

York Adams Academy

Section: Programs

Title: Discrimination/Title IX Sexual Harassment Affecting Staff

Number: 104

Status: Active

Legal References

U.S. Const. Amend. XIV, Equal Protection Clause

20 U.S.C. 1092

20 U.S.C. 1232g

20 U.S.C. 1681 et seq

29 U.S.C. 206

29 U.S.C. 621 et seq

29 U.S.C. 794

34 U.S.C. 12291

42 U.S.C. 12101 et seq

42 U.S.C. 1981 et seq

42 U.S.C. 2000e et seq

42 U.S.C. 2000ff et seq

18 Pa. C.S.A. 2709

43 P.S. 336.3

43 P.S. 951 et seq

28 CFR 35.140

28 CFR Part 41

29 CFR Parts 1600-1691

34 CFR 106.30

34 CFR 106.44

34 CFR 106.45

34 CFR 106.71

34 CFR 106.8

34 CFR Part 106

34 CFR Part 99

EEOC Enforcement Guidance on Harris v. Forklift Sys., Inc., November 9, 1993

EEOC Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 18, 1999

EEOC Policy Guidance on Current Issues of Sexual Harassment, March 19, 1990

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)

Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

16 PA Code 44.1 et seq

Pol. 317

Pol. 317.1

Pol. 806

Pol. 815

Pol. 824

Authority

The Joint Board of Directors (Board) declares it to be the policy of the York Adams Academy (Academy) to provide to all persons equal access to all categories of employment in the Academy, regardless of race, color, age, creed, religion, sex, sexual orientation, ancestry, national origin, marital status, genetic information, pregnancy or handicap/disability. The Academy shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.

The Board also declares it to be the policy of the Academy to comply with federal law and regulations under Title IX prohibiting sexual harassment, which is a form of unlawful discrimination on the basis of sex. Such discrimination shall be referred to throughout this policy as Title IX sexual harassment. Inquiries regarding the application of Title IX to the Academy may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

The Board directs that the foregoing statement of Board policy be included in each student and staff handbook, and that this policy be posted to the Academy's website.

The Board directs that the Title IX Coordinator or designee draft administrative regulations or procedures that shall be used to enforce and carry out this policy.

The Board requires a notice stating that the Academy does not discriminate in any manner, including Title IX sexual harassment, in any education program or activity, to be issued to all students, parents/guardians, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the Academy. All discrimination notices and information shall include the title, office address, telephone number and email address of the individual(s) designated as the Compliance Officer and Title IX Coordinator.

Reports of Title IX Sexual Harassment and Other Discrimination and Retaliation

The Board encourages employees and third parties who believe they or others have been subject to Title IX sexual harassment, other discrimination or retaliation to promptly report such incidents to the Academy Director or designee. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

If the Academy Director is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the Superintendent of Record.

The complainant or the individual making the report may use the Academy Complaint Form, located on the Academy website and in the Academy Director's Office, for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant administrative regulations or procedures followed.

The Academy Director, as the Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator shall conduct an assessment to determine if the reported circumstances meet the definition of Title IX sexual harassment and are most appropriately addressed through the Title IX Sexual Harassment Grievance Process, as outlined in law and by administrative regulations and procedures, or through another discrimination grievance process as outlined in administrative regulations and procedures.

Disciplinary Procedures when Reports Allege Title IX Sexual Harassment

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process as outlined in law and administrative regulations and procedures. The Academy shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process.

Administrative Leave –

When an employee, based on an individualized safety and risk analysis, poses an immediate threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis.

An accused, nonstudent Academy employee may be placed on administrative leave during the pendency of the grievance process, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

Confidentiality

Confidentiality of all parties, witnesses, the allegations, the filing of a report, and the investigation related to any form of discrimination or retaliation, including Title IX sexual harassment, shall be handled in accordance with applicable law, regulations, this policy, administrative regulations and procedures, and the Academy's legal and investigative obligations.

Retaliation

The Board prohibits retaliation by the Academy or any other person against any person for:

1. Reporting or making a formal complaint of any form of discrimination or retaliation, including Title IX sexual harassment.
2. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The Academy, its employees and others are prohibited from intimidating, threatening, coercing, or discriminating against anyone for actions described above. Individuals are encouraged to contact the Title IX Coordinator immediately if they believe retaliation has occurred.

Definitions

Complainant shall mean an individual who is alleged to be the victim.

Respondent shall mean an individual alleged to be the perpetrator of the discriminatory conduct.

Discrimination shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, creed, religion, sex, sexual orientation, genetic information, ancestry, national origin, marital status, pregnancy, or handicap/disability.

Harassment is a form of discrimination based on the protected classifications listed in this policy consisting of unwelcome conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes, slurs, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct that may be harmful or humiliating or interfere with a person's school or school-related work performance, including when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or

3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile, or offensive working environment such that it alters the complainant's working conditions.

Definitions Specific to Title IX Sexual Harassment Only

Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment and requesting that the Academy investigate the allegation under the grievance process for formal complaints. The authority for the Title IX Coordinator to sign a formal complaint does not make the Title IX Coordinator a party in the grievance process for formal complaints. The phrase "document filed by a complainant" refers to 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.

Supportive measures shall mean 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 shall be designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or to deter sexual harassment.

Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An Academy employee conditioning the provision of an aid, benefit, or Academy service on an individual's participation in unwelcome sexual conduct, commonly referred to as *quid pro quo sexual harassment*.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to an Academy education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
 - a. *Dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:
 - i. Length of relationship.
 - ii. Type of relationship.

- iii. Frequency of interaction between the persons involved in the relationship.
- b. *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- c. *Sexual assault* means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
- d. *Stalking*, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:
 - i. Fear for their safety or the safety of others.
 - ii. Suffer substantial emotional distress.

Such conduct must have taken place during an Academy education program or activity and against a person in the United States to qualify as sexual harassment under Title IX. An education program or activity includes the locations, events or circumstances over which the Academy exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of an Academy's education programs or activities, whether such programs or activities occur on-campus or off-campus.

Delegation of Responsibility

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Academy Director as the Academy's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at:

Address: Suite 500 300 East 7th Avenue, York, PA 17404

Email: cfultz@yorkadamsacademy.org

Phone Number: 717-718-5836

The Compliance Officer and Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures and to monitor the implementation of the Academy's nondiscrimination procedures in the following areas, as appropriate:

1. Review - Review of personnel practices and actions for discriminatory bias and compliance with laws against discrimination to include monitoring and recommending corrective measures when appropriate to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; Academy designed performance evaluations; review of planned employee demotions, non-renewal of contracts, and proposed employee disciplinary actions up to and including termination.
2. Training - Provide training for supervisors and staff to prevent, identify and alleviate problems of employment discrimination.
3. Resources - Maintain and provide information to staff on resources available to alleged victims in addition to the school complaint procedure or Title IX procedures, such as making reports to the police, and available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources including counseling resources.
4. Reports/Formal Complaints - Monitor and provide technical assistance to individuals involved in managing informal reports and formal complaints.

Guidelines

Title IX Sexual Harassment Training Requirements

The Compliance Officer and Title IX Coordinator, investigator(s), decision-maker(s), or any individual designated to facilitate an informal resolution process related to Title IX sexual harassment shall receive the legally required training, as required or appropriate to their specific role.

All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

All training materials shall be posted on the Academy's website.

Disciplinary Consequences

An employee who violates this policy shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.

Reports of Discrimination

Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sexual harassment but are based on race, color, age, creed, religion, sex, sexual orientation, ancestry, genetic information, national origin, marital status, pregnancy or

handicap/disability shall follow administrative regulations and procedures drafted to enforce and carry out this policy.

Reports of Title IX Sexual Harassment

Any reports deemed by the Title IX Coordinator to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Grievance Process outlined by law and further detailed in administrative regulations and procedures.