



# Wicomico County Board of Education

## Nondiscrimination and Anti-Harassment Procedure

(Title VII and Title IX Civil Rights Act of 1964, As Amended)

### I. Procedural Statement

The Wicomico County Board of Education (WCBOE) encourages and expects an atmosphere free of discrimination, harassment, and sexual harassment and one that is conducive to high quality performance in the working and learning environment for employees and students. In conjunction with the WCBOE Equal Opportunity and Non-discrimination Policy and WCBOE Harassment and Sexual Harassment Policy, the following procedures identify the manner for resolving complaints arising from any alleged act of discrimination, harassment and/or sexual harassment by any person against a Wicomico County Public Schools (WCPS) employee or student when that act is associated with the school district. Sexual harassment can occur based on sex, gender identity, and/or sexual orientation.

### II. Definitions

- A. “Complaint” means an assertion or claim by any person that a violation of the WCBOE Equal Opportunity and Non-discrimination Policy or WCBOE Harassment and Sexual Harassment Policy (Title VII or Title IX) has occurred.
- B. “Complainant” means Any person associated with the WCBOE or WCPS who submits a complaint relevant to the WCBOE Equal Opportunity and Non-discrimination Policy, WCBOE Harassment and Sexual Harassment Policy (Title VII or Title IX) or Title IX Grievance Policy.
- C. “Days” (for the purposes of this procedure) means calendar days as opposed to business days, unless specified otherwise, for the purposes of this procedure.
- D. “Discrimination” means the following:
  - 1. Exclusion from participation in, denial of the benefits of, or, unfavorable differential treatment with respect to any academic, extra-curricular, research, occupational training, or other education program or activity provided by WCPS or;
  - 2. Exclusion from, participation in, denial of the benefits of, or unfavorable differential treatment with respect to employment, recruitment, consideration or selection for employment by WCPS.
- E. “Sexual Harassment” means the following:
  - 1. Hostile School/Work Environment: Any unwelcomed conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program, activity or job; or,
  - 2. Quid Pro Quo: asking for sexual favors of some kind in exchange for special treatment on the job, in the classroom, etc.; or,
  - 3. Sexual Assault: Any sexual act directed against another person without consent of the victim, including instances where the victim is incapable of giving consent, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

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- F. “Respondent” means the person(s) alleged to have violated the WCBOE Equal Opportunity and Non-discrimination Policy or WCBOE Harassment and Sexual Harassment Policy (Title VII or Title IX).
- G. “Supportive Measures” means 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.
- H. “Title VII or Title IX Coordinator(s)” means the employee(s) designated to direct the efforts of the Wicomico County Board of Education to comply with and carry out its responsibilities under Title VII and Title IX as they apply to either employees or students.

## III. Discrimination – Reporting and Investigation Process

- A. Complaints must be filed in writing within 180 calendar days of the alleged discrimination, or 90 days after the complaining party becomes aware of the alleged discrimination. Such complaints may be filed by either the student alleging discrimination or by his/her parent/guardian. There is no standard form for entering a discrimination complaint. However, all discrimination complaints must contain the following:
  - 1. Name and address of the complaining party
  - 2. A description of the violation of the law or unlawful discriminatory act; and
  - 3. The date of the alleged act and the name of all persons alleged to be responsible.
- B. Adequate, reliable, and impartial investigations, including the opportunity to present witnesses and other evidence, shall be conducted with respect to all timely filed complaints of discrimination.
- C. Complaints shall be resolved within 60 calendar days of their filing with written notice delivered to the complaining party and the respondent of the outcome of the investigation and basis for decision.
- D. Whenever there is reasonable cause to believe, at any level of this procedure, that the complaint may result in disciplinary action against the respondent(s), the respondent(s) will be notified of the complaint in writing and will be afforded all due process and other employment/student rights. The supervisor, principal or Title VII or Title IX coordinator will make every effort to resolve the complaint informally. This may mean more than one scheduled meeting between the two parties before a final informal disposition of the matter is made.

## IV. Sexual Harassment - Reporting and Investigation Process

- A. Student Reports:
  - 1. Any student who believes he or she is a victim of sexual harassment occurring in the school system’s education programs or activities is encouraged to report the matter to the student’s principal or to the WCPS Title IX Coordinator.
  - 2. Reports may also be made to a teacher, counselor, vice principal, teacher assistant, any other school employee, or through the Bullying and Harassment portal.

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3. Reporters may also report sexual harassment, but school officials may be limited in their ability to respond if the report does not identify the victim.
- B. School Employees Reports:  
Any WCPS employee or member of the Board of Education who has knowledge of or is on notice of conduct that may constitute sexual harassment or allegations of sexual harassment occurring in the education program or any activity of the school system must report that information immediately to the WCPS Title IX Coordinator or administrator who will contact the WCPS Title IX Coordinator.
- C. Reporting by Others:  
All other members of the school community are strongly encouraged to report any act that may constitute sexual harassment in violation of this policy to the WCPS Title IX Coordinator.
- D. Whenever there is reasonable cause to believe, at any level of this procedure, that the complaint may result in disciplinary action against the respondent(s), the respondent(s) will be notified of the complaint in writing and will be afforded all due process and other employment/student rights.
- E. The supervisor, principal or Title VII or Title IX coordinator will make every effort to resolve the complaint at Level One. This may mean more than one scheduled meeting between the two parties before a final informal disposition of the matter is made.

## V. Grievance Process

In all reporting levels as subsequently defined, should a complainant have a complaint against the person to whom they are required to submit the complaint, that reporting level may be bypassed. W

### A. Level One

1. If an employee or a student feels they have been harassed or sexually harassed, that person will put their concerns in writing and schedule an appointment with their immediate supervisor, principal, or the Title VII or Title IX coordinator to discuss the complaint.
2. At this time, the immediate supervisor, principal, or the Title VII or Title IX coordinator will direct the investigator for objective investigation into the complaint, keeping all investigatory notes and evidence as documentation, and pursue a resolution.
3. If applicable, the Title IX coordinator shall offer supportive measures and shall document those measures offered. It is the responsibility of the immediate supervisor, principal or the Title VII or Title IX coordinator to present the proposed resolution to the complainant in a timely manner following the investigation.
4. The immediate supervisor, principal, or the Title VII or Title IX coordinator to whom the complainant reports, shall keep all records of the complaint.
5. Upon the filing of a complaint, the Title VII or Title IX coordinator shall provide the parties written notice of the allegations that includes notice of the allegation, a copy of this procedure, notice of representation and right to inspect and review any evidence.
6. No disciplinary sanction or other action that is not a supportive measure, including but not limited to (1) administrative leave with or without pay, or transfer to an alternative school or

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program for student Respondents and (2) reprimand, suspension, demotion, or dismissal for employee Respondents, may be imposed for a violation of this rule unless the Respondent agrees to a specific disciplinary sanction in an informal resolution or has been determined to be responsible for the sexual harassment or other violation at the conclusion of this grievance process.

## B. Level Two

1. In the event that the complainant is dissatisfied with the findings and proposed resolution at Level One, the complainant may then submit a Title VII and Title IX Complaint Filing Form (**Attachment 1**) to the Title VII or Title IX coordinator.
2. The Title VII and Title IX Complaint Filing Form must be completed and submitted within ten (10) days after completion of Level One.
3. If such a filing is not made within the specified time, the matter will be considered closed. If, however, a formal filing is made within the specified time, the Title VII or Title IX coordinator will review the complaint, further investigate as necessary, and respond in writing to the complainant within ten (10) days as to the findings relevant to the alleged violation.

## C. Level Three

1. If the complainant is not satisfied with the position taken at Level Two by the Title VII or Title IX coordinator, the complainant will, within ten (10) days after the response in Level Two is postmarked, direct a letter of appeal to the Superintendent of Schools stating reasons for dissatisfaction.
2. The superintendent will have ten (10) days after receipt of appeal to investigate the matter and give a written decision.

## D. Level Four

1. If a satisfactory disposition of the allegation has not been realized at Level Three, the complainant may then appeal to the Wicomico County Board of Education by directing a letter to the Wicomico County Board of Education, care of the Executive Office Associate for the Board within thirty (30) days after the response of the Superintendent of Schools is postmarked.
2. The Wicomico County Board of Education will consider the complaint as it deems necessary while providing a minimum notice of ten (10) days to the complainant should they require the presence of the complainant at a Wicomico County Board of Education hearing.

## VI. Administrative Procedures

- A. After each scheduled meeting, the immediate supervisor, principal or Title VII or Title IX coordinator will complete the necessary information on the Title VII and Title IX Case Record-Initial Filing form (**Attachment 2**). If the complaint proceeds to successively higher levels, the Title VII and Title IX Coordinator will complete the Title VII and Title IX Complaint Case Record-Appeal Documentation form (**Attachment 3**). This form, along with other documents, forms and records, will be filed in an active case record folder. When the complaint is resolved,

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the records will then be moved to an inactive folder. The Human Resources department shall be responsible for keeping case records on file for at least seven (7) years.

- B. Upon notification by the complainant of appeal of any Level Three written decision, all documents filed in such proceedings (Level One, Two and/or Three as applicable) will be forwarded to the Wicomico County Board of Education or designee (hearing examiner or arbitrator).
- C. There will be no records relevant to a legitimate Title VII or Title IX complaint filed in the complainant's personnel file or permanent record folder. However, such records may become a part of the respondent's personnel file if disciplinary.
- D. All information relevant to a complaint or complaint proceedings will be confidential.
- E. It is recognized that at any or all levels, any party shall have the right to the assistance of representation at their expense.
- F. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility will at all times rest on the school system and not on the Complainant or Respondent. Formal rules of evidence shall not apply in the grievance process.
- G. Investigative Report and Opportunity to Review Evidence
  1. The investigator shall prepare an investigative report that fairly summarizes the relevant evidence.
  2. Before completing the final report, the investigator shall send to each party and the party's advisor, if any, in hard copy or electronically, all the evidence collected which is directly related to the allegations raised in the formal complaint. The parties shall have 10 days to submit a written response for the investigator's consideration before the investigator finalizes the investigative report.
  3. Following the parties' opportunity to respond to the written evidence, the investigator shall finalize the written investigative report, including a recommendation on the question of responsibility and any recommended discipline sanction.
  4. The investigator shall provide a copy of the report to each party and the party's advisor, if any, for their review and written response.
  5. The investigator shall also notify the parties of the opportunity to submit written questions to the other party and witnesses as provided below.
  6. The parties shall have 10 days to provide a written response to the investigative report, along with the party's initial set of written questions.
  7. The investigator shall provide to the decision-maker a copy of the investigative report, the relevant evidence, and the parties' written responses to the report and initial sets of written questions.
  8. The investigator shall also provide a description of the procedural steps taken, starting with the receipt of the formal complaint and continuing through the preparation of the investigative report, and including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence

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## H. Disciplinary Consequences, Remedies, and Other Responses for Substantiated Sexual Harassment

### 1. Disciplinary Consequences for Students:

- Students found responsible for sexual harassment will be assigned consequences in accordance with the Code of Student Conduct.
- Based on the nature and severity of the offense and the circumstances surrounding the incident, the student will be subject to appropriate consequences and remedial actions ranging from positive behavioral interventions up to, and including, expulsion.
- In addition, the conduct also may be reported to law enforcement, as appropriate.
- Any employee or student who violates this procedure shall be subject to appropriate disciplinary actions, which may include counseling, suspension, or termination of employment, depending on the severity of the offense.

### 2. Disciplinary Consequences for Employees:

- Employees found responsible for sexual harassment are subject to discipline up to and including dismissal.
- In addition, the conduct may also be reported to law enforcement, as appropriate.
- Nothing in this rule will preclude the school system from taking disciplinary action against an employee when the evidence does not establish sexual harassment as defined in this rule, but the conduct violates other Board policy or expected standards of employee behavior.

## I. Retaliation

- Any act of retaliation or discrimination against any person for the purpose of interfering with any right or privilege secured by Title IX or because the person has made a report or filed a formal complaint or testified, assisted, or participated in any investigation, proceeding, or hearing involving sexual harassment is prohibited.
- Any person who is found to have engaged in retaliation will be subject to discipline, up to and including dismissal.
- Complaints alleging retaliation are to be treated as claims of sex discrimination and may be filed in accordance with this procedure.

## J. 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.
- Such measures are designed to restore or preserve equal access to the school system's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the school system's educational environment, or deter sexual harassment. Supportive measures available to the parties include, but are not limited to, counseling, mental health services referral, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations,

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leaves of absence, increased security and monitoring, and other similar measures determined by school officials to be legally permissible and necessary to protect the safety or educational or employment activities of a party.

3. Supportive measures shall be available to both the Complainant and Respondent before or after filing of a formal complaint or where no formal complaint has been filed. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

## K. Training

The WCPS or School Based Title IX Coordinator, and all persons serving as Title IX investigators, decision-makers, or appeal decision-makers shall receive training on what constitutes sexual harassment, the scope of the school system's education program and activities, how to conduct an investigation and grievance process, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

## Related Documents:

- Harassment and Sexual Harassment Policy, ADM-HRR-PL-024
- Equal Opportunity and Nondiscrimination Policy, BOE-GOE-PL-001
- Religious Observance Policy & Procedure, INS-SCH-PL-030 & INS-SCH-PR-008
- WCBOE Policy on Bullying, Harassment, Intimidation or Hazing Policy & Procedure, INS-SCH-PL-025 & INS-SCH-PR-006
- Minority Business Enterprise (for State Funded Construction) Policy & Procedure, ADM-FINPL-004 & ADM-FIN-PR-002
- Title IX Grievance Policy, BOE-GEN-PL-003
- Whistleblower Anti-Retaliation Policy, ADM-HRR-PL-029
- Americans with Disability Act
- Boy Scouts of America Equal Access Act
- Title VII and Title IX Civil Rights Act of 1964, As Amended

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## TITLE VII AND TITLE IX COMPLAINT FILING FORM

COMPLAINANT \_\_\_\_\_

WORK/SCHOOL LOCATION \_\_\_\_\_ POSITION \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

Nature of your complaint (Describe the policy, procedure or practice you believe to be in violation of Title VII or Title IX and identify any person(s) you believe to be responsible.)

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Describe any corrective action you feel should be taken with regard to the possible violation.

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What documentation can you supply to support your claim that the Wicomico County Board of Education or its agents have been in noncompliance with Title VII or Title IX? List and attach copies.

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DATE

COMPLAINANT'S SIGNATURE

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## TITLE VII AND TITLE IX CASE RECORD INITIAL FILING

COMPLAINANT \_\_\_\_\_

WORK/SCHOOL LOCATION \_\_\_\_\_ POSITION \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

DATE OF INITIAL CONTACT \_\_\_\_\_

NATURE OF CLAIM \_\_\_\_\_

DATE AND TIME OF INFORMAL HEARING \_\_\_\_\_

PARTIES IN ATTENDANCE \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ACTION \_\_\_\_\_

RECORD COMPLETED BY \_\_\_\_\_

Signature

Date

### SUBSEQUENT INFORMAL HEARINGS

DATE AND TIME \_\_\_\_\_

PARTIES IN ATTENDANCE \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ACTION \_\_\_\_\_

DATE COMPLAINT RESOLVED \_\_\_\_\_

AFFIRMED BY \_\_\_\_\_

RECORD COMPLETED BY \_\_\_\_\_ DATE \_\_\_\_\_

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Complaint No. \_\_\_\_\_

## TITLE VII and TITLE IX COMPLAINT CASE RECORD APPEAL DOCUMENTATION

LEVEL: TWO \_\_\_\_ THREE \_\_\_\_ FOUR \_\_\_\_

DATE APPEAL RECEIVED \_\_\_\_\_

HEARING DATE \_\_\_\_\_ TIME \_\_\_\_\_

PLACE OF HEARING \_\_\_\_\_

PARTIES IN ATTENDANCE \_\_\_\_\_

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ACTION \_\_\_\_\_

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\_\_\_\_\_

DATE OF WRITTEN RESPONSE TO COMPLAINANT \_\_\_\_\_

BY \_\_\_\_\_

COPIES OF ALL WRITTEN DOCUMENTS ATTACHED \_\_\_\_\_

COMPLAINT RESOLVED \_\_\_\_\_

RECORD COMPLETED BY \_\_\_\_\_

Signature Date

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