

**GRIEVANCE PROCEDURE FOR STUDENTS AND EMPLOYEES**

It is the intent of the Governing Board to comply with the nondiscrimination provisions of federal laws and regulations with regard to disability, gender, race, ethnicity, or national origin. Neither the Governing Board nor its employees shall discriminate against any student or individual entitled to participate in the education programs or activities of the Educational Service Center of Northeast Ohio (ESCNEO), or in the employment of ESCNEO personnel.

The Title IX Coordinator’s name and contact information shall be made known to all applicants for employment and employees. Further, the ESCNEO shall prominently display on its website the contact information for the Title IX Coordinator. The Governing Board hereby designates and authorizes the following individual to serve as the ESCNEO’s Title IX Coordinator:

Steve Rogaski, Director of Human Resources and Pupil Services  
Educational Service Center of Northeast Ohio  
6393 Oak Tree Blvd., Independence, OH 44131  
216-524-3000  
steve.rogaski@escneo.org

**GRIEVANCE PROCEDURE**

The Grievance Procedure is established to provide a fair, reliable, and impartial investigation in response to any allegations of unlawful discrimination or harassment by ESCNEO employees, other students, or third parties.

1. Informal Procedure
  - a. Any individual who believes s/he has a valid basis for a complaint that s/he has been subjected to discrimination or harassment is encouraged, but not required, to discuss the matter informally with the building principal or immediate supervisor. If the principal or supervisor is the subject of the complaint, or if the individual is not a student or employee of the ESCNEO, the individual may discuss his/her concerns with the Title IX Coordinator.
  - b. Except where an employee has allegedly sexually harassed a student, the investigator may offer informal resolution options if a formal complaint is filed, and both parties give voluntary, informed, written consent. The ESCNEO shall not require, as a condition of employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints. Any party has the right to withdraw from informal resolution and resume the grievance process with respect to the formal complaint.
  
2. Filing of Complaint
  - a. If the informal procedure does not resolve the matter, or if the individual does not wish to use the informal procedure, an individual who believes s/he has been discriminated against (“the complainant”) may submit a complaint in writing to the Title IX

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Coordinator as soon as possible after learning of the alleged incident of harassment or discrimination. If the Title IX Coordinator is the individual alleged to have engaged in the harassment/discrimination, the individual shall make the complaint directly to the Superintendent and the Superintendent, or designee, will conduct the investigation.

- b. Any person may report an alleged incident of discrimination or harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute gender discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. The ESCNEO will treat a person as a complainant any time it has notice that the person is alleged to be the victim of conduct that could constitute discrimination or harassment (regardless of whether the person self-reported, or a third party reported the incident), and irrespective of whether the complainant ever chooses to file a formal complaint.
- c. The complaint should include facts underlying the complaint, including the name(s) of the individual(s) alleged to have engaged in discrimination or harassment ("the respondent"); the name(s) of possible witness(es); the location, date and time of the incident; and any other relevant information. The complainant may use a Complaint Form provided by the Title IX Coordinator or may submit the information in an alternate form.
- d. The Title IX Coordinator is responsible for investigating the allegation(s) of discrimination or harassment based on the information included in the complaint, or appointing an investigator to conduct an investigation.
- e. The right to confidentiality, both of the complainant and of the respondent, will be respected consistent with the ESCNEO's legal obligation and with the necessity to investigate allegations of misconduct and take corrective action when misconduct has occurred. The ESCNEO will keep confidential the identity of complainants, respondents, and witnesses, except as may be permitted by FERPA, or as required by law, or as necessary to carry out a Title IX proceeding.

### 3. Investigation

- a. The investigator shall remember that the investigation requires a balancing of the respondent's due process rights, the complainant's right to an environment free of harassment and/or discrimination, and the Board's interest in a prompt and fair investigation.
- b. The investigator shall send written notice to both the complainant and respondent of the allegations set forth in the formal complaint.
- c. The investigator shall meet with the complainant within a reasonable period of time following receipt of the complaint. However, the investigator is urged to meet with the complainant as soon as possible.

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- d. Following the meeting with the complainant, the investigator shall conduct a fair, reliable, and impartial investigation, which shall include a review of the relevant evidence; interviews with parties and witnesses, if available; and take any other actions that are considered necessary to determine whether harassment/discrimination has occurred. The investigation also shall include a conference with the respondent, if available.
- e. The investigator will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the ESCNEO obtains that party's voluntary, written consent to do so.
- f. Upon conclusion of the investigation, the investigator shall issue a written report. After the investigative report has been sent to the parties and before reaching a determination regarding responsibility, the decision maker(s) must 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(s) must explain to the party proposing the questions any decision to exclude questions as not relevant.
- g. Although the facts and circumstances of a particular investigation may require an investigation to continue beyond 45 work days, it is recommended that the investigation and a report of the findings be completed within that time frame.
- h. The report shall include a determination of whether the respondent was found to have engaged in harassment/discrimination, was found not to have engaged in harassment/discrimination, or whether the investigation was inconclusive. The ESCNEO shall use a "preponderance of the evidence" standard to make such determination. A copy of the report with all personally identifiable student information redacted shall be issued to the complainant or the complainant's parent and the respondent. A full copy of the report shall be sent to the Superintendent.
- i. A finding of no harassment/discrimination or inconclusive evidence shall end the investigation.
- j. Written notice of the outcome of the complaint shall be provided to the complainant and the respondent. If harassment/discrimination is found to have occurred, the investigator shall recommend what steps are necessary to ensure that the harassment/discrimination is eliminated, to prevent its recurrence, and to address any discriminatory effects on the complainant or others, if appropriate and feasible.

#### 4. Discipline for Substantiated Complaints

- a. If harassment/discrimination is found to have occurred, the person who engaged in such harassment/discrimination shall be disciplined, up to and including suspension or expulsion for students, or suspension or termination of employment for employees.
- b. The discipline shall be reasonably calculated to end the harassment/discrimination, to prevent its recurrence, and to correct discriminatory effects on others.

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- c. Any discipline must include a directive that the respondent not engage in such harassment/discrimination in the future.
- d. Making a materially false statement in bad faith in the course of an investigation may subject an employee to disciplinary action.

### 5. Appeal to the Board

The ESCNEO will offer both the complainant and respondent the opportunity to appeal in writing within ten calendar days from a determination finding responsibility, and from a dismissal of a formal complaint or any allegations therein, on any of the following bases:

- a. Procedural irregularity that affected the outcome of the matter
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- c. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias that affected the outcome of the matter

The Governing Board hereby designates the Superintendent to hear appeals of the Title IX Coordinator's determination. The Superintendent shall review the case, may conduct an informal hearing, and will notify the complainant, the respondent, and the Title IX Coordinator in writing of the decision within ten work days after reviewing the case and holding, if any, the informal hearing. The Superintendent's decision shall be final.

It is Governing Board policy that all reports of discrimination or harassment will be thoroughly investigated, and violations of this policy will be treated as serious disciplinary infractions. ESCNEO employees will be notified at least annually of their responsibility to report all instances of possible discrimination or harassment based on race, color, national origin, gender, disability, age, or religion of which they become aware.

No individual shall be subjected to retaliation for any good faith report of harassment or discrimination or for participating in an investigation about harassment or discrimination under this policy. No employee of the ESCNEO, 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, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Complaints alleging retaliation may be filed according to the procedures for gender discrimination.

An individual who believes s/he has been discriminated against by the ESCNEO may file a complaint at any time with the U.S. Department of Education, Office for Civil Rights, 600 Superior Avenue, East, Suite 750, Cleveland, Ohio 44114-2611.

This Grievance Procedure shall be prominently posted in the ESCNEO Central Office and the facilities with students being served by the ESCNEO staff and included in ESCNEO Employee Handbook.

LEGAL REFS: Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Title II of the Americans with Disabilities Act (42 U.S.C. §12131 *et seq.*)

Adopted: 4-19-2012      Revised: 5-21-2020