

INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series Number 503.5AR Adopted August 2020 Revised _____

Title **Title IX Sexual Harassment Grievance Process**

1. **Statement of Policy** - This administrative regulation carries out the requirements of Policy 405, Employee Rights and Policy 503, Student Rights and Responsibilities insofar as these policies pertain to sexual harassment under Title IX. This administrative regulation describes the procedure the district will follow when a formal complaint of sexual harassment has been filed. The district will respond promptly to known allegations of sexual harassment in its educational program(s) and/or activities in a manner that is not deliberately indifferent.
2. **Definitions**
 - 2.1 “Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the district’s Title IX Coordinator or any official of the district who has authority to institute corrective measures on behalf of the district, or to any employee of the district. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official with actual knowledge is the respondent. The mere 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 district. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.
 - 2.2 “Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A parent or guardian of a minor complainant, or a legal guardian of an adult complainant, may act on behalf of a complainant, including through the filing of a formal complaint.
 - 2.3 “Education program or activity” includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurred.
 - 2.4 “Formal complaint” means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant.
 - 2.5 “Party” refers interchangeably to a complainant or respondent.
 - 2.6 “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
 - 2.7 “Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

- 2.7.1 An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;
- 2.7.2 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 district's education program or activity; or
- 2.7.3 "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). These terms are generally defined below:
 - 2.7.3.1 "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.
 - 2.7.3.2 "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. Whether such a relationship exists depends on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - 2.7.3.3 "Domestic Violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by 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 the jurisdiction.
 - 2.7.3.4 "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.
- 2.8 "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 education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- 3. **Title IX Coordinator** - The District 196 Title IX Coordinator is charged with coordinating the district's efforts to comply with its responsibilities under Title IX. The following person is designated as the District 196 Title IX Coordinator:

Tom Pederstuen, Director of Human Resources
3455 153rd Street West
Rosemount, MN 55068-4946
tom.pederstuen@district196.org
651-423-7859

Inquiries concerning Title IX may be referred to the Title IX Coordinator or to the Assistant Secretary of the US Department of Education. Complaints of sexual harassment under Title IX may be directed to the Title IX Coordinator for processing under this regulation. Complaints of discrimination under Title IX that are *not* sexual harassment complaints may be directed to the Title IX Coordinator, but will be processed under Administrative Regulation 405.7AR, Harassment, Discrimination, Violence or Hazing or 503.4AR, Harassment, Discrimination, Violence or Hazing.

4. **Guiding Principles** – District 196 does not tolerate sexual harassment in its education programs and activities and will take prompt and reasonable action in response to instances of sexual harassment. The general principles governing the district’s response to sexual harassment include the following:
 - 4.1 Supportive measures will be offered when the district has actual knowledge of sexual harassment even in the absence of a formal complaint. The Title IX Coordinator must promptly contact the complainant to 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, and explain to the complainant the process for filing a formal complaint.
 - 4.2 An employee with actual knowledge of sexual harassment must promptly notify the Title IX Coordinator of the sexual harassment.
 - 4.3 The district’s response to a formal complaint must treat complainants and respondents equitably under this process by offering supportive measures to a complainant, and by following a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. If any opportunity to participate in the grievance process is or is not made available to one party, the same opportunity shall be made available (or unavailable) to the other party.
 - 4.4 The Title IX Coordinator and any individual designated by the district as an investigator, decision-maker, or facilitator of an informal resolution process, must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
 - 4.5 It is presumed that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
 - 4.6 The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment. Similarly, the district may not require the parties to participate in an informal resolution process.
 - 4.7 Nothing in this regulation shall be interpreted to require the district to restrict any rights that would otherwise be protected from government action by the First Amendment of the U.S. Constitution; the Due Process Clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution; or to restrict any other rights guaranteed against government action by the U.S. Constitution.

- 4.8 Any student or staff member who knowingly provides false statements or information in the course of a sexual harassment grievance process is subject to discipline.
- 4.9 The district's response to sexual harassment in its programs and activities shall be in compliance with Title IX of the Education Amendments of 1972 and its implementing regulations. All References herein to Title IX shall include its implementing federal regulations.
- 4.10 Any reference to "school days" in this regulation shall be treated as "business days" if they occur during summer break.

5. **Filing a Complaint**

- 5.1 Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. A report does not automatically constitute a formal complaint of sexual harassment. Complaints of discrimination under Title IX that are not sexual harassment complaints may be directed to the Title IX Coordinator, but will be processed under Administrative Regulation 405.7AR, Harassment, Discrimination, Violence or Hazing or 503.4AR, Harassment, Discrimination, Violence or Hazing. Formal complaints of sexual harassment under Title IX will be processed pursuant to this regulation.
- 5.2 Upon receipt of a formal complaint of sexual harassment as defined above in paragraph 2.4, the Title IX Coordinator will provide the following written notice to the parties who are known:
 - 5.2.1 Notice of the district's grievance process including any informal resolution process. Notice is satisfied by providing a copy of this regulation.
 - 5.2.2 Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in this regulation, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. To the extent that any of these details are not known at the time the formal complaint is filed, the Title IX Coordinator must provide a supplemental notice when new or additional information is learned.
 - 5.2.3 A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 - 5.2.4 Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
 - 5.2.5 Notice of any provision in the district's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

- 5.3 If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not included in the original notice, the district must provide notice of the additional allegations to the known parties.
- 5.4 The Title IX Coordinator may require an investigation and sign a formal complaint even if the complainant does not file a formal complaint, and even if the complaint is also being investigated by the authorities. The wishes of the complainant should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.
- 5.5 Generally, consistent with the presumption of non-responsibility until the investigation has been completed and a determination of responsibility has been made, the district will not suspend, expel, exclude, or otherwise remove a respondent while an investigation is pending under the grievance process. The district may, however, remove a respondent from the education program or activity on an emergency basis, provided that the district undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. The respondent shall bear the burden of proving the removal decision was incorrect. Nothing in this Section shall be construed to prevent the school district from suspending, excluding, expelling, or otherwise removing a student from school for any reason other than a pending sexual harassment investigation.
- 5.6 The district may place a non-student employee respondent on administrative leave during the pendency of a grievance process.
- 5.7 The district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- 5.8 The district may implement immediate supportive measures pending completion of the investigation.

6. Reporting Complaints to Outside Enforcement Authorities

- 6.1 In accordance with state law and Administrative Regulation 506.4AR, Reporting Suspected Maltreatment of a Minor or Vulnerable Adult, the Title IX Coordinator, or other appropriate employee, will immediately report to the proper authorities any cases in which there is an allegation or possibility of child physical or sexual abuse or neglect, such as cases in which:
 - 6.1.1 A person responsible for a child's care inflicts physical injury on the child, or
 - 6.1.2 A person responsible for a child's care or in a position of authority over a child subjects the child to acts which violate laws on criminal sexual conduct, prostitution or use of minors in obscene acts or
 - 6.1.3 A person responsible for a child's care neglects the child.
- 6.2 If there is an allegation of a crime having been committed (e.g., assault or criminal sexual assault), the Title IX Coordinator will report the complaint to law enforcement authorities unless he or she determines other action is appropriate.

7. **Informal Resolution Process** - The district may offer an informal resolution process, but only if a formal complaint is filed. At any time prior to reaching a determination regarding responsibility the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the district:
 - 7.1 provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - 7.2 obtains the parties' voluntary, written consent to the informal resolution process; and
 - 7.3 does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

8. **Investigation Process** -Upon receipt of a formal complaint the District 196 Title IX Coordinator shall inform the superintendent, authorize an investigation and assign an investigator within three school days.
 - 8.1 The investigation may be conducted by a school or district official(s) who has received Title IX training or by a trained third party chosen by the district, but the investigator may not be the Title IX Coordinator.
 - 8.2 The district must investigate the allegations in a formal complaint, however under certain circumstances a complaint is subject to dismissal by the district. Upon a dismissal the district must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties. Dismissals will be issued by the Title IX Coordinator in consultation with the investigator and the decision-maker. The circumstances under which a complaint is subject to dismissal by the district are as follows:
 - 8.2.1 If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States then the district must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX; such a dismissal does not preclude action under another provision of the district's code of conduct.
 - 8.2.2 The district may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the district; or specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- 8.3 The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the district and not on the parties, however the district cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the district obtains voluntary, written consent to do so for a grievance process from a parent/guardian or an adult student. An adult student or parent/guardian should be advised that any medical or psychological records that are disclosed to the district will be shared with the opposing party and the opposing party's advisor during the grievance process.
- 8.4 The parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence and will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- 8.5 The district will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- 8.6 The parties will have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and the district will not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- 8.7 A party whose participation is invited or expected, will receive written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- 8.8 The investigation may consist of: separate personal interviews with the complainant and the respondent, separate personal interviews with witnesses who may have knowledge of the alleged incident(s) or circumstances which led to the complaint and any other methods and documents deemed pertinent by the investigator.
- 8.9 The investigation will objectively evaluate all relevant evidence – including both inculpatory and exculpatory evidence and credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
- 8.10 The investigation shall be concluded as quickly as possible, typically within 45 school days or within a reasonable amount of time required to complete the investigation. The investigation shall be conducted in a manner so that it is adequate, reliable and impartial.
- 8.11 A temporary delay of the grievance process or the limited extension of time frames is permitted for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

- 8.12 The district will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
- 8.13 The investigation shall be under the direction and control of the appropriate Title IX Coordinator. Persons conducting investigations shall share information with the appropriate Title IX Coordinator and keep them apprised of the process.

9. **Investigation Report**

- 9.1 Prior to completion of the investigative report, the district must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 school days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- 9.2 The investigator will create an investigative report that fairly summarizes relevant evidence and, at least 10 school days prior to submitting the report to a decision-maker for determination regarding responsibility, the investigator will send the report to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response.
- 9.3 Once the parties have been given an opportunity to submit a response to the investigation report, the investigator will submit the report and any responses received to the decision-maker described below in section 10. The report will be simultaneously sent to the parties and the parties will be informed that they may submit questions to the decision-maker as permitted by paragraph 10.2.

10. **Determination**

- 10.1 The district will assign a decision-maker - who cannot be the same person(s) as the Title IX Coordinator or the investigator(s) - to review the investigation report and any responses submitted by the parties, and reach a determination regarding whether or not sexual harassment occurred, based upon a preponderance of the evidence. A preponderance of the evidence means that the respondent will be found responsible for sexual harassment only if it is more likely than not that the respondent engaged in the conduct constituting sexual harassment. The preponderance of evidence standard of evidence shall apply to both formal complaints against students and formal complaints against employees.
- 10.2 After the district has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. The decision-maker may impose reasonable timelines on the submission of questions and answers as permitted by this paragraph. A party who does not comply with the reasonable timeline imposed by the decision-maker is deemed to have waived the opportunity to submit questions and answers.

10.3 The decision-maker must issue a written determination regarding responsibility. To reach this determination, the decision-maker must apply the preponderance of the evidence standard. The written determination must include:

10.3.1 Identification of the allegations potentially constituting sexual harassment;

10.3.2 A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;

10.3.3 Findings of fact supporting the determination;

10.3.4 Conclusions regarding the application of the district's code of conduct to the facts;

10.3.5 A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's education program or activity will be provided by the district to the complainant; and

10.3.6 The district's procedures and permissible bases for the complainant and respondent to appeal.

10.4 In determining whether the alleged conduct constitutes harassment, the decision-maker shall consider: the surrounding circumstances, the nature and severity of the behavior, prior incidents or past or continuing patterns of behavior, the relationship between the parties involved, the age and development of the individuals involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes sexual harassment requires a determination based on all the facts and surrounding circumstances.

10.5 In circumstances in which the decision-maker determines that harassing conduct occurred, but does not rise to the level of sexual harassment as defined in paragraph 2.7 of this regulation, the decision-maker will consider whether the conduct meets the definition of sexual harassment found in Administrative Regulations 405.7AR, Harassment, Discrimination, Violence and Hazing and 503.4AR, Harassment, Discrimination, Violence and Hazing and, if so, what steps should be taken under these regulations to address the conduct.

10.6 The written determination will be completed within 20 school days of the decision-maker's receipt of the investigation report. The decision-maker must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the decision-maker provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

11. **District Action**

11.1 Upon receipt of a report determining that the respondent is responsible for sexual harassment, the district shall take such action as appropriate based on the results of the investigation and determination of responsibility. Remedies will be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. The level of any discipline

imposed shall be determined based on the facts identified in the investigation report and relied upon by the decision-maker, the respondent's disciplinary history, the severity of the conduct, and other factors that the district may deem relevant. For district personnel, such action may include, but is not limited to, warning, suspension, transfer, remediation and/or termination of employment. For students, such action may include, but is not limited to, warning, suspension, transfer, remediation, exclusion or expulsion.

11.2 The Title IX Coordinator is responsible for effective implementation of any remedies.

11.3 The parties will be notified when district action is taken and information will be shared to the extent permitted by data privacy laws.

11.4 Any district action shall be consistent with requirements of applicable collective bargaining agreements, state and federal statutes, and district policies to the extent not preempted by Title IX.

12. **Appeal**

12.1 Parties to the complaint may appeal the determination regarding responsibility and the dismissal of a formal complaint or any allegations therein, on the following bases:

12.1.1 Procedural irregularity that affected the outcome of the matter;

12.1.2 New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

12.1.3 The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

12.2 As to all appeals, the district will:

12.2.1 Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

12.2.2 Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;

12.2.3 Ensure that the decision-maker(s) for the appeal complies with the standards required by Title IX and this regulation;

12.2.4 Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;

12.2.5 Issue a written decision describing the result of the appeal and the rationale for the result; and

12.2.6 Provide the written decision simultaneously to both parties.

12.3 The appeal must be made to the superintendent (or designee) in writing within three school days after being informed of the district's determination or dismissal. The appeal must include the specific bases upon which the party seeks to appeal.

12.4 The superintendent (or designee) may affirm, modify or reverse the determination.

- 12.5 Parties to the complaint will be informed promptly of the superintendent's (or designee's) decision on the appeal which will be issued within 10 school days of receipt of the appeal.
13. **Supportive Measures** – There are various supportive measures available for both complainants and respondents. These supportive measures may be accessed as follows:
- 13.1 The Title IX Coordinator serves as the central reference for information about reporting and the investigative procedure, as well as available supportive measures as described in section 2.8 of this regulation.
- 13.2 Student complainants and respondents may receive counseling and additional referrals from their school's counselor or social worker.
- 13.3 Additional employee services may be available to employee complainants and respondents through the Employee Assistance Program through the Human Resources Department.
14. **Confidentiality.** The district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of Title IX, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
15. **Retaliation** – Neither the district nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes retaliation. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited under this regulation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Complaints alleging retaliation may be filed with the Title IX Coordinator according to the grievance procedures for sex discrimination found in Administrative Regulations 405.7AR, Harassment, Discrimination, Violence or Hazing or 503.4AR, Harassment, Discrimination, Violence or Hazing. The district shall discipline or take appropriate action against any student or district employee who engages in retaliation.
16. **Other proceedings** – Nothing in this regulation shall be interpreted to preclude the district from disciplining district personnel or students under other laws, procedures and/or regulations, and the procedures set forth herein may be pursued simultaneously and in conjunction with other disciplinary or grievance procedures.
17. **Right to Alternative Complaint Procedures** - This regulation does not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Minnesota Department of Human Rights or Equal Employment Opportunity Commission (EEOC), filing a complaint with the (OCR), initiating civil action or seeking redress under state criminal statutes and/or federal law.

18. **Notice**

18.1 The district shall make students, parents or legal guardians of students, employees, applicants for admission and employment and unions or professional organizations aware of this regulation. The notice will include a statement that the School District does not discriminate on the basis of sex as required by Title IX and that the requirement not to discriminate extends employment. The notice will state that that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary of the US Department of Education, or both and shall include the name, title and contact information for the Title IX Coordinator. The notice will be prominently displayed on the district's website and in each handbook or catalog that it makes available to students, parents or legal guardians of students, employees, applicants for admission and employment and unions or professional organizations.

18.2 The district shall make information about this regulation available to students and parents/guardians annually, including publication of this regulation in the annual *Overview of Student Rights and Responsibilities* handbook.

18.3 The district shall conspicuously post a summary of this regulation and the name of the District 196 Title IX Coordinator, including mailing address, email and telephone number, in each school building in areas accessible to students and district personnel.

18.4 The district will not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX.

18.5 This regulation will be reviewed at least annually for compliance with state and federal law.

19. **Training** – The Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution process will receive Title IX training as follows:

19.1 Training will include the definition of sexual harassment, the scope of district's education program or activity, how to conduct an investigation and grievance process including appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

19.2 Decision-makers must receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

19.3 Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

19.4 Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

19.5 Training materials must be publicly available on the district's website, district196.org.

20. **Recordkeeping** - The district must maintain the following records for a period of seven years:

20.1 Each sexual harassment investigation including any determination regarding responsibility and any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;

- 20.2 Any appeal and the result therefrom;
- 20.3 Any informal resolution and the result therefrom;
- 20.4 All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process; and
- 20.5 Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

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- References:**
- 20 U.S.C. 1681 et seq (Title IX of the Educational Amendments of 1972)
 - 34 C.F.R. Part 106
 - Minnesota Statute 121A.03, Sexual, religious, and racial harassment and violence policy
 - Minnesota Statute 121A.0695, School Board Policy; Prohibiting Intimidation and Bullying
 - Minnesota Statute 121A.69, Hazing policy
 - Minnesota Statute Chap. 363A, Minnesota Human Rights Act
 - Minnesota Statute 626.556, Reporting of Maltreatment of Minors
 - 42 U.S.C. 2000e et seq (Title VI and VII of the Civil Rights Act)
 - District 196 Policy 506, Student Welfare
 - District 196 Administrative Regulation 506.4AR, Reporting Suspected Maltreatment of a Minor or Vulnerable Adult
 - District 196 Procedure 506.4P, Report of Suspected Maltreatment of a Minor - CONFIDENTIAL DATA