

Title IX 2020 Board Policy Supplement

SunBridge Schools

Adopted 9/29/2020

Effective August 14, 2020, the U.S. Department of Education has promulgated new policies applicable to SunBridge. In light of SunBridge's requirement to comply with these new regulations, SunBridge School's Board of Director adopts the following Supplement. In the event that this Supplement conflicts with any provision of an existing Board policy, including but not limited to the School's Title IX Policy, or its Anti-harassment, Intimidation and Bullying Policy, this Supplement will control.

A. Nondiscrimination policy statements regarding sex discrimination under Title IX, including express identification of the Title IX Coordinator:

It is the policy of SunBridge Schools ("District") that no person shall, on the basis of race, age, sex, color, religion, national origin, immigrant status, English speaking status, veteran status, disability, or other legally protected status, be denied the opportunities and benefits of, or be subjected to unlawful discrimination in, any education program or activity operated by the District. In addition, no person shall, on any of these bases, be excluded from participation in, denied the benefits of, or subjected to discrimination in employment, or recruitment, or consideration, or selection, therefore, whether full-time or part-time, under any educational program or activity. The District shall make reasonable accommodations for qualified individuals with disabilities upon request.

Discrimination on the basis of sex includes sexual harassment. In accordance with Title IX of the Education Amendments of 1972, the District prohibits and will not tolerate sexual harassment against its employees, students, and other persons. The District has designated a Title IX Coordinator to receive and respond to inquiries and complaints regarding sex-based discrimination, including sexual harassment.

Employees, students, parents, and other persons may contact the following individuals with any questions or concerns about, or to make a report or file a complaint regarding, discrimination, harassment (including sexual harassment) or retaliation:

Title IX Coordinator and Contact information:

Ann Sommers - asommers@sunbridgeschools.org

B. Grievance procedure for receiving and responding to complaints of sex discrimination under Title IX.

PURPOSE: The purpose of these procedures is to secure, at the lowest possible level, prompt and equitable resolutions of complaints based on sex discrimination, including complaints of

sexual harassment or sexual violence, in violation of Title IX of the Education Amendments of 1972 ("Title IX"), and violation of SunBridge Schools ("District") policies that prohibit these types of discrimination. These procedures apply only to complaints alleging discrimination prohibited Title IX (including sexual harassment and sexual violence).

These procedures shall be available in every school site administrative office, posted on the District website, and included in student handbooks.

I. DEFINITIONS:

A. "Complainant" - A complainant is a student or employee of the District who submits a complaint alleging discriminatory action or treatment prohibited by Title IX, including acts of sexual harassment or sexual violence.

B. "Respondent" - the person, employees, other students, or third parties, alleged to be responsible for the prohibited conduct alleged in a complaint.

C. "Day" - The calculation of days in complaint processing, except as otherwise expressly provided, shall exclude Saturdays, Sundays, and federal, state and school holidays or closures.

D. "Title IX" of the Educational Amendments of 1972 - No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Sex discrimination under Title IX includes sexual harassment and sexual violence.

E. "Sexual Harassment" – Conduct occurring between any persons, including members of the same sex, that:

1. is sexual in nature;
2. is unwelcome; and
3. denies or limits a student's ability to participate in or benefit from a school's education program.

Sexual Harassment may include acts of sexual violence. Sexual Harassment is a form of sex discrimination prohibited by Title IX.

F. "Sexual Violence" - Physical sexual acts occurring between any persons, including members of the same sex, perpetrated by against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

G. "Complaint Submission Date" - the date on which a written complaint was received by the Responsible Administrator.

H. "Responsible Administrator" - The Title IX Coordinator, the authorized designee of this individual, or the administrator designated by the Superintendent, as appropriate.

I. "Neutral and objective investigator/administrator" - an administrator or designated investigator who is not the subject of a complaint or is not a Complainant.

II. PROCEDURAL REQUIREMENTS.

A. Time Limits.

A complaint under this procedure should be filed as soon as possible after the time of occurrence and within 180 days of the alleged violation(s) of Title IX. Failure of a complainant or appellant to comply with any time limitation in the complaint procedure may result in dismissal of the complaint and/or denial of the appeal. Dismissal shall not preclude the individual's right to pursue the complaint through other appropriate external agencies. If the District representative fails to comply with any time limitation in the complaint procedure, the Complainant may immediately proceed to the next level permitted by these Procedures.

B. Service.

Service of any notice or decision provided for under this procedure shall be deemed effective on the person served as of the date of delivery, if personally served, faxed or emailed, or effective three (3) calendar days of deposit by first class mail if delivered by mail.

C. Confidentiality.

1. Confidentiality will be maintained to the greatest extent possible. Any information gathered during an informal procedure may be used during a formal procedure, if initiated. While there can be no assurance of complete confidentiality, complaints under this procedure will be treated as sensitive information not to be shared with others except in limited circumstances. Examples of exceptions to maintaining confidentiality include:

- information the law requires to be reported.
- information imparted to others in supervisory positions in order to further an investigation or halt a discriminatory practice.
- information given to the respondent in order to have sufficient information to respond to the allegations.

2. The District will take all reasonable steps to investigate and respond to a complaint consistent with a request by the complaining party not to disclose his/her name. However, such requests for confidentiality may limit the District's ability to adequately investigate and respond to the allegations raised in the complaint.

3. Requests for confidentiality, therefore, will be evaluated in the context of the District's responsibility to provide a safe and nondiscriminatory environment for all students, and the request will be weighed against whatever factors the District deems relevant, including, without limitation:

- the complainant's age;
- circumstances that suggest there is an increased risk of future acts of harassment and/or sexual violence under similar circumstances; and
- whether the District possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

4. All parties to a grievance, including the Complainant, Respondent and witnesses, have privacy interests and, therefore, all parties should be cautioned not to divulge or publicize the nature of the proceedings or the identity of those involved outside the scope of the investigation.

III. INFORMAL AND FORMAL PROCESSES.

A. INFORMAL RESOLUTION PROCESS:

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process, and the informal resolution process shall not be considered a precondition for the filing of a formal written complaint pursuant to Section III.B., below.

1. A written request for informal resolution must be made within ten (10) days of the date of the alleged incident. The school principal or designee shall determine whether the nature of the problem is such that it is likely to be resolved by agreement on an informal basis.
2. Methods for informal resolution may include, but are not limited to, coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; developing written behavior expectations of the alleged offender to redirect conduct; assisting with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the sex discrimination and sexual harassment policies and requirements for compliance.
3. The principal or designee shall document any informal resolution, and a copy of such documentation shall be forwarded to the Title IX Coordinator within three (3) days of resolution.

B. FORMAL COMPLAINT PROCEDURES:

Initiation of the formal complaint procedures requires a written complaint. All written complaints regarding harassment or discrimination of students or employees in violation of Title IX shall be submitted to:

Name and contact information:

[Ann Sommers –asommers@sunbridgeschools.org](mailto:asommers@sunbridgeschools.org)

Step 1 - Reporting Complaints.

(a) The Complainant may obtain a Complaint Form from the Title IX Coordinator, school principal, or the District website. A complaint form also may be copied from a student handbook. The Complainant may attach a written narrative explaining the nature of the complaint to the Form. The Complaint Form or narrative shall contain information that describes the conduct that has violated prohibitions against sex discrimination, including sexual harassment and sexual violence, and identify with reasonable particularity the respondent(s) and any witnesses to the alleged conduct.

(b) Any District employee who either reasonably believes a student has been discriminated against based on sex or who receives a complaint of sex discrimination, harassment or violence from a student must immediately submit the Complaint Form to the Responsible Administrator. This reporting obligation is in addition to a school employee's reporting obligations to appropriate officials pursuant to law and the District Child Abuse or Neglect Reporting Guidelines when the employee has a reasonable belief that a student is being sexually abused or subjected to other forms of abuse and neglect prohibited by law.

(c) If the Complainant is unwilling or unable to provide a written statement including the information set forth above, the Responsible Administrator shall ask for such details in an oral interview. In the event the Complainant is a student with disabilities, the Responsible Administrator will carefully review the reporting student's IEP or 504 plan to determine what specific accommodations that child should have to aid in their reporting.

Step 2 - Determining Applicability of the Procedures.

The Responsible Administrator shall initially review the written complaint to determine whether the matter falls within the scope of these procedures. Within five (5) days after the Complaint Submission Date, the Responsible Administrator shall initiate an investigation of the matters alleged, or inform the Complainant in writing that the matters alleged in the complaint are not within the jurisdiction or authority of the District to investigate and that the District will not carry out any further investigation. If the matter does not involve allegations of discrimination within the scope of these procedures, the Responsible Administrator shall forward the matter to the proper District administrative authority for review, if appropriate.

Step 3 - Investigation.

(a) The Responsible Administrator shall oversee that an adequate, reliable and impartial investigation of the complaint is conducted by the principal or designee of the school site where the student is enrolled, the employee is assigned, and/or where the alleged discrimination occurred.

(b) In order to provide a neutral and objective investigation, neither the Responsible Administrator, nor the principal or designee conducting the investigation shall be a party to the complaint in the investigation.

(c) In the event that the principal or his/her designee is not a neutral party, the Responsible Administrator shall designate a neutral and objective administrator to conduct the investigation.

In the event that the Responsible Administrator is not a neutral party, the Superintendent shall designate a neutral and objective administrator to oversee the investigation.

(d) In conducting the investigation, the designated investigator shall interview all parties identified in the complaint and other witnesses that the investigator determines may provide information relevant to resolving the complaint allegation(s). Both the Complainant and Respondent shall have the opportunity to identify witnesses to be interviewed and provide documentation or other evidence for the designated investigator to review.

(e) The Responsible Administrator shall consider the evidence compiled by the designated investigator and take whatever additional actions the Responsible Administrator deems necessary to complete the investigation.

(f) The Responsible Administrator will maintain documentation of all proceedings, which may include written findings of facts, transcripts, notes, or audio recordings.

Step 4 - Notice of Resolution.

(a) Notice. The Responsible Administrator shall notify both the Complainant and Respondent in writing within thirty (30) days from the Complaint Submission Date of the results of the investigation.

(b) Written Determination. The Responsible Administrator shall consider the totality of the evidence and determine whether the preponderance of the evidence establishes that the alleged discrimination occurred (i.e., it is more likely than not that discrimination/sexual harassment/sexual violence occurred).

(i) If the Responsible Administrator determines that the preponderance of the evidence does not support the allegations of discrimination, the Complainant may appeal the determination pursuant to Step 5, below.

(ii) If the Responsible Administrator determines that the preponderance of the evidence supports the allegations of discrimination by the Respondent, the Responsible Administrator shall provide written findings and conclusions supporting the determination. In addition, the written determination shall make recommendations for (A) immediately ending the discriminatory conduct; (B) ways to remedy the discriminatory effects of any discriminatory behavior on the complaining party and, if applicable, the District's educational environment, and

(C) the steps to be taken to prevent the recurrence of any discriminatory or harassing conduct found to have occurred. The recommendations of the Responsible Administrator shall become final and shall be implemented unless either party appeals as provided in Step 5 - Appeal Rights.

Step 5 - Appeal Rights.

(a) A party not satisfied with the resolution in Step 4, above, may submit a written appeal within five (5) days to the Superintendent. The written appeal shall state with particularity the nature of the disagreement, the reasons underlying such disagreement, and how the outcome would be changed by reconsideration of the determination.

(b) The Superintendent or designee shall conduct a review of the record to determine whether the preponderance of the evidence supports the determination. The Superintendent or designee shall issue a written decision and mail it to the parties within ten (10) days of the receipt of the appeal. The Superintendent's decision is a final decision.

Step 6 - Complaints to an External Agency.

If a party is not satisfied with the Superintendent's decision in Step 5, above, the party may file a complaint with the US Department of Education's Office of Civil Rights ("OCR").

IV. DISCIPLINE.

Employees and students may be disciplined if it is determined through this procedure that discriminatory action, treatment, harassment or retaliation for complaining, has occurred in violation of federal or state laws or District policies. The Responsible Administrator shall refer the matter to the appropriate District administrator to initiate disciplinary proceedings against the Respondent.

A. Students. If the recommended disciplinary consequences involve either a long-term suspension or expulsion, the student is entitled to pursue the hearing and appeal rights pursuant to District Policy.

B. Employees. If the disciplinary consequence involves suspension or termination, the employee's hearing and appeal rights will be governed by Ohio law and District policies.

V. NO RETALIATION.

A. Students, employees or parents who make complaints in good faith, shall be free from retaliation, coercion, and reprisal in seeking resolution of their complaint. Furthermore, persons acting as witnesses to a complaint, in good faith, shall be free from reprisal.

B. Retaliation is a separate violation distinct from the initial underlying harassment or discrimination allegation. Claims of retaliation, submitted in good faith and in writing to the Responsible Administrator, shall be investigated pursuant to these procedures. Individuals who engage in retaliation will be subject to discipline, regardless of whether there has been a finding of cause for the underlying complaint.

VI. FALSE COMPLAINTS.

A. Individuals who knowingly file a false or misleading complaint alleging harassment, discrimination or retaliation are subject to appropriate disciplinary action, including, but not limited to, dismissal of the complaint.

B. If the preponderance of the evidence supports a finding that the Complainant submitted a false or misleading complaint alleging harassment, discrimination or retaliation, the complaint will be dismissed.

VII. RELATIONSHIP OF THESE PROCEDURES AND TIMELINES TO LAW ENFORCEMENT ACTIVITIES.

A. Nothing in these Procedures should in any way be deemed to discourage the Complainant from reporting acts subject to these Procedures, including acts of sexual violence, to local law enforcement. In the event that the Complainant files a criminal complaint, the Responsible Administrator should not wait for the conclusion of a criminal investigation or criminal proceeding to begin the District's own Title IX investigation.

B. Although the District may need to delay temporarily the fact-finding portion of a Title IX investigation while local law enforcement officials are gathering evidence, it is important for the Responsible Administrator to understand that during this brief delay in the Title IX investigation, the District must take interim measures to protect the Complainant in the educational setting. The District should also continue to update the parties on the status of the investigation and inform the parties when the District resumes its Title IX investigation

VIII. INTERIM MEASURES PENDING FINAL DETERMINATION OF THE COMPLAINT.

A. The District take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The District should take these steps promptly once it has notice of a sexual harassment or sexual violence allegation and should provide the complainant with periodic updates on the status of the investigation. The Responsible Administrator should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities as appropriate. The Responsible Administrator should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to local law enforcement.

B. The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Responsible Administrator should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the class, transportation, or extra-curricular activities; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).

C. District response when the district has actual knowledge of an incident or allegation of sexual harassment under Title IX—regardless of whether or not a formal complaint is filed.

Any school or district, including SunBridge Schools, with actual knowledge of sexual harassment in an education program or activity of the district against a person in the U.S. must respond promptly in a manner that is not deliberately indifferent and SunBridge will comply with this requirement.

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to: (1) the district’s Title IX Coordinator; (2) any official of the district who has authority to institute corrective measures on behalf of the district; or (3) any employee of the district.

Anyone (victim, friend, parent, guardian, witness, other individual) may report sexual harassment.

D. A grievance process for addressing formal complaints of sexual harassment under Title IX.

SunBridge schools will utilize the Procedure set forth in Paragraph B for all complaints of sexual harassment.

F. Mandatory Training

1. The individuals designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process must receive training on the following:

- The definition of sexual harassment in § 106.30;
- The scope of the District’s education program or activity;
- How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

2. Investigators must receive training on issues of relevance in connection with the investigator’s duty to create an investigative report that fairly summarizes relevant evidence.

3. Decision-makers must receive training on 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. If live hearings are used/permitted under the local grievance process, decision-makers must also receive training on any technology to be used at any live hearing.

4. Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

5. The district will maintain for seven years all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

6. The district will make these training materials publicly available on its website.

G. Required Notices, Recordkeeping, Confidentiality, and Non-retaliation

A. Required Notices.

1. SunBridge Schools will notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District of all of the following:

- a. The name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.
- b. That the District does not discriminate on the basis of sex in the education program or activity that it operates, and that the District is required by Title IX and Part 106 of Title 34 of the Code of Federal Regulations not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX and Part 106 to the District may be referred to the District's Title IX Coordinator, to the Assistant Secretary at the U.S. Department of Education, or both.
- c. The District's Title IX grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the District will respond.

2. In addition, each District must prominently display the contact information for the Title IX Coordinator (as identified above) and the district's Title IX nondiscrimination policy on its website, if any, and in each handbook or catalog that it makes available to the persons who are entitled to receive the notifications listed above.

B. Retaliation.

1. Under the Title IX regulations, no District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or the Title IX regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the regulations.

a. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or the Title IX regulations, constitutes retaliation.

b. The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

c. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited under paragraph (a) of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

2. Complaints alleging retaliation may be filed according to the grievance procedure for general sex discrimination claims that the District has adopted.

C. Confidentiality.

1. Under section 106.71(a) of the Title IX regulations, SunBridge will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except:

a. As may be permitted by the FERPA statute, 20 U.S.C. 1232g, or the FERPA regulations, 34 CFR part 99; or

b. As required by law; or

c. To carry out the purposes of the Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

2. SunBridge Schools will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

3. The District will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the district obtains that party's voluntary, written consent to do so for a Title IX grievance process. If a party is not an "eligible student," as defined under FERPA (e.g., the party is a minor), then the District must obtain the voluntary, written consent of a parent or authorized guardian. (See section 106.45(b)(5)(i)).

D. Recordkeeping.

1. SunBridge Schools will maintain the following records for a period of seven years (e.g., measured from the conclusion of the proceedings and the implementation of any sanctions and/or remedies):

a. In connection with the District's response to any report or formal complaint of sexual harassment, the district must create and maintain a record of any actions, including any supportive measures, that the district takes in response to the report or complaint. In each instance:

i. The district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity.

ii. If the District does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

b. In connection with each formal complaint of sexual harassment that is filed, the District must maintain a record of:

i. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;

ii. Any audio or audiovisual recording or transcript from a hearing, if any.