102 NON-DISCRIMINATION/TITLE IX SEXUAL HARASSMENT AFFECTING EMPLOYMENT PRACTICES

BOARD ADOPTED NOVEMBER 16, 2020

A. AUTHORITY

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

2. The Board also declares it to be the policy of this Intermediate Unit 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 Intermediate Unit may be referred to the Title IX Coordinator (Employment), to the Assistant Secretary for Civil Rights of the U.S. Department of Education, or both.

3. The Board directs that this Board policy and administrative procedures established by the Title IX Coordinator (Employment) be issued to employees annually and be posted to the Intermediate Unit’s website.

B. REPORTS OF TITLE IX SEXUAL HARASSMENT AND OTHER DISCRIMINATION AND RETALIATION

1. 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 building administrator or program supervisor. 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.

2. If the building administrator or program supervisor is the subject of a complaint, the complainant or the individual making the report shall direct the report of the incident to the Title IX Coordinator (Employment).

3. The complainant or the individual making the report may use the Discrimination/Sexual Harassment/Retaliation Report Form made available on the Intermediate Unit’s website for purposes of reporting an incident or incidents in writing; however, verbal reports of an incident or incidents shall be accepted, documented and CLIU procedures followed.

4. The building administrator or program supervisor shall promptly notify the Title IX Coordinator (Employment) of all reports of discrimination, Title IX sexual harassment or retaliation. The Title IX Coordinator (Employment) will then take appropriate action to investigate any allegations of discrimination or retaliation.

The Board will not tolerate any form of retaliation against anyone who makes a good faith report of discrimination or retaliation.
IX Coordinator (Employment) 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 (Employment) shall consider the complainant’s wishes with respect to
supportive measures.

5. The Title IX Coordinator (Employment) shall conduct an assessment to determine whether the
reported circumstances are most appropriately addressed through the Discrimination Complaint
Procedures established by the Title IX Coordinator (Employment), or if the reported
circumstances meet the definition of Title IX sexual harassment and are most appropriately
addressed through the Title IX Sexual Harassment Procedures and Review Process established by
the Title IX Coordinator (Employment) or other Board policies.

C. DISCIPLINARY PROCEDURES WHEN REPORTS ALLEGE TITLE IX SEXUAL
HARASSMENT
1. When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until
the completion of the review process established by the Title IX Coordinator (Employment). The
Intermediate Unit shall presume that the respondent is not responsible for the alleged conduct until
a determination has been made at the completion of the review process for formal complaints.

D. ADMINISTRATIVE LEAVE
1. The CLIU reserves the right to place an employee on paid or unpaid administrative leave based on
the circumstances of each individual situation.

E. CONFIDENTIALITY
1. 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, CLIU Procedures and the
Intermediate Unit's legal and investigative obligations.

F. RETALIATION
1. The Board prohibits retaliation by the Intermediate Unit or any other person against any person
for:
a. Reporting or making a formal complaint of any form of discrimination or retaliation,
including Title IX sexual harassment.
b. Testifying, assisting, participating or refusing to participate in a related investigation, process or other proceeding or hearing.

2. The Intermediate Unit, 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 (Employment) immediately if they believe retaliation has occurred.

G. DEFINITIONS

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

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

H. DISCRIMINATION

1. 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.

2. 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:

   a. Submission to such conduct is made explicitly or implicitly a term or condition of an employee’s status; or

   b. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or

   c. 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.

I. DEFINITIONS RELATED TO TITLE IX SEXUAL HARASSMENT

1. Formal complaint shall mean a document filed by a complainant or signed by the Title IX Coordinator (Employment) alleging Title IX sexual harassment and requesting that the Intermediate Unit investigate the allegation under the review process for formal complaints. The
authority for the Title IX Coordinator (Employment) to sign a formal complaint does not make
the Title IX Coordinator (Employment) 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.

2. Supportive measures shall mean nondisciplinary, nonpunitive 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.

   a. Counseling or Employee Assistance Program.
   b. Modifications of work schedules.
   c. Mutual restrictions on contact between the parties.
   d. Changes in work locations.
   e. Leaves of absence.
   f. Increased security.
   g. Assistance from domestic violence or rape crisis programs.
   h. Assistance from community health resources including counseling resources.

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

   a. An Intermediate Unit employee conditioning the provision of an aid, benefit, or Intermediate
      Unit service on an individual’s participation in unwelcome sexual conduct, commonly
      referred to as quid pro quo sexual harassment.
   b. 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 Intermediate Unit
      education program or activity.
   c. Sexual assault, dating violence, domestic violence or stalking.
      i. 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:
            – Length of relationship.
            – Type of relationship.
            – Frequency of interaction between the persons involved in the relationship.
ii. 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.

iii. 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.

iv. 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:
- Fear for their safety or the safety of others.
- Suffer substantial emotional distress.

d. Such conduct must have taken place during an Intermediate Unit 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 Intermediate Unit exercises substantial control over both the respondent and the context in which the harassment occurs. Title IX applies to all of an Intermediate Unit’s education programs or activities, whether such programs or activities occur on-campus or off-campus.

J. DELEGATION OF RESPONSIBILITY

1. In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates a Human Resources Manager to fulfill the roles of Compliance Officer (Employment) and Title IX Coordinator (Employment).

2. The Compliance Officer (Employment) and Title IX Coordinator (Employment) 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 Intermediate Unit’s nondiscrimination procedures in the following areas, as appropriate:

a. 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; Intermediate Unit designed
K. GUIDELINES

1. Title IX Sexual Harassment Training Requirements
   a. The Compliance Officer (Employment) and Title IX Coordinator (Employment),
      investigator(s) (Employment), decision-maker(s) (Employment), or any individual designated
to facilitate an informal resolution process related to Title IX sexual harassment shall receive
the following training, as required or appropriate to their specific role:
   i. Definition of sexual harassment.
   ii. Scope of the Intermediate Unit’s education program or activity, as it pertains to what is
   subject to Title IX regulations.
   iii. How to conduct an investigation and grievance process for formal complaints, including
   examination of evidence, drafting written determinations, handling appeals and informal
   resolution processes, as applicable.
   iv. How to serve impartially, including by avoiding prejudgment of the facts at issue,
   conflicts of interest and bias.
   v. Use of relevant technology.
   vi. Issues of relevance including when questions and evidence about the complainant’s
   sexual predisposition or prior sexual behavior are not relevant.
   vii. Issues of relevance, weight of evidence and application of standard of proof and drafting
   investigative reports that fairly summarize relevant evidence.
   viii. How to address complaints when the alleged conduct does not qualify as Title IX sexual
   harassment but could be addressed under another complaint process or Board policy.
b. All training materials shall promote impartial investigations and adjudications of formal complaints of Title IX sexual harassment without relying on sex stereotypes.

c. All training materials shall be posted on the Intermediate Unit’s website.

i. Disciplinary Consequences

d. 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.

i. Reports of Discrimination

ii. Any reports of discrimination that are reviewed by the Title IX Coordinator (Employment) 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 the Intermediate Unit’s Complaint Procedures established by the Title IX Coordinator (Employment).

iii. Reports of Title IX Sexual Harassment

e. Any reports deemed by the Title IX Coordinator (Employment) to meet the definition of sexual harassment under Title IX shall follow the Title IX Sexual Harassment Procedures and Review Process established by the Title IX Coordinator (Employment).