

**Lake Country School District Policy Statement
Series 400 - Students**

Student Sex Discrimination & Sexual Harassment Policy

**Policy #: 443.73
(Previously 900.54)**

It is the policy of the Lake Country School Board to maintain a school environment free from all forms of harassment and to insist that all students are to be treated with dignity, respect, and courtesy. Per Title IX, Lake Country School is required to take steps to prevent and remedy two forms of sex-based harassment: sexual harassment and gender-based harassment. Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

As per Title IX, Lake Country School must develop and implement response protocols that differentiate between formal complaints of sexual harassment and reports of possible sexual harassment of which the district has actual knowledge. Only formal complaints trigger the obligation to use the formal Title IX investigation/grievance process. However, prior to and after the filing of a formal complaint as well as in the absence of a formal complaint, Lake Country School still must respond to reports of possible sexual harassment by, for example, offering and providing "supportive measures" and taking other proactive steps. Under Title IX, Lake Country School must decide if an assault claim requires a response based on "clear and convincing evidence."

Per Title IX, Lake Country School may not impose disciplinary sanctions or take other adverse actions against alleged perpetrators of sexual harassment until after an investigation occurs and a determination of responsibility is made at the conclusion of the grievance process. However, the district may make allowances for the emergency removal of a student from a class, program or activity and also place an employee on a non-disciplinary administrative leave.

The district's obligations to respond to incidents or allegations of sexual harassment under the Title IX regulations are triggered any time the district has actual knowledge of the relevant circumstances. Under the regulations, "actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the district's Title IX Coordinator, to any school district official who has authority to institute corrective measures on behalf of the district, or to any employee of the school. In all cases, the district's obligation is to respond by the conclusion of the following school day. Documentation of the event and all aspects of the investigation will be carefully documented by the staff members involved.

The district must ensure that the Title IX Coordinators investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on:

- the definition of sexual harassment under the Title IX regulations,
- how to conduct an investigation and grievance process including hearings (if applicable), appeals, and informal resolution processes (if applicable)
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Lake Country School is required to retain records, for a period of seven years, of all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. In addition, the district must make these training materials publicly available on the district's website.

All students have rights under state and federal laws to be protected from such harassment and are encouraged to report incidents, which may violate this policy. Retaliation in any form for complaints or participation in any investigation of alleged harassment is prohibited.

Adopted by School Board November 15, 1993
Revised by School Board January 9, 1995
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08/10/2020 2nd Reading for revisions
Revised by School Board August 10, 2020

Realigned to WASB Policy Manual Coding System Summer 2020

SEXUAL HARASSMENT STUDENT-STUDENT COMPLAINT PROCEDURE

The Lake Country School District will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent. As part of an investigation process, LCS requires the following:

- a. an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;
- b. that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
- c. that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment in, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- d. a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- e. include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.
- f. maintain a record of each sexual harassment investigation including: any determination regarding responsibility; any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the

district's education program or activity; any appeal and the result of an appeal; and any informal resolution and the result there from.

The final rule prescribes a consistent, transparent grievance process for resolving formal complaints of sexual harassment. Aside from hearings, the grievance process prescribed by the final rule applies to all schools. The final rule states that a school's grievance process must treat complainants equitably by providing remedies any time a respondent is found responsible, and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process prescribed in the final rule.

Remedies, which are required to be provided to a complainant when a respondent is found responsible, must be designed to maintain the complainant's equal access to education and may include the same individualized services described in the final rule as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.

Step 1

Any student who feels he/she has been subjected to sexual harassment by another student or any parent/concerned individual who feels a student has been subjected to sexual harassment by another student must contact the district's Title IX Coordinator, any school district official who has authority to institute corrective measures on behalf of the district, or any employee of the school. The final rule allows parents or guardians of K-12 students to file complaints on their behalf, and requires parental notification of complaints against their children. The district's obligations to respond to incidents or allegations of sexual harassment under the Title IX regulations are triggered any time the district has actual knowledge of the relevant circumstances.

A qualified staff member such as the Guidance Counselor, the School Psychologist, and/or the Principal will meet separately with each individual involved in the complaint. A confidential record of the proceedings to the extent authorized by the law in the informal procedure will be maintained.

Parents/Guardians must be notified as soon as possible, and no later than the following school day, of any incident or accusation.

Step 2

Informal Complaints

If the incident is deemed as informal, LCS must respond by offering and providing "supportive measures" and taking other proactive steps. When the grievance is resolved informally, a disciplinary action may or may not be taken as pursuant to the district's Student Handbook and the Board of Education policies.

Formal Complaints

Only formal complaints trigger the obligation to use the formal Title IX investigation/grievance process. Per Title IX, LCS may not impose disciplinary sanctions or take other adverse actions against alleged perpetrators of sexual harassment until after an investigation occurs and a determination of responsibility is made at the conclusion of the grievance process. However, the district may make allowances for the emergency removal of a student from a class, program or activity and also place an employee on a non-disciplinary administrative leave.

Step 3.

The complainant or the respondent may make an appeal to the District Administrator and/or to the Board of Education if they feel that an equitable solution has not been reached. If the District Administrator is unable to mediate the situation, it may be sent to the Board.

Step 4

The Board of Education may address the appeal in a closed session.

Step 5

PI 9.04 of the Wisconsin Administrative Code mandates districts to establish procedures for receiving and resolving discrimination complaints (including harassment) and guarantees the right to appeal a negative determination by the School Board to the State Superintendent of Public Instruction within 30 days of the local decision.

Appeals under 20 U.S.C. Sec. 1415 and Wis. Stats. Ch. 115, relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional education need, shall be resolved through the procedure authorized by Wis. Stats. Ch. 115, Subch. V, and shall not be subject to these procedures.

Complaints under 20 U.S. C. Sec. 1231e-3 and 34 C.F.R. Sec. 76.780-76.782, commonly referred to as EDGAR complaints, that the state or a subgrantee is violating a federal statute or regulation that applies to a program, shall be referred directly to the State Superintendent of Public Instruction.