



WASHINGTON
EPISCOPAL SCHOOL

TITLE IX POLICY

In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), WES does not discriminate on the basis of sex or gender in its educational programs or activities. Title IX requires that WES take specific steps to stop sex and gender-based misconduct, remedy its effects, and prevent its recurrence. Title IX states that:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient, which receives Federal financial assistance.

WES has enacted this Sexual Misconduct Policy and Student Complaint Procedure (“Policy”) to reflect and maintain its institutional values and community expectations, to provide fair and equitable procedures for determining when sex-based discrimination or harassment has occurred, and to provide recourse for individuals who are victims of sex-based discrimination or harassment. Inquiries concerning the School’s application of Title IX may be referred to the School’s Title IX Coordinator and/or to the Department of Education, Office of Civil Rights (“OCR”), as identified below.

Scope of this Policy

This Policy applies to all forms of sex-or gender-based harassment, discrimination, or violence (together, “Prohibited Conduct”) that may deny or limit a student’s ability to participate in or benefit from WES’ educational programs or activities. This Policy also prohibits all forms of sex- or gender-based discrimination and harassment in employment. Prohibited Conduct can include, but is not limited to sexual harassment, sexual assault, and sexual exploitation, as well as harassment based on gender identity, gender expression, and nonconformity with gender stereotypes. This Policy also prohibits retaliation against a person for reporting Prohibited Conduct under this Policy or for participating in an investigation of an alleged violation of this Policy.

This Policy applies to any Prohibited Conduct by students, employees, faculty, parents, and third parties, including visitors/guests, volunteers, vendors, and contractors. WES may be limited in what actions it may take when investigating or responding to a report if an accused individual is not affiliated with the School or is no longer affiliated with the

School at the time the report is made. In such cases, WES will still, to the best of its ability, conduct an investigation, take steps to prevent the recurrence of misconduct to the extent it is able, and remedy the effects, if appropriate.

This Policy covers conduct which occurs both on and off of School grounds and conduct that occurs through electronic communications, including social media, email, texts, phone and video conference. In addition to the School, this includes locations such as field trips, athletic activities, and events for School clubs. Even misconduct that occurs outside of School, during “personal time,” could have continuing effects in the School, and therefore is covered by this Policy.

Title IX Coordinator

The School has designated Mary Lee Nickel as its Title IX Coordinator. As the Title IX Coordinator, Mary Lee Nickel is responsible for:

- Ensuring compliance with Title IX.
- Overseeing anti-discrimination and harassment training and education.
- Overseeing and coordinating the response, investigation, and resolution of reports made under this Policy.
- Overseeing certain aspects of student discipline, including referring complaints to other personnel in the School as appropriate.

Upon receiving reports of Prohibited Conduct covered by this Policy, the Title IX Coordinator will ensure appropriate action to eliminate the conduct, prevent its recurrence, and remedy its effects. Mary Lee Nickel can be contacted by telephone, email or in person during regular office hours:

Mary Lee Nickel
Washington Episcopal School
5600 Little Falls Parkway
Bethesda, MD 20816
(301)652-7878
Mlnickel@w-e-s.org

Any inquiries concerning the School’s application of Title IX and its implementing regulations may be referred to the Coordinator, and/or to the Department of Education, Office of Civil Rights (“OCR”):

U.S. Department of Education, Office of Civil Rights
400 Maryland Avenue, S.W.
Washington, DC 20202-1475
Telephone: (202) 453-6020
Facsimile: (202) 453-6021

Definitions

Prohibited Conduct: All forms of sex- or gender-based harassment, discrimination, or violence that may deny or limit a student's ability to participate in or benefit from WES' education programs or activities or otherwise create a hostile working environment. Prohibited Conduct can include, but is not limited to sexual harassment, sexual assault, and sexual exploitation, as well as harassment based on gender identity, gender expression, and nonconformity with gender stereotypes.

Responsible Employee: Any employee who: has the authority to take action to redress sexual harassment/misconduct; who has been given the duty of reporting incidents of sexual harassment/misconduct or any other misconduct by students to the Coordinator or other appropriate designee; or who a student reasonably believes has this authority or duty.

Sex-Based Discrimination: Discrimination occurs when one experiences negative or adverse conduct based on characteristics protected in this Policy and/or applicable local and federal laws, where such conduct has the effect of denying or limiting one's ability to benefit from and fully participate in educational programs or activities or employment opportunities. Sex-Based Discrimination refers to a specific type of discrimination, which includes the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, actual or perceived gender, gender identity, or gender expression. Sex-Based Discrimination includes conduct such as assigning students materially different assignments based on their actual or perceived sex or gender. It does not include conduct such as requiring students to use different bathrooms.

Harassment: Sexual harassment is unwelcome conduct of a sexual nature, including but not limited to: unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including rape, sexual assault, and sexual exploitation. Sexual harassment specifically includes conduct of a sexual nature which is either explicitly or implicitly made a term or condition of a student's success in school. Depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment.

Unwelcome Conduct: Conduct is considered "unwelcome" if the individual did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex. Participation in the conduct or the failure to complain does not always mean that the conduct was welcome. The fact that a person may have welcomed some conduct does not necessarily mean that a person welcomed other conduct. Also, the fact that a person requested or invited conduct on one occasion does not mean that the conduct is welcome on a subsequent occasion.

Hostile Environment: A hostile environment exists when sex-based harassment is sufficiently serious to deny or limit the student's ability to participate in or benefit from the school's programs or activities or is sufficiently severe or pervasive to create a hostile working environment. The more severe the sex-based harassment, the less need there is to show a repetitive series of incidents to find a hostile environment. Indeed, a single instance of sexual assault may be sufficient to create a hostile environment. Likewise, a series of incidents may be sufficient even if the sex-based harassment is not particularly severe.

Consent: Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person. Note that because of the age of the students at WES and the position of authority that employees hold over students, the School will never consider a student to have consented to sexual contact with any employee.

Non-Consensual Sexual Activity: Includes any sexual contact, however slight, with an object or bodily part, by a person upon another that is without consent.

Incapacitation: Includes, but is not limited to, lack of consciousness, being asleep, being involuntarily restrained, or otherwise being unable to consent. Indicators of incapacitation include slurred speech, bloodshot or unfocused eyes, unsteady gait (needing assistance walking or standing), vomiting, concern expressed by others about the individual, expressed memory loss, or disorientation.

Sexual Assault: Sexual assault is actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to: intentional touching of another person's intimate parts without that person's consent; or other intentional sexual contact with another person without that person's consent; or coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent.

Sexual Contact: The intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Sexual Exploitation: non-consensual sexual abuse or exploitation of another, when such behavior does not otherwise constitute another specifically defined behavior. Examples of sexual exploitation include, but are not limited to, non-consensual use of electronics to capture, reproduce, or share images of a sexual nature without consent of parties involved, public indecency, or exposing genitals to others without consent, or engaging in 'peeping' (observing another when privacy would be reasonably expected) without consent.

Reporting Prohibited Conduct

WES strongly encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident involving violence, including sexual assault. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response.

The School also encourages all individuals to make a report of Prohibited Conduct to both the School and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and external reports may be made simultaneously. The procedures under this Policy may run concurrently with any criminal justice or child protection investigation, and will only be subject to temporary delays at the specific request of law enforcement. Because the standards for finding a violation of a criminal law are different from the standards articulated in this Policy, criminal investigations or reports or determinations made by child protection officials are not determinative of whether a violation of this policy has occurred.

Filing a Report with the School

Any individual who wishes to report Prohibited Conduct is encouraged to report directly to the Title IX Coordinator or any other Responsible Employee. Reports may be made in person, by telephone, or in writing. Written complaints are encouraged. A complaint may be made on behalf of one self or on behalf of another employee or student. If a complaint implicates the Title IX Coordinator, or if a Complainant is otherwise uncomfortable bringing their concerns to another Responsible Employee, they may bring their complaint to the Head of School. Depending on the nature of the complaint, the Head of School may designate another appropriate individual to conduct and/or coordinate a response.

All employees of the School are required to immediately report suspected child abuse and neglect, to the Head of School, who assists in coordinating the appropriate response and fulfilling employees' mandatory reporting obligations. Thus, confidentiality cannot be guaranteed when an individual makes a report to a School employee, including school counselors and the school nurse. Employees who become aware of an alleged Title IX violation, including sexual misconduct, interpersonal violence or sexual harassment or retaliation are required to report it to the Title IX Coordinator.

Requests for Confidentiality and/or Anonymity

Individuals making reports under this policy may request that the Coordinator not reveal their identity to the individual they are accusing of misconduct. If an individual requests this type of confidentiality, the Coordinator will weigh the request against the School's obligation to provide a safe, non-discriminatory environment for all members of its community. The Coordinator will try to honor these requests, but it is not always possible to do so. Regardless of whether an individual requests confidentiality, the School will make every effort to prevent disclosure of the names of all the parties involved – the reporting individual, the Complainant, the witnesses, and the Respondent – except to the extent necessary to carry out an investigation.

Individuals who wish to remain anonymous can leave an anonymous report with the Title IX Coordinator by providing a written summary of the incident, and leaving such written summary in the Coordinator's mailbox. Individuals leaving an anonymous report should be aware that failure to disclose identifying information about the identities of the parties involved or the facts and circumstances regarding the Prohibited Conduct (including the names of any witnesses) severely limits the School's ability to respond and remedy the effects of the misconduct. Anonymous reports that provide enough information to constitute suspected ongoing abuse of a minor will still be reported to child protective services and/or local law enforcement.

Complaint Resolution Process

Initial Meeting

After a report of Prohibited Conduct is made, the Title IX Coordinator will hold a meeting with the individual who filed the complaint (the "Reporting Individual") as soon as possible upon receipt of the report. If the Reporting Individual is not the victim/target of the Prohibited Conduct (the "Complainant") and is only making a report, then the Coordinator will meet with both the Reporting Individual and the Complainant. At that meeting(s) the Coordinator will do the following:

- Ask additional questions to clarify facts/allegations reported by the Reporting Individual/Complainant.
- Assess the severity of the situation.
- Explain the School's resolution procedures and determine if and how the Complainant would like to proceed with the complaint.

The Coordinator will seek permission from the Complainant to initiate a formal report. Permission for a formal report may be given initially, but can be withdrawn at any time. If a Complainant declines to make a formal report, requests that the report remain confidential, and/or later withdraws permission for the formal report, the Coordinator will weigh the request against the School's obligation to provide a safe, non-discriminatory environment for all members of its community.

Formal Report

If the Complainant chooses to make a formal report and proceed with the School's resolution procedures, the Coordinator will make an initial determination as to whether the facts, if as alleged are true, would violate this Title IX policy. If the Complaint does not implicate Title IX, the Coordinator will refer the Complaint to the appropriate person to resolve the Complaint. Assuming that the facts, if true as alleged, would constitute a violation of this policy, the Coordinator will provide written notice of the Complaint to the individual(s) alleged to have committed the Prohibited Conduct (the "Respondent(s)"). The notice shall contain the date(s) the alleged Prohibited Conduct occurred and a brief description of the Prohibited Conduct, as well as a copy of this Policy. The Coordinator may also notify any students' parents/guardians, if appropriate.

Until the Complaint is resolved, the School may make available reasonable interim measures to prevent harassment and discrimination and to otherwise ensure a prompt and equitable resolution of a Complaint. These measures may include taking steps to avoid further contact between the Complainant and the Respondent such as a No-Contact Order.

Informal Mediation

Many concerns can be addressed quickly and appropriately by communicating directly with someone. A Complainant is never required to discuss misconduct with an alleged harasser alone. For these reasons, and because the School recognizes that a wide spectrum of behaviors can constitute violations of this Policy or other School policies, the School offers informal resolution (mediation) in appropriate circumstances.

Mediation is the preferred method of resolving many concerns. However, it is not appropriate in all situations. The Coordinator will make the determination regarding whether mediation is appropriate. All parties must agree to participate in mediation, otherwise the Coordinator will conduct an investigation.

The nature of mediation is flexible, but in general, the Complainant and the Respondent and, if appropriate as determined by the Coordinator, their parents (if a student is involved), meet together with the Coordinator or other School officials to discuss the incident(s) that led to the Complaint and potential resolutions. The goal of mediation is for the Parties to agree on a solution or resolution together, and is not to determine fault. Such resolutions may include a no-contact agreement, a permanent change in class, activity, or transportation schedules, a verbal or written apology, or other alternate resolutions. Any agreements reached in mediation will be reduced to writing and, if age-appropriate, signed by both parties.

If the Parties cannot resolve a concern during mediation, if any party refuses to mediate, or if mediation is not appropriate for the Complaint, the Coordinator will initiate an investigation. Any party or, if applicable, a party's parent or guardian, can also decide to end mediation and proceed an investigation at any time.

Formal Investigation

If mediation is inappropriate, does not succeed, or is ended by either the Coordinator, a party, or a parent, then the complaint will be investigated formally.

The Coordinator may choose to investigate the complaint themselves, appoint another appropriate investigator from within the School, or retain experienced external investigators. When necessary, the Coordinator will work with other individuals in the School, such as Human Resources, to avoid the need for multiple investigations of the same incident.

Any investigation should include interviewing the Complainant and Respondent, if possible. It may also include interviewing other relevant witnesses or witnesses identified or requested by the Reporting Individual, Complainant and Respondent. The investigator may collect written or other evidence, including statements from the parties

or witnesses. All parties will have an equal opportunity to offer witnesses and other evidence. The investigator will maintain notes of each interview and a file of any evidence collected during the investigation.

At the Conclusion of the Investigation

After completing the investigation, the investigator will determine (1) whether or not the conduct occurred; (2) whether the conduct constitutes a violation of Title IX, of this Policy, or of any other School policy; and (3) if the conduct was a violation of this Policy, what actions the School will take to end the violation, eliminate any hostile environment, and prevent its recurrence.

The investigator will make their determination based on a preponderance of the evidence standard. This means that the investigator will determine whether they think misconduct is more likely than not to have occurred (there is a greater than 50% chance that misconduct occurred). In determining whether conduct constitutes a violation of the School's policies, the investigator will consider, for example, the age and level of understanding of the student(s) involved, the facts and surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between parties involved and the context in which the incidents occurred.

After the investigator makes their determinations, they will prepare a written summary of their findings, including a proposed resolution (such as proposed discipline, as described below).

Investigative Findings and Determinations

The Respondent (and their parent(s)/guardian(s), if applicable) will be informed in writing of the investigative finding, sanction, and the rationale for the sanction within twenty (20) school days after submission of the complaint. The Coordinator, in their discretion, may extend the time to complete the investigation if such an extension would be reasonable under the circumstances. The Complainant (and their parent(s)/guardian(s), if applicable) will also be informed, in writing, of the outcome of the investigative process.

If you do not receive a written response from the School within 30 school days, you may contact the Coordinator regarding the status of the investigation.

Discipline of Students: If the investigator believes that discipline of a student is appropriate, the investigator will consult with the Title IX Coordinator (if that person did not perform the investigation), and the Division Head to determine the appropriate level of discipline in accordance with the School's published disciplinary process. Students for whom suspension or expulsion is being considered will be given notice and an opportunity to be heard before a final decision regarding suspension or expulsion is made.

Corrective Action for Non-Students: If the investigator believes that corrective action related to or discipline of an employee, volunteer, or third party is warranted, the investigator will consult with the Title IX Coordinator (if that person did not perform

the investigation) and the Division Head (in the case of employees or volunteers) or the Head of School (in the case of third parties or contractors) to determine the appropriate response to the misconduct.

Appeal

The Respondent may appeal the outcome from the decision and/or the sanction/remedy by submitting a written appeal to the Head of School within ten (10) school days after receiving notification of the findings. Disagreement with the finding or sanction is not, by itself, grounds for an appeal. The appealing party must demonstrate that there was insufficient evidence to support the decision, that there is new or relevant evidence, or that the sanction or remedy is substantially disproportionate given the details of the case. The Head of School shall review the Complaint and the record of the investigation, including the investigator's summary of their findings, and may interview the parties again if necessary. Within fifteen (15) school days of receiving the appeal, the Head of School will respond in writing to the appeal, summarizing the outcome of the appeal and any changes to the findings or discipline.

Advisor Guidelines

Any individual being interviewed by the Investigators, including the Complainant and Respondent, has the right to be accompanied to any meeting or proceeding related to this resolution procedure by an advisor of their choice. An advisor is an individual who attends as a supportive presence. An advisor may take notes and quietly confer with the individual being advised, but may not speak on behalf of the individual or in any way disrupt any meeting or the resolution procedure. Individuals who may have factual information relevant to the Complaint may not serve as advisors. If an individual being interviewed wishes to have an attorney serve as their advisor, he or she may retain counsel independently. Attorney-advisors may participate in the resolution process to the same extent as other advisors, and will not be permitted to speak on behalf of any individual or to interfere with the resolution procedure. Although the Parties are not required to choose an advisor or to bring their advisor to all meetings, utilizing the same advisor throughout the process, unless there are extenuating circumstances, allows the process to move forward in the most efficient fashion.

Notification to Parents

If the report involves a student, the Coordinator will determine whether the Complainant and/or Respondent's parent(s)/guardian(s) need to be notified of a report of harassment or discrimination. The Coordinator, in their professional discretion, may determine that it is not necessary or appropriate to involve a student's parent(s)/guardian(s). However, the parent(s)/guardian(s) of both the Complainant and the Respondent(s) must be notified, unless otherwise directed by law enforcement or required by law, if the report involves *physical assault* or *unwelcome sexual touching*.

A Respondent's parent(s)/guardian(s) must also be notified if it is possible that the Respondent will be suspended or expelled if found responsible for misconduct.

The Complainant may request that their parent(s)/guardian(s) not be notified of a complaint involving them. Such requests will be considered by the Coordinator, however, the Coordinator in their professional judgment will determine whether it is appropriate to honor such a request.

If notification is required or warranted, the parent(s)/guardian(s) of the Complainant and/or the Respondent(s) should be notified of the report before the close of the current school day, but must be notified not later than two school days after the report is filed, unless otherwise directed by law enforcement or required by law.

A parent/guardian may be invited to attend an interview with their student at the student's request, or if the Coordinator determines that a parent/guardian's presence is necessary or would be helpful to the investigation. A parent/guardian's role at an interview is primarily as a supportive presence. Parent(s)/guardian(s) may not speak on behalf of the student or disrupt the interview.

Prohibition on Retaliation

WES will not tolerate retaliation. Retaliation is prohibited by Title IX and this Policy. An individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report that is made in good faith, even if the report is later not proven to be true. This Policy also prohibits harassment of Respondents. In addition, retaliation is prohibited against individuals participating in an investigation under this Policy (such as a witness). The School will take immediate and responsive action to any report of retaliation or additional harassment and will pursue disciplinary action as appropriate.

External Resources

If you are in a life-threatening situation, please call 911 immediately.

Shady Grove Adventist Healthcare Center

FNE-P and FNE-A
9901 Medical Center Drive
Rockville, MD 20850
(240) 826-6225

Maryland Crime Victim Resource Center

Main Office

Ph: 301-952-0063
Ph: 877-842-8461
1001 Prince George's Blvd., Suite 750
Upper Marlboro, MD 20774-7427

For Montgomery County

Ph: 240-335-4021

**Rape, Abuse, and Incest National Network
(RAINN) (<http://www.rainn.org/>)**

1-800-656-HOPE

RAINN provides live, secure, anonymous crisis support for victims of sexual assault and their families.