

## **POLICY 500**

### **SCHOOL AGE PROGRAM**

500	THOMAS A. WILDEY SCHOOL AGE PROGRAM	3
500.01	SCHOOL AGE PROGRAM	3
500.02	DESCRIPTION OF SERVICES	4
500.03	PERSONNEL QUALIFICATIONS	4
500.04	STUDENT ELIGIBILITY CRITER	4
500.05	ENROLLMENT PROCEDURES AND ENROLLEE RECORDS	5
500.06	PROGRAM CONTENT AND PROCEDURES	6
500.07	STAFF RATIOS AND CLASS SIZE AND AGE RANGE	7
500.08	HOURS OF OPERATION	7
500.09	CALENDAR	8
500.10	CALAMITY DAY ALTERNATIVE MAKE UP PLAN	8
500.11	ATTENDANCE	9
500.12	INDIVIDUALIZED EDUCATIONAL PLAN	9
500.13	EVALUATION TEAM REPORT	10
500.14	PROGRESS MONITORING AND REPORTING	10
500.15	PARENT'S/GUARDIANS RIGHT TO KNOW	10
500.16	DUE PROCESS	11
500.17	CONFIDENTIALITY, PARENT ACCESS TO RECORDS AND RELEASE OF INFORMATION	18
500.18	PARENT SURROGATES	18
500.19	CHILD FIND AND REFERRAL	19
500.20	ENROLLEE EXCLUSION	19
500.21	REMOVAL OF STUDENTS DURING PROGRAM DAY	20
500.22	VISITORS IN BUILDINGS	20
500.23	MEDICAL PROCEDURES DURING SCHOOL HOURS	20
500.24	ACCIDENT/INCIDENT REPORTS	21

500.25	SCHOOL SAFETY DRILLS AND EMERGENCY MANAGEMENT TEST	21
500.26	INSPECTIONS BY BOARD OF HEALTH	22
500.27	SCHOOL AGE FIELD TRIPS	22
500.28	SCHOOL AGE WELLNESS POLICY	22
500.29	POSITIVE BEHAVIORAL INTERVENTIONS & SUPPORTS (PBIS)	23
500.30	HAZING AND BULLYING	31
500.31	TITLE IX	32

## **500 THE THOMAS A. WILDEY SCHOOL AGE PROGRAM**

The School Age Program of the Clermont County Board of Developmental Disabilities will meet all standards, codes and regulations adopted by the Ohio Department of Education, the Ohio Department of Developmental Disabilities, and other appropriate federal, state and local agencies.

The School Age Program follows all standards, rules, and codes outlined in the Operating Standards for Ohio Educational Agencies Serving Children with Disabilities (2008), Ohio Content Standards, Ohio Revised Code, and IDEA 2004. Thomas A. Wildey School ensures a free and appropriate public education (FAPE) is made available to all children with disabilities between the ages of 3-21, including children with disabilities who have been suspended or expelled from school, have failed or been retained in a course or grade, and are advancing from grade to grade.

### **500.01 SCHOOL AGE PROGRAM**

#### **PURPOSE**

- A. The School Age Educational Program provided by the Clermont County Board of DD is part of the continuum of Special Education services for school age children with developmental disabilities.
- B. The Local Education Agency (LEA) is responsible for child identification, the Evaluation Team Report (ETR), and development and review of the Individual Education Plan (IEP) and are a part of meetings with members of the school age program.
- C. The Board provides interdisciplinary teams to implement the goals and objectives of each student's IEP using developmentally and chronologically age-appropriate participate in the ongoing review and modification of the IEP.
- D. The School Age Program shall meet the minimum standards for chartering County Boards of Developmental Disabilities Special Education programs.

500.02 DESCRIPTION OF SERVICES

- A. The School Age Program includes classroom, small group, and individualized specially designed instruction.
- B. The intent of the School Age Program is to provide access to functional academics, communication, strategies, socialization skills, provide behavior support and practical skills for living and potentially working in the community.
- C. The public school district ensures that transportation is provided for a child if transportation is written into the IEP as a related service.

500.03 PERSONNEL QUALIFICATIONS

- A. A classroom teacher shall hold a current and appropriate Ohio Special Education license as required by the Ohio State Department of Education.
- B. Substitute teachers who have a post-secondary degree in education may teach for an unlimited number of days in their qualified area. Substitute teacher applicants who hold a post-secondary degree in a non-education related subject area, may substitute for up to 1 semester.
- C. Instructor assistants shall hold an Ohio Educational Aide Permit and will work toward obtaining the ESEA Highly Qualified Paraprofessional endorsement.
- D. Instructor assistants and/or paraprofessionals supporting educational programs to students shall be supervised by a licensed teacher.

500.04 STUDENT ELIGIBILITY CRITERIA

- A. To be eligible for admission to the School Age Program, an individual shall be:
  - 1. At least six (6) and not yet twenty-two (22) years of age, except that

a five (5) year-old may be eligible for admission to the School Age Program if such placement is deemed appropriate through- the IEP process.

2. Recommended for placement in the program as the least restrictive environment by the Superintendent/Designee of the LEA.
3. Eligibility is determined by an IEP team meeting following review of the evaluation of eligibility, functional behavior assessment, behavior intervention plan, and observation when possible.

#### 500.05 ENROLLMENT PROCEDURES AND ENROLLEE RECORDS

- A. The following information shall be compiled for each new placement and kept on file for all enrollees:
  1. Application for enrollment;
  2. Verification of birth date;
  3. IEP current within one (1) year and correspondence relating to the IEP process;
  4. An Evaluation Team Report completed prior to placement.
  5. A medical evaluation, including immunization records.
- B. The following information may be requested:
  1. Previous program and instructional records;
  2. Current family and individual data;
  3. Any additional information necessary to complete the placement process.
- C. The school district of residence pays for the full cost of the tuition to the Thomas A. Wildey School. Students can not be parent enrolled or parent paid, as this is a public separate school, serving students on behalf of their district of residence based on an agreement of the least restrictive

environment in the student's IEP.

#### 500.06 PROGRAM CONTENT AND PROCEDURES

- A. School Age Program shall provide access to the Ohio Learning Standards Extended for each student and shall also provide instruction based on the student's individualized education plan. The School Age Program shall be comprehensive and based on the IEP. The School Age Program shall include, but not be limited to, the following areas:
1. Communication skills;
  2. Self-help skills;
  3. Physical development and mobility training;
  4. Leisure time and recreation;
  5. Prevocational and vocational skills;
  6. Functional daily living skills;
  7. Social and emotional development;
  8. Cognitive development/academic skills;
  9. Community awareness skills;
  10. Transition plans.
- B. Instructional procedures shall include the following:
1. An assessment of the individual student's current status in relation to the curriculum which shall provide a basis for evaluating and formulating new IEP goals and objectives.
  2. The development of systematic instructional procedures and methodologies for each individual based on the individualized goals and objectives of the IEP and the learning characteristics of the individual student.

3. Implementation of instructional activities and procedures to attain individualized goals and objectives. These activities shall be designed to teach the performance of chronological age appropriate- and functional skills in as many school and non-school environments as possible. Emphasis shall be placed on those learning environments that foster:
  - a. Positive interaction with typical peers and non-disabled members of the community, and
  - b. Independent and normal functioning in the community.
4. Ongoing documentation of individual progress on the individualized goals and objectives of the IEP.
5. Modification, as necessary, of teaching methods, materials, techniques, classroom organization, and other learning environments, to facilitate learning and goal attainment based on Ohio's Learning Standards Extended.

#### 500.07 STAFF RATIOS, CLASS SIZE AND AGE RANGE

Classrooms will be limited to six (6) students per classroom; the principal may increase classroom size up to eight (8) if necessary. There shall be (1) teacher and no less than (1) instructor assistant (DD or ESC employed where necessary) per classroom if there are not needs indicated on the IEPs of individual students that state more specialized needs that require greater or more individualized staffing.

The chronological age range in any classroom at one instructional time shall not exceed sixty (60) months (i.e.. 6-11 years, 12-17 years, 10-15 years, etc.).

#### 500.08 HOURS OF OPERATION

School hours of operation will be determined each year in accordance with all rules and regulations.

Schools run by county boards of developmental disabilities are required to be open for instruction with pupils in attendance for the minimum hours required by law (ORC 3313.48). These schools do not have to follow the advanced notice, hearing or written requirements in law.

- A. Students in grades K-6 are required to be in attendance 910 hours per year.
- B. Students in grades 7-12 are required to be in attendance 1,001 hours per year.
- C. As part of the minimum hours, the school may use up to (2) equivalent days for the purpose of individualized parent-teacher conferences and reporting periods and up to (2) equivalent days for the purpose of professional meetings of teachers.
- D. In addition to the minimum hours per year, schools run by county boards of developmental disabilities must also meet the minimum of 5 hours per day for grades 1-6 and 5.5 hours per day for grades 7-12.
- E. There is no required minimum of hours for students who have met graduation requirements and have deferred their diploma (classified as grade 23).

#### 500.09 CALENDAR

The School Age Program will develop the school year calendar annually based on the current guidelines set forth by the Ohio Department of Education, Ohio Department of DD, and the Clermont County Special Education Association Master Contract.

#### 500.10 CALAMITY DAY ALTERNATIVE MAKE UP PLAN

The Clermont County Board of Developmental Disabilities desires that students have learning opportunities even when the school is closed for any of the reasons in ORC 3313.482.

### 500.11 ATTENDANCE

In December 2016, the Ohio General Assembly passed House Bill 410 to encourage and support a preventative approach to excessive absences and truancy. Excessive absences interfere with the student making progress.

- A. The School Age Program will report the student's daily attendance to the LEA quarterly or before if the student has 10 or more non-excused absences.
- B. Ohio law requires that if a student is absent with or without a legitimate excuse from school 38 or more hours in one school month, or 65 or more school hours in a school year, an intervention team must meet and develop a plan.
- C. The School Age Program recognizes that many students have significant health issues that require them to be home and/or hospitalized for extended periods of time.
- D. It is important for the parent/guardian to report all student absences to the school daily with a reason for the absence in order to be excused.
- E. The school will report and work with the LEA when a student has Excessive Unexcused Absences to determine a plan of action to increase attendance.

### 500.12 INDIVIDUALIZED EDUCATIONAL PLAN

An IEP must be completed annually (not to exceed 364 days). An IEP meeting must be conducted prior to placement of a new student. The IEP will be in compliance with the requirements set forth in IDEA and the Ohio Department of Education and the Office of Exceptional Children. This educational agency ensures that an IEP is developed and implemented for each child with a disability that it serves in the school age program, as agreed upon with the child's school district of residence.

500.13 EVALUATION TEAM REPORT

At least every three (3) years, a comprehensive assessment will be completed for each school age child enrolled in the School Age Program. The Evaluation Team Report (ETR) is conducted/coordinated by the LEA designated school psychologist. A planning meeting will be scheduled prior to beginning an evaluation. The ETR can be requested by anyone at any time. The school district of residence ensures that all initial evaluations are conducted and reevaluations are completed for children residing within the school district, using the Department's required evaluation team report. The school district of residence ensures that children with disabilities, their parents/guardians, and public agencies are provided with an opportunity to resolve disputes regarding identification, evaluation, or educational placement of a child with a disability or the provision of a free appropriate public education.

500.14 PROGRESS MONITORING AND REPORTING

Student progress will be monitored on a regular basis and reported to parents/guardians at least every 12 weeks/3 times annually. Parents/guardians may request a meeting to discuss student progress whenever appropriate.

500.15 PARENT'S/GUARDIANS RIGHT TO KNOW

The Individuals with Disabilities Education Act (IDEA) protects the rights of students with disabilities and the rights of their parents. Parents are offered a digital or hard copy of the Parents' Rights Guide at each meeting or at their request.

This guide tells you about those rights. Your school must give you a copy of the guide once every year if your child receives special education services. You also must receive a copy:

- If you ask for your child to be evaluated because you think your child may have a disability
- If your educational agency wants to have your child evaluated because it thinks your child may have a disability
- If you file (submit) a complaint – in writing – with the Office for Exceptional Children at the Ohio Department of Education and Workforce, and it is your first complaint of the school year
- If you file (submit) a

request – in writing – with the Office for Exceptional Children at the Ohio Department of Education and Workforce for a due process hearing regarding your child’s education, and it is the first time in the school year you have asked for one • If your child has been removed from school for disciplinary (behavior) reasons – and your child has already been removed from school for 10 days or more during the current school year.

This educational agency ensures that parental consent is signed in writing and dated regarding any personally identifiable information provided to parties other than officials of participating agencies, unless information is contained in educational records. The agency will specify the records to be disclosed, the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made.

#### 500.16 DUE PROCESS

For an individual placed by the LEA into a program of the Clermont County Board of Developmental Disabilities the rules for 3301-51-02 OAC, shall be followed. The school district of residence ensures that children with disabilities, their parents, and educational agencies are provided an opportunity to resolve disputes regarding identification, evaluation, or educational placement of a child with a disability or the provision of free and appropriate public education (FERPA). The school district of residence ensures that children with disabilities, their parents, and public agencies involved in the education of the child are provided an opportunity to resolve disputes regarding identification, evaluation, or the provision of a free and appropriate public education (FAPE).

For an individual placed by the LEA into a program of the Clermont County Board of Developmental Disabilities the rules for 3301-51-02 OAC, shall be followed. Any other individual enrolled in, or eligible for enrollment in, a program operated by the Clermont County Board of DD in accordance with Chapter 5126 of the Revised Code, shall be provided the right to Due Process in accordance with the following:

- A. Whenever the Superintendent takes action regarding the denial of an individual's initial or continued enrollment, he/she shall, subject to procedural safeguards, give notice of such decision, in writing, by certified

or registered mail, return receipt requested, to the individual or the parent/guardian of a minor and, when appropriate, other person having care of the individual.

1. Such written notice shall include the following:
  - a. A detailed description of the proposed action;
  - b. A clear statement of the reasons for the proposed action (or refusal to initiate action), including the specification of any evaluative instruments or reports upon which such action (or refusal to initiate action) is proposed;
  - c. A citation to the specific law or rule directly involved.
  - d. A description of alternative educational opportunities available on a permanent or temporary basis;
  - e. That the individual or the parent of a minor or guardian has the right to appeal such decision, if such request is made to the Superintendent of the Clermont County Board of DD within, thirty (30) days of the date such notice is received;
  - f. That the individual or the parent/guardian of a minor has the right to receive independent medical, psychological and other evaluations at the expense of the party requesting the evaluation;
  - g. That the individual or the parent/guardian of a minor has the right to have in attendance at the hearing and to question any official, employee, or agent of the Board who may have evidence upon which the proposed action was based; to be represented by legal counsel or by such other representative of the appellant's choice and at the appellant's expense; to examine Program records pertaining to the individual, including any evaluative results or reports upon which the proposed action may be based, and to present evidence

including expert medical psychological or other testimony;  
and

h. That the Superintendent shall take no action, pending final resolution of any appeal requested if the appellant objects to such action, in writing and post-marked within five (5) days of receipt of notification of proposed action from the Superintendent.

2. The request of appeal shall be made, in writing, by the individual or the parent/guardian of a minor within thirty (30) calendar days of receipt of the notification regarding denial of initial or continued enrollment.

The request to appeal, and objection to proposed action, shall be made to the Chairman of the Clermont County Board of DD and to the Superintendent.

3. Upon receipt of a request to appeal, the Superintendent shall, within seven (7) calendar days, meet with the party initiating the request and conduct an Administrative Review.

a. During the Administrative Review the Superintendent shall respond to questions, review the circumstances related to the decision, and provide the party initiating the request the opportunity to present reasons as to why the decision should be reconsidered.

b. Within five (5) working days of the Administrative Review, the Superintendent's decision shall be made known, in writing, to all parties, including the Board and shall include a rationale for such decision.

4. Upon receipt of a request to appeal, the Board shall, no sooner than seven (7) calendar days, no later than fifteen (15) calendar days, and at a time and place convenient to all parties, conduct a hearing.

- a. At a reasonable time prior to the hearing, the individual or the parent/guardian of a minor shall be provided access to records of the Clermont County Board of DD pertaining to the individual, including any evaluative results or reports upon which the proposed action or refusal to act may be based.
- b. The hearing shall be a closed meeting unless the individual or the parent/guardian of a minor requests an open meeting.
- c. The Superintendent shall show why the action taken regarding the denial of initial or continued enrollment or other decision is appropriate.
- d. The appellant shall be afforded the right to be represented by legal counsel or by such other representative of the appellant's choice and at the appellant's expense.
- e. The appellant shall be afforded the right to have in attendance and question any official, employee, or agent of the Board who may have evidence upon which the proposed action is based; and to present evidence including expert medical psychological or other testimony.
- f. The decision of the Board shall be based solely upon evidence presented at the hearing which shall be conducted in accordance with policy and procedures adopted by the Board for such hearing.
- g. Evidence presented at the hearing shall be recorded by stenographic means or by use of audio electronic recording devices as the Board determines. Such records shall be made at the expense of the Board and upon request, one (1) copy of the verbatim transcript shall be provided to the appellant at no cost.
- h. Pending final resolution to the complaint raised, the

Superintendent shall take no action if the individual or the parent/guardian of a minor objects to such action, in writing and post-marked within five (5) days of receipt of notification of proposed action from the Superintendent.

5. Within five (5) calendar days of the hearing, notification of the Board's decision shall be given to all parties and shall include a rationale for such decision. Such notification shall be made in writing and by certified mail.
6. After all efforts have been exhausted at the Board Program Level; the complaint may be referred, by any affected party, to the Ohio Department of DD for a State Level Review. The request for State Level Review shall be made in writing within fifteen (15) calendar days of receipt of the Board's decision resulting from the hearing. Such request shall include copies of the verbatim transcript of the hearing, any exhibits incorporated into the transcript of the hearing, and the County Board's decision. The party initiating the request for the State Level Review shall send such request by registered or certified mail to the Director of the Department of DD. Copies of the letter requesting the State Level Review shall also be sent to the Superintendent, the Chairman of the Clermont County Board of DD, and the Legal Counsel or other person representing either or both parties.
7. The State Level Review shall be conducted by the Director of the Ohio Department of DD or his/her designee and shall take place within thirty (30) days of receipt of any such request. The Department shall determine at the State Level Review if the decision of the Board is based upon appropriate interpretation of the Ohio Revised Code and Administrative Rule. At the State Level Review, the Department shall:
  - a. Review the verbatim transcript made by the Board of evidence

presented at the hearing.

- b. Review the written decision of the Board; and
  - c. Afford, at the discretion of the Department, the parties an opportunity for written argument.
- 8. Within ten (10) working days following the State Level Review, the Department's decision shall be made known, in writing, to all parties and shall include a rationale for such a decision. The decision of the Director shall be final and shall be based on evidence presented at the hearing and the resulting decision of the Board.
  - 9. Determinations shall be made in accordance with these rules.
  - 10. Timelines may be extended if mutually agreeable to all involved parties.
  - 11. The Due Process procedures provided by this policy are in addition to any other rights which an individual or the parent of a minor or guardian may otherwise have pursuant to the Revised Code.
- B. The Clermont County Board of DD shall ensure that an individual or the parent/guardian of a minor has the ability to resolve any disagreements with County Board decisions regarding identification, enrollment, transfer from or within, evaluation, eligibility and prioritization of services as part of an orderly process. Pending resolution of the disagreement, the decision stands until reversed through the process of Administrative Review or Due Process. For purposes of this policy, "Transferred Within" means the movement of an individual to or from one of the following major programs or services: Early Childhood Program, School Age Program, Adult Program, and Supportive Home Services.
- 1. A request to meet to resolve any disagreement shall be made within thirty (30) days of the date on which identification, enrollment or transfer occurred; evaluation results were made known to the individual or the parent/guardian of a minor, eligibility was

- determined; or the prioritization of services occurred.
2. Every effort should be made to resolve any disagreements within the major program or service component of the comprehensive Board Program; however, if not resolved, such complaint shall be referred immediately to the Superintendent.
  3. Upon receipt of a request to meet to resolve any disagreements, the Superintendent shall, within fourteen (14) days, conduct an Administrative Review.
    - a. During the Administrative Review, the Superintendent shall respond to questions, review the circumstances related to the decision, and provide the party initiating the request the opportunity to present reasons as to why the decision should be reconsidered; and
    - b. Within five (5) working days of the Administrative Review, the Superintendent's decision shall be made known, in writing, to all parties, including the Board, and shall include a rationale for such decision.
  4. Upon receipt of the Superintendent's decision, the individual or the parent of a minor or guardian, if not satisfied, shall have the right to appeal to the Board. The request to appeal shall be made in writing within thirty (30) calendar days of receipt of the Superintendent's decision following the Administrative Review.
  5. When the Superintendent's decision, resulting from the Administrative Review, regarding identification, enrollment, transfer from or within, evaluation, eligibility or prioritization of services is appealed to the Board, procedural safeguards shall be followed.
- C. The requirements of the Due Process set forth by this policy shall be made known and, upon request, a copy provided to each individual or the parent/guardian of a minor.

500.17 CONFIDENTIALITY, PARENT ACCESS TO RECORDS AND RELEASE OF INFORMATION

This educational agency ensures that it provides adequate notice to fully inform parents about the confidentiality requirements of IDEA Part B Confidentiality:

- A description of notice given in the native languages of various population groups in our agency, county, or area served.
- A description of the children on whom personally identifiable information is maintained, including: types of information sought, methods the state intends to use and the sources from which they are gathered.
- Access to policies and procedures our agency must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information
- A description of rights of parents and children regarding the Family Educational Right and Privacy Act (FERPA) and implementation of regulations. Parent consent is in writing, signed, and dated regarding records to be disclosed, purpose of disclosure, and the party or class of parties to whom the disclosure may be made.

500.18 PARENT SURROGATES

In order to protect the rights of a child when the parents of the child are unknown or unavailable, or when the child is a ward of the State, it shall be the policy of the School Age program/Clermont County Board of Developmental Disabilities that:

The director will notify the Local Educational Agency or the child's school district of residence, in writing, that the need for a parent surrogate may exist. Within thirty (30) days of making such a discovery, all pertinent information-concerning the possible need for a parent surrogate will be supplied to the Local Educational Agency to assist them in making the determination.

500.19 CHILD FIND AND REFERRAL

In order to ensure that all children residing in Clermont County who may be in need of Special Education services receives them, it shall be the policy of the Clermont County Board of Developmental Disabilities that:

- A. The agency will cooperate fully with the Local Education Agencies in their Child Find procedure and activities.
- B. This agency ensures that a referral process is in place to determine whether a child is a child with a disability through work with the school district of residence for our students. All initial evaluations are conducted, and reevaluations are completed for children residing within the district using the Department's required evaluation team reporting form (PR-06).

500.20 ENROLLEE EXCLUSION

If an enrollee should display behavior which appears to represent a continuous potential for physical danger to themselves, other students, and/or staff, the enrollee may be subject to exclusion which may be on a temporary basis.

Grounds for exclusion would be applied in extreme instances and are based on the following:

- A. Unpredictable, uncontrolled, over aggressive assaults on staff or other students, without provocation; and
- B. Types of aggression representing more than superficial physical damage.

**PROCEDURES**

- A. The problem will be documented.
- B. A meeting will be called including all people having contact with the student.
- C. Parents/guardians are called in and the problem and recommendations for follow-up are discussed with them. These recommendations will generally include a thorough examination by a physician specializing in behavior disorders. Referral to a specific practitioner will be made through the family physician.
- D. The information concerning recommendations and intervention procedures

will be conveyed to the original staffing group. If the problem is alleviated by the intervention, the student will return to the program.

- E. Individual cases may be reviewed every three (3) months upon request of parents or guardians.
- F. Due Process procedures will be followed.
- G. The final decision to exclude a school age enrollee will be made by the LEA.

#### 500.21 REMOVAL OF STUDENTS DURING PROGRAM DAY

Students are not permitted to be taken from the school building unless accompanied by a parent or guardian or unless prior written consent of the parent or guardian has been given.

#### 500.22 VISITORS IN BUILDINGS

Visitors are encouraged to view our programs and buildings at any time the programs may be in operation. However, no visitor may enter any building operated by the Board of Developmental Disabilities, or consult with any staff, child, or adult without first:

- A. Reporting to the front school office;
- B. Stating name, the name of person or persons to be visited;
- C. Securing approval of the Program Director before visiting other parts of the building;
- D. All visitors shall refrain from disturbing classes or programs.
- E. Wear a visual identification badge that denotes they are a visitor and date of their visit.

Although visitors are welcome, an orderly process must be maintained to prevent distractions. Visitors not conducting themselves in an orderly manner will be asked to leave the premises, and if they fail to do so, the local police will be asked to escort them off the grounds.

#### 500.23 MEDICAL PROCEDURES DURING SCHOOL HOURS

Medical procedures may be performed at school by the school nurse; the student

must have a signed medical procedure form from a licensed health care provider on file. These procedures may include G-tube feedings, suctioning, dressing changes, and catheterizations. Refer to Policy 1600: Program Participant Health Policy.

#### 500.24 ACCIDENT/INCIDENT REPORTS

In the event of an accident or unusual incident involving students, a report should be made on forms provided for that purpose, to the building administrator, before the end of that working day.

#### 500.25 SCHOOL SAFETY DRILLS AND EMERGENCY MANAGEMENT TEST

HB 178 outlines the new requirements for fire and safety drills. New requirements also include the Emergency Management Test required each year.

Definition: Emergency Evacuation Drill includes a drill or rapid dismissal or a fire drill.

- A. Fire drills shall be conducted at least one (1) time per month and shall be recorded on the form provided by local authorities. One fire/emergency evacuation drill must be conducted during the first ten days of the new school year.
- B. Tornado drills shall be conducted monthly during the months of April, May, June and July.
- C. School safety drills shall be conducted (3) times per year. At least (1) one of the three drills must require students to be secured in the building (lockdown). The principal or Safety Director shall provide law enforcement 72 hours advanced written notice of safety drills.

The Emergency Management Test is required annually to practice the school's Emergency Operations plan as outlined in the SaferSchools Ohio. Schools must complete a total of (3) three exercises over a three-year cycle.

- A. Tabletop Exercise – The tabletop exercise is the most basic test. It is a discussion of hypothetical, simulated emergency.
- B. Functional Exercise – The functional exercise will test the policy and

procedures in a simulated setting.

- C. Full Scale Exercise – This exercise is the most complex. This exercise could include staff, students, law enforcement, EMS, local officials, community organizations and families.
- D. A written summary of the Emergency Management Test will be entered into the ODE Emergency Management Plan before December 31 of each year.

#### 500.26 INSPECTIONS BY BOARD OF HEALTH

In accordance with Section 3707.26 of the Ohio Revised Code, the Clermont County Board of Health will inspect each building that provides services to children. Such inspection shall take place at least semi-annually and more often if the Board of Health finds it necessary. The Board of Health shall inspect the sanitary condition of all facilities including playground, pool, kitchen and equipment. They are empowered to take whatever action is necessary for the general health and safety of people. The Board of Health shall be notified of the existence of dangerous, communicable diseases.

#### 500.27 SCHOOL AGE FIELD TRIPS

The purpose of field trips for students at the Thomas A. Wildey School is to familiarize children with places in their community, enhance themes and teaching units, and to familiarize children with appropriate behavior while traveling to and visiting community sites.

#### 500.28 SCHOOL AGE WELLNESS POLICY

- A. Nutrition Education

The School Age Program recognizes the importance of nutrition education to promote healthy eating behaviors. Building nutrition knowledge and skills helps children make healthy eating and physical activity choices. The School Age Program is committed to provide nutrition education that is

appropriate and adapted to each student's individual needs.

All students will receive nutrition education that is interactive and teaches students how to adopt healthy eating behaviors.

Nutrition education will be offered throughout the school day in various settings such as the classroom and the school cafeteria.

Students will receive consistent nutrition messages throughout the school, classrooms, and cafeteria.

**B. Physical Activity**

A healthy lifestyle includes physical activity. The School Age Program is committed to provide a variety of opportunities for each student to develop the knowledge and skills for physical activities to be incorporated into the daily school routine based on each student's physical ability.

Students will be given the opportunity for physical activity during the school day through Adapted Physical Education classes and recreational activities which may include walking, biking, swimming, and independent play.

Additionally, Physical Therapy and Occupational Therapy provides additional opportunities to students with identified needs through the IEP process.

**500.29 POSITIVE BEHAVIORAL INTERVENTIONS & SUPPORTS (PBIS)**

Thomas A. Wildey has adopted a PBIS model that integrates the needs and ability level of its students in our school-wide tier 1 system. Our tier 2 problem-solving level works through strategies for unique intense behaviors. Our tier 3 level of problem-solving includes consultation from the Clermont Board of DD Behavior Supports or other third-party professional collaborators to create plans for intense behavior concerns.

## Meeting Expectations of the Positive Behavior Intervention Supports and Restraint and Seclusion Rule

Ohio's [rule](#) outlining standards for the implementation of positive behavior intervention supports (PBIS) and the use of restraint and seclusion was approved in 2013 and revised in 2021. Revisions to the rule included additional definitions, new training and professional development requirements and a formal complaint process for restraint and seclusion through the Ohio Department of Education. To assist districts and schools with meeting the requirements of the rule, the Department created the following checklist. Although this document focuses on the requirements, it is important to become familiar with all components of the revised rule and focus on the overall intent: reducing the need for restraint and seclusion.

### GENERAL POLICY REQUIREMENTS AND BEST PRACTICES

Section of the Rule	Requirement	✓	Best Practice	✓
(I) Policies and procedures	The district shall develop written policies and procedures for the implementation of positive behavior intervention supports and the use of restraint and seclusion consistent with Ohio Revised Code Section <a href="#">3319.46</a> and this <a href="#">rule</a> .	✓	By the start of the 2022-2023 school year, review and revise district policy to align with new revisions. Districts may choose to use the Model PBIS and Restraint and Seclusion Policy on the Department's restraint and seclusion <a href="#">webpage</a> .	✓
	Annually, the district will provide a review regarding the content of this rule and any district policies and procedures related to the use of PBIS and restraint and seclusion.	✓	Information about the state rule and the district's policies and procedures can be shared in an email, memo or annual professional development. It is helpful to have a tracking mechanism such as an acknowledge form where staff sign and date.  The short video series, <a href="#">Restraint and Seclusion in Ohio Schools</a> is a helpful resource about the state rule that provides certificates of completion.	✓
	The district will ensure there is a support plan in place for substitute teachers if they need assistance with positive behavior intervention and supports, as well as crisis management and de-escalation, which includes restraint and seclusion.	✓	Develop a memo for substitute teachers explaining the district's and the school building's PBIS framework.  Develop a memo for substitute teachers explaining the rule, the district's policies regarding restraint and seclusion and who to contact in the school for assistance with de-escalation or in case of emergency. Have substitute teachers sign and date an acknowledgement form.	✓

(J) Monitoring	The district will establish a procedure to monitor implementation of this rule and the district's policy on positive behavior intervention and supports and restraint and seclusion.	<p><b>PBIS:</b> To monitor implementation, the District can use the <a href="#">PBISApps   Tiered Fidelity Inventory (TFI)</a>.</p> <p><b>Restraint and Seclusion:</b> Establish written procedures that name the job title of the person(s) responsible for monitoring restraint and seclusion at the district and building level. These procedures could include:</p> <ul style="list-style-type: none"> <li>• Ensuring crisis management and de-escalation training requirements are met annually</li> <li>• District and building processes for notifying administration and parents after each incident of restraint or seclusion.</li> <li>• Debriefing and documentation requirements following each incident of restraint or seclusion.</li> <li>• Data collection and annual reporting to the Department through the restraint and seclusion survey.</li> <li>• Addressing parent concerns and complaints regarding incidents of restraint or seclusion.</li> </ul>
----------------	--	--

**POSITIVE BEHAVIOR INTERVENTION AND SUPPORTS (PBIS) REQUIREMENTS AND BEST PRACTICES**

Section of the Rule	Requirement	✓	Best Practice	✓
(B) Positive behavior intervention and supports framework	The district will implement positive behavior intervention and supports (PBIS) on a systemwide basis in accordance with Ohio Revised Code Section <a href="#">3319.46</a> and this rule.		Commit to a sustainable process of evaluation, planning, development and renewal in order to develop the highest quality PBIS program that is implemented with fidelity. Develop a leadership team, obtain and maintain needed training, commit to regular attendance and involvement with team meetings and maintain an ongoing improvement process as reflected in the <a href="#">Ohio Improvement Process</a> or the district's strategic plan.	

		<p>Develop a framework that guides district and school teams in the selection, integration and implementation of evidence-based practices for improving academic, social and behavior outcomes for all students. The framework emphasizes four integrated elements: <b>data</b> for decision making, evidence-based <b>interventions and practices</b> that support varying student needs (multi-tiered), <b>systems</b> that efficiently and effectively support implementation of these practices and continual progress monitoring to ensure <b>outcomes</b> are met.</p>	
<p>(C) Professional development for the implementation of positive behavior intervention and supports</p>	<p>The district will provide <u>professional development on PBIS</u> to student personnel<sup>1</sup> at least every three years.</p>	<p>As a framework, PBIS has many components. In order to support staff and maintain consistent implementation, it is recommended that professional development occur on an annual basis.</p> <p>To build professional development capacity, district leadership teams need to understand, measure and tailor supports based on team readiness across all professional development activities using the phases of implementation within tiers of PBIS. In addition, all professional development activities should produce measurable outcomes that reflect: (a) team implementation fidelity, and (b) desirable student outcomes.</p> <p>District leadership teams should follow these basic steps in the establishment of their professional development system:</p> <ol style="list-style-type: none"> <li>1. Self-assess district implementation</li> <li>2. Self-assess current professional development capacity</li> <li>3. Use assessment results to design a professional development action plan to</li> </ol>	

<sup>1</sup> "Student personnel" means teachers, principals, counselors, social workers, school resource officers, teacher's aides, psychologists, bus drivers, related services providers, nursing staff and other district staff who interact directly with students.

		<p>implement PBIS</p> <p>4. Link the PBIS professional development action plan to the district improvement plan</p> <p>5. Evaluate the plan</p> <p>Best practices for PBIS professional development are outlined in the <a href="#">Training and Professional Development Blueprint</a> provided by the National Technical Assistance Center on Positive Behavioral Interventions and Supports.</p>
	<p>The district will ensure it has continuous training structures in place to provide ongoing PBIS coaching and implementation with fidelity throughout all buildings.</p>	<p>PBIS leadership teams should develop a training and coaching plan as part of their PBIS action plan.</p>

**RESTRAINT AND SECLUSION REQUIREMENTS AND BEST PRACTICES**

Section of the Rule	Requirement	✓	Best Practice	✓
(H) Training and professional development for the use of crisis management and de-escalation techniques	The district will ensure that an appropriate number of personnel in each building are <a href="#">trained annually in evidence-based crisis management and de-escalation techniques</a> , as well as the safe use of restraint and seclusion.		<p>In determining “an appropriate number of personnel” for each building, districts may consider:</p> <ul style="list-style-type: none"> <li>• How large is the building?</li> <li>• How quickly can staff get from one area to another in the building?</li> <li>• Are there multiple floors to consider?</li> <li>• What is the availability of identified staff members – are they easily accessible for an emergency?</li> <li>• What is the relationship between the identified staff member and the student population?</li> </ul> <p>Some training companies may not require annual training to maintain certification. Establish ways the district can provide annual refreshers, even if the training company does not require it.</p>	

		<p>Ongoing training and professional development in the following areas can be beneficial for crisis response teams:</p> <ul style="list-style-type: none"> <li>• Education on the physiological and psychological impact of restraint to the student, bystanders and family</li> <li>• Direction for age-appropriate processing, reestablishing rapport and appropriately supporting the student to reengage in learning</li> <li>• Guidance for staff on debriefing the event (for example, escalation of the event, planning for future areas of improvement to foster restraint reduction and student engagement) and properly documenting and communicating about the restraint with appropriate parties (such as parents, guardians, social workers)</li> <li>• Training specific to creating a functional behavior assessment and implementing and monitoring a behavior intervention plan</li> <li>• Training specific to <a href="#">trauma-informed care</a></li> </ul>	
	<p>The district will maintain written or electronic documentation of crisis management and de-escalation training, including the following:</p> <ul style="list-style-type: none"> <li>• The name, position and building assignment of each person who has completed training</li> <li>• The name, position and credentials of each person who provided the training</li> <li>• When the training was completed</li> <li>• What protocols, techniques and materials were included in the training</li> </ul>	<p>Identify the staff person(s) responsible for managing training documentation at the building and district level. Establish how and where training documentation will be stored.</p> <p>Develop training protocols addressing when staff leave and when new members join the team.</p> <p>Ensure that contracted staff (for example, school resource officers and mental health staff) involved in crisis response efforts receive crisis management and de-escalation training.</p>	
	<p>The district will train student personnel to perform the following functions:</p> <ul style="list-style-type: none"> <li>• Identify conditions such as: where, under what conditions,</li> </ul>	<p>This content aligns with PBIS. The district can infuse these topics into the PBIS professional development provided to student personnel.</p>	

	<p>with whom and why specific, inappropriate behavior may occur</p> <ul style="list-style-type: none"> <li>Use preventative assessments that include at least the following:                     <ul style="list-style-type: none"> <li>(i) A review of existing data</li> <li>(ii) Input from parents, family members and students</li> <li>(iii) Examination of previous and existing behavior intervention plans</li> </ul> </li> </ul>			
(G) Multiple incidents of restraint and seclusion	<p>After a student's third incident of physical restraint or seclusion in a school year, a meeting will be held within 10 school days to consider the need to conduct or amend a functional behavioral assessment or behavior intervention plan:</p> <ul style="list-style-type: none"> <li>For a student who has been found eligible for special education services or has a 504 Plan, this will be the individualized education program (IEP) team or 504 team</li> <li>For students in general education, this will be a team consisting of the parent, an administrator or designee, a teacher of the student, a staff member involved in the incident (if not the teacher or administrator already invited) and other appropriate staff members</li> </ul>		<p>Develop a procedure for flagging the third incident of restraint and/or seclusion for a student to prompt the required meeting. Incorporate the topic into the required incident report form (for example, "Is this the third incident of restraint or seclusion? If yes, schedule a meeting within 10 school days to explore whether a functional behavioral assessment or a behavior intervention plan is needed, or needs revised.")</p>	
(I) Policies and procedures	<p>The district will have a written procedure for a parent to present a written complaint to the district superintendent that initiates an investigation by the district regarding an incident of restraint or seclusion. The procedure will inform the parent of additional options for complaints to include other public agencies such as law enforcement, the county department of job and family services or the Department's office of professional conduct. Within thirty days of the filing of a complaint, the district will make</p>		<p>Provide the district's findings from the investigation to the parent in writing or follow the in-person meeting with an email to document the meeting took place.</p>	

	<p>reasonable efforts to have an in-person follow-up meeting with the parent.</p>		
	<p>The district will provide an annual notice to parents informing them of the district's policies and procedures related to the requirements of positive behavioral interventions and supports and restraint and seclusion, including the district's complaint process.</p>		<p>The district may choose to provide a copy of the Department's document, <a href="#">What Parents Need to Know about PBIS and Restraint and Seclusion</a>, to <b>accompany</b> the district's policies and procedures. This document is translated into additional languages on the Department's <a href="#">restraint and seclusion webpage</a>.</p>
	<p>Any incident of restraint or seclusion shall be immediately reported to building administration and the parent. The incident must also be documented in a written report issued to the parent immediately or within 24 hours.</p>		<p>The district will train staff annually on the notification and reporting requirements.</p> <p>Districts will establish a reporting procedure, that outlines when, how (email, text, call front office) and who (identified administrator) staff must inform following each incident of restraint and seclusion.</p> <p>The district should include prompting questions on the incident report form documenting when and how administration and the parent were notified.</p>
(K) Reporting	<p>The district will annually report information regarding its use of restraint and seclusion to the Department in the form and manner prescribed by the Department.</p> <p>A district that chooses to educate students through a county board of developmental disabilities or an educational service center reports as follows:</p> <p>(a) Report all information on the use of restraint and seclusion by the county board of developmental disabilities or educational service center to the Ohio Department of Education; or</p> <p>(b) Authorize the county board of developmental disabilities or the educational service center to report information on the use of restraint and seclusion directly to the Department.</p>		<p>A district that chooses to educate students through a county board of developmental disabilities or an educational service center should incorporate language into the contract or memorandum of understanding (MOU) outlining who is responsible for reporting restraint and seclusion data to the Ohio Department of Education, and how it will be reported.</p> <p>Add a prompting question to referral forms to initiate discussion between the district and the educational service center or the county board of developmental disabilities to determine who will report incidents of restraint and seclusion to the Department.</p>

### 500.30 HAZING AND BULLYING

#### Harassment, Intimidation and Dating Violence

Hazing means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person. Throughout this policy the term bullying is used in place of harassment, intimidation, and bullying. Bullying, harassment, and intimidation is an intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once. The intentional act also includes violence within a dating relationship. The behavior causes both mental or physical harm to the other student and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening or abusive educational environment for the other student. This behavior is prohibited on school property or at a school-sponsored activity. Permission, consent or assumption of risk by an individual subjected to hazing, bullying and/or dating violence does not lessen the prohibition contained in this policy. The District includes, within the health curriculum, age-appropriate instruction in dating violence prevention education in grades 7 to 12. This instruction includes recognizing warning signs of dating violence and the characteristics of healthy relationships. Prohibited activities of any type, including those activities engaged in via computer and/or electronic communications devices, are inconsistent with the educational process and are prohibited at all times. No administrator, teacher or other employee of the District shall encourage, permit, condone or tolerate any hazing and/or bullying activities. No students, including leaders of student organizations, are permitted to plan, encourage, or engage in any hazing and/or bullying. Administrators, teachers, and all other District employees are particularly alert to possible conditions, circumstances or events that might include hazing, bullying and/or dating violence. If any of the prohibited behaviors are planned or discovered, involved students are informed by the discovering District employee of the prohibition contained in this policy and are required to end all such activities immediately. All hazing, bullying and/or dating violence incidents are reported immediately to the Superintendent/designee and appropriate discipline is administered. The Superintendent/designee must provide the Board President with a semiannual written report of all verified incidents of hazing and/or bullying and post the report on the District's

website. 1 of 2 File: JFCF The administration provides training on the District's hazing and bullying policy to District employees and volunteers who have direct contact with students. Additional training is provided to elementary employees in violence and substance abuse prevention and positive youth development. District employees, students and volunteers have qualified civil immunity for damages arising from reporting an incident of hazing and/or bullying. Administrators, teachers, other employees, and students who fail to abide by this policy may be subject to disciplinary action and may be liable for civil and criminal penalties in compliance with State and Federal law. No one is permitted to retaliate against an employee or student because he/she files a grievance or assists or participates in an investigation, proceeding or hearing regarding the charge of hazing and/or bullying of an individual. LEGAL REFS.: ORC 117.53 2307.44 2903.31 3301.22 3313.666; 3313.667 3314.03 3319.073

#### 500.31 TITLE IX

Title IX of the Education Amendments of 1972 (20 U.S.C. §1681(a)) generally states:

*No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.*

Thus, Title IX prohibits the Board from discrimination in its educational programs or activities, admission/enrollment/placement, and employment. Pursuant to Title IX and its implementing regulations (34 C.F.R. 106), sexual harassment is a form of prohibited sex discrimination. The Board does not and shall discriminate on the basis of sex (including sexual orientation or gender identity), in its educational programs or activities. The Board is committed to an educational environment that is free from unlawful discrimination on the basis of sex and hereby prohibits unlawful discrimination on the basis of sex, including sexual harassment, as defined by Title IX and under other law, in all of its programs and services, including education.

When the Board has actual knowledge of sexual harassment against a person in the United States, it shall promptly respond in a manner that is not clearly unreasonable considering the circumstances known to the Board, meaning the Board will not be deliberately indifferent in its response. The Board shall provide “supportive measures” to a person who has been the victim of sexual harassment that will restore or preserve that person’s access to the Board’s educational programs and activities. The Board shall take all necessary and appropriate action when an individual is determined responsible for violating this policy. Those persons, including third parties over whom the Board has control, who commit sexual harassment shall be subject to disciplinary sanctions set forth in this Policy.

#### **I. SCOPE OF POLICY**

All students participating in the Board’s educational programs and activities in the United States and all Board staff and members are subject to this Title IX Policy. This Policy applies to unlawful discrimination based upon sex and sexual harassment that occurs in the United States, on or after August 14, 2020, and within the Board’s educational programs and activities, whether committed by a student, employee, member, contractor, vendor, parent, visitor, or guest. This Policy applies to persons, locations, events, and circumstances over which the Board exercises substantial control over both the Respondent (defined below) and the context in which the Prohibited Conduct (defined below) occurs. The Board may not have the authority or ability to implement disciplinary action in every circumstance. When that is not possible, the Board shall nevertheless comply with its obligations under Title IX by evaluating conduct reported to it, providing supportive measures, assisting a Complainant (defined below) in identifying external reporting options, and taking reasonable action to end the Prohibited Conduct.

This Policy may not apply to certain misconduct that is prohibited by another Board policy or procedure or applicable federal and state laws and regulations.

## II. NOTICE OF NON-DISCRIMINATION AND TITLE IX POLICY

In accordance with Title IX and this Policy, the Board requires the Superintendent to notify applicants for admission/enrollment/placement and employment; students; parents or legal guardians of students; Board employees and members; volunteers; and all unions or professional organizations holding collective bargaining or professional agreements with the Board of the following information:

Pursuant to and in accordance with Title IX and its regulations, the Board does not discriminate on the basis of sex in its educational programs or activities. The requirement not to discriminate in its educational program or activity extends to admission/enrollment/placement and employment. The Board's Title IX Coordinators are:

Megan Davidson

Principal

2040 US Hwy 50 Batavia, Ohio 45103

(513) 732-4970

[mdavidson@clermontdd.org](mailto:mdavidson@clermontdd.org)

David Sininger

Director of Business Operations

2040 US Hwy 50 Batavia, Ohio 45103

(513) 732-4924

[dsininger@clermontdd.org](mailto:dsininger@clermontdd.org)

Any inquiries about the application of Title IX and its regulations to the district may be referred to the Board's Title IX Coordinators, the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

The Board has adopted Policy 311.02 – TITLE IX POLICY AND PROCEDURE REGARDING SEXUAL HARASSMENT AND MISCONDUCT, which contains a complaint and investigation process that provide for the prompt and equitable resolution of

complaints alleging any action that is prohibited by Title IX and/or its regulations. Policy 311.02 is available at: [www.clermontdd.org](http://www.clermontdd.org). Policy 311.02 addresses how to report a complaint of sex discrimination or harassment, how to file a formal complaint of sexual discrimination or harassment, and how the Board will respond.

The Superintendent shall conspicuously display the Title IX Coordinators' contact information and this Policy on the Board's website and in each handbook, manual, or brochure that the Board makes available to applicants for admission/enrollment/placement and employment; students; parents or legal guardians of students; Board employees and members; volunteers; and all unions or professional organizations holding collective bargaining or professional agreements.

### **III. DEFINITIONS**

This Policy adopts certain terms as defined by Title IX. Where a word is not defined by this Policy, Ohio law requires that the words be construed in accordance with their plain and ordinary meanings.

#### **1. Actual Knowledge**

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any Board employee or member who has authority to institute corrective measures on behalf of the Board. The ability or obligation to report Sexual Harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the Board. "Notice" includes, but is not limited to, an oral, written, or electronic report of sexual harassment to the Title IX Coordinator.

#### **2. Appeal Officer**

A professional neutral decision-maker (such as a retired judge) experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and

trained on this Policy, who will review the parties' appeals and issue a Notice of Outcome of Appeal.

### **3. Board Community**

"Board community" refers to students and Board employees, as well as Board members, agents, volunteers, or other persons subject to the control and supervision of the Board.

### **4. Complainant**

An individual who is alleged to be the victim of conduct that could constitute conduct prohibited by Title IX.

### **5. Educational Program or Activity**

"Educational program or activity" refers to all operations of the Board over which it exercises substantial control, including in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, community engagement, and outreach programs. The term applies to all activity that occurs on property owned or occupied by the Board. It also includes events and circumstances that take place off-school property/grounds if the Board exercises substantial control over both the Respondent and the context in which the conduct prohibited by Title IX occurs.

### **6. Exculpatory Evidence**

"Exculpatory evidence" is evidence that tends to clear or excuse a Respondent from allegations of conduct prohibited by Title IX.

### **7. Formal Complaint**

"Formal complaint" means a document filed by a Complainant or signed by the Title IX Coordinator alleging conduct prohibited by Title IX against a Respondent and requesting that the Board investigate an allegation of conduct prohibited by Title IX. At the time of filing a Formal Complaint with the Board, a Complainant must be participating in or attempting to participate in the Board's educational programs or activities. A "document filed by a complainant" means a document or electronic submission (such as by electronic

mail or through an online portal that the Board provides for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. If the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator does not become a Complainant and is not a party to the Formal Complaint.

## **8. Formal Resolution**

An investigation and decision-making process initiated when a Formal Complaint is signed and filed alleging conduct prohibited by Title IX against a Respondent, and also requests that the Formal Complaint be investigated. The Formal Resolution includes an investigation, a decision, and appeal.

## **9. Inculpatory Evidence**

"Inculpatory evidence" is evidence that tends to establish a Respondent's responsibility for alleged conduct prohibited by Title IX.

## **10. Informal Resolution**

A voluntary process that the parties may consent to participate in, as described in Section VII.F.

## **11. Initial Report**

A report of conduct that may constitute conduct prohibited by Title IX, which may be made by any person, even if not the person alleged to have experienced the conduct. An Initial Report is made prior to a Formal Complaint, and triggers the Title IX Coordinator's obligation to contact the Complainant and inform the Complainant of the availability of Supportive Measures

## **12. Investigation**

The phase of the investigation and decision-making process when the parties are invited to provide evidence and identify witnesses to the Investigator related to the allegations in the Notice of Formal Complaint.

**13. Investigative Report**

A formal written document that fairly summarizes the relevant evidence gathered during the Investigation and that is provided to the parties to allow them to review and provide a response.

**14. Investigator**

The person assigned by the Title IX Coordinator to investigate Formal Complaints under this Policy. The Investigator shall have been trained in all elements of an Investigation as required by federal and state law.

**15. Mandated Reporter**

All Board employees, members, volunteers, and vendors are required to disclose to the Title IX Coordinator any conduct prohibited by Title IX of which they are aware to ensure the Board is able to provide a prompt, thorough, and supportive response.

**16. Notice of Dismissal**

Formal notification issued by the Title IX Coordinator following a determination that the matter does not meet the definitional or jurisdictional standards of Title IX and stating the reasons for dismissal.

**17. Notice of Formal Complaint**

Formal notification issued by the Title IX Coordinator that a Formal Complaint has been filed and that includes the details set forth in Section VII.C.1.

**18. Notice of Outcome of Appeal**

A written determination describing the Appeal Officer's final decision of an appeal of a determination of responsibility.

**19. Preponderance of the Evidence**

This term is an evidentiary burden of proof. A preponderance of the evidence means that the evidence provided is more likely than not to be true.

**20. Prohibited Conduct**

Conduct prohibited by Title IX and this Policy, which includes sexual harassment, sexual assault, dating violence, domestic violence, and stalking, as those terms are defined by and listed in Section IV.30 of this Policy.

**21. Privacy**

This term means that information related to a complaint will be shared with only a limited number of Board employees who “need to know” in order to assist in the assessment, investigation, and resolution of any report of Prohibited Conduct. All employees who are responsible for the Board’s response to Title IX Prohibited Conduct shall receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), and the privacy of employee records will be protected in accordance with Ohio law and Board policy.

**22. Remedies**

Individualized measures implemented after a determination is made or as part of an Informal Resolution that are designed to restore or preserve equal access to the Board’s educational programs and activities. Remedies may include Supportive Measures, but Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. See Appendix A.

**23. Reporting Party**

Any person who files a report of conduct prohibited by Title IX.

**24. Representative or Advisor**

An individual that serves as an advisor to a party after a Notice of Formal Complaint is issued, at the party’s choosing, and that is permitted to be, but need not be, an attorney.

**25. Respondent**

An individual who has been reported to have committed conduct prohibited by Title IX.

**26. Sanctions**

Individualized measures implemented after a determination of responsibility that may be disciplinary in nature.

**27. Supportive Measures**

“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 the Board’s educational programs or activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Board’s educational environment or to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, school escort services, mutual restrictions of contact between the parties, changes in work locations, leaves of absence, increased security, and monitoring of certain areas of the Board’s buildings and facilities, referral to an Employee Assistance Program, and other similar measures.

**28. Third Parties**

"Third parties" include, but are not limited to, guests and/or visitors on Board property (e.g., visiting speakers, participants on opposing athletic teams, parents), contractors or vendors doing business with, or seeking to do business with the Board, and other individuals who come in contact with members of the Board community at school-related events/activities (whether on or off Board property).

**29. Title IX Coordinators**

The individuals designated by the Board to coordinate its efforts to comply with Title IX responsibilities.

### 30. Title IX Sexual Harassment

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

- A. A Board employee conditions the provision of an aid, benefit, or service of the Board on an individual’s participation in unwelcome sexual conduct (“*quid pro quo*” 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 the Board’s educational programs or activities; or
- C. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)A(v); “dating violence” as defined in 34 U.S.C. 12291(a)(10); “domestic violence” as defined in 34 U.S.C. 12291(a)(8); or “stalking” as defined in 34 U.S.C. 12291(a)(30).
  - 1. Sexual harassment may involve the behavior of a person of any gender against a person of the same or another gender. Examples of sexual harassment may include, but are not limited to, the following actions:
    - a. Unwelcome sexual propositions, invitations, solicitations, and/or flirtations;
    - b. Unwanted physical and/or sexual contact;
    - c. Threats or insinuations implying that a person’s conditions of education or employment may be adversely affected by not submitting to sexual advances;
    - d. Unwelcome sexual verbal expressions, including graphic sexual commentaries about a person’s body, dress, appearance, or sexual activities; unwelcome sexually degrading language, profanity, jokes, or innuendoes;
    - e. Sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature;
    - f. Unwelcome and inappropriate touching, patting, or pinching;
    - g. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;

- h. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
  - i. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship; and
  - j. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.
2. "Sexual assault" means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
- a. Rape is penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. This definition includes attempted rape.
  - b. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age, disability, or temporary or permanent mental or physical incapacity.
  - c. Sexual assault with an object is using an object or instrument to unlawfully penetrate the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything used by the offender other than the offender's genitalia.

- d. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - e. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.
  - f. Statutory rape is sexual conduct with a person who is under the statutory age of consent as defined by Ohio Revised Code §2907.04.
  - g. Consent refers to words or actions that a reasonable person would understand as agreement to engage in sexual conduct. A person may be incapable of giving consent because of age, disability, or temporary or permanent mental or physical incapacity. A person who is incapacitated is not capable of giving consent.
  - h. Incapacitated refers to the state where a person does not understand and/or appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition, disability, or due to a state of unconsciousness or sleep.
3. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:
- a. A current or former spouse or intimate partner of the victim;
  - b. A person with whom the victim shares a child in common;
  - c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
  - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of Ohio; or

- e. 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 Ohio.
- 4. "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. The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- 5. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others or (2) suffer substantial emotional distress.

#### **IV. DESIGNATION AND ROLE OF TITLE IX COORDINATOR**

The Board designates and authorizes the following individuals to oversee and coordinate its efforts to comply with Title IX and its regulations:

Megan Davidson  
Principal  
2040 US Hwy 50 Batavia, Ohio 45103  
(513) 732-4970  
[mdavidson@clermontdd.org](mailto:mdavidson@clermontdd.org)

David Sininger  
Director of Business Operations  
2040 US Hwy 50 Batavia, Ohio 45103  
(513) 732-4924  
[dsininger@clermontdd.org](mailto:dsininger@clermontdd.org)

The Title IX Coordinators shall report directly to the Superintendent. The Superintendent shall assign a Title IX Coordinator to handle a report of Prohibited Conduct. Questions about this policy should be directed to the Title IX Coordinators.

The Title IX Coordinators shall be informed of all reports of Prohibited Conduct shared with Board employees and members and shall manage the Board's review, investigation, and resolution of those reports to ensure the Board's compliance with Title IX and the effective implementation of this Policy. All references to actions by the Title IX Coordinators may be performed by the Title IX Coordinators. The Title IX Coordinators shall be:

- Knowledgeable of and trained in Board policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a Reporting Party, Complainant, or Respondent about the courses of action, formal or informal, available at the Board and in the community;
- Responsible for offering and implementing reasonably available Supportive Measures;
- Available to provide assistance to any Board employee regarding how to respond appropriately to a report of Prohibited Conduct.
- Responsible for monitoring full compliance with all procedural requirements, record keeping, and timeframes outlined in this Policy;
- Responsible for managing training, prevention and education efforts; and
- Responsible for facilitating periodic review of this Policy as needed to maintain compliance with state and federal law.

In addition to addressing complaints against a particular party, the Title IX Coordinators shall address reports that the Board's policies or practices may discriminate on the basis of sex, gender, gender identity, gender expression, or sexual orientation. The Title IX Coordinators shall assess such concerns and, using procedures appropriate given the circumstances, shall advise and work with the Board to ensure that its policies and practices are compliant.

## **V. REPORTING**

### **A. General Reporting Obligations**

Any person may report Prohibited Conduct (whether or not the person reporting is the person alleged to be the victim of Prohibited Conduct), in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinators' contact information, or by any other means that results in the Title IX Coordinators receiving the person's oral or written report. The Board encourages persons filing a report to submit it directly to the Title IX Coordinators, but a report may be made to any Board employee. Reports may be made at any time. Reports can be made orally or in writing and should be as specific as possible. To the extent possible, the report should:

- Identify the alleged victim(s);
- Identify the alleged perpetrator(s);
- Identify any witnesses;
- Identify the date of the incident;
- Identify the location of the incident;
- Identify the of the incident;
- Identify the nature of the conduct (provide specific details);
- Identify the date of any previous report;
- Identify to whom any previous report was made; and
- Provide any written evidence or reports in the person's possession.

All Board employees and members are mandatory reporters pursuant to Title IX regulations. Therefore, Board employees and members witnessing Prohibited Conduct shall report such Prohibited Conduct to a Title IX Coordinator or to any Board employee or member within twenty-four (24) hours. A Board employee or member that receives a report of Prohibited Conduct shall notify the Title IX Coordinators within twenty-four (24) hours of receipt. Members of the Board's Community and Third Parties are encouraged to report Prohibited Conduct promptly to a Title IX Coordinator or to any Board employee. A Board employee's failure to make any report required by this Policy may result in disciplinary action, up to and including termination of employment. A Board member's failure to make any report required by this Policy may result in removal from the Board pursuant to Ohio Revised Code §5126.0213.

Nothing in this Policy relieves a Board employee, member or volunteer, when acting in an official or professional capacity and with knowledge or reasonable cause to suspect, that a child less than 18 years of age or a person under 21 years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child or person, from immediately reporting that knowledge or suspicion to county law enforcement officer, the public children's services agency in the county, or the Board's Investigative Agent in accordance with Ohio Revised Code §5123.61 and Ohio Administrative Code 5123-17-02. Nothing in this Policy shall negate the obligation to report or delay the timeline to make a mandatory report under either Ohio Revised Code §5123.61 or Ohio Administrative Code 5123-17-02.

The Board encourages a Complainant to seek assistance from a medical provider and/or law enforcement immediately after an incident of Prohibited Conduct, whether or not the Complainant plans to pursue criminal charges. This allows for the preservation of evidence and a timely response by law enforcement.

If an individual believes that the Title IX Coordinators have engaged in Prohibited Conduct or have otherwise behaved inappropriately, the individual should contact the Superintendent or Board President. In such case, the Superintendent will either serve in place of the Title IX Coordinator for purposes of addressing that particular report of Prohibited Conduct or appoint another person to serve as a Title IX Coordinator.

#### **B. Anonymous Reporting**

A report of Prohibited Conduct can be made without disclosing one's own name, identifying the Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may limit the Board's ability to respond or take further action.

If not submitted to the Title IX Coordinators, anonymous reports shall be shared with the Title IX Coordinator. Where there is sufficient information, the Title IX Coordinators shall ensure that anonymous reports are reviewed. Board employees and members have a duty to report information to the Title IX Coordinator under this Policy and may not make such reports anonymously.

**C. Reporting Considerations - Timeliness of Report**

In order to ensure the Board's ability to respond promptly and effectively, any person, other than a Board employee or member, affected by Prohibited Conduct is encouraged to file a report as soon as possible. A Board employee or member that witnesses Prohibited Conduct or receives a report alleging Prohibited Conduct shall notify the Title IX Coordinators within twenty-four (24) hours of receipt. If a Respondent is no longer a student or employee at the time of the report, the Board may not be able to take disciplinary action against them. The Board shall provide reasonably available Supportive Measures to a Complainant, as well as assistance in identifying appropriate external reporting options.

**D. Report Resolution**

A report to the Title IX Coordinator is not the same as a Formal Complaint. In order for a report to be officially resolved, a Formal Complaint must be filed in writing alleging Prohibited Conduct against a Respondent and requesting that the Board officially investigate and resolve the allegation. The Formal Complaint may be resolved through either Informal Resolution (see Section VII.F.) or through the Formal Resolution (see Section VII.G.).

**VI. INVESTIGATION AND DECISION-MAKING PROCESS: INITIAL RESPONSE, FORMAL COMPLAINT, INITIAL ASSESSMENT, NOTICE OF FORMAL COMPLAINT, INVESTIGATION, INFORMAL RESOLUTION, FORMAL RESOLUTION, AND APPEAL**

**A. General Principles**

The Board shall promptly investigate and resolve student and employee complaints alleging Prohibited Conduct. In addressing allegations of Prohibited Conduct, the Board shall (1) treat Complainants and Respondents equitably, (2) provide reasonable supportive measures to both the Complainant and Respondent, as appropriate, and (3) follow the provisions of this Section VII before imposing any Remedies, other than Supportive Measures, against the Respondent.

The process described in Section VII relates exclusively to complaints brought under this Policy. The Board will continue to handle complaints subject to the Board's other non-discrimination and anti-harassment policies separately.

**B. Receipt of an Initial Report of Title IX Prohibited Conduct**

**1. Offer of Supportive Measures**

Upon receipt of notice of an Initial Report of Prohibited Conduct, the Title IX Coordinator shall, within two (2) calendar days contact the Complainant and:

Discuss the availability of Supportive Measures:

Consider the Complainant's wishes with respect to Supportive Measures;

Inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint;

Explain to the Complainant the process for filing a Formal Complaint;

Advise the Complainant that, if the reported conduct could be a crime, the Complainant has the right but not the obligation to file a police report, and that if there is a police investigation, the Title IX Coordinator will coordinate with law enforcement; and

Discuss the importance of preserving evidence and identification and location of Witnesses.

If, on the face of the Initial Report, the Title IX Coordinator determines that the conduct alleged does not fall within the scope of Title IX, the Title IX Coordinator may inform the Complainant that the matter may be referred for decision by the Superintendent pursuant

to other Board policies. Even then, the Complainant shall receive an offer of Supportive Measures.

The Title IX Coordinators are responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures are based on individualized review and may not be the same in every situation. The Title IX Coordinators shall consider the Complainant's wishes with respect to Supportive Measures. The Board shall maintain as private any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such privacy would not impair the ability of the Board to provide the Supportive Measures.

## **2. Privacy**

Notice to the Title IX Coordinator or another Board employee of Prohibited Conduct requires the Board to follow its obligations under this Policy to review the available information and determine whether to proceed to an Investigation. In this context, "privacy" means that information related to a complaint will be shared with only a limited number of Board employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA") and the privacy of employee records will be protected in accordance with Ohio law and Board policy.

Once a report has been shared with the Title IX Coordinator, a Complainant may request that his/her identity not be shared with the Respondent (request for anonymity), that no investigation occur, or that no disciplinary action be pursued. The Board will balance this request in the context of its obligation to provide a safe and non-discriminatory educational environment. Confidentiality will not always be possible. Whether or not the Complainant requests confidentiality, the Board shall maintain privacy with respect to the identity of all Complainants, Respondents, and witnesses, except as necessary to carry out this Policy or as may be required by applicable state or federal law. Should a Complainant make a request that the Board not disclose the Complainant's identity to the

Respondent, the Title IX Coordinator will inform the Complainant that the Board's ability to investigate the allegations effectively may be limited if the request is granted. A Complainant who initially requests confidentiality is not prohibited from later requesting that the Board conduct a full investigation.

### **3. Initial Actions by Board**

Based upon an Initial Report or Formal Complaint of Prohibited Conduct, the Title IX Coordinator may undertake an individualized safety and risk analysis to determine whether the allegations of Prohibited Conduct indicate a Respondent who is a student poses an immediate threat to the physical health or safety of any other student or person. If it is determined that removal from the Board's educational programs and facilities is appropriate in light of the existing circumstances, the Board shall provide notice to the Respondent and an opportunity to challenge the Board's decision immediately following the removal. Any removal under this Policy must be conducted consistently with student due process rights regarding emergency removal, suspension or expulsion, and consistently with any applicable obligations under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act.

The Board may place a Board employee on administrative leave with pay in accordance with Ohio Revised Code §124.388 after notice of a report of Prohibited Conduct and during the pendency of resolution of the matter. After notice of a report of Prohibited Conduct by a Board member, appropriate measures will be taken, including, but not limited to, the process described in Ohio Revised Code §§5126.0213-5126.0217.

When faced with a report of Prohibited Conduct against a Third Party, the Board may take appropriate preventative action with the Third Party to ensure the health and welfare of the Complainant.

### **C. Filing a Formal Complaint**

After the Initial Report, further proceedings on the Initial Report will not occur unless and until a Formal Complaint is filed. A Formal Complaint can be filed by a Complainant or Title IX Coordinator. A Complainant may complete and sign a Formal Complaint alleging Prohibited Conduct against a Respondent and requesting that the Board investigate the allegation of Prohibited Conduct.

If the Complainant does not respond to contact by the Title IX Coordinators after the filing of the Initial Report or declines to file a formal complaint, the Title IX Coordinators must consider the Complainant's wishes, safety of students and employees, and the Board's obligation to maintain an environment free from Prohibited Conduct, and determine whether to initiate a Formal Complaint. In considering a Complainant's request to take no action and evaluating whether to proceed, the Title IX Coordinator will assess and consider:

- the preferences and concerns of the Complainant;
- the nature and circumstances of the allegation;
- the severity and impact of the reported conduct;
- any pattern or evidence of other similar conduct by Respondent;
- the respective ages of the parties, including whether the Complainant is a minor (under the age of 18);
- whether the Respondent has admitted to the conduct;
- whether the Respondent has been the subject of other complaints or reports of Prohibited Conduct under this policy;
- whether the Respondent threatened sexual violence or other violence against the Complainant or others;
- whether the report indicates that multiple respondents were involved;
- whether the report indicates that the conduct was perpetrated with a weapon;
- whether the Respondent is an employee; and,
- whether the Board possesses independent means to obtain relevant evidence (e.g., witnesses, security cameras or personnel, or physical evidence).

Where the Board is unable to take action consistent with the request of the Complainant, the Title IX Coordinators shall inform the Complainant in writing about the chosen course of action and implement necessary Supportive Measures. The Board's response must be reasonable in light of the known circumstances. If a report alleges conduct by a Board employee member against a student, the Title IX Coordinator shall complete a Formal Complaint and initiate an Investigation.

### **1. Receipt or Execution of Formal Complaint**

Upon receipt of a Formal Complaint by a Complainant or execution of a Formal Complaint by the Title IX Coordinators, the Title IX Coordinators shall provide written notice of the following to the parties who are known:

1. Notice of the Board's investigation and decision-making process, including any informal resolution available;
2. Notice of the allegations of Prohibited Conduct, including sufficient details known at the time and providing sufficient time for a party to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, a description of the Prohibited Conduct, and the date and location of the alleged incident, if known. The written notice must also:
  - a. Include 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;
  - b. Inform the parties that they may have a Representative or Advisor of their choice, who may be, but is not required to be, an attorney, and who may proffer, inspect and review evidence;
  - c. Inform the parties of any provision in this Policy or any other policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
3. If, during the course of the Investigation, the Investigator decides to investigate allegations about the Complainant or Respondent that are not

included in the original notice provided to the parties, the Title IX Coordinator shall provide notice of the additional allegations to the parties whose identities are known.

To the extent practicable, the Board shall conclude the Investigation and decision-making process, including resolving any appeals, no later than 45 business days from receipt of the Formal Complaint. Based upon good cause, a Title IX Coordinator may approve requests for temporary delays or limited extensions with written notice to either the Complainant or the Respondent and the reasons for the action. "Good cause" includes, but is not limited to, absence of a party, a party's Representative or Advisor, or a Witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities.

## **2. Responsibilities and Rights of Parties and Witnesses**

During an Investigation, the Complainant, Respondent and Witnesses have the following responsibilities and rights.

### **A. Responsibilities**

1. Complainant, Respondent and Witnesses have the responsibility to be truthful, to cooperate with the process, and to follow the directions of Board staff and agents responsible for administering this process. Knowingly making false statements or knowingly submitting false information shall result in disciplinary action or other consequences;
2. Complainant, Respondent and Witnesses have the responsibility not to retaliate against, intimidate, harass, or threaten any individual who has reported Prohibited Conduct or who has participated as a party or witness in the process. The Board shall investigate allegations of a person engaging in any act of retaliation, intimidation, harassment, or threat;
3. Complainant, Respondent and Witnesses have the responsibility to keep private documents, materials, and information received from the Board during this process; and

4. Complainant, Respondent and Witnesses have the responsibility to destroy, when so directed by the Board, evidentiary materials and/or writings submitted by the other party as party of the process.

**B. General Rights**

1. A person has the right to be protected from retaliation and intimidation where he/she has reported Prohibited Conduct or participated as a party or witness in the process;
2. A person has the right to be treated equitably and receive the equal access to Supportive Measures;
3. A person has the right to have the investigation and decision-making process completed within a reasonably prompt timeframe;
4. A person has the right to a Representative or Advisor to support and/or advise the party during the investigation and decision-making process;
5. A person has the right to receive a Notice of Formal Complaint that provides sufficient detail about the allegations for the Respondent to be able to respond and for both parties to understand the scope of the Investigation.
6. A person has the right to decline to give a statement about the allegations made in a Formal Complaint;
7. A person has the right to participate in the Investigation, including by identifying Witnesses and identifying and/or providing inculpatory, exculpatory and other relevant information and evidence to the Investigator;
8. A person has the right to receive any Notice of Dismissal;
9. A person has the right to appeal any Notice of Dismissal or determination of responsibility;
10. A person has the right to review all evidence directly related to the allegations, in electronic format or hard copy, and for a period of time to allow the parties to inspect, review, and respond to the evidence.
11. A person has the right to receive an Investigative Report that summarizes relevant evidence, in electronic format or hard copy, and for a period of time to allow the parties to respond;

12. A person has the right to receive a written determination regarding responsibility for the alleged Prohibited Conduct (if any);
13. A person has the right to receive a written Notice of Outcome of Appeal.

**C. Rights of the Respondent**

1. A Respondent has the right not to have any Sanctions imposed before a determination of responsibility in accordance with this Policy; and
2. A Respondent has the right to be presumed not responsible for the alleged Prohibited Conduct until a determination regarding responsibility is made.

**D. Initial Assessment of Formal Complaint**

The Title IX Coordinator shall make an initial assessment as to whether a Formal Complaint submitted by a Complainant contains sufficient allegations on its face to describe an act of Prohibited Conduct, to permit an Investigation to be conducted, or to issue a Notice of Formal Complaint (for example, the identity of the Respondent is not provided). If it does not, the Title IX Coordinator may seek new or additional information from the Complainant and inform the Complainant that a Notice of Formal Complaint cannot be issued, and an Investigation cannot be conducted until the Complainant provides additional information.

**E. Withdrawal or Dismissal of Formal Complaint**

A Complainant may withdraw a Formal Complaint by informing the Title IX Coordinator in writing that he/she wants to withdraw the Formal Complaint or the allegations. The Title IX Coordinator may choose to dismiss a Formal Complaint if a Respondent is no longer participating in the Board's educational programs or activities, is no longer a member or employee of the Board, or is no longer a member of the Board's Community or Third Party, the Complainant submits a written request to withdraw the complaint, or specific circumstances prevent the Board from gathering evidence sufficient to reach a determination.

The Board shall investigate a Formal Complaint unless the conduct alleged by a Complainant (a) would not constitute Prohibited Conduct, even if proved; (b) did not occur in the Board's educational programs or activities; or (c) did not occur against a person in the United States. If one of the preceding circumstances exists, the Title IX Coordinator shall dismiss the Formal Complaint. Even if dismissed, the Board may still investigate and take appropriate action with respect to alleged misconduct pursuant to any other Board policy.

The parties will be notified in writing of any dismissal, including the reasoning.

#### **F. Informal Resolution**

After a Formal Complaint has been filed, the Title IX Coordinator may offer to the parties an Informal Resolution process. An Informal Resolution is the resolution of a Formal Complaint through informal interventions such as Remedies and mediation. Informal Resolution is voluntary and shall occur only with written consent of both parties. Participation in Informal Resolution is not a required condition of admission/enrollment/placement or continuing enrollment/placement, or employment or continuing employment, or the enjoyment of any other right, and a party's election to participate in Informal Resolution does not constitute a waiver of the right to an Investigation and determination of a Formal Complaint of Prohibited Conduct. Any person who facilitates an Informal Resolution shall be experienced and trained in dispute resolution and trained on this Policy.

Prior to initiating Informal Resolution, the Title IX Coordinator will issue each party a written notice disclosing:

- the allegations;
- the requirements and procedure of the Informal Resolution process; and
- any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

At any time, either party has the right to withdraw from Informal Resolution and request that the Formal Complaint be resolved through Formal Resolution. If the parties are not

able to resolve the Formal Complaint through Informal Resolution, the Formal Complaint shall be resolved through Formal Resolution. Informal Resolution shall not be used to resolve allegations that a Board employee or member engaged in Prohibited Conduct.

## **G. Formal Resolution**

Formal Resolution may be pursued only after a Formal Complaint has been filed. The Title IX Coordinator shall identify the potential violations and prepare the initial notification of Investigation outlining the charges to be investigated and assessed. At the completion of the Investigation and any appeal, the Formal Complaint shall be resolved by a written determination of responsibility by the appointed decision-maker. Both parties will have the opportunity to appeal the written determination regarding responsibility.

### **1. Investigation**

The Title IX Coordinator shall designate an individual to conduct the Investigation of a Formal Complaint. The Investigator may designate either an employee of the Board or an external person. The Title IX Coordinator shall send the parties the identity and contact information for the Investigator and provide written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for a party to prepare to participate in such investigative interview or meetings.

The Investigator may gather information in multiple ways. The Investigator may collect relevant documents and other information and may also interview parties and/or Witnesses. In addition, a Complainant or Respondent may:

- submit documents to the Investigator;
- submit a list of Witnesses to be interviewed by the Investigator; and/or
- request that the Investigator attempt to collect documents and other information that are not accessible to the requesting party.

During the Investigation, neither party shall be restricted from discussing the allegations under investigation or gathering and presenting relevant evidence. During the Investigation, the parties have an equal right to:

- Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
- Have others present during any interview or meeting, including the opportunity to be accompanied to any related meeting or proceeding by a Representative or Advisor of his/her choice. The Board shall not limit the choice or presence of a Representative or Advisor for either the Complainant or Respondent in any interview or meeting. Any restrictions the Board imposes on participation by a Representative or Advisor will apply equally to both parties.

The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the Board and not the parties.

A person's medical, counseling/psychological, and similar treatment records are privileged and confidential documents that a party shall not be required to disclose. The Investigator shall not access, consider, disclose, or otherwise use any information or documents that are subject to a privilege and maintained by a professional (including, but not limited to a physician, psychiatrist, or psychologist) in connection with the provision of treatment to a party, unless voluntary, written consent from that party is executed and provided to the Investigator. Where a party provides written consent to share medical, counseling/psychological, and similar treatment records as part of the Investigation, only the portion of the records directly related to the allegations raised in the Formal Complaint shall be included in the case file for review by the other party and for use in the Investigation.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior 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.

## **2. Disclosure of Evidence**

After the Investigator has concluded the collection of evidence, the Investigator shall send the parties all evidence directly related to the allegations, in electronic format or hard copy, as requested by the parties, including (a) the evidence upon which the Board may not rely in reaching a determination regarding responsibility and (b) all inculpatory or exculpatory evidence. Each party shall have ten (10) calendar days to review the evidence. A party may, but is not required, provide a response to the Investigator, and any response made shall be in writing.

The parties may identify and proffer new evidence or rebuttal evidence only to allow the consideration of information that was not available earlier in the Investigation or that could not have been reasonably anticipated to be relevant to rebut an issue that came to light. "New evidence" is evidence that was not available earlier in the Investigation, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter. "Rebuttal evidence" is evidence presented to contradict other evidence in the file, which could not have been reasonably anticipated by a party to be relevant information at the time initial information, documents or witness statements were provided to the Investigator. The opportunity to review evidence does not permit a party who previously declined to give a statement about the Formal Complaint during the Investigation to offer a statement for the first time after the Investigator has concluded the collection of all other evidence.

## **3. Investigative Report.**

After the Investigator has received and considered the parties' responses to the evidence, if any, the Investigator may conduct any follow up interviews or collection of evidence deemed necessary, shall complete an Investigative Report that objectively evaluates and summarizes the relevant evidence, and shall submit the Investigative Report to the Title IX Coordinator and to the parties in electronic format or hard copy, as requested by the parties. The parties shall have ten (10) calendar days to respond in writing to the Investigative Report and shall submit such responses to the Title IX Coordinator. After the Title IX Coordinator has reviewed the parties' responses to the Investigative Report,

if any, the Title IX Coordinator shall make the determination whether to dismiss the Formal Complaint or submit it to a decision-maker for a determination of responsibility.

#### **4. Dismissal after Investigation**

##### **a. Mandatory Dismissal**

The Board must dismiss the Formal Complaint after the Investigation if the Title IX Coordinator determines that the conduct alleged in the Formal Complaint does not constitute Title IX Prohibited Conduct, even if proven; did not occur in the Board's educational programs or activities; or did not occur against a person in the United States.

##### **b. Discretionary Dismissal**

The Board may dismiss the Formal Complaint if:

1. The Respondent is no longer enrolled or employed by the Board;
2. Specific circumstances prevent the Board from gathering sufficient evidence to reach a determination; or
3. The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint.

##### **c. Appeal of Dismissal**

The Title IX Coordinator shall promptly send a Notice of Dismissal (mandatory or discretionary) and the basis for the dismissal to the Parties. Either party may appeal a Notice of Dismissal by sending a written appeal to an appropriately trained staff member designated by the Title IX Coordinator within ten (10) calendar days from the receipt of the Notice of Dismissal

The scope of the appeal is limited to the following questions:

- Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the Complainant?
- Was there any substantive new evidence that was not available at the time of the decision that could not have been available based on

reasonable and diligent inquiry that would substantially affect the outcome of the decision?

- Did the Title IX Coordinator have a conflict of interest or bias that affected the outcome of the matter?
- Is the decision one that a reasonable person might have made?

The remedy on appeal is limited to directing the Title IX Coordinator to designate a decision-maker and submitting the record to the decision-maker for a determination of responsibility.

### **5. Determination by decision-maker**

The Title IX Coordinator shall appoint a decision-maker to issue a determination of responsibility. The Title IX Coordinator, the Investigator, and the Appeal Officer shall not act as the decision-maker. The Title IX Coordinator shall ensure that the designated decision-maker has received appropriate training under this Policy.

Before the decision-maker reaches a determination of responsibility, the decision-maker shall afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision-maker shall set the time frame for receiving response from the parties and allowing for additional, limited follow-up questions. If the decision-maker excludes any particular question posed to him/her, the decision-maker shall explain any decision to exclude such question.

The decision-maker shall reach his/her decision by using the preponderance of the evidence standard and shall consider the totality of the evidence presented during the Investigation and to the decision-maker. When evaluating evidence, the decision-maker shall first evaluate the quality. The decision-maker shall consider all of the information and evidence regardless of its origin. Any information or evidence the decision-maker finds to be of high quality should be given more weight than any information or evidence the decision-maker finds to be of low quality. Quality may or may not be identical with

quantity, and sheer quantity alone should not be the basis for a determination of responsibility. The testimony of a single party or witness or a single piece of information or evidence may be sufficient to establish a fact. A decision that requires the use of the evidentiary standard shall be made after the decision-maker assesses the quality of the information or evidence and determines that the decision is justified. That is, the decision-maker should find that there is sufficient evidence that is relevant, probable, and persuasive to convince him/her that a particular assertion is more likely than not and that the evidence supporting such an assertion outweighs any evidence to the contrary.

The decision-maker shall issue a written determination regarding responsibility to the parties and the Title IX Coordinator. The written determination shall include:

Identification of the Prohibited Conduct found by the Investigation to have occurred;

A description of the steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses and other methods used to gather other evidence;

- Findings of fact;
- Conclusions about whether the alleged Prohibited Conduct occurred;
- Rationale for the result as to each allegation of Prohibited Conduct;
- Identification of any Sanctions set forth in Appendix that should be imposed on the Respondent;
- Identification of any Remedies that the Board must provide to the Complainant (see Appendix A);
- Identification of the steps a party must follow to appeal the determination.

The decision-maker shall explain his/her decisions on responsibility, Sanctions (if applicable) and Remedies with sufficient detail for the parties to be able to file meaningful appeals. In determining Sanctions to be imposed, the decision-maker shall consider the following factors, to the extent the information is available:

- The Respondent's prior conduct history;
- How the Board has sanctioned similar incidents in the past;
- The nature of the Prohibited Conduct, including whether acts violence were committed by Respondent;

- The impact of the conduct on the Complainant;
- Whether the Respondent has accepted responsibility for his/her actions; and
- Any other mitigating or aggravating circumstances.

## **6. Appeal**

Subject to this paragraph, either party has the right to appeal a written determination regarding responsibility on the limited basis set forth below. A party may appeal only on the following grounds:

- a. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing party?
- b. Was there any substantive new evidence that was not available at the time of the investigation and determination and that could not have been available based upon the reasonable and diligent inquiry of a party that would substantially affect the outcome of the determination?
- c. Did the Title IX Coordinator, Investigator, or decision-maker have a conflict of interest or bias for or against Complainants or Respondents that affected the outcome of the matter?
- d. Are the sanctions and/or remedies ones that could have been issued by a reasonable person given the findings of the case?
- e. Is the decision of the Investigators or the decision-maker clearly erroneous based upon the evidentiary record?

In a request for an appeal, the burden of proof lies with the party requesting the appeal. Mere dissatisfaction with the determination of responsibility is not grounds for appeal. A Complainant may not appeal or challenge any Sanction or disciplinary action imposed upon the Respondent.

Within ten (10) calendar days from receipt of written determination regarding responsibility, a Complainant or a Respondent may submit a notice of appeal in writing to the Title IX Coordinator, who shall forward the notice of appeal to a designated Appeal Officer to decide the appeal. The Appeal Officer shall not be the Investigator or decision-

maker. Any appeal filed by a party shall be shared with the other party. The Title IX Coordinator shall share the identity and contact information of the Appeal Officer with the parties.

The Appeal Officer shall offer both parties the opportunity to submit a written statement to the Appeal Officer with respect to any appeal of the determination regarding responsibility. The Appeal Officer shall establish the format for any written statement and shall require the parties to submit their written statements to the Appeal Officer and the Title IX Coordinator within five (5) business days after receipt of such notice from the Appeal Officer.

The Appeal Officer may reject the appeal in whole or in part, issue a new determination regarding responsibility, modify the imposition of Sanctions and Remedies, including ordering new Sanctions or Remedies, or refer the matter to a new decision-maker. The Appeal Officer shall provide the written Notice of Outcome of Appeal to the Title IX Coordinator no later than ten (10) calendar days after receipt of all appeal documents. The Title IX Coordinator shall send the Notice of Outcome of Appeal to the parties. If necessary, the Appeal Officer shall consult with the Title IX Coordinator regarding the management of ongoing remedies.

Unless there is an appeal, the determination of responsibility by the decision-maker shall be final. Otherwise, the Notice of Outcome of Appeal by the Appeal Officer shall be the final decision, and neither party is afforded any further appeal.

## **7. Sanctions and Remedies**

The Title IX Coordinator shall ensure prompt implementation of any Remedies identified by the decision-maker or the Appeal Officer for the Complainant. Such Remedies may include Supportive Measures, and Remedies may be disciplinary or punitive in nature and may burden the Respondent.

Students who engage in Prohibited Conduct shall be subject to Sanctions identified in Appendix A, including disciplinary action, up to and including suspension and expulsion.

Board employees who engage in Prohibited Conduct shall be subject to Sanctions identified in Appendix A, including but not limited to, appropriate disciplinary action, up to and including termination of employment. Board members who engage in Prohibited Conduct are subject to Sanctions identified in Appendix A, including, but not limited to, removal from the Board pursuant to Ohio Revised Code §5126.0213.

Any other member of the Board Community or a Third Party who is alleged to be a Respondent and is determined to have committed Prohibited Conduct shall be subject to Sanctions identified in Appendix A.

## **VII. MISCELLANEOUS**

### **A. Training**

The Title IX Coordinators, Investigator, decision-maker(s), Appeal Officer, or other person(s) designated to facilitate an informal resolution process shall receive training on:

- the definition of Prohibited Conduct (as that term is used in this Policy);
- the scope of the Board's educational programs and activities;
- how to conduct an investigation and implement the investigation and decision-making process under this Policy, including appeals and Informal Resolution, as applicable; and
- how to serve in their respective role impartially, including by avoiding prejudgment of the facts at issue, presumption of responsibility by the Respondent, conflicts of interests, and bias.

Materials used for training shall not rely on sex stereotypes and must promote impartial investigations and determinations of Formal Complaints.

Any Investigator appointed shall receive training on issues of relevance, including how to apply the rape shield protections provided only for Complainants, in order create an

Investigative Report that objectively evaluates and fairly summarizes all relevant evidence gathered by the Investigator.

Any decision-maker appointed shall receive training on evaluating evidence, including, but not limited to, determining issues of relevance and including how to apply the rape shield protections provided only for Complainants, and when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

All Board employees and members shall be trained concerning their legal obligation to report Prohibited Conduct to the Title IX Coordinator under this Policy. Such training shall address how to identify Prohibited Conduct.

#### **B. Conflict of Interest or Bias**

No person involved in the investigation and decision-making process, including, but not limited to, the Title IX Coordinators, Investigator, decision-maker, Appeal Officer, or any other person appointed to facilitate Informal Resolution shall have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent in a particular case. A conflict of interest exists if the person has prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the parties or witnesses, or has some other source of bias. The Superintendent shall take reasonable actions to ensure that no person involved in the investigation and decision-making process has a conflict of interest or bias.

#### **C. Recordkeeping**

The Board shall maintain the following records for a period of 5 calendar years as established in an approved records retention schedule:

1. Records of each investigation of Prohibited Conduct, including any determination regarding responsibility, any Sanctions recommended and/or imposed on the Respondent, and any Remedies provided to the Complainant;
2. Records of any appeal and the resulting Notice of Outcome of Appeal;
3. Records of any Informal Resolution; and

4. All training materials.

#### **D. Criminal acts**

A person may file criminal charges with appropriate law enforcement simultaneously with filing a Formal Complaint. A person does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to Title IX may be filed with the U.S. Department of Education's Office for Civil Rights at any time.

At any point, the Board, its Title IX Coordinator, or the Investigator may involve local law enforcement and/or file criminal charges related to allegations of Prohibited Conduct that involve a sexual assault or other crime.

If the decision-maker(s) determines a Third-Party Respondent is responsible for violating this Policy (*i.e.*, engaging in Prohibited Conduct), the decision-maker(s) shall recommend appropriate Remedies, including the imposition of Sanctions.

#### **E. Retaliation**

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this Policy, including making a report or filing a Formal Complaint, testifying, assisting, or participating or refusing to participate in any manner in an Investigation or proceeding under this Policy. Such actions, for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this Policy, constitute retaliation.

Proven retaliation is a violation of this Policy, which shall result in the imposition of Sanctions and/or other appropriate Remedies. A person subject to retaliation may file a complaint with the Title IX Coordinator, the Superintendent, or the Board President.

Taking action against a person for making a materially false statement in bad faith in the course of the investigation and decision-making process under this Policy shall not constitute retaliation. A determination regarding responsibility itself does not mean a person made a materially false statement in bad faith.

**F. Confidentiality**

Except in order to carry out its responsibilities under Title IX and this Policy, or as permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g, and FERPA's regulations, and Ohio law, including Ohio Revised Code §5126.044, the Board and its staff and agents shall keep confidential the identity of all Complainants, Respondents, and Witnesses. Disclosure of such information may be required by federal or state law, and the Board's commitment and obligation to keep such information confidential shall not impair or otherwise affect the Complainant's and Respondent's right to receive the information under this Policy and Title IX.