Administration
801 West Union Street - Athens, Ohio 45701
Phone: 740-594-3539 - Fax: 740-593-3189
Dr. Kevin Davis, Superintendent
athenscbdd.org

Updated Policies for Review
Batch 10
Second Read

Administrative Policies

- Policy 7 – Emergency Removal – Updated to change name and other updates to reflect current practice (removal of suspension/expulsion).
- Policy 54 – Retention of Board Records – Reviewed for updates and none were necessary. Minor changes throughout and reformatted.

Personnel Policies

- Policy 1-8A – Title IX – This is a new policy that reflects new guidance recently issued by the U.S. Department of Education pertaining to sexual harassment for K-12 schools (and colleges and universities).
- Policy 1-8A – Appendix A – This Appendix accompanies the new policy listed above.
- Policy 1-8 – Anti-Harassment – Updated to make reference to the new policy and appendix noted above.
- Policy 4-5 – Staff Training and Professional Development – Updated to include training topics, such as confidentiality, privacy, and consumer Rights per HIPAA, FERPA, and IDEA.

7. EMERGENCY REMOVAL/SUSPENSION: EARLY INTERVENTION, PRESCHOOL, AND SCHOOL-AGE PROGRAM

Adopted	11/18/97
Status	Draft – pending approval
Historical Versions	11/18/97, 7/24/12
Initiated by	Becky Martin, Director of Educational Services
Approved by	pending

1. Emergency Removal
    a. In an emergency, the Superintendent or his/her designee may remove a student from curricular or extracurricular activities or the premises if the student poses a continuing danger to himself/herself or others or participates in the significant destruction of property.
    b. The family/guardian/home support staff will be contacted to assist with removing the child from the school. Law enforcement may be contacted if needed to provide safety to the child and/or other children.
    c. Student removals shall be reported to the Local Educational Agency (LEA) within 24 hours, and a copy written incident report will be faxed to the school district.
2. Emergency Suspension
    a. Measures will be taken to correct the behavior of the student to allow participation in the school program. However, if repeated suspensions are necessary the IEP Team, Director of Education, and Superintendent may determine that the ACBDD can no longer safely serve the student.
    b. Such removals shall be reported immediately to the parent and the LEA, as appropriate, with a written incident report to be prepared by the end of the workday. A copy of the incident report will be forwarded within 24 hours to the school district.
    c. Suspensions may be a planned component of a Behavior Support Plan when the program has been written following the County Board's Behavior Support Policy and Procedures, and has been approved by the parents and the LEA.

DRAFT

Manual: **Admin.**
Adopted: **11/18/97**
Revised: **7/24/12**
Effective: **11/18/97, 7/24/12**

7. EMERGENCY REMOVAL/SUSPENSION/EXPULSION: EARLY INTERVENTION, PRE-SCHOOL AND SCHOOL PROGRAM

1. Emergency Removal

   A. In an emergency, the Superintendent or his/her designee may remove a pre-school or school age child from curricular or extracurricular activities or the premises if the child poses a continuing danger to himself/herself or others or participates in the significant destruction of property.

   B. The family/guardian/home support staff will be contacted to assist with removing the child from the school. Law enforcement may be contacted if needed to provide safety to the child and/or other children. Emergency Removal from the school program can occur for up to two program days.

   C. Student removals shall be reported to the Lead Educational Agency (LEA) within 24 hours, and a copy written incident report will be faxed to the school district.

2. Emergency Suspension

   A. Measures shall be taken to correct the behavior of the child to allow participation in the school program. However, if repeated suspensions are necessary the IEP Team, Education Coordinator, and Superintendent may determine that the ACBDD can no longer safely serve the child.

   B. Such removals shall be reported immediately to the parent and the LEA, as appropriate, with a written incident report to be prepared by the end of the work day. A copy of the incident report shall be forwarded within 24 hours to the school district.

   C. Suspension**s** may be a planned component of a Behavior Support Program when the program has been written following the County Board's Behavior Support Policy and Procedures and has been approved by the parents and the LEA.

3. Suspension

If a pre-school or school age child repeatedly demonstrates inappropriate behavior that presents a danger to self/others, the Superintendent may request that suspension proceedings be initiated by the LEA. The Superintendent shall forward to the school district such written reports and other records as are necessary. County Board personnel shall be released from regular position responsibilities in order to participate in any hearings or review conference committees at the invitation of the school district.

4. Medical Suspension

The Board realizes that, at times, a situation may arise that necessitates the suspension of a child enrolled in Early Intervention, Pre-school or School Program for medical reasons which pose a serious risk to the individual or to other students or to staff. Efforts will be made to alleviate the situation before suspension is recommended. In the event of a medical suspension, the enrollee's rights will not be lessened.

Administrative procedures ensuring the safety of the individual and other enrollees with regard to medical/health concerns, while ensuring the enrollee's rights, will be established and published in the Administrative Policy Manual.

5. Expulsion

The Board has authority to discontinue education services to any child under 22 years of age placed by a local education agency in the County Board Program. Expulsion of more than ten (10) days involves a change in Special Education placement and can be considered appropriate when an interdisciplinary team led by LEA recommends placement into some other program component.

6. Early Childhood Suspension/Expulsion

For children not placed into the County Board Program by the LEA, the Board Policies on Discipline, Due Process, and Behavior Supports shall be used to determine the most appropriate placement for the child.

54. RETNTION OF BOARD RECORDS

Adopted	4/16/01
Status	Draft – pending approval
Historical Versions	4/16/01, 11/23/10
Initiated by	Steve Kramer, Director of Finance & Operations
Approved by	pending

In accordance with the Ohio County records Manual prepared by the Archives-Library Division of the Ohio Historical Society with revisions appropriate for changes mandated legislatively, by the Ohio Department of DD, or other regulations including Federal HIPAA and FERPA regulations, the ACBDD shall maintain records in accordance to the guidelines below.

REFERENCES (Partial list of regulations)
Federal Law 45 CFR 164.530(j) – Documentation requirement,
164.520(e) – Notices of Privacy Practices;
164.524(e) – Access of individuals to protected health information;
164.526(f) – Amendment to protected information;
164.508(b)(6) – Uses and disclosures for which an authorization is required;
164.512(i)(2) – Uses and disclosures for research purposes;
164.522(a)(3) – Rights to request privacy protection for protected health information;
§164.528(d) – Accounting of disclosures of protected health information – Implementation specification
ORC 5126.044 Confidentiality

1. From the Ohio County Records Manual and Medicaid Requirements:
    a. ACCIDENT REPORTS - Shall be maintained in alphabetically arranged enrollee files for a retention period of two (2) years.
    b. ANNUAL BUDGETS - Shall be arranged chronologically and retained permanently for all departments.
    c. ANNUAL COST REPORTS - Shall be arranged chronologically and retained permanently for all departments.
    d. APPLICATIONS FOR EMPLOYMENT - Shall be maintained in active status for one (1) year and retained for two (2) years for EEO compliance. Applications for persons hired shall be maintained in the employee's personnel file.
    e. AUDIT REPORTS - Shall be arranged chronologically and permanently retained.
    f. BANK DEPOSIT SLIPS AND STATEMENTS - Shall be chronologically arranged with statements indicating status of special purpose and internal fund audits. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
    g. BIDS - Shall be arranged chronologically with copies of bids to provide supplies and materials to the Board. Shall be retained for two (2) years after letting of contract.
    h. BUS DRIVER RECORDS - Shall be arranged alphabetically by driver in the driver's personnel file including the physical examination and driver's abstracts. Shall be retained for a period of two (2) years after termination of driver.
    i. CANCELLED CHECKS - Shall be arranged by check number and retained for seven (7) seven years after an audit is completed and adjudicated.
    j. CASE MANAGEMENT RECORDS - Shall be alphabetically arranged by enrollee and include case work records of services rendered to enrollees and their families including evaluations, contact notes, recommendations, social histories, Individual Service Plans, and abstracts. Retention period is seven (7) seven years after an audit is completed and adjudicated.

DRAFT

k. CASH BOOKS - Shall be arranged in chronological order with ledgers showing details of receipts and disbursement of internal funds. Shall be retained for seven (7) years after an audit is completed and adjudicated
l. CERTIFICATION FILES - Shall be contained in employee files in alphabetical order. Shall be retained for a period of two (2) years after employee termination.
m. HOME TRAINING REPORTS - Shall be arranged alphabetically by enrollee. Shall be retained for a period of two (2) seven years after an audit is completed and adjudicated.
n. INDIVIDUAL ATTENDANCE RECORDS - Attendance records of enrollees shall be chronologically arranged with daily report of each enrollee's attendance. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
o. INSURANCE POLICIES - Shall be alphabetically arranged by type of insurance. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
p. INVENTORITES OF COUNTY PROPERTY - shall be alphabetically arranged by category in various departments. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
q. INVOICES PAID - Shall be alphabetically arranged by supplies and include copies of itemized statements of merchandise shipped and purchased with payment noted. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
r. LEAVE REQUESTS - Shall be in alphabetically arranged employee file showing vacation and sick leave earned and taken. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
s. MEAL PROGRAM RECORDS - Shall be chronologically arranged with tabulation of meals served and ordered for food program of the Board. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
t. MINUTES - Shall be chronologically arranged showing members present, record of personnel appointments, resignations, terminations, review of grant proposals, approval of contracts for services, financial reports. Shall be retained permanently.
u. OFFICE FILES - Shall be arranged alphabetically, therein chronologically relating to the action and activities of the Board. Shall be retained for seven (7) years after an audit is completed and adjudicated.
v. PAYROLL RECORDS - Shall be chronologically arranged with worksheets and related material to show for each salary, withholding, and other deductions. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
w. PERSONNEL FILES - Shall be arranged alphabetically by employee including a record of personnel actions: appointments, promotion, reclassification, personal history data, performance evaluation, positions descriptions and classifications questionnaires, incident reports, accident reports, etc. Retention shall be permanent.
x. PSYCHOLOGY REPORTS - Shall be retained in enrollee's file that is alphabetically arranged. Shall be retained for seven (7) years after an audit is completed and adjudicated.
y. PURCHASE ORDERS AND REQUISITIONS - Shall be arranged alphabetically showing department, item requested, delivery date, order number, quarter fund, year, bill, program, account chargeable, and signatures. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
z. STUDENTS' FILES - Shall be alphabetically arranged and include case files of dates of attendance, achievement level, test scores, teacher objectives observations, valid placement, name, date of birth, parents' names. Shall be retained permanently.
aa. TIME SHEETS - Shall be chronologically arranged, therein alphabetically by employee showing the presence or absence of the employee on the job each day. Shall be retained seven (7) years after an audit is completed and adjudicated.
bb. TRANSPORTATION REPORTS - Arranged chronologically, includes number of buses, bus routes in use, mileage/bus, maintenance and repair costs. Retain for one (1) year after filing.

DRAFT

cc. TRAVEL EXPENSE REPORTS - Shall be alphabetically arranged by employee. Applications for reimbursement for travel and related expenses for employee engaged on Board business. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.
dd. VOUCHERS - Shall be arranged chronologically by month, therein alphabetically by vendor. Shall be retained for a period of seven (7) years after an audit is completed and adjudicated.

2. HIPAA Mandated records.
    a. HIPAA Mandated records, including the following, will be maintained for 6 years:
        i. HIPAA Required designations, including, Hybrid entity designation if applicable, description of records in Designated Record Set, the names of staff responsible for duties of Privacy Officer, receiving HIPAA complaints, providing access to consumer records, receiving requests for amendment of consumer records, answering questions about HIPAA policies and procedures.
        ii. Notice of Privacy Practices, as detailed in Policy 1310 Notice of Privacy Practices.
        iii. Restrictions on use or disclosure of PHI agreed to by ACBDD as detailed in Policy 1230 Individual's Right to Request Additional Restrictions.
        iv. The Master Consumer Record and electronic billing records, including any amendments
        v. Records of disclosures, as detailed in Policy 1050 Authorizations and Policy 1220 Individual's Right to Receive an Accounting of Disclosures.
        vi. Any signed authorization as detailed in Policy 1050 Authorizations.
        vii. All complaints received, and their disposition, if any, as described in Policy 1340 Privacy Complaints.
        viii. Any sanctions that are applied as a result of non-compliance with HIPAA-mandated policies as detailed in Policy 1080 Duty to Report Violations and Security Incidents and Policy 8.5 Progressive Discipline Policy
    b. Policy and Procedure Audit Trail – Current and Archived Policies as detailed in Policy 1330 HIPAA Assignments and Documentation.
    c. Compliance Records. Notes and records of compliance activities as detailed in Policy 1330 HIPAA Assignments and Documentation.
3. Records with PHI and financial records
    a. The ACBDD shall retain all CAFS-related record information and fiscal data for a period of seven (7) years after an audit is completed and adjudicated.
    b. The ACBDD shall retain all records and forms, including, but not limited to ISPs, necessary to fully disclose the extent of services provided and related business transactions for a period of seven (7) years from the date of receipt of payment, or for six years after any initiated audit is completed and adjudicated, whichever is longer.
    c. The ACBDD shall retain financial, statistical; and medical records supporting the cost reports or claims for services rendered to residents of ICFs/MR for the greater of seven years after the cost report is filed; if ODHS issues an audit report in accordance with rule 5101:3¬3-21 of the Administrative Code, or six years after all appeal rights relating to the audit report are exhausted.
    d. The ACBDD shall maintain the records necessary and in such form to disclose fully the extent of HCBS waiver services provided, for a period of six years from the date of receipt of payment or until an initiated audit is resolved, whichever is longer.
4. POLICY ON DOCUMENT DESTRUCTION
    a. The ACBDD shall notify an eligible individual, the individual's guardian, or, if the eligible individual is a minor, the individual's parent or guardian, prior to destroying any record or report regarding the eligible individual.
    b. The records to be destroyed will be offered to the individual or parent.
    c. The ACBDD will obtain written permission of the individual or parent prior to destruction.

DRAFT

1-8A TITLE IX POLICY & PROCEDURE REGARDING SEXUAL HARASSMENT AND MISCONDUCT

Adopted	TBD
Status	Pending review
Historical Versions	
Initiated by	Gwen Brooks, Director of Human Resources
Approved by	Board of the Athens Co Board of Developmental Disabilities (ACBDD)

I. INTRODUCTION

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 ACBDD 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 ACBDD does not and shall discriminate on the basis of sex (including sexual orientation or gender identity), in its educational programs or activities. The ACBDD 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 ACBDD 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 in light of the circumstances known to the ACBDD, meaning the ACBDD will not be deliberately indifferent in its response. The ACBDD 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 ACBDD's educational programs and activities. The ACBDD 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 ACBDD has control, who commit sexual harassment shall be subject to disciplinary sanctions set forth in this Policy.

II. SCOPE OF POLICY

All students participating in the ACBDD's educational programs and activities in the United States and all ACBDD staff and Board 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 ACBDD's educational programs and activities, whether committed by a student, employee, Board member, contractor, vendor, parent, visitor or guest. This Policy applies to persons, locations, events, and circumstances over which the ACBDD exercises substantial control over both the Respondent (defined below) and the context in which the Prohibited Conduct (defined below) occurs. The ACBDD may not have the authority or ability to implement disciplinary action in every circumstance. When that is not possible, the ACBDD 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 ACBDD policy or procedure or applicable federal and state laws and regulations.

DRAFT

III. NOTICE OF NON-DISCRIMINATION AND TITLE IX POLICY

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

> Pursuant to and in accordance with Title IX and its regulations, the ACBDD 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 ACBDD's Title IX Coordinators are:
>
> Gwen Brooks, Director of Human Resources
> 801 W Union Street, Athens, OH 45701
> 740-541-8135 | gbrooks@athenscbdd.org
>
> Scott Zielinski, Medicaid Services Manager
> 8 Harper Street, The Plains, OH 45780
> 740-541-8473 | szielinski@athenscbdd.org
>
> Any inquiries about the application of Title IX and its regulations to the District may be referred to the ACBDD's Title IX Coordinators, the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.
>
> The ACBDD has adopted Policy No. 1-8A – TITLE IX POLICY & 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 No. 1-8A is available at: www.athenscbdd.org/administration/policies. Policy No. 1-8A 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 ACBDD will respond.

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

IV. 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.

DRAFT

A. Actual Knowledge

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any ACBDD employee or Board member who has authority to institute corrective measures on behalf of the ACBDD. 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 ACBDD. "Notice" includes, but is not limited to, an oral, written or electronic report of sexual harassment to the Title IX Coordinator.

B. 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.

C. ACBDD Community

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

D. Complainant

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

E. Educational Program or Activity

"Educational program or activity" refers to all operations of the ACBDD 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 ACBDD. It also includes events and circumstances that take place off-school property/grounds if the ACBDD exercises substantial control over both the Respondent and the context in which the conduct prohibited by Title IX occurs.

F. Exculpatory Evidence

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

G. 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 ACBDD investigate an allegation of conduct prohibited by Title IX. At the time of filing a Formal Complaint with the ACBDD, a Complainant must be participating in or attempting to participate in the ACBDD'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 ACBDD 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.

DRAFT

H. 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.

I. Inculpatory Evidence

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

J. Informal Resolution

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

K. 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.

L. 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.

M. 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.

N. Investigator

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

O. Mandated Reporter

All ACBDD employees, Board 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 ACBDD is able to provide a prompt, thorough, and supportive response.

P. 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.

Q. 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.

R. Notice of Outcome of Appeal

DRAFT

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

S. 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.

T. 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.

U. Privacy

This term means that information related to a complaint will be shared with only a limited number of ACBDD 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 ACBDD'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 ACBDD policy.

V. 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 ACBDD'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.

W. Reporting Party

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

X. 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.

Y. Respondent

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

Z. Sanctions

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

AA. 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 ACBDD's educational programs or

DRAFT

activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the ACBDD'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 ACBDD's buildings and facilities, referral to an Employee Assistance Program, and other similar measures.

BB. Third Parties

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

CC. Title IX Coordinators

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

DD. Title IX Sexual Harassment

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

1. ACBDD employee conditions the provision of an aid, benefit, or service of the ACBDD on an individual's participation in unwelcome sexual conduct ("*quid pro quo*" harassment);

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the ACBDD's educational programs or activities; or

3. "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).

    a. 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:

        i. Unwelcome sexual propositions, invitations, solicitations, and/or flirtations;

        ii. Unwanted physical and/or sexual contact;

        iii. Threats or insinuations implying that a person's conditions of education or employment may be adversely affected by not submitting to sexual advances;

        iv. 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;

DRAFT

v. Sexually suggestive objects, pictures, graffiti, videos, posters, audio recordings or literature;

vi. Unwelcome and inappropriate touching, patting, or pinching;

vii. Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities;

viii. Speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;

ix. Giving unwelcome personal gifts such as lingerie that suggests the desire for a romantic relationship; and

x. Leering or staring at someone in a sexual way, such as staring at a person's breasts, buttocks, or groin.

b. "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.

i. 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.

ii. 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.

iii. 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.

iv. 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.

v. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by State law.

DRAFT

vi. Statutory rape is sexual conduct with a person who is under the statutory age of consent as defined by Ohio Revised Code §2907.04.

vii. 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.

viii. 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.

c. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:

i. A current or former spouse or intimate partner of the victim;

ii. A person with whom the victim shares a child in common;

iii. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;

iv. A person similarly situated to a spouse of the victim under the domestic or family violence laws of Ohio; or

v. 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.

d. "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.

e. "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.

DRAFT

V. DESIGNATION AND ROLE OF TITLE IX COORDINATOR

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

Gwen Brooks, Director of Human Resources
801 W Union Street, Athens, OH 45701
740-541-8135 | gbrooks@athenscbdd.org

Scott Zielinski, Medicaid Services Manager
8 Harper Street, The Plains, OH 45780
740-541-8473 | szielinski@athenscbdd.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 ACBDD employees and Board members and shall manage the ACBDD's review, investigation, and resolution of those reports to ensure the ACBDD'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 ACBDD 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 ACBDD and in the community;
- Responsible for offering and implementing reasonably available Supportive Measures;
- Available to provide assistance to any ACBDD 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 ACBDD'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 ACBDD to ensure that its policies and practices are compliant.

VI. REPORTING

A. General Reporting Obligations

DRAFT

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 ACBDD encourages persons filing a report to submit it directly to the Title IX Coordinators, but a report may be made to any ACBDD 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 and time of the incident;
- Identify the location 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 ACBDD employees and members are mandatory reporters pursuant to Title IX regulations. Therefore, ACBDD employees and members witnessing Prohibited Conduct shall report such Prohibited Conduct to a Title IX Coordinator or to any ACBDD employee or Board member within twenty-four (24) hours. An ACBDD employee or Board member that receives a report of Prohibited Conduct shall notify the Title IX Coordinators within twenty-four (24) hours of receipt. Members of the ACBDD's Community and Third Parties are encouraged to report Prohibited Conduct promptly to a Title IX Coordinator or to any ACBDD employee. An ACBDD 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 an ACBDD employee, Board 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 ACBDD'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 ACBDD 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.

DRAFT

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 ACBDD'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. ACBDD employees and Board 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 ACBDD's ability to respond promptly and effectively, any person, other than an ACBDD employee or Board member, affected by Prohibited Conduct is encouraged to file a report as soon as possible. An ACBDD employee or Board 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 ACBDD may not be able to take disciplinary action against them. The ACBDD 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 ACBDD 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.).

VII. 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 ACBDD shall promptly investigate and resolve student and employee complaints alleging Prohibited Conduct. In addressing allegations of Prohibited Conduct, the ACBDD 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.

DRAFT

The process described in Section VII relates exclusively to complaints brought under this Policy. The ACBDD will continue to handle complaints subject to the ACBDD'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 ACBDD 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 ACBDD 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 ACBDD to provide the Supportive Measures.

2. Privacy

Notice to the Title IX Coordinator or another ACBDD employee of Prohibited Conduct requires the ACBDD 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 ACBDD 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 ACBDD 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 ACBDD will balance this request in the context of its obligation to

DRAFT

provide a safe and non-discriminatory educational environment. Confidentiality will not always be possible. Whether or not the Complainant requests confidentiality, the ACBDD 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 ACBDD not disclose the Complainant's identity to the Respondent, the Title IX Coordinator will inform the Complainant that the ACBDD'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 ACBDD conduct a full investigation.

3. Initial Actions by the ACBDD

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 ACBDD's educational programs and facilities is appropriate in light of the existing circumstances, the ACBDD shall provide notice to the Respondent and an opportunity to challenge the ACBDD'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 ACBDD may place an ACBDD 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 ACBDD 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 ACBDD 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 ACBDD'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;

DRAFT

- 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 ACBDD possesses independent means to obtain relevant evidence (e.g., witnesses, security cameras or personnel, or physical evidence).

Where the ACBDD 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 ACBDD's response must be reasonable in light of the known circumstances. If a report alleges conduct by an ACBDD employee or Board 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:

a. Notice of the ACBDD's investigation and decision-making process, including any informal resolution available;

b. 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:

i. 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;

ii. 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;

iii. 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.

DRAFT

c. 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 ACBDD shall conclude the Investigation and decision-making process, including resolving any appeals, no later than sixty (60) 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

i. Complainant, Respondent and Witnesses have the responsibility to be truthful, to cooperate with the process, and to follow the directions of ACBDD 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;

ii. 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 ACBDD shall investigate allegations of a person engaging in any act of retaliation, intimidation, harassment, or threat;

iii. Complainant, Respondent and Witnesses have the responsibility to keep private documents, materials, and information received from the ACBDD during this process; and

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

b. General Rights

i. 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;

ii. A person has the right to be treated equitably and receive the equal access to Supportive Measures;

iii. A person has the right to have the investigation and decision-making process completed within a reasonably prompt timeframe;

DRAFT

iv. A person has the right to a Representative or Advisor to support and/or advise the party during the investigation and decision-making process;
v. 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;
vi. A person has the right to decline to give a statement about the allegations made in a Formal Complaint;
vii. 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;
viii. A person has the right to receive any Notice of Dismissal;
ix. A person has the right to appeal any Notice of Dismissal or determination of responsibility;
x. 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.
xi. 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;
xii. A person has the right to receive a written determination regarding responsibility for the alleged Prohibited Conduct (if any);
xiii. A person has the right to receive a written Notice of Outcome of Appeal.

c. Rights of the Respondent

i. A Respondent has the right not to have any Sanctions imposed before a determination of responsibility in accordance with this Policy; and
ii. 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 ACBDD's educational programs or activities, is no longer a Board member or ACBDD employee, or is no longer a member of the ACBDD's Community or Third Party, the Complainant submits a written request to withdraw the

DRAFT

complaint, or specific circumstances prevent the ACBDD from gathering evidence sufficient to reach a determination.

The ACBDD 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 ACBDD's educational programs or activities; or (c) did not occur against a person in the United States. If one of the preceding circumstances exist, the Title IX Coordinator shall dismiss the Formal Complaint. Even if dismissed, the ACBDD may still investigate and take appropriate action with respect to alleged misconduct pursuant to any other ACBDD 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 an ACBDD 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

DRAFT

The Title IX Coordinator shall designate an individual to conduct the Investigation of a Formal Complaint. The Investigator may be either an employee of the ACBDD 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 ACBDD 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 ACBDD 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 ACBDD 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

DRAFT

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 ACBDD 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, to 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 ACBDD 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 ACBDD's educational programs or activities; or did not occur against a person in the United States.
b. **Discretionary Dismissal -** The ACBDD may dismiss the Formal Complaint if:

   i. The Respondent is no longer enrolled or employed by the ACBDD;
   ii. Specific circumstances prevent the ACBDD from gathering sufficient evidence to reach a determination; or

DRAFT

iii. 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

DRAFT

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 ACBDD 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 ACBDD has sanctioned similar incidents in the past;
- The nature of the Prohibited Conduct, including whether acts of 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 bases 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

DRAFT

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.

DRAFT

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.

ACBDD 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 ACBDD 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.

VIII. 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 ACBDD'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 ACBDD employees and Board 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

DRAFT

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 ACBDD shall maintain the following records for a period of five (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 ACBDD, 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 ACBDD 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.

DRAFT

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 ACBDD 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 ACBDD'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.

DRAFT

Appendix A
REMEDIES AND SANCTIONS

A. Remedies

Following a determination of responsibility under Policy No. 1-8A that the Respondent engaged in Prohibited Conduct, Remedies shall be provided to a Complainant. Remedies shall be designed to restore or preserve access to the ACBDD's educational programs and activities. Remedies may include the same individualized services as those offered as Supportive Measures. Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent; therefore, Remedies may include Sanctions or other disciplinary or corrective actions against a Respondent.

The decision-maker or the Appeal Officer may consult with the Title IX Coordinator in crafting Remedies. The decision-maker or the Appeal Officer shall decide on the Remedies as the decision-maker or the Appeal Officer deems appropriate for a particular case.

1. Remedies relating to a Complainant

In addition to Remedies directed toward a Respondent, the decision-maker or Appeal Officer may identify additional Remedies for a Complainant. Unless a Remedy affects the Respondent, these additional Remedies should remain confidential and should only be included in the Written Determination Regarding Responsibility for the Complainant. Additional Remedies may include, but are not limited to:

a. Academic or workplace accommodations;
b. Safety accommodations;
c. Other reasonable and appropriate accommodations;
d. Reference to EAP;
e. Restoration of any employment benefits lost as a result of Prohibited Conduct.

2. General Remedies relating to a Respondent

Remedies relating to all Respondents could include the following restrictions:

a. Directive not to contact (directly or indirectly) the Complainant;
b. Limiting or denying access to all or parts of the ACBDD's property and facilities;
c. Limiting or denying participation in or attendance at the ACBDD's educational programs or activities.

3. Timeframe for Remedies

The decision-maker or Appeal Officer shall indicate a timeframe for Remedies to be in effect in order to achieve the purpose of Remedy imposed. The Title IX Coordinator shall ensure compliance with a Remedy during the identified timeframe.

B. Sanctions

Sanctions to be imposed will depend on the category under which a Respondent falls. The decision-maker or Appeal Officer shall identify the Sanctions to be imposed against a Respondent for whom a determination of responsibility has been issued.

DRAFT

1. Sanctions against students

A variety of disciplinary actions may be imposed on a student who is determined responsible for engaging in Prohibited Conduct. Such disciplinary actions may include, but are not limited to:

- Training or counseling, as appropriate;
- Suspension of transportation or change of transportation;
- Suspension or removal from extra-curricular activities, for a period of time or permanently;
- Suspension or removal from the ACBDD's programs to the extent permitted by and in accordance with state or federal law.

2. Sanctions against ACBDD employees and Board members

a. ACBDD employees

A variety of disciplinary actions may be imposed on an ACBDD employee who is determined responsible for engaging in Prohibited Conduct, depending upon the severity of the conduct. Such disciplinary actions may include, but are not limited to:

- oral or written warning;
- written reprimand;
- management or performance improvement plan;
- Completion of counseling, training or education as a condition of continued employment;
- demotion;
- suspension with or without pay;
- last chance agreement;
- termination.

More than one Sanction may be imposed. Any resulting disciplinary action against an employee will be conducted in accordance with applicable state or federal law and ACBDD policy.

b. Board members

Depending on the severity of the conduct, a Board member that is determined to be responsible for committing Prohibited Conduct may be asked to resign, may be required to undergo mandatory counseling, training or education as a condition of continued membership, or may be removed pursuant to and in accordance with Ohio Revised Code §§5126.0213 – 5123.0217.

3. Sanctions against other members of the ACBDD's community or Third Parties

Sanctions or other consequences may be imposed on members of the ACBDD's community or a Third Party determined responsible for engaging in Prohibited Conduct. Sanctions may include, but are not limited to, the following:

- Mandatory counseling, training or education as a condition of continued volunteer services;
- Rescission of ability to volunteer;
- Direct supervision when on ACBDD property or attending programs, activities, or events;
- Exclusion from the ACBDD's facilities, programs, activities, or events;
- Prohibition of employee or agent of a vendor or contractor from continued work under contract;
- Suspension or termination of the ACBDD's contract with a vendor or contractor;
- More than one Sanction may be imposed.

DRAFT

1-8 ANTI-HARASSMENT POLICY

Adopted	10/15/1996
Status	pending review
Historical Versions	2/17/1998, 12/20/2005, 5/26/2015, 8/11/2015, 4/24/2018
Initiated by	Gwen Brooks, Director of Human Resources
Approved by	Board of the ACBDD

Purpose

The Athens County Board of Developmental Disabilities (ACBDD) strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The environment of the ACBDD should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Employees should be able to work and learn in a safe, yet stimulating atmosphere. The accomplishment of this goal is essential to the mission of the ACBDD. For that reason, the ACBDD will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, the ACBDD will seek to prevent, correct and discipline behavior that violates this policy.

All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension or termination of employment.

Prohibited Conduct Under This Policy

The ACBDD, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

1. *Discrimination*

   It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, sexual orientation, gender identity, genetic information or marital status.

   Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws. Additionally, unlawful discrimination based upon sex and sexual harassment that occurs within the ACBDD's educational programs or activities is prohibited by Title IX of the Education Amendments of 1972 and specifically addressed in ACBDD Policy 1-8A Title IX Policy and Procedure Regarding Sexual Harassment and Misconduct.

   Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

DRAFT

2. Harassment

The ACBDD prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate or coerce an employee, co-worker or any person working for or on behalf of the ACBDD. Verbal taunting (including racial and ethnic slurs) that, in the targeted employee's opinion, impairs his or her ability to perform his or her job is included in the definition of harassment.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body, disability or appearance, including epithets, slurs and negative stereotyping.

- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital or other protected status.

3. Sexual Harassment

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under the ACBDD's anti-harassment policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when . . . submission to or rejection of such conduct is used as the basis for employment decisions . . . or such conduct has the purpose or effect of . . . creating an intimidating, hostile or offensive working environment."

There are two types of sexual harassment:

- "Quid pro quo" harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions and better working hours are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Examples: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.

- "Hostile work environment," where the harassment creates an offensive and unpleasant working environment. A hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or even unwelcome physical contact as a regular part of the work environment. Texts, e-mails, cartoons or posters of a sexual nature; vulgar or lewd comments or jokes; or unwanted touching or fondling all fall into this category.

DRAFT

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- Is made explicitly or implicitly a term or condition of employment.
- Is used as a basis for an employment decision.
- Unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mail, photos, text messages, tweets and Internet postings; or other form of communication that is sexual in nature and offensive.

- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, non-coercive interactions between employees, including men and women, that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

4. Retaliation

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person who is found to have violated this aspect of the policy will be subject to sanctions up to and including termination of employment.

5. Consensual Romantic or Sexual Relationships

The ACBDD strongly discourages romantic or sexual relationships between a manager or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee.

DRAFT

Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff member as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other actions may be taken.

If any employee of the ACBDD enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the Superintendent or human resource director. Because of potential issues regarding quid pro quo harassment, reporting is mandatory. This requirement does not apply to employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over the other.

Once the relationship is made known to the ACBDD, the Superintendent will review the situation in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and will determine whether one or both parties need to be moved to another job or department. If it is determined that one party must be moved, human resources will decide which party should be moved. That decision will be based on job responsibilities and qualifications and which move will be least disruptive to the organization as a whole. If it is determined that one or both parties must be moved, but no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

Complaint Process

The ACBDD will courteously treat any person who invokes this complaint procedure, and the ACBDD will handle all complaints swiftly and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. Because of the damaging nature of harassment to the victims and to the entire workforce, aggrieved employees are strongly urged to use this procedure. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation. Complaints related to discrimination based upon sex and sexual harassment will follow the process defined in ACBDD Policy 1-8A.

Confidentiality

The employee assistance program (EAP) provides confidential counseling services to ACBDD employees. Individuals wishing to discuss an incident confidentially or seeking information and advice of a personal nature are encouraged to contact the EAP. The role of the EAP in such cases will be limited to personal counseling and treatment for the person who is then an EAP client. Contacting the EAP will not qualify as notification to the ACBDD of a potential harassment or discrimination issue.

During the complaint process, the confidentiality of the information received, the privacy of the individuals involved and the wishes of the complaining person will be protected to as great a degree as is possible. The expressed wishes of the complaining person for confidentiality will be considered in the context of the ACBDD's legal obligation to act on the charge and the right of the charged party to obtain information. In most cases, however, confidentiality will be strictly maintained by the ACBDD and those involved in the investigation. In addition, any notes or documents written by or received by

DRAFT

the person(s) conducting the investigation will be kept confidential to the extent possible and according to any existing state or federal law.

Alternative legal remedies

Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.

DRAFT

4-5 STAFF TRAINING & PROFESSIONAL DEVELOPMENT

Adopted	11/19/1996
Status	pending review
Historical Versions	9/16/1997; 4/18/2006; 11/23/2010; 8/22/2017; 11/12/2019; 9/22/2020
Initiated by:	Gwen Brooks, Director of Human Resources
Approved by:	Board of the Athens County Board of Developmental Disabilities (ACBDD)

Overview

The Athens County Board of Developmental Disabilities (ACBDD) supports and encourages staff development activities such as formal course work, workshops, conferences, seminars, participation in professional organizations and observations of other programs.

All staff members shall be required to complete training and professional growth hours necessary for maintenance of his/her required registration, certification or license. Although an employee may be fully certified, registered and/or licensed, the ACBDD may require additional training for staff development or to remain abreast of changes within the relevant profession. Cost of any required training shall be incurred by the ACBDD.

ACBDD Provided Training

Training shall be provided by the ACBDD via staff meetings, in-service trainings, seminars and conferences. Internal in-service training shall be documented by the Superintendent/designee and maintained in the respective employee's personnel file.

Regularly scheduled, mandatory staff meetings will be scheduled within each department. Staff meetings allow for discussion of topics of current concern such as new policies, procedures, methods of training, instruction, curriculum, and other matters as needed.

Staff training provided by the ACBDD shall include, but not limited to requirements as per the Ohio Administrative Code Chapter 5123 or other regulating bodies:

A. Safe lifting, carrying and moving, and prevention aspects of body mechanics
B. Behavior Supports
C. Blood-borne Pathogens
D. Hazardous Communications
E. Abuse/Neglect – Abuser Registry Notice
F. Consumer Bill of Rights
G. 14-Day Notice of Felony Conviction
H. Ethics
I. UI/MUI
J. Computer security awareness and usage
K. Confidentiality, privacy, and consumer Rights per HIPAA, FERPA, and IDEA

External Professional Development

In addition to any ACBDD required or provided training, employees may be granted with supervisor approval professional leave time up to four days annually to attend external professional development opportunities. Reimbursement of expenses incurred up to $500 must have the approval of the appropriate supervisor; expenses above $500 or requests of more than four days must be approved by the Superintendent.

Employees attending external professional development may be requested to submit a report or give a presentation concerning their observations and learning experiences. It is the staff member's responsibility to submit documentation to human resources to be maintained in the staff's personnel file.

New Staff

Each new employee will be provided with an orientation in accordance with Ohio Administrative Code 5123 and other regulating bodies such as Ohio Department of Developmental Disabilities and Ohio Department of Education. Orientation shall include, but not limited to an agency introduction; an overview of developmental disabilities; health and safety precautions;-, Ohio Fraud Reporting System maintained by the Ohio Auditor of State and Whistleblower protections per Ohio Revised Code 124.341; computer security awareness and usage; confidentiality, privacy and consumer rights per HIPAA, FERPA and IDEA; and job specific training in accordance with OAC 5123.

4-5 STAFF TRAINING & PROFESSIONAL DEVELOPMENT

Adopted	11/19/1996
Status	ACBDD APPROVAL 11/12/2019
Historical Versions	9/16/1997; 4/18/2006; 11/23/2010; 8/22/2017; 11/12/2019
Initiated by:	Gwen Brooks, Director of Human Resources
Approved by:	Athens County Board of Developmental Disabilities

Overview

The Athens County Board of Developmental Disabilities (the Board) supports and encourages staff development activities such as formal course work, workshops, conferences, seminars, participation in professional organizations and observations of other programs.

All staff members shall be required to complete training and professional growth hours necessary for maintenance of his/her required registration, certification or license. Although an employee may be fully certified, registered and/or licensed, the Board may require additional training for staff development or to remain abreast of changes within the relevant profession. Cost of any required training shall be incurred by the Board.

ACBDD Provided Training

Training shall be provided by the Board via staff meetings, in-service trainings, seminars and conferences. Internal in-service training shall be documented by the Superintendent/designee and maintained in the respective employee's personnel file.

Regularly scheduled, mandatory staff meetings will be scheduled within each department. Staff meetings allow for discussion of topics of current concern such as new policies, procedures, methods of training, instruction, curriculum, and other matters as needed.

Staff training provided by the Board shall include, but not limited to requirements as per the Ohio Administrative Code Chapter 5123 or other regulating bodies:

A. Safe lifting, carrying and moving, and prevention aspects of body mechanics
B. Behavior Supports
C. Blood-borne Pathogens
D. Hazardous Communications
E. Abuse/Neglect – Abuser Registry Notice
F. Consumer Bill of Rights
G. 14-Day Notice of Felony Conviction
H. Ethics
I. UI/MUI
J. Computer security awareness and usage

ORIGINAL

External Professional Development

In addition to any Board required or provided training, employees may be granted with supervisor approval professional leave time up to four days annually to attend external professional development opportunities. Reimbursement of expenses incurred up to $500 must have the approval of the appropriate supervisor; expenses above $500 or requests of more than four days must be approved by the Superintendent.

Employees attending external professional development may be requested to submit a report or give a presentation concerning their observations and learning experiences. It is the staff member's responsibility to submit documentation to human resources to be maintained in the staff's personnel file.

New Staff

Each new employee will be provided with an orientation in accordance with Ohio Administrative Code 5123 and other regulating bodies such as Ohio Department of Developmental Disabilities and Ohio Department of Education. Orientation shall include, but not limited to an agency introduction, an overview of developmental disabilities, health and safety precautions, and job specific training in accordance with OAC 5123.

ORIGINAL