

Students

Sexual Harassment

The CREC Council does not discriminate on the basis of sex in its education programs or activities, including employment. Sexual harassment is a form of sex discrimination and is forbidden, whether engaged in by students, supervisory or non-supervisory personnel, individuals under contract, or volunteers subject to the control of the Council. The Council is committed to safeguarding the right of all students of the school district to a learning environment that is free from all forms of sexual harassment.

Sexual harassment is conduct on the basis of sex that satisfies one or more of the following: (1) An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct; (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 the district's education program or activity; or (3) Sexual assault, dating violence, domestic violence, or stalking.

Any student who believes that they have been subjected to sexual harassment should report the matter immediately so that investigation may begin at once and appropriate corrective action may be taken. Upon learning of, or having reason to suspect, the occurrence of sexual harassment, school staff members shall ensure that an investigation is promptly commenced and appropriate corrective action is taken, whether or not the victim reports the matter.

The Executive Director is directed to develop and implement specific procedures on reporting, investigating and remedying instances of sexual harassment.

A copy of this policy and its accompanying regulation shall be distributed to staff and students and posted in appropriate places.

Legal Reference: Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681
Gebser v. Lago Vista Indiana School District, 524 U.S. 274 (1998)
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)
United States Department of Education, Title IX Final Rule, 34 CFR Part 106

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CAPITOL REGION EDUCATION COUNCIL
Hartford, Connecticut

Students

Sexual Harassment

Definitions

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following: (1) An employee or third party subject to CREC control conditioning the provision of an aid, benefit, or service of CREC on an individual’s participation in unwelcome sexual conduct; (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 CREC’s education program or activity; or (3) Sexual assault, dating violence, domestic violence, or stalking.

Sexual harassment behavior may include, but is not limited to: suggestive or obscene letters, notes, invitations; derogatory comments, slurs, jokes, epithets; assault, touching, impeding or blocking movement; leering, gestures; display of sexually suggestive objects, pictures or cartoons; continuing to express sexual interest after being informed that the interest is unwelcome; coercive sexual behavior used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student, including promises or threats regarding grades, course admission, evaluations, or recommendations; enhancement or limitation of student benefits or services (e.g. scholarships, financial aid); inappropriate attention of a sexual nature from peer(s), i.e. student to student.

The exercise of rights protected under the First Amendment does not constitute sexual harassment under Title IX.

“Sexual assault” means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child; by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under Connecticut domestic or family violence laws; or by any other person against an adult or youth complainant who is protected from that person's acts under Connecticut domestic or family violence laws.

“Dating violence” means violence committed by a person--

- (A) who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for that person’s safety or the safety of others; or (B) suffer substantial emotional distress.

“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. Such measures are designed to restore or preserve equal access to CREC’s education program or activity without unreasonably burdening the other party, and include measures designed to protect the safety of all parties or CREC’s educational environment, or to deter sexual harassment.

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any CREC official who has authority to institute corrective measures, or any CREC employee.

“Complainant” means an individual who is alleged to have been subjected to conduct that could constitute sexual harassment.

“Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting that CREC investigate the allegation of sexual harassment.

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

Title IX Coordinator

The CREC Title IX Coordinators are Carlos Figueroa, Chief Human Resources Officer CREC, 147 Charter Oak Avenue, Hartford, Connecticut, 06106; telephone: (860) 509-3773; email: cfigueroa@crec.org; and Ivette Rizza, Managing Director, Employee Relations, CREC, 147 Charter Oak Avenue, Hartford, Connecticut, 06106; telephone: (860) 524-4031; email: irizza@crec.org

Reporting Procedure

Any person may report sexual harassment, whether or not the person reporting is a person who is alleged to have been subjected to conduct that could constitute sexual harassment. Such report may be made to the Title IX coordinator or to the school principal/program director or designee, in person, by mail, by telephone or by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours), and it may be made anonymously.

Students who believe that they have been sexually harassed at a CREC education program or facility, or those who have knowledge of sexual harassment occurring at a CREC education

program or activity, should report the matter to the Title IX coordinator or to the school principal/program director or designee. School or program employees who receive reports of sexual harassment should immediately forward them to the Title IX coordinator with a copy to the school principal/program director or designee.

Supportive measures

Upon receipt of a report of sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures; consider the wishes of the complainant with regard to supportive measures; inform the complainant of the availability of supportive measures whether or not the complainant files a formal complaint; and explain to the complainant the process for filing a formal complaint.

Supportive measures may include, but are not limited to:

1. A change in class schedule;
2. Additional time to make up assignments/tests missed due to the alleged harassment;
3. Ability to withdraw from elective classes without penalty;
4. Separating the parties as much as possible during the school day;
5. Support by the guidance counselor, school social worker or other designated individual;
6. Increased monitoring, supervision or security in locations or activities where the alleged misconduct occurred; and
7. Other similar measures.

Supportive measures provided must be kept confidential unless disclosure is necessary for the supportive measure's effectiveness.

The Title IX Coordinator must document that measures were taken in order to restore or preserve equal access to CREC's education program or activity and such documentation should address why the response was not deliberately indifferent. The Title IX Coordinator must document all supportive measures offered to and/or provided to the complainant. If the Title IX Coordinator does not provide supportive measures to a complainant, the Title IX Coordinator must document why such a response was not clearly unreasonable in light of the known circumstances.

Formal grievance procedure

A report of sexual harassment is not a request for a formal Title IX complaint investigation. A complainant who wants a formal complaint investigation must file a formal written complaint with the Title IX Coordinator.

The formal grievance procedure is designed to provide for the prompt and equitable resolution of

complaints alleging any action that would be prohibited by Title IX and its implementing regulations. The grievance procedure applies only to claims of sexual harassment occurring in CREC's education programs or activities and within the United States. The formal grievance procedure is only initiated if the complainant, the complainant's parent/guardian, or the Title IX Coordinator signs a formal complaint alleging sexual harassment against a respondent and requesting that CREC investigate the allegation of sexual harassment.

The Title IX Coordinator, investigator, decision-maker, and any person designated to facilitate an informal resolution process will recuse themselves if they have a conflict of interest or a bias for or against complainants or respondents generally or to an individual complainant or respondent. There is 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.

The grievance process will be completed within a reasonable time frame. Although each complaint is different, a reasonable time frame generally means that the grievance process will be completed within forty-five (45) calendar days of when the formal complaint is filed. Time frames may be extended for good cause. Both the complainant and respondent should be informed in writing of any extension of the time frame and the reason for the extension. Good cause may include, but is not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity or Department of Child and Families investigation; or the need for language assistance or accommodation of disabilities.

1. The written formal complaint should include:
 - a. the name of the complainant;
 - b. the date of the complaint;
 - c. the date(s) of the alleged sexual harassment;
 - d. the name(s) of the alleged harasser(s) (if known);
 - e. the location where such sexual harassment occurred;
 - f. a detailed statement of the circumstances constituting the alleged sexual harassment;
 - g. any other pertinent information.

2. Upon receipt of a formal complaint, the Title IX Coordinator must provide the following written notice to the parties who are known:
 - a. Notice of CREC's grievance process, including any informal resolution processes that are available.
 - b. Notice of the allegations of sexual harassment, including sufficient details known at the time, such as: the identities of the parties involved in the incident (if known), the conduct allegedly constituting sexual harassment in violation of Title IX, and the date and location of the alleged incident (if known).

- 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. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - e. A statement that each party will have the opportunity to inspect and review evidence provided.
 - f. A statement that parties who knowingly make false statements or knowingly submit false information during the grievance process may be disciplined.
3. If during the course of the investigation of the formal complaint the investigator (who may not be the Title IX Coordinator) decides to investigate allegations not included in the original complaint, the investigator will provide notice of the additional allegations to the parties whose identities are known.
 4. Risk Assessment. Upon receipt of a formal Title IX written complaint, the Title IX Coordinator will undertake an individualized safety and risk analysis. If the Title IX Coordinator determines that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies removal of the respondent from the school setting, the Title IX Coordinator, in conjunction with the school principal/program director, if the respondent is a student, or the Director of Human Resources, if the respondent is an employee, will immediately remove the respondent from the school setting. If the respondent is a student, any decision to suspend or recommend the student for expulsion will follow CREC's normal suspension/expulsion process. If the respondent is an employee, CREC will follow its normal exclusionary procedures for employees, including but not limited to placement on administrative leave.
 5. If the complainant is a minor student, and/or the alleged perpetrator is a staff member, the Title IX Coordinator will evaluate whether a report must be made to the Department of Children and Families (DCF). In cases where such report is made and DCF begins an investigation, any investigation by the district may begin only after DCF completes its own.
 6. CREC may consolidate two or more formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.
 7. Mandatory Dismissal of Formal Complaint. If, during the course of the investigation, it is determined that the respondent's conduct, even if proven, did not occur in a CREC education program or activity, or did not occur against a person in the United States, CREC is required to dismiss the formal complaint with regard to that conduct. Such dismissal must be approved by the Superintendent or designee or the Director of Human Resources. Such dismissal does not preclude investigation and/or discipline under the provisions of another CREC policy.

8. Permissive Dismissal of Formal Complaint. CREC may dismiss the formal complaint or specific allegations therein, if (a) any time during the investigation or decision-making process, the 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 CREC; or (c) specific circumstances prevent CREC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Such dismissal must be approved by the Superintendent or designee or the Director of Human Resources. Such dismissal does not preclude investigation and/or discipline under the provisions of another CREC policy.
9. Upon mandatory or permissive dismissal, the Title IX Coordinator must promptly send simultaneous written notice of the dismissal to all parties.

Formal Investigation Process

1. The investigator must be free from bias and conflicts of interest and trained to serve impartially.
2. The investigator must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on CREC, not the parties.
3. The privacy of an individual's medical, psychological, and similar treatment records will be protected. Such records will not be accessed by the investigator or decision makers unless the individual's or parent's/guardian's voluntary, written consent is obtained.
4. The investigator will provide an equal opportunity for all parties to present witnesses, including fact and expert witnesses, and other evidence.
5. No party will be prohibited from discussing the allegations under investigation or gathering and presenting relevant evidence.
6. Each party may be accompanied to any meeting or proceeding by an advisor of their choosing. The advisor, however, will be there to provide advice to the party and may not actively participate in the meeting or proceeding. The advisor will not be allowed to ask or answer questions during the meeting or proceeding.
7. Each party will be given at least three (3) calendar days advance written notice of the date, time, location, participants and purpose of all investigative interviews or other meetings to which the party is invited, in order to have sufficient time to prepare to participate.
8. To the extent the documents and information are not protected from disclosure by the Family Educational Rights and Privacy Act (FERPA), the Americans with Disabilities Act (ADA), the Individuals with Disabilities in Education Act (IDEA), or any other federal or state law, both

parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which CREC does not intend to rely in reaching a determination regarding responsibility, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

9. Prior to completing the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will be given a minimum of ten (10) calendar days to submit a written response to that information. The investigator must consider any written response prior to completing the investigative report.
10. After completing the investigation, the investigator must create an investigative report that fairly summarizes the relevant evidence, including credibility determinations, which may not be based on a person's status as a complainant, respondent or witness. The investigative report must include the following:
 - a. The identity of the parties;
 - b. The conduct potentially constituting sexual harassment;
 - c. A list of the evidence reviewed; and
 - d. Findings of fact.

A copy of the investigative report shall be sent to each party and the party's advisor, if any, in an electronic format or hard copy.

Formal Decision

The decision-maker for student respondents will be the school principal/program director or designee. The decision-maker for CREC staff or third-party respondents will be the Chief Human Resources Officer or designee. The decision-maker cannot be the same person as the Title IX Coordinator or the investigator.

The decision-maker must determine whether the respondent is responsible for sexual harassment in violation of Title IX. To reach the determination, the decision-maker must use the preponderance of the evidence standard. This standard is met if there is more than a fifty percent (50%) chance that the respondent is responsible for sexual harassment in violation of Title IX. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

The decision-maker must issue a written determination that includes:

- a. The allegations potentially constituting sexual harassment;

- b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence and meetings held;
- c. Findings of fact supporting the determination;
- d. Conclusions regarding the application of CREC policy to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
- f. Any disciplinary or other sanctions to be imposed on the respondent.
- g. Whether remedies designed to restore or preserve equal access to CREC's education program or activity will be provided by to the complainant. To the extent that CREC does not have permission from the relevant party to reveal the discipline, remedies provided, or other information protected by FERPA, the IDEA, the ADA or other federal or state law, such portion of the report must be redacted before being provided to the other party.
- h. CREC's appeal procedures and permissible bases for the complainant and respondent to appeal the decision.

The parties shall be given a minimum of ten (10) calendar days before the decision maker makes a determination of responsibility to review the investigation report and provide a written response; and must be given an opportunity to submit written, relevant questions to be asked of any party or witness, be provided with the answers to such questions, and be allowed additional, limited follow-up questions. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

The written decision must be provided to both parties simultaneously. The decision is not considered final until after the date of a written determination on any appeal or the deadline for filing an appeal passes.

If a respondent is found to be responsible for the alleged conduct and the alleged conduct is found to be a violation of Title IX, the respondent may be subject to discipline, up to and including recommendation for expulsion if the respondent is a student; or up to and including termination if the respondent is an employee or individual under contract or volunteer. If the respondent is found to be responsible for the alleged conduct and it is determined that the conduct does not violate Title IX but does violate another CREC policy or school/program rule, the respondent may be subject to discipline up to and including recommendation for expulsion if the respondent is a student; or up to and including termination if the respondent is an employee or individual under contract or volunteer. A finding of no responsibility under Title IX does not prohibit CREC from investigating and determining that the respondent's conduct violated another provision of CREC policy.

The Title IX coordinator is responsible for effective implementation of any remedies.

Appeals

A party may file a written appeal from the written decision or from a dismissal of a formal complaint to the Executive Director, within ten (10) calendar days of receipt of the written decision or notice of dismissal. The only grounds for appeal are:

1. Procedural irregularities that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, and that could affect the outcome of the matter; and/or
3. 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.

Upon receipt of an appeal the Executive Director or designee (who may not be the Title IX Coordinator, investigator or decision-maker) will notify the other party in writing that an appeal has been filed, and will give both parties the opportunity to submit a written statement in support of their respective positions on the appeal. Such written statement must be submitted within ten (10) calendar days of receipt of the Executive Director's or designee's notice that an appeal was filed. The Executive Director or designee will issue a written decision describing the result of the appeal and the rationale for the result, and provide the written decision simultaneously to both parties.

Informal Resolution

After a formal complaint has been filed, the parties may voluntarily agree to participate in CREC's informal resolution process. The parties may not be required to participate in the informal resolution process as a condition of continued enrollment or employment or the enjoyment of any right to an investigation and/or adjudication of the formal complaint of sexual harassment. Prior to participating in any informal resolution process, the parties will be provided with written notice disclosing the following:

1. The allegations;
2. The circumstances under which the informal resolution process would preclude the parties from resuming a formal complaint arising from the same allegations;
3. The right of any party to withdraw from the informal resolution process at any time prior to the parties agreeing to a resolution and to require the resumption of the formal complaint process after such withdrawal; and
4. The consequences resulting from participating in the informal resolution process, including whether records will be maintained or could be shared.

Each party must give written consent to engage in the informal resolution process. Such consent may be withdrawn at any time. The informal resolution process may not be used to resolve allegations that an employee sexually harassed a student.

The informal resolution process consists of mediation, and/or an agreement to truncate the steps of the grievance procedure where the parties agree to some or all of the facts.

Prohibition against Retaliation

Retaliation against any individual because the individual has made a report or complaint, testified, assisted, participated or refused to participate in any manner in an investigation, interview, or any proceeding regarding a claimed Title IX violation is prohibited. Retaliation shall include intimidation, threats, coercion or discrimination, including charges against an individual for violations that do not involve sex discrimination or sexual harassment, but 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 if the purpose is to interfere with any right or privilege secured by Title IX. Complaints of retaliation must be filed through the formal complaint process.

The exercise of rights protected under the First Amendment does not constitute prohibited retaliation. Charging an individual with a violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation.

Recordkeeping

The following records must be maintained for a minimum of seven years from the end of the grievance process:

1. The records of each sexual harassment investigation, including any determination regarding responsibility, and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to CREC's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must be maintained for a minimum of seven years. The training materials will be available on the CREC website.

Confidentiality

CREC will keep confidential the identity of any individual who has made a report or complaint of

sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by FERPA or as required by law, or to carry out the purposes of this regulation and accompanying policy, including the conduct of any investigation or other proceedings arising thereunder.

Materially False Statements

A complainant, respondent or witness who is found to have made a materially false statement in bad faith during the grievance process shall be subject to discipline up to and including recommendation for expulsion in the case of a student, and up to and including termination in the case of an employee. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Publication

A copy of this regulation and the accompanying policy shall be provided to all students, parents/legal guardians, employees, and all unions holding collective bargaining agreements with CREC; and shall be made available on the CREC website.

Training

The Title IX Coordinator, investigators, decision-makers and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment in 34 C.F.R. §106.30; the scope of CREC’s education program or activity; how to conduct an investigation and grievance process including meetings, 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. Decision-makers will receive training on issues of relevance of questions and evidence, including when questions and evidence about a complainant’s sexual predisposition or prior sexual behaviors are not relevant. Investigators will receive training on issues of relevance so as to be able to create an investigation report that fairly summarizes relevant evidence. The CREC Human Resources Department will provide training once a year.

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