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**NON-DISCRIMINATION/TITLE IX SEXUAL HARASSMENT
AFFECTING STUDENTS
BOARD ADOPTED NOVEMBER 16, 2020**

**103 NON-DISCRIMINATION/TITLE IX
SEXUAL HARASSMENT AFFECTING STUDENTS**

A. AUTHORITY

1. The Board declares it to be the policy of this Intermediate Unit to provide an equal opportunity for all students to achieve their maximum potential through the programs and activities offered in the schools without discrimination on the basis of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, pregnancy or handicap/disability.
2. The Board also declares it to be the policy of this Intermediate Unit 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 Intermediate Unit may be referred to the Title IX Coordinator (Students), to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.
3. The Intermediate Unit is committed to the maintenance of a safe, positive learning environment for all students that is free from discrimination by providing all students course offerings, counseling, assistance, services, employment, athletics and extracurricular activities without any form of discrimination, including Title IX sexual harassment. Discrimination is inconsistent with the rights of students and the educational and programmatic goals of the Intermediate Unit and is prohibited at or, in the course of, Intermediate Unit-sponsored programs or activities, including transportation to or from school or school-sponsored activities.
4. The Board directs that the foregoing statement of Board policy be included in each student handbook, and that this policy be posted to the Intermediate Unit's website.
5. The Board requires a notice stating that the Intermediate Unit does not discriminate in any manner, including Title IX sexual harassment, in any Intermediate Unit education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the Intermediate Unit. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Officer (Students). and Title IX Coordinator (Students).

**B. REPORTS OF TITLE IX SEXUAL HARASSMENT AND OTHER
DISCRIMINATION AND RETALIATION**

1. 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 administrator or program supervisor, even if some elements of the related incident took

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- 37 place or originated away from school grounds, school activities or school conveyances. A person
38 who is not an intended victim or target of discrimination but is adversely affected by the offensive
39 conduct may file a report of discrimination.
- 40 2. The student's parents/guardians or any other person with knowledge of conduct that may violate
41 this policy is encouraged to immediately report the matter to the building administrator or program
42 supervisor.
- 43 3. A school employee who suspects or is notified that a student has been subject to conduct that
44 constitutes a violation of this policy shall immediately report the incident to the building
45 administrator or program supervisor, as well as properly making any mandatory police or child
46 protective services reports required by law.
- 47 4. If the building administrator or program supervisor is the subject of a complaint, the student, third
48 party or a reporting employee shall report the incident directly to the Title IX Coordinator
49 (Students).
- 50 5. The complainant or the individual making the report may use the Discrimination/Sexual
51 Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form for purposes of reporting
52 an incident or incidents in writing; however, verbal reports of an incident or incidents shall be
53 accepted, documented and CLIU procedures followed.
- 54 6. The building administrator or program supervisor shall promptly notify the Title IX Coordinator
55 (Students) of all reports of discrimination, Title IX sexual harassment or retaliation. The Title IX
56 Coordinator (Students) shall promptly contact the complainant regarding the report to gather
57 additional information as necessary, and to discuss the availability of supportive measures. The
58 Title IX Coordinator (Students) shall consider the complainant's wishes with respect to supportive
59 measures.
- 60 7. The Title IX Coordinator(Students) shall conduct an assessment to determine whether the reported
61 circumstances are most appropriately addressed through the Discrimination Complaint Procedures
62 prescribed, or if the reported circumstances meet the definition of Title IX sexual harassment and
63 are most appropriately addressed through the Title IX Sexual Harassment Procedures and Review
64 Process for Formal Complaints, or other Board policies.

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66 **C. DISCIPLINARY PROCEDURES WHEN REPORTS ALLEGE TITLE IX SEXUAL**
67 **HARASSMENT**

- 68 1. When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until
69 the completion of the review process for formal complaints. The Intermediate Unit shall presume
70 that the respondent is not responsible for the alleged conduct until a determination has been made
71 at the completion of the review process for formal complaints.

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- 73 2. When an emergency removal is warranted to address an immediate threat to the physical health or
74 safety of an individual, and it is not feasible to continue educational services remotely or in an
75 alternative setting, the normal procedures for suspension and expulsion shall be conducted to
76 accomplish the removal, including specific provisions to address a student with a disability where
77 applicable.
- 78 3. When an emergency removal is not required, disciplinary sanctions shall be considered in the
79 course of the Title IX review process for formal complaints. Following the issuance of the written
80 determination and any applicable appeal, any disciplinary action specified in the written
81 determination or appeal decision shall be implemented in accordance with the normal procedures
82 for suspensions, expulsions or other disciplinary actions, including specific provisions to address a
83 student with a disability where applicable.

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85 **D. CONFIDENTIALITY**

- 86 1. Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation
87 related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be
88 handled in accordance with applicable law, regulations, this policy, CLIU Procedures and the
89 Intermediate Unit's legal and investigative obligations.

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91 **E. RETALIATION**

- 92 1. The Board prohibits retaliation by the Intermediate Unit or any other person against any person for:
93 a. Reporting or making a formal complaint of any form of discrimination or retaliation, including
94 Title IX sexual harassment.
95 b. Testifying, assisting, participating or refusing to participate in a related investigation, process
96 or other proceeding or hearing.
- 97 2. The Intermediate Unit, its employees and others are prohibited from intimidating, threatening,
98 coercing, or discriminating against anyone for actions described above. Individuals are encouraged
99 to contact the Title IX Coordinator (Students) immediately if they believe retaliation has occurred.

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101 **F. DEFINITIONS**

- 102 1. Complainant shall mean an individual who is alleged to be the victim.
103 2. Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

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107 **G. DISCRIMINATION**

- 108 1. Discrimination shall mean to treat individuals differently, or to harass or victimize based on a
109 protected classification including race, color, age, creed, religion, sex, sexual orientation, ancestry,
110 national origin, marital status, pregnancy, or handicap/disability.
- 111 2. Harassment is a form of discrimination based on the protected classifications listed in this policy
112 consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts
113 including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-
114 downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that
115 may be harmful or humiliating or interfere with a person’s school or school-related performance
116 when such conduct is:
- 117 a. Sufficiently severe, persistent or pervasive; and
- 118 b. A reasonable person in the complainant’s position would find that it creates an intimidating,
119 threatening or abusive educational environment such that it deprives or adversely interferes
120 with or limits an individual or group of the ability to participate in or benefit from the services,
121 activities or opportunities offered by a school.

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123 **H. DEFINITIONS RELATED TO TITLE IX SEXUAL HARASSMENT**

- 124 1. Formal complaint shall mean a document filed by a complainant or signed by the Title IX
125 Coordinator (Students) alleging Title IX sexual harassment and requesting that the Intermediate
126 Unit investigate the allegation under the grievance process for formal complaints. The authority for
127 the Title IX Coordinator (Students) to sign a formal complaint does not make the Title IX
128 Coordinator (Students) a party in the grievance process for formal complaints. The phrase
129 “document filed by a complainant” refers to a document or electronic submission that contains the
130 complainant’s physical or digital signature, or otherwise indicates that the complainant is the person
131 filing the formal complaint.
- 132 2. Supportive measures shall mean nondisciplinary, nonpunitive individualized services offered as
133 appropriate, as reasonably available, and without fee or charge to the complainant or the respondent
134 before or after the filing of a formal complaint or where no formal complaint has been filed.
- 135
- 136 a. Supportive measures shall be designed to restore or preserve equal access to the educational
137 program or activity without unreasonably burdening the other party, including measures
138 designed to protect the safety of all parties or the educational environment, or to deter sexual
139 harassment. Supportive measures may include, but are not limited to:
- 140 i. Counseling.
- 141 ii. Extensions of deadlines or other course-related adjustments.

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- 142 iii. Modifications of work or class schedules.
- 143 iv. Campus escort services.
- 144 v. Mutual restrictions on contact between the parties.
- 145 vi. Changes in work or housing locations.
- 146 vii. Leaves of absence.
- 147 viii. Increased security.
- 148 ix. Monitoring of certain areas of the campus.
- 149 x. Assistance from domestic violence or rape crisis programs.
- 150 xi. Assistance from community health resources including counseling resources.
- 151 b. Supportive measures may also include assessments or evaluations to determine eligibility for
152 special education or related services, or the need to review an Individualized Education
153 Program (IEP) or Section 504 Service Agreement based on a student’s behavior. This could
154 include, but is not limited to, a manifestation determination or functional behavioral assessment
155 (FBA), in accordance with applicable law, regulations or Board policy.
- 156 3. Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the
157 following:
- 158 a. An Intermediate Unit employee conditioning the provision of an aid, benefit, or Intermediate
159 Unit service on an individual’s participation in unwelcome sexual conduct, commonly referred
160 to as *quid pro quo sexual harassment*.
- 161 b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and
162 objectively offensive that it effectively denies a person equal access to an Intermediate Unit
163 education program or activity.
- 164 c. Sexual assault, dating violence, domestic violence or stalking.
- 165 i. *Dating violence* means violence committed by a person who is or has been in a social
166 relationship of a romantic or intimate nature with the victim and where the existence of
167 such a relationship is determined by the following factors:
- 168 – Length of relationship.
- 169 – Type of relationship.
- 170 – Frequency of interaction between the persons involved in the relationship.
- 171 ii. *Domestic violence* includes felony or misdemeanor crimes of violence committed by a
172 current or former spouse or intimate partner of the victim, by a person with whom the
173 victim shares a child in common, by a person who is cohabitating with or has cohabitated

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- 174 with the victim as a spouse or intimate partner, by a person similarly situated to a spouse
175 of the victim under the domestic or family violence laws of the jurisdiction receiving
176 federal funding, or by any other person against an adult or youth victim who is protected
177 from that person's acts under the domestic or family violence laws of the jurisdiction.
- 178 iii. *Sexual assault* means a sexual offense under state or federal law that is classified as a
179 forcible or nonforcible sex offense under the uniform crime reporting system of the Federal
180 Bureau of Investigation.
- 181 iv. *Stalking*, under Title IX means stalking on the basis of sex, for example when the stalker
182 desires to date a victim. Stalking means to engage in a course of conduct directed at a
183 specific person that would cause a reasonable person to either:
- 184 – Fear for their safety or the safety of others.
 - 185 – Suffer substantial emotional distress.
- 186 d. Such conduct must have taken place during an Intermediate Unit education program or activity
187 and against a person in the United States to qualify as sexual harassment under Title IX. An
188 education program or activity includes the locations, events or circumstances over which the
189 Intermediate Unit exercises substantial control over both the respondent and the context in
190 which the harassment occurs. Title IX applies to all of an Intermediate Unit's education
191 programs or activities, whether such programs or activities occur on-campus or off-campus.

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193 **I. DELEGATION OF RESPONSIBILITY**

- 194 1. In order to maintain a program of nondiscrimination practices that is in compliance with applicable
195 laws and regulations, the Board designates the Director of Special Programs and Services to fulfill
196 the roles of Compliance Officer (Students) and Title IX Coordinator (Students).
- 197 2. The Compliance Officer (Students) and Title IX Coordinator (Students) shall fulfill designated
198 responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new
199 procedures or modifications to procedures and to monitor the implementation of the Intermediate
200 Unit's nondiscrimination procedures in the following areas, as appropriate:
- 201 a. Review - Review of personnel practices and actions for discriminatory bias and compliance
202 with laws against discrimination to include monitoring and recommending corrective measures
203 when appropriate to written position qualifications, job descriptions and essential job functions;
204 recruitment materials and practices; procedures for screening applicants; application and
205 interviewing practices for hiring and promotions; Intermediate Unit designed performance
206 evaluations; review of planned employee demotions, non-renewal of contracts, and proposed
207 employee disciplinary actions up to and including termination.
 - 208 b. Training - Provide training for supervisors and staff to prevent, identify and alleviate problems

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- 209 of employment discrimination.
- 210 c. Resources - Maintain and provide information to staff on resources available to alleged victims
- 211 in addition to the school complaint procedure or Title IX procedures, such as making reports
- 212 to the police, available supportive measures such as assistance from domestic violence or rape
- 213 crisis programs, and community health resources including counseling resources.
- 214 d. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved
- 215 in managing informal reports and formal complaints.

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217 **J. TITLE IX SEXUAL HARASSMENT TRAINING REQUIREMENTS**

- 218 1. The Compliance Officer (Students) and Title IX Coordinator (Students), investigator(s) (Students)
- 219 , decision-maker(s) (Students), or any individual designated to facilitate an informal resolution
- 220 process related to Title IX sexual harassment shall receive the following training, as required or
- 221 appropriate to their specific role:
- 222 a. Definition of sexual harassment.
- 223 b. Scope of the Intermediate Unit's education program or activity, as it pertains to what is subject
- 224 to Title IX regulations.
- 225 c. How to conduct an investigation and grievance process for formal complaints, including
- 226 examination of evidence, drafting written determinations, handling appeals and informal
- 227 resolution processes, as applicable.
- 228 d. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of
- 229 interest and bias.
- 230 e. Use of relevant technology.
- 231 f. Issues of relevance including when questions and evidence about the complainant's sexual
- 232 predisposition or prior sexual behavior are not relevant.
- 233 g. Issues of relevance, weight of evidence and application of standard of proof and drafting
- 234 investigative reports that fairly summarize relevant evidence.
- 235 h. How to address complaints when the alleged conduct does not qualify as Title IX sexual
- 236 harassment but could be addressed under another complaint process or Board policy.
- 237 i. All training materials shall promote impartial investigations and adjudications of formal
- 238 complaints of Title IX sexual harassment without relying on sex stereotypes.
- 239 j. All training materials shall be posted on the Intermediate Unit's website.

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242 **K. DISCIPLINARY CONSEQUENCES**

- 243 1. A student who is determined to be responsible for violation of this policy shall be subject to
244 appropriate disciplinary action consistent with the Code of Student Conduct, which may include
245 but is not limited to:
- 246 a. Loss of school privileges.
 - 247 b. Permanent transfer to another school building, classroom or school bus.
 - 248 c. Exclusion from school-sponsored activities.
 - 249 d. Detention.
 - 250 e. Suspension.
 - 251 f. Expulsion.
 - 252 g. Referral to law enforcement officials.

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254 **L. REPORTS OF DISCRIMINATION**

- 255 1. Any reports of discrimination that are reviewed by the Title IX Coordinator (Students) and do not
256 meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion,
257 sex, sexual orientation, ancestry, genetic information, national origin, marital status, pregnancy or
258 handicap/disability shall follow the Intermediate Unit's Complaint Procedures established by the
259 Title IX Coordinator (Students).

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261 **M. REPORTS OF TITLE IX SEXUAL HARASSMENT**

- 262 1. Any reports deemed by the Title IX Coordinator (Students) to meet the definition of sexual
263 harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Review
264 Process established by the Title IX Coordinator (Students).