was violated separately from or in addition to violations of this policy, or that there are circumstances warranting further action, such matters shall be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary.

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

If it is determined that the conduct alleged in the formal complaint would not constitute sexual harassment, did not occur in the DCIU’s program or activity, or did not occur against a person in the United States, then the DCIU must dismiss the formal complaint. [28]

Appeal Procedure

1. The DCIU must offer both complainant and respondent an appeal from a dismissal or determination of responsibility, respectively, only on the following bases: (1) a procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available previously; and (3) the Title IX Coordinator or investigator had a conflict of interest or bias for or against complainants or respondents that affected the outcome. The DCIU shall notify the other party if an appeal is taken. [28]

2. The party wishing to take an appeal may submit a written appeal to the Compliance Officer within ten (10) working days. If the Compliance Officer investigated the complaint, such appeal shall be made to the Executive Director.

3. The individual receiving the appeal shall review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

4. The person handling the appeal shall prepare a written response to the appeal at the conclusion of the
review. Copies of the response shall be provided to the complainant, the respondent and the investigator who conducted the initial investigation. This shall be the final step in the process.

Record Retention

The DCIU must maintain for seven (7) years records of each sexual harassment investigation under this policy, including any finding, appeal, and Title IX training materials. [8]

Legal

1. 22 PA Code 12.1
2. 22 PA Code 12.4
3. 22 PA Code 15.1 et seq
4. 22 PA Code 4.4 5.
24 F.S. 1301-A 6. 24
P.S. 1310 7. 24 P.S.
5004
8. 20 U.S.C. 1681 et seq
9. 29 U.S.C. 794
10. 42 U.S.C. 12101 et seq
11. 42 U.S.C. 1981 et seq
12. 42 U.S.C. 2000d et seq
13. 43 P.S. 951 et seq 14.
Pol. 103.1
15. Pol. 218
16. Pol. 247
17. Pol. 249
20. 29 CFR 1606.8
23. Office for Civil Rights – Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties (January 2001)
24. 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)
25. Pol. 806
26. 18 Pa. C.S.A. 2709
27. Pol. 815
28. 24 P.S. 1301
28 CFR Part 35
28 CFR Part 41
34 CFR Part 100
34 CFR Part 104
34 CFR Part 106
34 CFR Part 110
Pol. 701