

<b>Bartlett City Board of Education</b>		<b>1035</b>
Descriptor Term: <b>Title IX and Sexual Harassment</b>	Descriptor Code: <b>Board Operations</b>	Issue Date: <b>09/24/2020</b>
	Rescinds:	Revised:

1 In order to maintain a safe, civil, and supportive learning and work environment, all forms of sexual  
2 harassment and discrimination on the basis of sex are prohibited.<sup>1</sup>

3 This policy shall cover employees and students while engaged in any BCS program or activity.<sup>2</sup>  
4 BCS programs and activities include, but are not limited to, activities located on school property,  
5 at school-sponsored activities, or in connection with school-provided equipment or transportation.  
6 This policy shall be disseminated annually to all staff, students, and parent(s)/guardian(s).<sup>3</sup> The  
7 Title IX Coordinator and any staff chosen to facilitate the grievance process shall not have a  
8 conflict of interest or bias against any party to the complaint or for or against any complainants or  
9 respondents generally.<sup>4</sup> These individuals shall receive training as to how to promptly and  
10 equitably resolve student and employee complaints under this policy.<sup>5</sup> All employees shall receive  
11 training on complying with this policy and federal law.<sup>6</sup>

12 **Title IX Coordinator<sup>7</sup>**

13 The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints  
14 of sexual harassment. He or she shall be kept informed by school-level personnel of the status of  
15 all investigations and shall provide input on an ongoing basis as appropriate.

16 Any individual may contact the Title IX Coordinator at any time using the information below:

17 Director, Student Services and Title IX Coordinator  
18 Bartlett City Schools  
19 5705 Stage Road  
20 Bartlett, TN 38134  
21 (901) 202-0855 ext. #2238  
22 [kwhite@bartlettschools.org](mailto:kwhite@bartlettschools.org)

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<sup>1</sup> 34 CFR §106.1

<sup>2</sup> 34 CFR §106.44(a)

<sup>3</sup> 34 CFR §106.8

<sup>4</sup> 34 CFR §106.45(b)(1)(iii)

<sup>5</sup> 34 CFR §106.45(b)(1)(iii); 34 CFR §106.45(b)(10)(D)

<sup>6</sup> 34 CFR §106.30(a)

<sup>7</sup> 34 CFR §106.8(a)

1 **Definitions<sup>8</sup>**

2 “Complainant” is an individual who is alleged to be the victim of conduct that could constitute  
3 sexual harassment.

4 “Respondent” is an individual who is reported to be the perpetrator of conduct that could constitute  
5 sexual harassment.

6 “Sexual Harassment” is conduct on the basis of sex that satisfies one or more of the following:

- 7 1. A school employee conditioning an aid, benefit, or service on an individual’s participation  
8 in unwelcome sexual conduct;
- 9 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and  
10 objectively offensive that it effectively denies a person equal access to the education  
11 program or activity; or
- 12 3. Sexual assault, dating violence, domestic violence, or stalking as defined by state and  
13 federal law.

14 Behaviors that constitute sexual harassment may include, but are not limited to:

- 15 1. Sexually suggestive remarks;
- 16 2. Verbal harassment or abuse;
- 17 3. Sexually suggestive pictures;
- 18 4. Sexually suggestive gesturing;
- 19 5. Harassing or sexually suggestive or offensive messages;
- 20 6. Direct or subtle propositions for sexual favor; and
- 21 7. Touching of a sexual nature.

22 Sexual harassment may be directed against a particular person(s) or group whether of the  
23 opposite sex or the same sex.

24 “Supportive measures” are non-disciplinary, non-punitive, individualized services and shall be  
25 offered to the complainant and the respondent as appropriate without fee or charge. These  
26 measures may include, but are not limited to, the following:

- 27 1. Counseling
- 28 2. Course modifications
- 29 3. Schedule changes; and
- 30 4. Increased monitoring or supervision

31 Supportive measures offered shall remain confidential to the extent that maintaining such  
32 confidentiality would not impair the district’s ability to provide supportive measures.

33 **Grievance Process**

34 Upon learning of alleged sexual harassment, even if no formal complaint is filed, the Title IX  
35 Coordinator shall:

- 36 1. Promptly contact the complainant to discuss the availability of supportive measures;
- 37 2. Consider the complainant’s wishes with respect to supportive measures;

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<sup>8</sup> 34 CFR §106.30(a)

- 1 3. Inform the complainant of the availability of supportive measures with or without a formal
- 2 complaint; and
- 3 4. Explain the process for filing a formal complaint.<sup>9</sup>

4 While the district will respect the confidentiality of the complainant and the respondent as much  
5 as possible, some information may need to be disclosed to appropriate individuals. All disclosures  
6 shall be consistent with the district's legal obligations and the necessity to investigate allegations  
7 of harassment and take disciplinary action.

8 Disciplinary consequences or sanctions shall not be initiated against the respondent until the  
9 grievance process has been completed. Unless there is an immediate threat to the physical health  
10 or safety of any student or other individual arising from the allegation of a sexual harassment that  
11 justifies removal, the respondent's placement shall not be changed.<sup>10</sup> If the respondent is an  
12 employee, he/she may be placed on administrative leave during the pendency of the grievance  
13 process.<sup>11</sup> The Title IX Coordinator shall keep the Superintendent informed of any employee  
14 respondents so that he/she can make any necessary reports to the State Board of Education in  
15 compliance with state law.<sup>12</sup>

## 16 **Complaints**

17 Any individual who has knowledge of behaviors that may constitute a violation of this policy shall  
18 immediately report such information to the Title IX Coordinator; however, nothing in this Policy  
19 requires a complainant to either report or file a formal complaint within a certain timeframe. If the  
20 complainant involves the Title IX Coordinator, the complaint shall be filed with the Superintendent.

21 Upon receipt of a formal complaint, the Title IX Coordinator shall promptly:<sup>13</sup>

- 22 1. Provide written notice of the allegations and the grievance process to all known parties to  
23 give the respondent time to prepare a response before an initial interview;
- 24 2. Inform the parties of the BCS prohibition against making false statements or knowingly  
25 submitting false information;
- 26 3. Inform the parties that they may have an advisor present during any subsequent meetings;  
27 and
- 28 4. Offer supportive measures in an equitable manner to both parties.

29 If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for  
30 dismissal, shall be provided to both parties simultaneously.<sup>14</sup>

## 31 **Investigations<sup>15</sup>**

32 The Principal or his/her designee shall serve as the investigator and be responsible for  
33 investigating complaints in an equitable manner that involves an objective evaluation of all

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<sup>9</sup> 34 CFR §106.44(a)

<sup>10</sup> 34 CFR §106.44(c)

<sup>11</sup> 34 CFR §106.44(d)

<sup>12</sup> T.C.A. §49-5-417(c); TRR/MS 0520-02-03-.09(2)

<sup>13</sup> 34 CFR §106.45(b)(2)

<sup>14</sup> 34 CFR §106.45(b)(3)(iii)

<sup>15</sup> 34 CFR §106.45(b)(5); 34 CFR §106.45(b)(1)

1 relevant evidence. The burden for obtaining evidence sufficient to reach a determination regarding  
2 responsibility rests on the district and not the complainant or respondent.<sup>16</sup>

3 Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48)  
4 hours of receipt of the complaint.<sup>17</sup> If an investigation is not initiated within forty-eight (48) hours,  
5 the investigator shall provide the Title IX Coordinator with appropriate documentation detailing  
6 the reasons why the investigation was not initiated within the required timeframe.

7 All investigations shall be completed within twenty (20) calendar days from the receipt of the initial  
8 complaint. If the investigation is not complete within twenty (20) calendar days, the investigator  
9 shall provide the Title IX Coordinator with appropriate documentation detailing the reasons why  
10 the investigation has not been completed.

11 All investigations shall:<sup>18</sup>

- 12 1. Provide an equal opportunity for the parties to present witnesses and evidence;
- 13 2. Not restrict the ability of either party to discuss the allegations under investigation or gather  
14 and present relevant evidence;
- 15 3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence  
16 that seek disclosure of information protected under a legally recognized privilege unless  
17 such privilege has been waived;<sup>19</sup>
- 18 4. Provide the parties with the same opportunities to have others present during any  
19 grievance proceeding;
- 20 5. Provide to parties whose participation is requested written notice of the date, time,  
21 location, participants, and purpose of all investigative interviews or other meetings with  
22 sufficient time for the party to prepare to participate;
- 23 6. Provide both parties an equal opportunity to inspect and review any evidence directly  
24 related to the allegations in the formal complaint; and
- 25 7. Result in the creation of an investigative report that fairly summarizes relevant evidence.  
26

27 Prior to completion of the investigative report, the investigator shall send to each party a summary  
28 of the facts and the evidence subject to inspection and review. All parties shall have at least ten  
29 (10) school days to submit a written response which shall be taken into consideration in creating  
30 the final investigative report.<sup>20</sup>

31 Within the parameters of the federal Family Educational Rights and Privacy Act, the Title IX  
32 Coordinator shall keep the complainant and respondent informed of the status of the investigation  
33 process. At the close of the investigation, a final written investigative report will be delivered to  
34 the parent(s)/guardian(s) of the complainant, the parent(s)/guardian(s) of the respondent, and to  
35 the assigned Title IX decision-maker, which shall consist of members of the Disciplinary Hearing  
36 Authority. Each party shall have at least ten (10) school days prior to a determination of  
37 responsibility to review and respond to such report in writing.<sup>21</sup>

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<sup>16</sup> 34 CFR §106.45(b)(5)

<sup>17</sup> T.C.A. §49-6-4503

<sup>18</sup> 34 CFR §106.45(b)(5)

<sup>19</sup> 34 CFR §106.45(b)(1)(x)

<sup>20</sup> 34 CFR §106.45(b)(5)(vi)

<sup>21</sup> 34 CFR §106.45(b)(5)(vii)

1 **Determination of Responsibility**<sup>22</sup>

2 The respondent is presumed not responsible for the alleged conduct until a determination  
3 regarding responsibility is made at the conclusion of the grievance process.<sup>23</sup> The preponderance  
4 of the evidence standard shall be applied in making this determination.<sup>24</sup>

5 Members of the Disciplinary Hearing Authority shall act as the decision-maker. The DHA shall  
6 receive the final investigative report and allow each party the opportunity to submit written,  
7 relevant questions that such party wants asked of any party or witness, provide each party with  
8 the answers, and allow for additional, limited follow-up questions from each party prior to  
9 determining responsibility.

10 The decision-maker shall make a determination regarding responsibility and provide the written  
11 determination to the parties simultaneously along with information about how to file an appeal.

12 A substantiated charge against a student may result in disciplinary action up to and including  
13 expulsion. A substantiated charge against an employee shall result in disciplinary action up to  
14 and including termination.

15 After a determination of responsibility is made, the Title IX Coordinator shall work with the  
16 complainant to determine if further supportive measures are necessary. The Title IX Coordinator  
17 shall also determine whether any other actions are necessary to prevent reoccurrence of the  
18 harassment.

19 **Appeals**<sup>25</sup>

20 Either party may appeal from a determination of responsibility based on a procedural irregularity  
21 that affected the outcome, new evidence that was not reasonably available at the time of the  
22 determination that could affect the outcome, or an alleged conflict of interest on the part of the  
23 Title IX Coordinator or any staff chosen to facilitate the grievance process. Appeals shall be  
24 submitted to the Title IX Coordinator within ten (10) school days of a determination of  
25 responsibility.

26 Upon receipt of an appeal, the Title IX Coordinator shall:

- 27 1. Assign the Superintendent or an impartial hearing officer within five (5) school days of  
28 receipt of the appeal; and  
29 2. Notify the parties in writing.

30 During the appeal process, the parties shall have a reasonable, equal opportunity to submit  
31 written statements. Within ten (10) school days, the hearing officer shall issue a written decision  
32 describing the result of the appeal and the rationale for the result. The written decision shall be  
33 provided simultaneously to both parties.

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<sup>22</sup> 34 CFR §106.45(b)(7)

<sup>23</sup> 34 CFR §106.45(b)(1)(iv)

<sup>24</sup> 34 CFR §106.45(b)(1)(vii)

<sup>25</sup> 34 CFR §106.45(b)(8)

1 **Retaliation**<sup>26</sup>

- 2 Retaliation against any person who makes a report or complaint or assists, participates, or refuses
- 3 to participate in any investigation of an act alleged in this policy is prohibited.

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<sup>26</sup> 34 CFR 106.71