

# TURKEYFOOT VALLEY AREA SCHOOL DISTRICT

SECTION: PROGRAMS

TITLE : NONDISCRIMINATION/  
DISCRIMINATORY HARRASSMENT IN SCHOOL  
AND CLASSROOM PRACTICES

ADOPTED: OCTOBER 18, 2010

REVISED: OCTOBER 19, 2020

<p>1. Authority SC 1310 Title VI 42 U.S.C. Sec. 2000d et seq Title IX 20 U.S.C. Sec. 1681 42 U.S.C. Sec. 12101 et seq 29 U.S.C. Sec. 701 et seq Title 22 Sec. 4.4, 14.101 et seq, 15.1 et seq</p>	<p style="text-align: center;">103. NONDISCRIMINATION/ DISCRIMINATORY HARRASSMENT IN SCHOOL AND CLASSROOM PRACTICES</p> <p>The Board declares it to be the policy of this district to provide an equal opportunity for all students to achieve their maximum potential through the programs offered in the schools regardless of race, color, age, creed, religion, gender, sexual orientation, ancestry, national origin or handicap/disability.</p> <p>The district shall provide to all students, without discrimination, course offerings, counseling, assistance, employment, athletics and extracurricular activities. The district shall make reasonable accommodations for identified disabilities, consistent with the requirements of federal and state laws and regulations. The district does not discriminate on the basis of sex in the education programs or activities that it operates, as required by Title IX, including in admission and employment practices. Inquiries may be referred to the Title IX Coordinator, the Assistant Secretary of the U.S. Department of Education, or both.</p> <p>In accordance with Federal Civil Rights Law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.</p> <p>Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.</p> <p>To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to</p>
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USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by : (1) U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

The Board encourages students and third parties who have been subject to discrimination to promptly report such incidents to designated employees.

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

Neither reprisals nor retaliation shall occur as a result of good faith charges of discrimination.

2. Definitions

**Complainant** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment. A complainant can also be a witness to the conduct that could constitute sexual harassment.

**Decision-maker** – Those who make decisions and have sanctioning authority within the formal grievance process.

**Final Determination** – Conclusion by the standard of proof that the alleged conduct did or did not violate policy

**Finding** – The conclusion by the standard of proof that the conduct did or did not occur as alleged.

**Formal Complaint** – A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent; and requesting that the school investigate the allegation of sexual harassment.

**Grievance Process** – The method of formal resolution designated by the district to address conduct that falls within the policy and complies with Title IX regulations. It includes any investigators, decision-makers, hearing officers, appeal decision-makers, and any others that are deemed necessary as part of the grievance process.

**Investigator** – Those assigned by the district to gather facts about an alleged violation of the sexual harassment policy, assess relevance and credibility, organize evidence, and compile the information into an investigation report of directly related evidence.

**Respondent** – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Sanction** – A consequence imposed

**Sexual harassment** – A form of discrimination on the basis of sex which jeopardizes the equal access to education that Title XI is designed to protect: any instance of *qui pro quo* harassment by a school’s employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

**Supportive Measures** – Non-disciplinary, non-punitive 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.

**Title IX Coordinator** – The employee designated by the district to coordinate its efforts to comply with Title IX responsibilities.

**Title IX Team** – The personnel trained to receive, investigate, and make decisions on complaints to determine if actions violate this policy.

3. *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 Superintendent or designee as the district's Compliance Officer.

The Compliance Officer shall publish and disseminate this policy and complaint procedure at least annually to students, parents/guardians, employees and the public. Nondiscrimination statements shall include the position, office address and telephone number of the Compliance Officer.

The Compliance Officer is responsible to monitor the implementation of nondiscrimination procedures in the following areas:

1. Curriculum and Materials - Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. Training - Provision of training for students and staff to identify and alleviate problems of discrimination.
3. Student Access - Review of programs, activities and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.

<p>4. <i>Guidelines</i></p>	<p>4. District Support - Assurance that like aspects of the school program receive like support as to staffing and compensation, facilities, equipment, and related matters.</p> <p>Student Evaluation – Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.</p> <p>The Title IX Coordinator shall be responsible to complete the following duties when receiving a complaint of discrimination:</p> <ol style="list-style-type: none"> <li>1. Inform the student or third party of the right to file a complaint and the complaint procedure.</li> <li>2. Inform the complainant that s/he may be accompanied by a parent/ guardian during all steps of the complaint procedure.</li> <li>3. Notify the complainant and the accused of the progress at appropriate stages of the procedure.</li> <li>4. Refer the complainant to the Compliance Officer if the Title IX Coordinator is the subject of the complaint</li> </ol> <p><b><u>Title IX Team:</u></b>  Title IX Coordinator- School Guidance Counselor  Investigator – School Principal  Facilitators – Teachers  First-level Decision-maker – Business Manager  Appeal-level Decision maker – Superintendent</p> <p><b><u>Title IX Coordinator Contact Information:</u></b>  School Guidance Counselor  172 Turkeyfoot Road  Confluence, PA 15424  814-395-3621 ext 252  cook@turkeyfoot.k12.pa.us</p> <p><b><u>Step 1 – Reporting</u></b></p> <p>Any 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 matter to the Title IX Coordinator. Any person with knowledge of conduct which may violate this policy, is encouraged to immediately report the matter to the Title IX Coordinator.</p> <p>If the Title IX Coordinator is the subject of a complaint, the student or third party shall report the incident directly to the Compliance Officer. The complainant or reporting student may be encouraged to use the district’s report form, available from the Title IX Coordinator, 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</p>
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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.

Upon the receipt of a formal complaint, the school will provide the following written notice to the complainant and respondent(s) who are known:

- a. Notice of grievance process
- b. Notice of informal resolution process
- c. Notice of the allegations potentially constituting sexual harassment including sufficient details known at the time including: identities of the parties involved in the incident, the conduct allegedly constituting sexual harassment, the date, and location of the alleged incident.

### Step 2 – Investigation

Upon receiving a complaint of discrimination or sexual harassment, the Title IX Coordinator shall promptly contact the complainant then immediately notify the Compliance Officer. The Title IX Coordinator will discuss the availability of supportive measures with the complainant, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

Both the complainant and respondent will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The decision-maker will apply the preponderance of evidence standard, meaning that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not. The district shall be under the presumption that the respondent is not responsible for the conduct in the complaint until a determination regarding responsibility is made at the conclusion of the grievance process.

### Step 3 – Investigative Report

The Title IX Team shall prepare and submit a written report to the Title IX Coordinator within twenty (20) days of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation and the availability of witnesses requires the investigator and the Title IX Coordinator to establish a different due date. 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, the information and evaluation that formed the basis for this determination, whether the conduct violated this policy and any other violation of law or Board policy which may warrant further district 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.

The complainant and the respondent shall be informed of the outcome of the investigation, including the recommended disposition 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 – District 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 district shall take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. 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 or school program environment. District staff shall document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer shall follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If an investigation results in a finding that a different law or Board 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.

#### Discipline Measures

Discipline will be handled on a case by case basis. Disciplinary action will be based on the level of infraction.

Disciplinary actions shall be consistent with Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws.

## **Supportive Measures**

Supportive measures are designed to restore or preserve equal access to the school's educational program or activity without unreasonably burdening the other party.

Supportive measures may include: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work such as locations, leaves of absence, increased security, and monitoring of certain areas of the campus, and other similar measures.

## **Appeal Procedure**

1. If the complainant or the respondent is not satisfied with a finding made pursuant to the policy or with recommended corrective action, s/he may submit a written appeal to the Title IX Coordinator within fifteen (15) days. If the Title IX Coordinator investigated the complaint, such appeal shall be made to the Superintendent.
2. 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.
3. The person handling the appeal shall prepare a written response to the appeal within twenty (20) days. Copies of the response shall be provided to the complainant, the respondent, and the investigator who conducted the initial investigation.

## **Trainings**

The Title IX Coordinators, investigators, decision-makers, and facilitators receive training on the following:

- d. The definition of sexual harassment
- e. The scope of the school's education program or activity
- f. How to conduct an investigation and relevance of evidence
- g. The grievance process, including:
  - i. Hearings
  - ii. Appeals
  - iii. Informal resolution process
  - iv. How to serve impartially
- h. Training to serve impartially including by avoiding prejudgment of the facts at issue and conflicts of interest or bias
- i. For decision-makers, training to include:
  - i. Any technology to be used at a live hearing
  - ii. Issues of relevance of questions and evidence including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant as set forth in the Title IX guidance.

	<ul style="list-style-type: none"><li><a href="#">1. 20 U.S.C. 1681 et seq</a></li><li><a href="#">2. 29 U.S.C. 206</a></li><li><a href="#">3. 29 U.S.C. 621 et seq</a></li><li><a href="#">4. 29 U.S.C. 794</a></li><li><a href="#">5. 42 U.S.C. 12101 et seq</a></li><li><a href="#">6. 42 U.S.C. 1981 et seq</a></li><li><a href="#">7. 42 U.S.C. 2000e et seq</a></li><li><a href="#">8. 42 U.S.C. 2000ff et seq</a></li><li><a href="#">9. 43 P.S. 336.3</a></li><li><a href="#">10. 43 P.S. 951 et seq</a></li><li><a href="#">11. U.S. Const. Amend. XIV, Equal Protection Clause</a></li><li>12. Pol. 317</li><li>13. Pol. 806</li><li>14. Pol. 824</li><li><a href="#">15. 29 CFR 1604.11</a></li><li><a href="#">16. 29 CFR 1606.8</a></li><li><a href="#">17. EEOC Enforcement Guidance on Harris v. Forklift Sys., Inc., November 9, 1993</a></li><li><a href="#">18. EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999</a></li><li><a href="#">19. EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990</a></li><li><a href="#">16 PA Code 44.1 et seq</a></li><li><a href="#">28 CFR 35.140</a></li><li><a href="#">28 CFR Part 41</a></li><li><a href="#">29 CFR Parts 1600-1691</a></li></ul>
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