

## Community Relations

**SUBJECT: PUBLIC ACCESS TO RECORDS**

Access to District records will be consistent with the rules and regulations established by the New York State Committee on Open Government and will comply with all the requirements of the New York State Freedom of Information Law (FOIL).

**Records Access Officer**

The Superintendent, subject to the approval of the Board, will designate a Records Access Officer who will have the duty of coordinating the District's response to public requests for access to records.

**Fulfilling FOIL Requests**

The District will provide copies of records in the format and on the medium requested by the person filing the FOIL request if the District can reasonably do so regardless of burden, volume, or cost of the request. The District may charge a fee for copies as permitted by law and regulation.

The District may require a person requesting lists of names and addresses to provide a written certification that they will not use the lists of names and addresses for solicitation or fundraising purposes and will not sell, give, or otherwise make available the lists of names and addresses to any other person for the purpose of allowing that person to use the lists of names and addresses for solicitation or fundraising purposes.

**Requests for Records via Email**

If the District has the capability to retrieve or extract electronic records with reasonable effort, it will provide the records electronically upon request. The District will accept requests for records submitted in the form of email and respond to those requests by email using the forms supplied by the District. This information will be posted on the District website, clearly designating the email address for purposes of receiving requests for records via this format.

When the District maintains requested records on the internet, the response will inform the requester that the records are accessible via the internet and in printed form either on paper or other information storage medium.

**Notification**

The District will post a notice in the district office and main building office (s) in a conspicuous location. The notice will contain the locations where records will be made available for inspection and copying; the name, title, business address, and business telephone number of the Records Access Officer; and the right to appeal a denial of access to records with the name and business address of the person or body to whom the appeal should be directed.

**Additional Provisions**

Regulations and/or procedures governing access to District records in relation to FOIL requests will be developed.

Education Law § 2116  
Public Officers Law Article 6  
21 NYCRR Part 1401

NOTE: Refer also to Policy #1510 -- Regular Board Meetings and Rules (Quorum and Parliamentary Procedure)

Adoption Date: 05/23/2022

## Community Relations

**SUBJECT: CONFIDENTIALITY OF COMPUTERIZED INFORMATION**

The development of centralized computer banks of educational data gives rise to the question of the maintenance of confidentiality of such data while still conforming to the New York State Freedom of Information Law. The safeguarding of confidential data from inappropriate use is essential to the success of the District's operation. Access to confidential computerized data shall be limited only to authorized personnel of the District.

It shall be a violation of the District's policy to release confidential computerized data to any unauthorized person or agency. Any employee who releases or otherwise makes improper use of such computerized data shall be subject to disciplinary action.

However, if the computerized information sought is available under the Freedom of Information Law and can be retrieved by means of existing computer programs, the District is required to disclose such information.

Public Officers Law Sections 84 et seq.

Adoption Date: 05/23/2022

**SUBJECT: CODE OF CONDUCT ON SCHOOL PROPERTY**

The **Board District** recognizes the value of positive interpersonal relationships and civil conduct in the educational process at all school-sponsored activities. Recognizing that students at every age level model behavior that they observe at school-sponsored activities, the **Board District** therefore requires that civility and appropriate sportsmanship be practiced at all times.

The District has developed and will amend, as appropriate, a written *Code of Conduct* for the Maintenance of Order on School Property, including school functions, which shall govern the conduct of students, teachers and other school personnel, as well as visitors and/or vendors. The Board shall further provide for the enforcement of such *Code of Conduct*.

For purposes of this policy, and the implemented *Code of Conduct*, school property means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of the District's elementary or secondary schools, or in or on a school bus; and a school function shall mean a school-sponsored extracurricular event or activity regardless of where such event or activity takes place, including those that take place in another state.

The *District Code of Conduct* has been developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

The *Code of Conduct* shall include, at a minimum, the following:

- a) Provisions regarding conduct, dress and language deemed appropriate and acceptable on school property and at school functions, and conduct, dress and language deemed unacceptable and inappropriate on school property; provisions regarding acceptable civil and respectful treatment of teachers, school administrators, other school personnel, students and visitors on school property and at school functions; the appropriate range of disciplinary measures which may be imposed for violation of such Code; and the roles of teachers, administrators, other school personnel, the Board and parents/persons in parental relation to the student;
- b) Provisions prohibiting discrimination, bullying and/or harassment against any student, by employees or students on school property, at a school function, or off school property when the actions create or would foreseeably create a risk of substantial disruption within the school environment or where it is foreseeable that the conduct might reach school property, that creates a hostile environment by conduct, with or without physical contact, threats, intimidation or abuse (verbal or non-verbal), of such a severe nature that:
  1. Has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or
  2. Reasonably causes or would reasonably be expected to cause a student to fear for his/her physical safety.

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**SUBJECT: CODE OF CONDUCT ON SCHOOL PROPERTY**

When the term "bullying" is used, even if not explicitly stated, such term includes cyberbullying, meaning such harassment or bullying that occurs through any form of electronic communication.

Such conduct shall include, but is not limited to, threats, intimidation, or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practices, disability, sexual orientation, gender as defined in Education Law Section 11(6), or sex; provided that nothing in this subdivision shall be construed to prohibit a denial of admission into, or exclusion from, a course of instruction based on a person's gender that would be permissible under Education Law Sections 3201-a or 2854(2) (a) and Title IX of the Education Amendments of 1972 (20 USC Section 1681, et seq.), or to prohibit, as discrimination based on disability, actions that would be permissible under 504 of the Rehabilitation Act of 1973;

- c) Standards and procedures to assure security and safety of students and school personnel;
- d) Provisions for the removal from the classroom and from school property, including a school function, of students and other persons who violate the Code;
- e) Provisions prescribing the period for which a disruptive student may be removed from the classroom for each incident, provided that no such student shall return to the classroom until the Principal (or his/her designated District administrator) makes a final determination pursuant to Education Law Section 3214(3-a)I or the period of removal expires, whichever is less;
- f) **Disciplinary Consequences** measures to be taken for incidents on school property or at school functions involving the use of tobacco, e-cigarettes and vaping products, the possession or use of illegal substances or weapons, the use of physical force, vandalism, violation of another student's civil rights, harassment and threats of violence;
- g) Provisions for responding to acts of discrimination, bullying and/or harassment against students by employees or students on school property, at a school function, or off school property when the actions create or would foreseeable create a risk of substantial disruption within the school environment or where it is foreseeable that the conduct might reach school property, pursuant to clause (b) of this subparagraph;
- h) Provisions for detention, suspension and removal from the classroom of students, consistent with Education Law Section 3214 and other applicable federal, state and local laws, including provisions for school authorities to establish procedures to ensure the provision of continued educational programming and activities for students removed from the classroom, placed in detention, or suspended from school, which shall include alternative educational programs appropriate to individual student needs;

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**SUBJECT: CODE OF CONDUCT ON SCHOOL PROPERTY**

- i) Procedures by which violations are reported and determined, and the ~~disciplinary measures consequences~~ imposed and carried out;
- j) Provisions ensuring the *Code of Conduct* and its enforcement are in compliance with state and federal laws relating to students with disabilities;
- k) Provisions setting forth the procedures by which local law enforcement agencies shall be notified of Code violations which constitute a crime;
- l) Provisions setting forth the circumstances under and procedures by which parents/persons in parental relation to the student shall be notified of Code violations;
- m) Provisions setting forth the circumstances under and procedures by which a complaint in criminal court, a juvenile delinquency petition or person in need of supervision ("PINS") petition as defined in Articles 3 and 7 of the Family Court Act will be filed;
- n) Circumstances under and procedures by which referral to appropriate human service agencies shall be made;
- o) A minimum suspension period for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other state and federal law. For purposes of this requirement, as defined in Commissioner's Regulations, "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom" shall mean engaging in conduct which results in the removal of the student from the classroom by teacher(s) pursuant to the provisions of Education Law Section 3214(3-a) and the provisions set forth in the *Code of Conduct* on four (4) or more occasions during a semester, or three (3) or more occasions during a trimester, as applicable;
- p) A minimum suspension period for acts that would qualify the student to be defined as a violent student pursuant to Education Law Section 3214(2-a)(a). However, the suspending authority may reduce the suspension period on a case-by-case basis consistent with any other state and federal law;
- q) A Bill of Rights and Responsibilities of Students which focuses upon positive student behavior and a safe and supportive school climate, which shall be written in plain-language, publicized and explained in an age-appropriate manner to all students on an annual basis; and

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**SUBJECT: CODE OF CONDUCT ON SCHOOL PROPERTY**

- r) Guidelines and programs for in-service education programs for all District staff members to ensure effective implementation of school policy on school conduct and discipline, including but not limited to, guidelines on promoting a safe and supportive school climate while discouraging, among other things, discrimination, bullying and/or harassment against students by students and/or school employees; and including safe and supportive school climate concepts in the curriculum and classroom management.

The District's *Code of Conduct* shall be adopted by the Board only after at least one (1) public hearing that provided for the participation of school personnel, parents/persons in parental relation, students, and any other interested parties.

The *Code of Conduct* shall be reviewed on an annual basis, and updated as necessary in accordance with law. The District may establish a committee pursuant to Education Law Section 2801(5)(a) to facilitate review of its *Code of Conduct* and the District's response to *Code of Conduct* violations. The Board shall reapprove any updated *Code of Conduct* or adopt revisions only after at least one (1) public hearing that provides for the participation of school personnel, parents/persons in parental relation, students, and any other interested parties. The District shall file a copy of its *Code of Conduct* and any amendments with the commissioner, in a manner prescribed by the Commissioner, no later than thirty (30) days after their respective adoptions.

The Board shall ensure community awareness of its *Code of Conduct* by:

- a) Posting the complete *Code of Conduct* on the **Internet District's** website, if any, including any annual updates and other amendments to the Code;
- b) Providing copies of a summary of the *Code of Conduct* to all students in an age-appropriate version, written in plain language, at a school assembly to be held at the beginning of each school year;
- c) Providing a plain language summary of the *Code of Conduct* to all parents or persons in parental relation to students before the beginning of each school year and making the summary available thereafter upon request;
- d) Providing each existing teacher with a copy of the complete *Code of Conduct* and a copy of any amendments to the Code as soon as practicable following initial adoption or amendment of the Code. New teachers shall be provided a complete copy of the current Code upon their employment; and
- e) Making complete copies available for review by students, parents or persons in parental relation to students, other school staff and other community members.

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**SUBJECT: CODE OF CONDUCT ON SCHOOL PROPERTY**

**Privacy Rights**

As part of any investigation, the District has the right to search all school property and equipment including District computers. Rooms, desks, cabinets, lockers, computers, etc. are provided by the District for the use of staff and students, but the users do not have exclusive use of these locations or equipment and should not expect that materials stored therein will be private.

Education Law Sections 11(8), 801-a, 2801 and 3214  
Family Court Act Articles 3 and 7  
Vehicle and Traffic Law Section 142  
8 NYCRR Section 100.2

NOTE: Refer also to *District Code of Conduct*

Adoption Date: 05/23/2022

Community Relations

**SUBJECT: PROHIBITION OF WEAPONS ON SCHOOL GROUNDS**

With the exception of law enforcement officers, as permitted by law, and individuals who have the express written permission of the Board or its designee, no person may have in his/her possession any weapon on school grounds, in any District building, on a school bus or District vehicle, or at any school sponsored activity or setting under the control and supervision of the District. This prohibition shall include, but not be limited to: any of the objects or instruments referred to in Section 265.01 of the New York State Penal Law; any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge; and any object that could be considered a reasonable facsimile of a weapon.

Penal Law Sections 265.01-265.06, 265.20

NOTE: Refer also to Policies #3410 - Code of Conduct on School Property  
#7313 - Suspension of Students  
#7360 - Weapons in School and the Gun-Free Schools Act

Adoption Date: 05/23/2022



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**SUBJECT: THREATS OF VIOLENCE IN SCHOOLS**

The District is committed to the prevention of violence against any individual or property in the schools, on school property or at school activities whether such acts and/or threats of violence are made by students, staff, or others. Threats of violence against students, school personnel and/or school property will not be tolerated whether or not such threats occur on school grounds or during the school day.

Any person who commits an act or threatens an act of violence, including bomb threats, whether made orally, in writing, by email, or by any other electronic format, shall be subject to appropriate discipline in accordance with applicable law, District policies and regulations, as well as the Code of Conduct on School Property and collective bargaining agreements, as may be necessary.

While acknowledging an individual's constitutional rights, including applicable due process rights, the District refuses to condone acts and/or threats of violence which threaten the safety and well being of staff, students, visitors and/or the school environment. Employees, students, agents and invitees shall refrain from engaging in threats or physical actions which create a safety hazard for others.

All staff who are made aware of physical acts and/or threats of violence directed to students or staff are to report such incidents to the Building Principal/designee, who shall report such occurrences to the Superintendent. Additionally, the Building Principal/designee will also report occurrences of violence, whether involving an actual confrontation or threat of potential violence, to the school psychologist and/or Director of Special Education if applicable. Local law enforcement agencies may be called as necessary upon the determination of the Superintendent/designee.

Students are to report all acts and/or threats of violence, including threats of suicide, of which they are aware by reporting such incidents to the school hotline, a faculty member, or the Building Principal.

The District reserves the right to seek restitution, in accordance with law, from the parent/guardian and/or student for any costs or damages which had been incurred by the District as a result of the threats or acts of violence in the schools.

This policy will be enforced in accordance with applicable laws and regulations, as well as collective bargaining agreements and the Code of Conduct as may be necessary. Additionally, this policy will be disseminated, as appropriate, to students, staff, and parents and will be available to the general public upon request.

Appropriate sanctions for violations of this policy by students will be addressed in the Code of Conduct.

Adoption Date: 05/23/2022

**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT****Overview**

The District is committed to creating and maintaining an environment which is free from discrimination and harassment. This policy addresses complaints of discrimination and/or harassment made under applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. It is just one component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

In accordance with applicable federal and state laws and regulations, the District does not discriminate on the basis of any legally protected class or category in its education programs and activities or when making employment decisions. Further, the District prohibits discrimination and harassment on school property and at school functions on the basis of any legally protected class including, but not limited to:

- a) Race;
- b) Color;
- c) Religion;
- d) Disability;
- e) National origin;
- f) Sexual orientation;
- g) Gender identity or expression;
- h) Military status;
- i) Sex;
- j) Age; and
- k) Marital status.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of discrimination and/or harassment. The District will promptly respond to reports of discrimination and/or harassment, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections, and impose ~~disciplinary measures~~ consequences and implement remedies when warranted.

Inquiries about this policy may be directed to the District's Civil Rights Compliance Officer(s) (CRCO(s)).

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**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT****Scope and Application**

This policy outlines the District's general approach to addressing complaints of discrimination and/or harassment. This policy applies to the dealings between or among the following parties on school property and at school functions:

- a) Students;
- b) Employees;
- c) Applicants for employment;
- d) Paid or unpaid interns;
- e) Anyone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or other person providing services pursuant to a contract in the workplace;
- f) Volunteers; and
- g) Visitors or other third parties.

Further, discrimination and/or harassment that occurs off school property and somewhere other than a school function can disrupt the District's educational and work environment. This conduct can occur in-person or through phone calls, texts, emails, or social media. Accordingly, conduct or incidents of discrimination and/or harassment that create or foreseeably create a disruption within the District may be subject to this policy in certain circumstances.

Other District policies and documents such as regulations, procedures, collective bargaining agreements, and the District's *Code of Conduct* may address misconduct related to discrimination and/or harassment and may provide for additional, different, or more specific grievance procedures depending on a number of factors including, but not limited to, who is involved, where the alleged discrimination and/or harassment occurred, and the basis of the alleged discrimination and/or harassment. These documents must be read in conjunction with this policy.

The dismissal of a complaint under one policy or document does not preclude action under another related District policy or document.

**Definitions**

For purposes of this policy, the following definitions apply:

- a) "School property" means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of any District elementary or secondary school, or in or on a school bus or District vehicle.
- b) "School function" means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place virtually or in another state.

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**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT****What Constitutes Discrimination and Harassment**

Determinations as to whether conduct or an incident constitutes discrimination and/or harassment will be made consistent with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, or other document such as the District's *Code of Conduct*. These determinations may depend upon a number of factors, including, but not limited to: the particular conduct or incident at issue; the ages of the parties involved; the context in which the conduct or incident took place; the relationship of the parties to one another; the relationship of the parties to the District; and the protected class or characteristic that is alleged to have been the basis for the conduct or incident. The examples below are intended to serve as a general guide for individuals in determining what may constitute discrimination and/or harassment. These examples should not be construed to add or limit the rights that individuals and entities possess as a matter of law.

Generally stated, discrimination consists of the differential treatment of a person or group of people on the basis of their membership in a legally protected class. Discriminatory actions may include, but are not limited to: refusing to promote or hire an individual on the basis of his or her membership in a protected class; denying an individual access to facilities or educational benefits on the basis of his or her membership in a protected class; or impermissibly instituting policies or practices that disproportionately and adversely impact members of a protected class.

Generally stated, harassment consists of subjecting an individual, on the basis of his or her membership in a legally protected class, to unwelcome verbal, written, or physical conduct which may include, but is not limited to: derogatory remarks, signs, jokes, or pranks; demeaning comments or behavior; slurs; mimicking; name calling; graffiti; innuendo; gestures; physical contact; stalking; threatening; bullying; extorting; or the display or circulation of written materials or pictures.

This conduct may, among other things, have the purpose or effect of: subjecting the individual to inferior terms, conditions, or privileges of employment; creating an intimidating, hostile, or offensive environment; substantially or unreasonably interfering with an individual's work or a student's educational performance, opportunities, benefits, or well-being; or otherwise adversely affecting an individual's employment or educational opportunities. Petty slights or trivial inconveniences generally do not constitute harassing conduct.

**Civil Rights Compliance Officer**

The District has designated the following District employee(s) to serve as its CRCO(s):

Dr. C. Douglas Whelan  
Interim Assistant Superintendent for Administrative Services  
[dwhelan@lew-port.com](mailto:dwhelan@lew-port.com), 716-286-7241  
District Office, 4061 Creek Road, Youngstown, NY 14109

Dr. Heather Lyon  
Assistant Superintendent for Curriculum, Instruction and Technology  
[hlyon@lew-port.com](mailto:hlyon@lew-port.com), 716-286-7265  
District Office, 4061 Creek Road, Youngstown, NY 14109

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# LEWISTON-PORTER CENTRAL SCHOOL DISTRICT

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## **SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT**

The CRCO(s) will coordinate the District's efforts to comply with its responsibilities under applicable non-discrimination and anti-harassment laws and regulations including, but not limited to: the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and the Age Discrimination Act of 1975.

Where appropriate, the CRCO(s) may seek the assistance of other District employees, such as the District's Title IX Coordinator(s) or Dignity Act Coordinator(s) (DAC(s)), or third parties in investigating, responding to, and remedying complaints of discrimination and/or harassment.

### **Reporting Allegations of Discrimination and/or Harassment**

Any person may report discrimination and/or harassment regardless of whether they are the alleged victim or not. Reports may be made in person, by using the contact information for the CRCO, or by any other means that results in the CRCO receiving the person's oral or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the CRCO.

Reports of discrimination and/or harassment may also be made to any other District employee including a supervisor or building principal. All reports of discrimination and/or harassment will be immediately forwarded to the CRCO. Reports may also be forwarded to other District employees depending on the allegations.

All District employees who witness or receive an oral or written report of discrimination and/or harassment must immediately inform the CRCO. Failure to immediately inform the CRCO may subject the employee to discipline up to and including termination.

In addition to complying with this policy, District employees must comply with any other applicable District policy, regulation, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*. Applicable documents include, but are not limited to, the District's policies, regulations, and procedures related to Title IX, sexual harassment in the workplace, and the Dignity for All Students Act (DASA).

If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

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**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT**

**Grievance Process for Complaints of Discrimination and/or Harassment**

The District will act to promptly, thoroughly, and equitably investigate all complaints, whether oral or written, of discrimination and/or harassment based on any legally protected class and will promptly take appropriate action to protect individuals from further discrimination and/or harassment. The CRCO will oversee the District's investigation of all complaints of discrimination and/or harassment. In the event an anonymous complaint is filed, the District will respond to the extent possible.

If an investigation reveals that discrimination and/or harassment based on a legally protected class has occurred, the District will take immediate corrective action as warranted. This action will be taken in accordance with applicable federal and state laws and regulations, as well as any applicable District policy, regulation, procedure, collective bargaining agreement, third-party contract, or other document such as the District's *Code of Conduct*.

**Knowingly Makes False Accusations**

Any employee or student who knowingly makes false accusations against another individual as to allegations of discrimination and/or harassment will face appropriate disciplinary action.

**Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)**

The District prohibits retaliation against any individual because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing related to a complaint of discrimination and/or harassment.

Complaints of retaliation may be directed to the CRCO. If the CRCO is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another CRCO, if the District has designated another individual to serve in that capacity. If the District has not designated another CRCO, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the CRCO.

Where appropriate, follow-up inquiries will be made to ensure that the discrimination and/or harassment has not resumed and that those involved in the investigation have not suffered retaliation.

**Confidentiality**

To the extent possible, all complaints will be treated as confidential. Disclosure may be necessary in certain circumstances such as to complete a thorough investigation and/or notify law enforcement officials. All disclosures will be in accordance with law and regulation.

**Training**

In order to promote familiarity with issues pertaining to discrimination and harassment in the District, and to help reduce incidents of prohibited conduct, the District will provide appropriate information and/or training to employees and students. As may be necessary, special training will be provided for individuals involved in the handling of discrimination and/or harassment complaints.

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**SUBJECT: NON-DISCRIMINATION AND ANTI-HARASSMENT IN THE DISTRICT**

**Notification**

Prior to the beginning of each school year, the District will issue an appropriate public announcement or publication which advises students, parents or legal guardians, employees, and other relevant individuals of the District's established grievance process for resolving complaints of discrimination and/or harassment. This announcement or publication will include the name, office address, telephone number, and email address of the CRCO(s). The District's website will reflect current and complete contact information for the CRCO(s).

A copy of this policy and its corresponding regulations and/or procedures will be available upon request and will be posted and/or published in appropriate locations and/or District publications.

**Additional Provisions**

Regulations and/or procedures will be developed for reporting, investigating, and remedying allegations of discrimination and/or harassment.

42 USC § 1324b  
Age Discrimination Act of 1975, 42 USC § 6101 et seq.  
Age Discrimination in Employment Act of 1967 (ADEA), 29 USC § 621 et seq.  
Americans with Disabilities Act (ADA), 42 USC § 12101 et seq.  
Equal Educational Opportunities Act of 1974, 20 USC § 1701 et seq.  
Genetic Information Non-Discrimination Act (GINA), 42 USC § 2000ff et seq.  
National Labor Relations Act (NLRA), 29 USC § 151 et seq.  
Section 504 of the Rehabilitation Act of 1973, 29 USC § 790 et seq.  
Title IV of the Civil Rights Act of 1964, 42 USC § 2000c et seq.  
Title VI of the Civil Rights Act of 1964, 42 USC § 2000d et seq.  
Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq.  
Title IX, 20 USC § 1681 et seq.  
USERRA, 38 USC § 4301 et seq.  
28 CFR Part 35  
29 CFR Chapter I – National Labor Relations Board  
29 CFR Chapter XIV – Equal Employment Opportunity Commission  
34 CFR Parts 100, 104, 106, 110, and 270  
Civil Rights Law §§ 40, 40-c, 47-a, 47-b, 48-a, and 115  
Correction Law § 752  
Education Law §§ 10-18, 313, 313-a, 2801, 3201, and 3201-a  
Labor Law §§ 194-a, 201-d, 201-g, 203-e, 206-c, 215  
New York State Human Rights Law, Executive Law § 290 et seq.  
Military Law §§ 242, 243, and 318,8 NYCRR § 100.2, 9 NYCRR § 466 et seq.

NOTE: Refer also to Policies #3421 - Title IX and Sex Discrimination  
#6120 - Equal Employment Opportunity  
#6121 - Sexual Harassment in the Workplace  
#6122 - Employee Grievances  
#7550 - Dignity for All Students  
#7551 - Sexual Harassment of Students  
#8130 - Equal Educational Opportunities  
District *Code of Conduct*

Adoption Date: 05/23/2022



**SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION**

**I. TITLE IX NOTICE OF NON-DISCRIMINATION**

In compliance with Title IX of the Education Amendments of 1972, the Lewiston-Porter Central School District (“the District”) does not discriminate on the basis of sex in the educational programs or activities it operates, including employment and admissions, and it is required by Title IX and its attendant regulations not to discriminate in such a manner. All forms of sex-based discrimination, including sexual harassment, are strictly prohibited by the District. Inquiries regarding Title IX may be referred to the Title IX Coordinator(s) or to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

**II. TITLE IX SEXUAL HARASSMENT POLICY**

While all forms of sex-based discrimination are prohibited in the District, the primary purpose of this policy is to address *sexual harassment as defined in Title IX and its attendant regulations* that occurs within an education program or activity of the District, and to provide a grievance process for investigating and reaching a final determination regarding responsibility for a formal complaint of sexual harassment. The Title IX Grievance Process (“Grievance Process”) is set forth below in Section IV Grievance Process, on page 11. While the District must and will respond to all reports it receives of sex discrimination or sexual harassment, the Grievance Process herein is initiated only with the filing of a formal complaint which alleges sexual harassment in violation of Title IX. Please refer to the definitions below in Section II.A for an explanation of what constitutes a formal complaint of sexual harassment.

The Superintendent shall have overall responsibility for implementing this Policy, and shall annually appoint at least one Title IX Coordinator as that position is described in Section II.B below. Below please find contact information for the District’s Title IX Coordinator(s):

Title IX Coordinator(s)

1. Dr. C. Douglas Whelan, Interim Assistant Superintendent for Administrative Services, [dwhelan@lew-port.com](mailto:dwhelan@lew-port.com), 716.286.7240
2. Dr. Heather Lyon, Assistant Superintendent for Curriculum, Instruction and Technology, [hlyon@lew-port.com](mailto:hlyon@lew-port.com), 716.286-7244

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## **SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION**

### **A. Definitions**

**“Actual knowledge”** – notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any District official with authority to institute corrective measures on behalf of the District, or to any District employee (other than a “Respondent” or alleged harasser).

**“Complainant”** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment, whether or not that person files a report or formal complaint.

**“Days”** – all references to “days” shall mean calendar days unless otherwise specified. If a deadline falls on a weekend or holiday, the deadline shall be extended to the next regular business day.

**“Decision-Maker”** – the person tasked with the responsibility of making determinations regarding responsibility. The Superintendent of Schools shall be responsible for designating the Decision-Maker on a case-by-case basis, in consultation with the Title IX Coordinator. Neither the investigator nor the Title IX Coordinator may serve as the Decision-Maker.

**“Determination regarding responsibility”** – the formal finding by the Decision-Maker on each allegation of sexual harassment contained in a formal Complaint that the Respondent did or did not engage in conduct constituting sexual harassment under Title IX.

**“Education program(s) or activity(ies)”** – refers to locations, events or circumstances over which the District exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.

**“Formal Complaint”** – a document filed by a Complainant, the Complainant’s parent/guardian, or the Title IX Coordinator, alleging sexual harassment against a Respondent, and requesting that the District investigate the allegation of sexual harassment. The phrase “document filed by a Complainant” includes the complaint form on the website, or a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.

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

**“Sexual Harassment”** – conduct on the basis of sex (including, without limitation, gender, sexual orientation and/or gender identity) that occurs in the District’s education programs or activities that satisfies one or more of the following:

- (1) An employee of the District conditioning the provision of an aid, benefit, or service of an education program or activity on an individual’s participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee (i.e. *quid pro quo* sexual harassment);
- (2) Unwelcome sex-based/related conduct determined by a reasonable person to be so severe, pervasive **and** objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
- (3) Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law (*see e.g.* 20 U.S.C. § 1092(f)(6)(A)(v); 34 U.S.C. § 12291(a)(10); 34 U.S.C. § 12291(a)(8); 34 U.S.C. § 12291(a)(30)).

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex. The context of behavior can make a difference between conduct falling within the technical definition of sexual harassment under Title IX, and conduct of a sexual nature that is offensive or hostile in itself but which does not rise to the level defined above. District policies prohibit both, but for purposes of its Title IX obligations, the District must address reports or complaints of conduct which may constitute sexual harassment as defined above in accordance with this Policy and the grievance procedures set forth herein. Unless otherwise specified, all references to “sexual harassment” in this Policy refer to sexual harassment as defined above. Please note, however, that conduct that otherwise satisfies that definition does not fall within the scope of this particular Policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the District did not have substantial control over both the harasser/Respondent and the context in which the harassment occurred.

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**“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. Supportive measures are designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment, or deter sexual harassment. Examples may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, leaves of absence, mutual restrictions on contact between the parties, and other similar measures.

**"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

**B. Title IX Coordinator**

The Title IX Coordinator shall be responsible for coordinating the District’s efforts to comply with its responsibilities under Title IX. In this regard, the Title IX Coordinator shall receive general reports and formal complaints reports of sexual harassment (as well as other forms of sex discrimination), and shall coordinate the District’s responses to such reports or complaints so that the same are prompt and equitable. In addition to any other specific responsibilities assigned under this Policy, or as assigned by the Superintendent, the Title IX Coordinator will be responsible for:

1. Identification and implementation of supportive measures;
2. Signing or receiving formal complaints of sexual harassment;
3. Coordinating with District and school-level personnel to facilitate and assure implementation of investigations, and remedies, and helping to assure that the District otherwise meets its obligations associated with reports and formal complaints of sexual harassment;
4. Coordinating with the Superintendent with respect to assignment of persons to fulfill the District’s obligations, both general and case specific, relative to this Policy (e.g., investigator, Decision-Maker, etc., which may involve the retention of outside counsel or other third party personnel);
5. Coordinating with District and school-level personnel to assure appropriate training and professional development of employees and others in accordance with Section II.C of this Policy; and
6. Helping to ensure that appropriate records are kept and maintained in connection with this Policy.

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In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason, the Superintendent shall assure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case. In such instances, “Title IX Coordinator” shall include the acting Title IX Coordinator.

**C. Training**

All District employees shall receive training relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.

Title IX Coordinators, investigators, Decision-Makers, any individuals who decide appeals or who facilitate an informal resolution process, must receive training on:

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

Decision-Makers, including individuals who decide appeals, must also receive training on issues of relevance of questions and evidence, including when questions about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.

Also, investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Materials used to train Title IX Coordinators, investigators, Decision-Makers, individuals who decide appeals and individuals who facilitate an informal resolution process must not rely on sex stereotypes, must promote impartial investigations and adjudications of formal complaints of sexual harassment. The training materials for the individuals identified in this paragraph shall be made publicly available on the District’s website.

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**D. Confidentiality**

The District will respect the confidentiality of a Complainant and Respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of sexual harassment and take appropriate action in response thereto. Examples of required disclosures include:

1. Information to either party to the extent necessary to provide the parties due process during the Grievance Process;
2. Information to individuals who are responsible for handling the District's investigation and determination regarding responsibility to the extent necessary to complete the District's Grievance Process;
3. Mandatory reports of child abuse or neglect; and
4. Information to the Complainant's and the Respondent's parent/guardian as required by this Policy and/or the Family Educational Rights and Privacy Act ("FERPA").

Additionally, any supportive measures offered to the Complainant or the Respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

Except as specified above, the District shall keep confidential to the extent permitted by law the identity of (1) any individual who has made a report or complaint of sex discrimination or sexual harassment; (2) any Complainant or Respondent; (3) any individual who has been reported to be the perpetrator of sex discrimination; and (4) any witness.

**E. Retaliation Prohibited**

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate in any investigation of an act alleged in this Policy is strictly prohibited. The District further prohibits any other intimidation, threats, coercion or discrimination against anyone for the purpose of interfering with any right or privilege secured by Title IX. Charging an individual with Code of Conduct violations that 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, also constitutes retaliation and is strictly prohibited.

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However, charging an individual with a violation of the Code of Conduct or other applicable policy or rule for making a materially false statement in bad faith, or for submitting materially false information in bad faith, in the course of a grievance proceeding does not constitute retaliation. Please note that a determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

Complaints of retaliation in connection with this Policy will be handled in accordance with District Policy 6432, Whistleblower Policy. Individuals who are found to have engaged in retaliation may be subject to disciplinary action.

**F. Conflict of Interest**

No person designated as a Title IX Coordinator, investigator, Decision-Maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against Complainants or Respondents generally, or against an individual Complainant or Respondent.

**G. Dissemination and Notice**

The District shall publish on its website this Policy, and shall prominently display on its website the contact information for the Title IX Coordinator(s) and the Title IX Notice of Non-Discrimination (*see* Section I, above). The District shall also publish that information in any student or employee handbooks that it may produce. The District shall take any other steps that may be necessary in order to notify students, parents or legal guardians of students, employees, applicants for admission or employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District of this Policy, the Title IX Coordinator's contact information and the District's notice of non-discrimination.

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**H. Records and Record Keeping**

The District will maintain the following for a period of seven (7) years:

1. Records of each sexual harassment investigation, including any:
  - a. Determination regarding responsibility, including dismissal;
  - b. Disciplinary sanctions imposed on the Respondent; and
  - c. Remedies provided to the Complainant designed to restore or preserve equal access to the District's education program or activity.
2. Any appeal and its result;
3. Any informal resolution and its result; and
4. All materials used to train the Title IX Coordinator(s), investigations, Decision-Maker(s), and any person who facilitates an informal resolution process;

In addition, when the District obtains actual knowledge of sexual harassment as defined herein, the District shall create and maintain for a period of seven (7) years the following:

1. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, as well as documentation:
  - a. Explaining why the District's response was not deliberately indifferent; and
  - b. That it took measures designed to restore or preserve equal access to the District's education program or activity;
2. In the event that no supportive measures were provided to the Complainant, documentation of the reason(s) why such a response was not clearly unreasonable in light of the known circumstances.

Please note that documentation of certain reasons or measures taken shall not limit or preclude the District in the future from providing additional explanations or detailing additional measures taken.

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**II. COMPLAINTS OF SEX DISCRIMINATION OTHER THAN SEXUAL HARASSMENT**

Any individual seeking to report allegations of sex discrimination other than sexual harassment is encouraged to file a formal complaint form with the Title IX Coordinator, or contact the Title IX Coordinator. A copy of the formal complaint form is on the website. For discriminatory or harassing conduct which does not meet the definition of sexual harassment under this Policy, the District's response will be governed by other applicable laws and policies, such as Board Policy 3420, Non-Discrimination and Anti-Harassment in the District; 6121, Sexual Harassment in the Workplace; 7550, Dignity for All Students; District *Code of Conduct*.

All reports or complaints of sex discrimination, including sexual harassment, are encouraged to be submitted to the Title IX Coordinator, who will determine the applicable process through which the allegations will be handled.

**III. REPORTS OF SEXUAL HARASSMENT, FORMAL COMPLAINTS AND DISTRICT RESPONSES**

*Please note that a report does not initiate the Grievance Process. That process is begun only upon the filing of a formal complaint, as explained further below.*

Any person may report sexual harassment whether relating to her/himself or another person. **However, if any District employee – other than the employee harasser, or the Title IX Coordinator – reasonably believes a student has been discriminated against based on sex or who receives information of conduct which may constitute sexual harassment under this Policy, he/she shall immediately inform the Title IX Coordinator** of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.

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A report of sexual harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Additionally, while the District encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to any District staff member, including, for instance, a guidance counselor, teacher or principal.

If a Title IX Coordinator is the alleged Respondent, the report or formal complaint may be made to a different Title IX Coordinator if the District has designated more than one Title IX Coordinator, or directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/complaint, or delegate the function to another person.

**A. District Response to Report of Sexual Harassment**

The District will promptly respond when there is actual knowledge of sexual harassment, even if a formal complaint has not been filed. The District shall treat Complainants and Respondents equitably by offering supportive measures to the Complainant and by following the Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a Respondent. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

As soon as reasonably possible after receiving a report of alleged sexual harassment from another District employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the Complainant to:

- Discuss the availability of and offer supportive measures, as well as inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint;
- Consider the Complainant's wishes with respect to supportive measures; and
- Explain to the Complainant the process for filing a formal complaint.

**B. Formal Complaints and Disciplinary Action**

Pursuant to federal regulations and this Policy, a formal complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required before the District may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a person accused of sexual harassment. Once a formal complaint of sexual harassment is received by the Title IX Coordinator, he/she shall commence the Grievance

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Process set forth below in Section IV. The process for filing a formal complaint is explained below in Section IV.A. If a formal complaint is filed, no disciplinary action may be imposed against a Respondent for conduct which may constitute sexual harassment until the Grievance Process has been completed. If no formal complaint is filed, no disciplinary action may be imposed against a Respondent based upon conduct that would constitute sexual harassment under this Policy.

**C. Emergency Removal and Administrative Leave**

At any point after receiving a report or formal complaint of sexual harassment, the Title IX Coordinator (or other District official charged with a specific function under this Policy or applicable regulations, such as the investigator or Decision-Maker, for example) may request the Superintendent to direct that an individualized safety and risk analysis be performed to determine whether a Respondent student is an immediate threat to the physical health or safety of any person arising from the allegations of sexual harassment. In the event that the safety and risk analysis determines that the Respondent student does present such a threat and removal is therefore justified, the District may remove the Respondent student on an emergency basis, provided that such removal is in full compliance with the IDEA, a student's IEP and or 504 plan if applicable. Such emergency removal shall not be disciplinary. However, the District must provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal, and shall continue to offer educational programming until a final determination is made pursuant to the Grievance Process.

The Title IX Coordinator shall keep the Superintendent of Schools informed of any employee Respondents so that he/she can make any necessary reports to the New York State Education Department. In appropriate cases, the Superintendent may place an employee Respondent on non-disciplinary administrative leave until a final determination on responsibility is made pursuant to the Grievance Process.

**IV. GRIEVANCE PROCESS**

**PURPOSE:** The purpose of these procedures is to secure prompt and equitable resolutions of formal complaints of sexual harassment, and to treat both Complainants and Respondents equitably in the process. **These procedures apply only to formal complaints alleging sexual harassment prohibited by Title IX.** Upon receipt of a formal complaint of sexual harassment, the Title IX Coordinator will coordinate the District's efforts to comply with its responsibilities

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related to the Grievance Process. These procedures shall be followed prior to the imposition of any disciplinary sanctions or other actions that are not supportive measures against the Respondent unless otherwise noted herein.

**A. Process for Filing a Formal Complaint of Sexual Harassment**

The Title IX Grievance Process is initiated by way of a formal complaint filed by the Complainant, the Complainant's parent/guardian, or the Title IX Coordinator. A formal complaint should be filed with the Title IX Coordinator. The Complainant may file a formal complaint or choose not to file a formal complaint and simply receive the supportive measures. If the Complainant does not file a formal complaint, the Title IX Coordinator may sign a formal complaint, but only if initiating the Grievance Process against the Respondent is not clearly unreasonable in light of the known circumstances, or in other cases where, in the exercise of good judgment, the Title IX Coordinator determines that a Grievance Process is necessary to comply with the obligation not to be deliberately indifferent to known allegations of sexual harassment. If the formal complaint is filed by the Title IX Coordinator, he/she is not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to Respondents and Complainants.

Although there is no time limit *per se* to filing a formal complaint, a **Complainant must be participating in or attempting to participate in the education program or activity of the District at the time of filing.** Delays in reporting may significantly impair the ability of school officials to investigate and respond to the allegations. At a minimum, a formal complaint must:

1. contain the name and address of the Complainant;
2. describe the alleged sexual harassment;
3. request an investigation of the matter; and
4. be signed by the Complainant or otherwise indicate that the Complainant is the person filing the formal complaint.

The formal complaint may be filed with the Title IX coordinator in person, by mail, or by email. A complaint form is on the website and may be obtained from the Title IX Coordinator or on the District's website. A written narrative may be attached to the complaint form explaining the nature of the formal complaint. The complaint form or narrative should contain information that describes the conduct and identifies with reasonable particularity the Complainant(s), the Respondent(s), and any witness(es) to the alleged conduct.

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**B. Initial Steps and Notice of Formal Complaint**

Following receipt of a formal complaint:

1. The Title IX Coordinator will provide notice to the Complainant and to the Respondent (if known), as well as to any other known parties, of the following:
  - a. this Grievance Process, including any informal resolution process;
  - b. the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. "Sufficient details" shall include to the extent known identities of persons involved, the conduct allegedly constituting sexual harassment, and the date and location of the incident(s);
  - c. a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the Grievance Process;
  - d. that each party has the right to have an advisor of his or her choice who may be, but is not required to be, an attorney;
  - e. that each party is entitled to inspect and review evidence; and
  - f. any provisions in the District's Code of Conduct or other applicable District policies, rules or collective bargaining agreements that prohibit knowingly making false statements or knowingly submitting false information in the course of the grievance procedures.
2. The Title IX Coordinator will contact the Complainant to discuss and offer supportive measures as appropriate.
3. The Title IX Coordinator may contact the Respondent to discuss, and/or impose, non-disciplinary supportive measures.
4. The Title IX Coordinator will examine the allegations in the formal complaint to determine whether the allegations, if assumed to be true, are sufficient to sustain a finding of sexual harassment under this Policy.
  - a. If the Title IX Coordinator was not involved with preparing the formal complaint, the Title IX Coordinator will contact the Complainant to discuss the allegations in the formal complaint and whether amendment is appropriate. In the event that amendment is appropriate, the Title IX Coordinator shall immediately provide notice of the additional allegations to the parties whose identities are known.
  - b. If the allegations set forth in the formal complaint are insufficient to sustain a finding of sexual harassment under this Policy, the complaint shall be dismissed. Please refer to Section IV.H, below, for additional details regarding dismissal, including additional grounds on which a formal complaint must/may be dismissed.

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5. If the formal complaint is not dismissed, then the Title IX Coordinator will consult with the Superintendent with regard to designating an appropriate investigator and Decision-Maker, both of whom must be properly training and otherwise qualified.

**C. Miscellaneous Provisions**

1. Copies and Notices. Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Grievance Process, the manner of transmittal may be by hand delivery, electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof. However, hand delivery to the District will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, Decision-Maker(s), etc.).
2. Legal Privileges. Nothing in the Grievance Process shall require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g. medical records, attorney-client privileged information, etc.), unless the person or entity holding such privilege has waived the privilege.
3. Additional Allegations. If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that were not included in the previous notice, the District shall simultaneously provide notice of the additional allegations to the parties whose identities are known
4. Consolidation of Complaints. The District may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one Respondent; or by more than one Complainant against one or more Respondents; or by one party against the other party. When the District has consolidated formal complaints so that the Grievance Process involves more than one Complainant or more than one Respondent, references to the singular “party”, “Complainant”, or “Respondent” include the plural, as applicable.

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The District shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the Grievance Process will be concluded through at least the determination regarding responsibility within ninety (90) calendar days after filing the formal complaint. In more complex cases, where a determination regarding responsibility cannot reasonably be made within that time frame, additional time may be required in order to complete a fair and thorough investigation, or to complete other aspects of the Grievance Process.

Delays and Extensions of Time. At any stage of the Grievance Process, the District may for good cause allow for temporary delays or extensions of time upon request of either party, or on its own initiative. Examples of good cause may include such things as availability of parties or witnesses; school or school administrative office holidays or vacations; school recess periods; referral back to an earlier stage of the grievance process; concurrent law enforcement or other agency activity; or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Title IX Coordinator, Superintendent or any other individual appointed to play a role in the Grievance Process will provide written notice to the parties of the delay/extension and the reason(s).

**E. Investigation**

The Title IX Coordinator will coordinate the investigation in accordance with his or her duties as Title IX Coordinator. The investigator designated by the District shall conduct the investigation. The investigator may but is not required to be a District employee so long as the investigator is appropriately trained and does not have a conflict of interest or other bias prohibited by this Policy. The investigation shall include the following:

1. An objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence, and shall not make credibility determinations based on a person's status as a Complainant, Respondent or witness;
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on either of the parties;

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3. Provide an equal opportunity for the parties to present witnesses and other inculpatory and exculpatory evidence, and not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied by an advisor of their choice. However, the District, including the investigator, may establish restrictions regarding the extent to which an advisor may participate in the proceedings as long as the restrictions apply equally to both parties.
5. Provide, to a party (e.g., Respondent or Complainant, and parent/guardian as appropriate) whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, regardless of whether the evidence may or may not be relied upon in reaching a determination regarding responsibility.
7. Prior to completion of the investigative report, the District, through the Title IX Coordinator, must send to each party as well as each party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties shall have (10) days calendar from transmission of same to submit a written response, which the investigator will consider prior to completion of the investigative report.
8. The investigator must prepare a written investigative report that:
  - a. Fairly summarizes relevant evidence;
  - b. Identifies allegations potentially constituting sexual harassment;
  - c. Describes the procedural steps taken from receipt of the formal complaint through the preparation of the investigative report, including notifications to the parties, interviews with parties and witnesses, site visits and any methods used to gather other evidence; and
  - d. Addresses any witness credibility issues, if applicable.
9. The completed investigative report shall be provided in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any, and to the Decision-Maker. The Title IX Coordinator shall ensure that the report is provided to the appropriate individuals. In transmitting the report to the parties and their advisors, if any, the parties shall be notified in writing that they have ten (10) calendar days from the date on which the report is transmitted to:

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- a. submit a written response to the report, if they desire;
- b. submit written, relevant questions that the party wants asked of any party or witness, if they desire; and
- c. that any such written response or relevant questions must be sent directly to the Decision-Maker, along with the Decision-Maker's contact information.

**F. Determination Regarding Responsibility and Decision-Maker**

The determination regarding responsibility of Respondent shall be made by the Decision-Maker. In addition to allowing the parties an opportunity to submit a written response to the investigation report as well as relevant questions, per the above, the Decision-Maker shall adhere to the following in rendering a determination regarding responsibility:

1. In event the Decision-Maker decides to exclude a question posed by a party as not relevant, the Decision-Maker must explain that decision to the party.
2. The Decision-Maker will provide the relevant questions to the party/witness, with copies to each party, and shall provide at least five (5) calendar days for written responses, which responses shall be provided to each party.
3. After the parties have received responses to their initial questions, the Decision-Maker will provide five (5) calendar days for additional, limited follow-up questions and five (5) calendar days for written responses to same. The Decision-Maker may but is not required to provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
4. The Decision-Maker may not make any credibility determinations based on the person's status as a Complainant, Respondent or witness. The Respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
5. In rendering his or her determination regarding responsibility, the Decision-Maker shall apply a preponderance of evidence standard, which requires evidence establishing that it is more likely than not that Respondent engaged in sexual harassment in violation of this Policy.

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6. The Decision-Maker shall issue a written determination regarding responsibility within fifteen (15) business days after the close of the period for responses to the last round of follow-up questions. The written determination must include:
  - a. Identification of the allegations potentially constituting sexual harassment;
  - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination regarding responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits and methods used to gather evidence;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the District's Code of Conduct or other policies, rules or regulations to the facts;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the Respondent is responsible for sexual harassment); any disciplinary sanctions or remedies that are imposed or that are recommended to be imposed; and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to Complainant; and
  - f. The District's procedures and permissible bases for Complainant or Respondent to appeal (*see* Section IV.I, below).
7. The Decision Maker shall provide his or her determination regarding responsibility to the Title IX Coordinator, the Superintendent and the parties simultaneously.
8. The determination regarding responsibility shall become final on the date on which an appeal would no longer be considered timely, or if an appeal is timely filed, when the District provides the parties with the written determination of the result of the appeal.

**G. Remedies Upon Final Determination Regarding Responsibility**

1. Remedies must be designed to restore or preserve equal access to the District's education program or activity. Remedies may include supportive measures and/or disciplinary sanctions, as appropriate under the circumstances.
2. Disciplinary sanctions against an employee Respondent may include any sanction available for the discipline of employees, up to and including dismissal, in accordance with any applicable collective bargaining agreement as well as any applicable state or federal laws or regulations.
3. Disciplinary sanctions against a student may include any available discipline or sanction, up to and including expulsion, pursuant to the District's Code of Conduct and any other applicable policies or rules, and in accordance with any applicable state or federal laws or regulations.

Continued

**SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION****H. Dismissal of a Formal Complaint**

1. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
  - a. Does not fall within the scope of this policy (e.g. the allegations do not constitute sexual harassment as defined herein), even if proved;
  - b. Did not occur in the District's education program or activity; or
  - c. Did not occur against a person in the United States.
2. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination regarding responsibility stage(s):
  - a. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
  - b. The Respondent is no longer enrolled or employed by the District; or
  - c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations therein.
3. Prior to dismissal of a formal complaint, the person responsible at that stage shall consult with the Superintendent.
4. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefor simultaneously to the parties.
5. NOTE: The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other applicable policies, rules or Code of Conduct of the District. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.

**I. Appeals Process**

1. Complainant(s) or Respondent(s) may appeal from a determination regarding responsibility, or from a dismissal of a formal complaint or any allegations therein, on the following bases only:
  - a. Procedural irregularity that affected the outcome of the matter;
  - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
  - c. The Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
2. Appeals for any other reason, or upon any determination regarding responsibility not included in the written appeal, will not be heard.

Continued

**SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION**

3. An appeal must be filed within seven (7) calendar days from the date on which the determination regarding responsibility is transmitted to the parties. An appeal must be submitted in writing to the Title IX Coordinator, with a copy to the Superintendent of Schools, and shall state with particularity the basis(es) for the appeal as well as all information and evidence in support of the basis(es) identified. Appellants should include with the appeal any documentary or electronic evidence in support of the appeal. Any supportive measures shall remain in place during the pendency of an appeal unless a change in circumstances warrant modifications to those measures.
4. Following receipt of the appeal, the Title IX Coordinator shall notify all parties in writing of the appeal, any deadlines associated with the appeal process, and the individual who will decide the appeal (i.e. the Superintendent or a member of the District's Administration who is not the Title IX Coordinator, investigator or Decision-Maker, who does not have a conflict of interest, and who underwent the training specified in this Policy). The non-appealing party(ies) shall also be provided a copy of the appeal and any information submitted in connection with the appeal.
5. Either party may submit a written statement in response to the appeal, whether in support of or challenging the outcome. Any such written statement must be received by the Title IX Coordinator, with a copy to the individual who will decide the appeal, within seven (7) calendar days from the date on which the appeal was transmitted to the non-appealing party(ies). Each party which submits a written statement shall simultaneously provide a copy to the other party(ies) and to the Title IX Coordinator.
6. The individual who will decide the appeal, in rendering a decision on the appeal, shall consider the record as well as any statements or information submitted by the parties in connection with the appeal.
7. The individual who will decide the appeal shall issue a written decision within ten (10) business days after the deadline for either party to submit a written statement in response to the appeal. The written decision shall describe the result of the appeal and the rationale. The decision may deny or grant the appeal, in whole or in part, and may but is not required to refer an appealed issue back to a prior point in the Grievance Process, if appropriate under the circumstances. The written decision shall be provided to both parties as well as the Title IX Coordinator.

Continued

**SUBJECT: TITLE IX POLICY AGAINST SEXUAL HARASSMENT AND SEX DISCRIMINATION****J. Informal Resolution**

At any time prior to reaching a determination regarding responsibility, but only after a formal complaint has been filed, the District may offer an optional informal resolution process (e.g. mediation) that does not involve a full investigation and adjudication of the formal complaint. In order to do so, the District must:

1. Provide written notice to the parties disclosing:
  - a. The allegations of the formal complaint;
  - b. The requirements of the informal resolution process, including that the parties will be precluded from resuming a formal complaint arising from the same allegations in the event that an informal final resolution is agreed to during the informal resolution process, and that any party has the right to withdraw from the informal resolution process and resume the Grievance Process with respect to the formal complaint at any time prior to agreeing to an informal final resolution;
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
2. Obtain the parties' voluntary written consent to the informal resolution process.

In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

If the parties consent to the informal resolution process, the District will attempt to complete that process within thirty (30) calendar days. If at any point during the informal resolution process it is determined that the allegations are unlikely to be resolved, the District reserves the right to resume the Grievance Process.

20 USC § 1092(f)(6)(A)(v) 20 USC § 1681, et. seq.  
34 USC § 12291(a)(8, 10, and 30)  
34 CFR Part 106 Education Law §  
13 8 NYCRR § 100.2(kk)

NOTE: Refer also to Policies #3420 - Non-Discrimination and Anti-Harassment in the District  
#6121 - Sexual Harassment in the Workplace  
#6432 - Whistleblower Policy  
#7550 - Dignity for All Students  
*District Code of Conduct*

Adoption Date: 05/23/2022

LEWISTON-PORTER CENTRAL SCHOOL DISTRICT

2022

3510

Community Relations

**SUBJECT: EMERGENCY SCHOOL CLOSINGS**

In the event it is necessary to close school for the day, activate a delayed starting time or early dismissal (as well as information relating to cancellation of after-school activities/late bus runs), due to inclement weather, impassable roads, or other emergency reasons; the announcements will be made using available resources.

When school is closed, all related activities, including athletic events and student activities, **will may** be cancelled for that day and evening, **unless otherwise noted**.

The attendance of personnel shall be determined by the Superintendent or designated representative.

Education Law Section 3604(7)

Adoption Date: **05/23/2022**

# LEWISTON-PORTER CENTRAL SCHOOL DISTRICT

2022

3520

Community Relations

## **SUBJECT: EXTRAORDINARY CIRCUMSTANCES**

The District considers the safety of its students and staff to be of the utmost importance and is acutely aware that extraordinary circumstances such as widespread illness, natural disaster, or other emergency situation may make District premises unsafe or otherwise interrupt the District's ability to effectively operate.

In these circumstances, the District will follow its previously developed policies, procedures, and plans including, but not limited to, the District-wide school safety plan and building-level emergency response plan(s). To the extent that any District policy, procedure, or plan is in any way inconsistent with or conflicts with federal, state, or county law, regulation, or executive order released for the purpose of addressing the extraordinary circumstance, the federal, state, or county law, regulation, or executive order will govern. Additionally, the Board may adopt resolutions or take other actions as needed to respond to changes in federal, state, or county law, regulation, or executive order to provide further direction during an extraordinary circumstance.

Adoption Date: 05/23/2022

## Students

**SUBJECT: STUDENT GENDER IDENTITY**

All students need a safe and supportive educational environment to progress academically and developmentally. The District is committed to fostering a safe learning environment for all students, free from discrimination and harassment on the basis of sex, gender, gender identity, gender nonconformity, and gender expression. In accordance with applicable law, regulations, and guidelines, the District will ensure that students have equal access to all ~~school~~-District programs, facilities, and activities. The District will assess and address the specific needs of each student on a case-by-case basis.

**Key Terms**

~~Generally, District personnel should use the language that individual students are using to describe their own gender identity, appearance, or behavior. The most commonly used terms are:~~

"Assigned sex at birth" means the sex designation, usually male or female, assigned to a person when they are born.

"Cisgender": means a person whose gender identity corresponds to their assigned sex at birth.

"Gender": means actual or perceived sex, ~~typically with reference to social and cultural differences rather than physiological ones~~ and includes a person's gender identity or expression.

"Gender expression": means the ways in which a person conveys their gender identity to others, such as through behavior, appearance, clothing, hairstyle, activities, voice, and mannerisms.

"Gender identity": means a person's inner sense or psychological knowledge of being male, female, neither, or both.

"Gender nonconforming" (GNC): ~~describes~~-means someone whose gender identity or gender expression does not conform to social or stereotypical expectations of a person with that gender assigned at birth. This is also referred to as gender variant or gender atypical.

"Transgender": means someone whose gender identity is different than their ~~gender~~-assigned sex at birth.

"Transition": means the process by which a person socially and/or physically aligns their gender expression more closely to their gender identity than their assigned sex at birth.

**Records**

~~As required by law, the District will maintain the confidentiality of student information and records. If a transgender or GNC student has officially changed his or her name, as demonstrated by court order or birth certificate, the District will change its official and unofficial records, as needed, to reflect the change. The District will maintain records with the student's assigned birth name in a separate, confidential file.~~

~~If a transgender or GNC student has not officially changed his or her name, but wishes to be referred to by a different name that corresponds to their gender identity, the District may create or change unofficial records to reflect the name and gender identity that the student consistently asserts at school. On state standardized tests, certain reports to the New York State Education Department, and when necessary to ensure appropriate and coordinated medical care, however, the District will use the student's legal name and gender. Any student identification cards will be issued with the name reflecting the gender identity the student consistently asserts at school. The District will maintain records with the student's assigned birth name and gender in a separate, confidential file.~~

Following the submission of a name change order or other documentation of name change for any current or past student, the District will update the student's name on any document or record issued or maintained by the District. The District will update any current or past student's gender upon submission of any form of government identification.

For any current or past student who has not officially changed their name or gender, the District will, upon request, update its records to reflect the student's asserted name and/or gender. However, the District will continue to use the student's legal name and gender in certain circumstances such as state

(Continued)



Students

**SUBJECT: STUDENT GENDER IDENTITY (Cont'd.)**

standardized tests, certain reports to the New York State Education Department (NYSED), and when necessary to ensure appropriate and coordinated medical care. Any student identification cards will be issued with the name reflecting the gender identity the student consistently asserts at school.

The District will maintain the confidentiality of student information and records as required by law. Further, any records with a student's assigned birth name and gender will be maintained in a separate, confidential file.

**Names and Pronouns**

When apprised of a student's transgender or GNC status, the District will endeavor to engage the student and ~~his or her~~ their parents or guardians, as appropriate, in an effort to agree upon a plan that will accommodate the student's individual needs at school. Transgender and GNC students have the right to discuss and convey their gender identity and expression openly and to decide when, with whom, and how much to share this confidential information. The plan may therefore include when and how to initiate the student's preferred name and associated pronoun use and if, when, and how this is communicated to others. District staff will use the name and pronoun that corresponds to the gender identity the student consistently asserts at school.

**Restrooms and Locker Rooms**

The District will allow a transgender or GNC student to use the restroom and locker room that corresponds to the student's consistently expressed gender identity at school. Any student requesting increased privacy or other accommodations when using bathrooms or locker rooms will be provided with a safe and adequate alternative, but they will not be required to use that alternative. **Additionally, the District will ensure that all single-occupancy bathroom facilities are designated as gender neutral for use by no more than one occupant at a time or for family or assisted use.**

**Physical Education and Sports**

Physical education is a required part of the District's curriculum. Where these classes are sex-segregated, students will be allowed to participate in a manner consistent with their gender identity. Students will likewise be allowed to participate in intramural activities consistent with their gender identity.

Upon written notification that a transgender or GNC student would like an opportunity to participate in the District's interscholastic athletics program consistent with ~~his or her~~ their gender identity, the District will determine ~~his or her~~ their eligibility in accordance with applicable law, regulations, and guidelines. ~~The District will confirm the student's asserted gender identity with documentation it considers appropriate from a parent or guardian, counselor, doctor, psychologist, psychiatrist, or other medical professionals. The student's gender identity should be the same as the identity used for District registration and other school purposes.~~

The District's athletic director will notify opposing team athletic directors or the New York State Public High School Athletic Association if a student needs any accommodations during competitions.

Any appeal regarding the District's eligibility decision will be ~~directly~~ directed to the Commissioner of Education.

(Continued)

Students

**SUBJECT: STUDENT GENDER IDENTITY (Cont'd.)****Other Activities**

Generally, in other circumstances where students may be sex-segregated, such as overnight field trips, students may be permitted to participate in accordance with the gender identity that the student consistently asserts at school. Student privacy concerns will be addressed individually and on a case-by-case basis in accordance with District policy and applicable law, regulations, and guidelines.

**Dress Code and Team Uniforms**

Transgender or GNC students may dress in accordance with their gender identity or expression, within the parameters of the District's dress code. The District will not restrict students' clothing or appearance on the basis of gender.

~~The District's dress code applies while its athletes are traveling to and from athletic contests. Athletes will have access to uniforms that are appropriate for their sport.~~

Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g

~~34 CFR Part 99~~

Title IX of the Education Amendments Act of 1972, 20 USC § 1681 et seq.

34 CFR Parts 99 and 106

Civil Rights Law §§ 40-c, 64, and 67

Education Law Article 2 and §§ 2-d, ~~11(7)~~, 313, and 3201-a

New York State Human Rights Law, Executive Law § 290 et seq.

8 NYCRR § 100.2

NOTE: Refer also to Policies #3410 -- Code of Conduct  
 #3420 -- Non-Discrimination and Anti-Harassment in the District  
 #3421 -- Title IX and Sex Discrimination  
 #5633 -- Gender Neutral Single-Occupancy Bathrooms  
 #7550 -- Dignity for All Students  
 #7551 -- Sexual Harassment of Students  
 #7553 -- Hazing of Students  
 #8242 -- Civility, Citizenship, and Character Education/Interpersonal  
 Violence Prevention Education

Adoption Date