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**David Wells, M.Ed.**  
Superintendent of Schools

*Doing whatever it takes to ensure success for every child.*

**Carol Marold**  
Director of Human Resources

**Emmanuel Ajanma, MAT**  
Director of Technology

**Lauren May, M.Ed.**  
Director of Early Education

**Rebecca Webb, M.Ed.**  
Act 166 Regional Coordinator

**Josh Allen**  
Communications Specialist

**MEMORANDUM**

**TO:** **Barre Unified Union School District Policy Committee**  
Giuliano Cecchinelli – Chair, Guy Isabelle – V. Chair, Emel Cambel

**DATE:** September 15, 2020

**RE:** BUUSD Policy Committee Meeting  
September 21, 2020 @ 5:30 p.m. via Google Meet  
Meeting Link: [meet.google.com/grx-dgpq-bny](https://meet.google.com/grx-dgpq-bny)  
Phone: (US)+1 636-400-3160 PIN: 983 732 025#

**Please Note:** If you attend the meeting remotely you must state your name for the record to satisfy the Open Meeting Law.

**AGENDA**

1. Call to Order
2. Additions/Changes to Agenda
3. Public Comment
4. Approval of Minutes
  - 4.1. Meeting Minutes of May 18, 2020
5. New Business
  - 5.1. Review BUUSD Policy Manual Index
  - 5.2. Review VSBA Model Policy - Identify those with substantive changes.
  - 5.3. Policies to review
    - 5.3.1. C12 Prevention of Sexual Harassment As Prohibited by Title IX
6. Old Business
7. Other Business
8. Items for Future Agenda
9. Next Meeting Date: October 19, 5:30 pm via Google Meet
10. Adjournment

#### BOARD/COMMITTEE MEETING NORMS

- Keep the best interest of the school and children in mind, while balancing the needs of the taxpayers
- Make decisions based on clear information
- Honor the board's decisions
- Keep meetings short and on time
- Stick to the agenda
- Keep remarks short and to the point
- Everyone gets a chance to talk before people take a second turn
- Respect others and their ideas

# DRAFT

## BARRE UNIFIED UNION SCHOOL DISTRICT POLICY COMMITTEE MEETING

Via Video Conference (Zoom)  
May 18, 2020 – 5:30 p.m.

### MINUTES

#### COMMITTEE MEMBERS PRESENT:

Giuliano Cecchinelli, Chair - (BC)  
J. Guy Isabelle, Vice-Chair - (At-Large)  
Emel Cambel (BC)  
Andrew McMichael (BC Community Member) – joined the meeting at 5:40 p.m.  
Jon Valsangiacomo – (BT Community Member) – joined the meeting at 6:00 p.m.

#### COMMITTEE MEMBERS ABSENT:

#### ADMINISTRATORS AND STAFF PRESENT:

John Pandolfo, Superintendent  
Luke Aither, SHS Assistant Principal  
Scott Griggs, CVCC Assistant Director  
Pierre Laflamme, BCEMS Assistant Principal

#### GUESTS:

##### **1. Call to Order**

**The Chair, Mr. Cecchinelli, called the Monday, May 18, 2020, meeting to order at 5:30 p.m., which was held via video conference (Zoom).**

##### **2. Additions and/or Deletions to the Agenda**

There were no changes to the Agenda.

Mr. Isabelle queried Mr. Pandolfo regarding an e-mail sent to staff and Board Members on 04/19/2020. It was noted that this matter is not on the Agenda and not related to the Policy Committee. Mr. Pandolfo advised that boundaries are not clear for folks, and though everyone wants to do what is best, people are entering a grey area in terms of what is allowable. Mr. Pandolfo had advised, at the Board meeting, that there have been a couple of things that happened with staff, one of which was that staff planned a fairly sizable event that was not allowable under social distancing rules. Staff felt it was allowed because it was not on school property and was done after normal school hours. Mr. Pandolfo stressed that any organized interface between staff and students and families, is considered a school event. That was clarified to staff. There are many different issues in trying to determine what is allowable and what is not under social distancing guidelines. The event that was planned but didn't happen, was planned without approval from administrators. It is difficult for staff to know all of the guidance, even though updates are sent daily. The guidance document is very long and complex. Administrators keep up on the guidance and need to be consulted for any event. When staff members don't follow guidance, it does not set a good example for the community. Mr. Pandolfo would prefer that staff follow the directives they are given, rather than him having to spend extensive amounts of time investigating reports of alleged policy violations. Mr. Pandolfo has advised that if staff have an issue with anything, they should e-mail or call him directly. There is nothing related to the recent issues that would fall under Policy Committee discussion/action. Mr. Griggs advised that CVCC staff have needed to connect with students, e.g. to drop off student kits and lab equipment, but have strict protocols in place for the pick-up and drop-off of these supplies. Mr. Laflamme advised that he has spoken with the BCEMS Behavioral Team regarding reaching out to the community. Mr. Laflamme made it very clear that they need to keep finding ways to reach out to the community, but cautioned that they are acting as agents for the school and must follow social distancing guidelines. Mr. Coon has sent follow-up e-mails to staff and has advised staff that they must go through Mr. Coon or Mr. Hennessey for approval prior to any engagement being conducted. Mr. Pandolfo is concerned that some people will be questioning that if staff are not following social distancing rules outside of school, why can't students be back in school. The tone being set now for paying close attention to guidelines and following procedures is going to be way more important when we get back into the situation of being back in the schools and running things differently.

Mr. Isabelle queried regarding an e-mail he sent to Mr. Pandolfo regarding nepotism concerns raised by Randy Edmonds. Mr. Pandolfo advised that there is nothing in the Master Agreement or in Policy that relates to nepotism. Much of the situation being raised pre-dates involvement of the members sitting on this Committee. There are family members spread across the district (outside of the AFSCME unit, and within the AFSCME unit). At times it has presented as an issue, but at times is used to mask someone's own behavior, when they have been 'called out' by someone who is part of the supposed nepotism issue. Whenever there is a possible issue, the BUUSD performs a thorough investigation, and investigations are not performed by those who are parties of supposed

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nepotism. Mr. Pandolfo understands the concern, and believes it is something to explore when hiring, but stressed that the BUUSD hires the best candidates. Behaviors are dealt with when needed.

### 3. Public Comment

None.

### 4. Approval of Minutes

#### 4.1 Approval of Minutes – April 20, 2019 Policy Committee Meeting

**The Committee agreed by consensus to approve the Minutes the April 20, 2019 Policy Committee Meeting.**

### 5. New Business

#### 5.1 Review of BUUSD Policy Manual Index

A copy of the BUUSD Policy Manual Index (dated 05/12/20) was distributed.

In addition to what was in the packet, Mr. Pandolfo displayed a screen of the VSBA Model web page. There is no good way to download and print this information until the VSBA makes some fixes to their site. Mr. Pandolfo noted that there are very few policies that the Committee was feeling needed to be updated, and there are a few policies that the Committee is waiting for VSBA to revise. Any changes made by VSBA have been cross-referenced to BUUSD policies and it was found that the changes made by VSBA related to legal references. The BUUSD has already made the decision to remove legal references, so the VSBA changes will not apply to BUUSD policies. Tina Gilbert is in the process of removing all legal references. The policies we believe need to be changed are on hold pending changes from VSBA. There are a few policies that related to SHS only, but are also pending input from VSBA. It was agreed that Agenda Items 5.1 and 5.2 will be discussed under Agenda Item 5.1.

#### Section A (Board Operations):

Mr. Pandolfo displayed the VSBA Index and advised that the policies in Section A were updated last fall or in early spring. Those that weren't recently updated are policies that have not been changed by VSBA since the BUUSD adopted them. Changes to policies that were updated in the spring and fall, are changes limited to legal references. Mr. Pandolfo advised that if you try to print from the site, the dates and titles do not print. All work must be done from the screen. The Acrobat format does not include updates, so it is not of use. The MS Word version is also not available at this time. Mr. Pandolfo has advised Kerri Lamb (at VSBA) that fixes need to be made. Mr. Pandolfo displayed the BUUSD Model Policy Index. Mr. Pandolfo has added two columns (Date of Last VSBA Model Policy Update & Date BUUSD Policy was Checked Against the VSBA Policy). With the exception of Policy A22 (Non-discrimination policy), all policies were checked after the last VSBA update. We are currently waiting for VSBA to revise policy A22. In section A, everything in the Model Policy Index listed as required, recommended, or to be considered, are in our manual.

#### Section B – Personnel

B6 – HIPAA Compliance - VSBA deleted B6 because it is no longer legally required

Other VSBA policies;

B20 – Personnel Recruitment, Selection, Appointment, and Background Checks

B22 – Complaints about Personnel & Instructional Materials

B30 – Staffing and Job Descriptions

B31 – Educator Supervision & Evaluation: Probationary Teachers

B32 – Personnel Files

B33 - Resignations

B20, B22, B30, B31, B32, and B33 do not exist at the BUUSD, but it is not necessary for the BUUSD to have all of the VSBA policies. Mr. Pandolfo has checked our policy against VSBA policy for policies B1 (Substitute Teachers) and B2 (Volunteers and Work Study Students). We are currently waiting for VSBA to make a minor change to B3 (Alcohol & Drug-free Workplace).

The cross-checking procedure will need to be performed for all policies, but as we adopted most of the policies after the last VSBA revision date, the cross-checking should be a fairly small task. Mr. Pandolfo does not believe there will be many policies that the Committee will need to be concerned with. Mr. Pandolfo has been performing most of the cross-check work, but advised that he does not know who will be charged with that task under the new Superintendent. Mr. Pandolfo advised that there are a number of policies with the comment "Awaiting VSBA Revision". VSBA advised many months ago that those policies were being revised, but due to limited capacity, have been unable to make the revisions. Mr. Pandolfo will try to complete the cross-checking of policies prior to June 30, 2020. Mr. Wells has not yet been advised that Mr. Pandolfo has been very involved in policy. Mr. Pandolfo advised that it is very important that the Superintendent be aware of all policies. Brief discussion was held regarding possible ways to restructure responsibility for policy review.

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In response to a query from Mr. Aither, Mr. Pandolfo displayed section “B”, noting that the BUUSD doesn’t have a policy equivalent of some of the policies, but instead, has procedures. It may be worth performing more investigation in the future. Sections B, E, and F, may need some review. For the remaining sections, the BUUSD has all or most of the model policies.

Mr. Isabelle suggested that administrative staff members continue to give a heads up regarding day to day issues for which no policy exists. Mr. Isabelle reiterated the need to continue to work with the VSBA regarding policy. Mr. Pandolfo advised that Carol Marold (HR Director) should be included in discussion of policies in the “B” section. When reviewing section E, Lisa Perreault (Business Manager) needs to be involved.

Discussion returned to Section B (Personnel), where Mr. Pandolfo reiterated that though having some of these policies might be helpful, there are procedures in place

## Section C (Students):

The BUUSD has all policies in place except for C28 (Transgender and Gender Non-conforming Students), which we have been discussing recently. We have been advised different ways regarding this policy. Legal counsel recommended that the BUUSD may not wish to use a VSBA policy on this matter. Mr. Aither advised that legal counsel recommends that we follow the law, not a policy. There is much new case law on this issue, so it is surprising that VSBA has a policy at this point. Mr. Isabelle queried regarding when/if students would be giving a presentation. Mr. Aither advised that work being performed with the group of students and administrators relates more to procedures than policy. Mr. Aither advised that the Board will continue to be updated, but it will be a significant amount of time before the group will be ready to give a presentation. Mr. Pandolfo attempted to pull up the policy but the link did not work. Mr. Pandolfo reiterated that the Adobe link and the Word link do not work and that the issue has been reported to Kerri Lamb. Mr. Pandolfo advised that the BUUSD has not adopted VSBA Policy C22 (Student Activities – Elementary), but rather has one policy dealing with all students. VSBA has two separate policies on this matter and their policies contain specific grade range ‘breaks’ that don’t fit with the make-up BUUSD students. It was reiterated that the BUUSD has not adopted VSBA policy C28.

## Section D (Instruction):

D2 – Grade Advancement  
D33 – Local Action Plan

The two policies listed have not been adopted by the BUUSD;

D2 – VSBA removed this policy as it is obsolete.

D33, refers to Action Plans and is very outdated. Continuous Improvement Plans, (rather than Action Plans) have been used for years.

## Section E (Non-Instructional Operations) (VSBA has Section E labeled as School-Community Relations)

E21 – Distribution of Non-School Sponsored Literature in Schools

E31- Parental Involvement

E32 – Visits by Parents, Community Members, or Media (The BUUSD does have procedures relating to visits)

These policies (E21, E31 and E32) don’t have updated dates, which may mean that they are new, or they are still working on implementing/writing/revising. These policies warrant review once they become available, but they are probably not high priority.

## Section F (Finance) (Note – VSBA has Section F labeled as Non-Instructional Operations)

F22 - Financial Reports and Statements

F23 – Electronic Communications Use and Retention

F25 – Access Control

F26 - Security Cameras

F31 – Emergency Closings

F32 – School Crisis Prevention & Response/Procedures for Bomb Threats

The BUUSD has not adopted these policies. These policies are very old and the links are not working. It may be worth reviewing these in the future, and possibly adding some of them to the BUUSD Policy Manual.

Mr. Pandolfo advised regarding historical information relating to VSBA personnel involved with policy, and advised that the current contact individual to whom questions should be addressed is Sue Ceglowski, VSBA Executive Director.

Mr. Pandolfo provided a brief overview of the BUUSD Index –

B40 Social/Digital/On-line Communications for Staff

D3 Acceptable Use of Electronic Resources & the Internet

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These two policies are highlighted in yellow, and are flagged as such as we are currently waiting for VSBA to create Model Policies.

Mr. Pandolfo advised that he believes the two new columns on the spreadsheet will be very useful in tracking policies.

It was suggested that a new column be created to identify VSBA Policy Approval Dates. This column could be compared to the BUUSD Approval Date, and if greater than the BUUSD Approval Date, the policy should be flagged for review. Mr. Pandolfo advised he could write that into the spreadsheet. The date VSBA changes policies on their web site can be problematic.

Mr. Pandolfo displayed BUUSD Policy B3 (Alcohol and Drug-free Workplace) that was adopted approximately one year ago. The model policy was recently updated. The Model policy ends with “disciplinary action”, the BUUSD policy advises; “including but not limited to non-renewal, suspension, or termination at the discretion of the Superintendent, or, if required, the BUUSD Board”. The BUUSD policy also includes a section on Employer Responsibilities, which is not included in the VSBA Model Policy. Mr. Pandolfo displayed the VSBA Policy and advised though it may be worth looking at; he believes the BUUSD policy is good. It may be beneficial to run the BUUSD policy by legal counsel.

Mr. Cecchinelli reiterated that upon Mr. Pandolfo’s departure from the BUUSD, someone will need to be charged with overseeing policy review.

## **5.2 Review VSBA Model Policy – Identify those with Substantive Changes**

Discussion held under Agenda Item 5.1

## **5.3 Policies to Review**

Discussion held under Agenda Item 5.1

## **6. Old Business**

None.

## **7. Other Business**

None.

## **8. Future Agenda Items**

Committee Members were advised to notify Mr. Cecchinelli (by e-mail) of any items they wish to have added to future agendas.

## **9. Next Meeting Date**

After brief discussion, the Committee agreed that they may not need to meet until after school is in session.

The next meeting is Monday, September 21, 2020 at 5:30 p.m.

Mr. Pandolfo will try to complete his review of the policies prior to his departure from the BUUSD.

Mr. Pandolfo will keep Mr. Cecchinelli apprised of the review and will send a completed spreadsheet to the Committee and/or the Board, as of July 1, 2020.









## **10. Adjournment**

**The Committee agreed by consensus to adjourn at 6:30 p.m.**

Respectfully submitted,

*Andrea Poulin*



A. BOARD OPERATIONS								
Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
A1	Conflict of Interest	10/11/19	A20	 Board Meetings, Agenda Preparation & Distribution	03/03/20	A30	 Role and Adoption of School Board Policies	09/18/13
			A21	 Public Participation at Board Meetings	03/03/20	A31	 Board Member Education	03/25/09
			A22	Notice of Non-Discrimination	04/02/12	A32	 Board Goal-Setting & Evaluation	03/26/09
			A23	 Community Engagement and Vision	03/03/20	A33	 School Visits by Board Members	03/25/09
			A24	 Board/Superintendent Relations	03/03/20	A34	Board Relations with School Personnel	03/25/09

B. PERSONNEL								
Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
B1	Substitute Teachers	10/11/19	B20	Personnel Recruitment, Selection, Appointment, and Background Checks	03/03/20	B30	Staffing and Job Descriptions	03/29/09
B2	Volunteers and Work Study Students	10/11/19	B21	Professional Development	03/03/20	B31	Educator Supervision & Evaluation: Probationary Teachers	03/29/09
B3	Alcohol and Drug Free Workplace	03/03/20	B22	Complaints About Personnel & Instructional Materials	03/03/20	B32	Personnel Files	03/29/09
B4	Drug & Alcohol Testing of Transportation Employees	10/11/19				B33	Resignations	03/29/09
B5	Prevention of Employee Harassment	01/07/16						
B6	HIPAA Compliance-removed							
B7	Tobacco Prohibition	10/11/19						





## C. STUDENTS

Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
C1	Student Records	10/11/19	C20	Student Conduct and Discipline	03/03/20	C30	Student Medication	6/30/08
C2	Student Drugs & Alcohol	12/03/15	C21	Search and Seizure of Students by School Personnel	11/12/13	C31	Admission of Resident Students	2/10/16
C3	Transportation	10/11/19	C22	Student Activities (Elementary)	03/25/09	C32	Eighteen Year-Old Students	2/10/16
C4	Limited English Proficiency Students	12/03/15	C23	Student Clubs & Activities (Secondary)	11/28/07	C33	Student Assessment	2/10/16
C5	Firearms	10/11/19	C24	Interscholastic Sports	09/18/13	C34	Restraint and Seclusion	03/03/20
C6	Home Study Students	10/11/19	C25	Admission of Non-Resident Tuition Students	03/03/20			
C7	Student Attendance	10/11/19	C26	Tuition Payment	09/18/13			
C8	Pupil Privacy	10/11/19	C27	Student Self-Expression and Student Distribution of Literature	09/18/13			
C9	Nutrition & Wellness	10/11/19	C28	Transgender and Gender Nonconforming Students	03/03/20			
C10	Prevention of Harassment, Hazing & Bullying Policy	12/02/15						
C10-P	Prevention of Harassment, Hazing & Bullying Procedures	12/02/15						
C11	Student Freedom of Expression in School Sponsored Media	3/29/18						




D. INSTRUCTION								
Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
D1	Proficiency Based Graduation Requirements	03/03/20	D20	Curriculum Development and Coordination (SU)	09/18/13	D30	Field Trips	
<del>D2</del>	<del>Grade Advancement</del>	Removed	D21	Educational Support System	09/18/13	D31	Selecting Library Materials	
D3	Responsible Computer Internet & Network Use	03/20/19				D32	Selection of Instructional Materials	
D4	Title One Comparability	12/03/15				D33	Local Action Plan	12/07/05
D5	Animal Dissection	10/11/19						
D6	Class Size Policy	10/11/19						

## E. SCHOOL-COMMUNITY RELATIONS

Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
E1	Title 1 Parental Involvement Compacts	12/03/15	E20	Community Use of School Facilities	11/26/07	E30	School-Community Relations	
			E21	Distribution of Non-School Sponsored Literature in Schools	11/26/07	E31	Parental Involvement	
						E32	Visits by Parents, Community Members or Media	

## F. NON-INSTRUCTIONAL OPERATIONS

Required Policies			Recommended Policies			Policies to Consider		
	Policy	Updated		Policy	Updated		Policy	Updated
F1	Travel Reimbursement	03/20/19	F20	Fiscal Management and General Financial Accountability	03/25/09	F30	 Budgeting	03/25/09
			F21	Financial Reports and Statements	02/25/09	F31	Emergency Closing	03/25/09
			F22	Electronic Communications Use and Retention	08/10/11	F32	School Crisis Prevention & Response/Procedures for Bomb Threats	03/25/09
			F23	Capitalization of Assets	11/03/16	F33	HIV Policy	03/25/09
			F24	Prevention of Conflict of Interest in Procurement	11/06/16			
			F25	Access Control	10/24/19			
			F26	Security Cameras	10/24/19			

 These policies are referenced in the Essential Work Tool Kit.

Code: C12

**Required**

**Printer Friendly Versions:**

- ... [Word](#)
- ... [Acrobat](#)

**Prevention of Sexual Harassment As Prohibited by Title IX**

**I. Statement of Policy.**

- A. **Prohibiting Title IX Sexual Harassment.** Per Title IX of the Education Amendments Act of 1972 ("Title IX") the District does not discriminate on the basis of sex in its educational programs and activities, including employment and admissions. All forms of sex-based discrimination, including sexual harassment, are prohibited in the District. A District with actual knowledge of sexual harassment in an educational program or activity of the District against a person in the United States must respond promptly in a manner that is not deliberately indifferent. A District is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. A District may be deemed to have been deliberately indifferent based on its restriction of rights protected under the U.S. Constitution, including the First, Fifth and Fourteenth Amendments.
- B. **Retaliation.** Retaliation as defined by this Policy is expressly prohibited. Complaints alleging retaliation may be filed according to the Title IX Grievance Procedures set forth in Section IV.
- C. **Concurrent Statutory Obligations.** While all forms of sex-based discrimination are prohibited in the District, the purpose of this policy is to address, and only address, *sexual harassment as defined in Title IX and Section II.M. below*. For conduct which satisfies that definition, a school's response is governed by this policy, and in those cases for which they have received a filing of a formal complaint of same, as set forth under the Title IX Grievance Process set forth in Section IV below. For other forms of inappropriate conduct, or conduct which may satisfy the definition of harassment on the basis of sex under Vermont law, including student misconduct and employment based statutes prohibiting unlawful harassment and other forms of misconduct, the District may have the separate obligation to address those behaviors as required by other school policies and applicable laws.
- D. **Covered Parties.** This Policy shall apply to all students, employees and any third party who contracts with the District to provide services to District students or employees, upon District property or during any school program or activity. A third party under supervision and control of the school system will be subject to

termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

## II. Definitions

As used in this Policy and during the Title IX Grievance Process, the terms below shall have the meaning ascribed.

- A. **“Actual Knowledge”** means “notice” of “sexual harassment” or allegations of “sexual harassment” to either (a) a recipient’s Title IX Coordinator; or (b) any official<sup>12</sup> of the recipient who has the authority to institute corrective measures on behalf of the recipient; or (c) to any employee of an elementary and secondary school.
- For purposes of this paragraph “sexual harassment” refers to the definition as contained *within this policy*. For other forms of inappropriate conduct, or conduct which may satisfy the definition of harassment on the basis of sex as recognized under Vermont law, schools retain the option and in some cases the obligation, to address those behaviors as required by policy and law.
  - Actual knowledge shall not be deemed to exist when the only official of the recipient with actual knowledge is the respondent.
  - “Notice” as used in this paragraph includes, but is not limited to, a Report of Sexual Harassment to the Title IX Coordinator as described Section IV.B.
  - Notice sufficient to trigger an obligation under this policy only shall exist where any employee has sufficient personal knowledge of alleged facts to be aware that if such facts were found to be true it would constitute a violation of this policy.
  - Imputation of knowledge based solely on vicarious liability OR constructive notice shall be insufficient to establish or constitute actual knowledge.
- B. **“Complainant”** is an individual who is alleged to be the victim of conduct that could constitute “sexual harassment” under this Policy. In order for an individual to be considered to be a Complainant they need not file Report of Sexual Harassment, nor a Formal Complaint of Sexual Harassment. Where the Title IX Coordinator signs a Formal Complaint of Sexual Harassment, the Title IX Coordinator is not considered a “Complainant.”
- C. **“Days”** shall mean calendar days, but shall exclude non-weekend days on which the District office is closed (e.g. holidays, office-wide vacations), or any weekday during the school year on which school is closed (e.g. snow days).
- D. **“Decision-Maker”** means persons tasked with either the responsibility of making determinations of responsibility (referred to as “Initial Decision-Maker”); or the responsibility to decide any appeal (referred to as “Appellate Decision-Maker”) with respect to Formal Complaints of Sexual Harassment in accordance with the Title IX Grievance Process.

- E. **“Determination of Responsibility”** is the formal finding by the decision-maker on each allegation of Sexual Harassment contained in a Formal complaint that the Respondent did or did not engage in conduct constituting Sexual Harassment under Title IX.
- F. **“Disciplinary sanctions”** are consequences imposed on a Respondent when s/he is determined responsible for sexual harassment prohibited under this Policy.
- F. **“Emergency Removal”** for purposes of this Policy shall mean removing a respondent from the District’s 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. Emergency Removals as permitted by this Policy shall not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.
- G. **“Formal Complaint of Sexual Harassment”** means a document filed by either (a) a complainant (or complainant’s parent/guardian); or (b) the Title IX Coordinator, alleging sexual harassment against a respondent AND requesting that the District investigate the allegation of sexual harassment. The issuance or receipt of a Formal Complaint of Sexual Harassment formally triggers the Title IX Grievance Process set forth in Section IV. of this Policy.
- H. **“Investigation of Title IX Sexual Harassment”** Before the District can conduct an Investigation of Sexual Harassment under this Policy, against a Respondent, a Formal Complaint of Sexual Harassment that contains an allegation of sexual harassment and a request that the District investigate the allegations is required. Such investigation is a part of the Title IX Grievance Process, as set forth in Section IV.E.
- I. **“Remedial actions”** are actions intended to restore or preserve a complainant’s equal access to the educational programs and activities of the District.
- J. **“Report of Sexual Harassment”** is any report which provides the District with actual knowledge of sexual harassment or allegations of sexual harassment. Such a report may or may not be accompanied by a Formal Complaint of Sexual Harassment. Without such a Complaint, the Title IX Grievance Process is not triggered. See Section IV.A and IV.B. regarding the process for initiating that process.

K. “**Respondent**” means an individual who has been reported to be the individual accused (i.e. perpetrator) of conduct that could constitute sexual harassment as defined under this policy.

L. “**Retaliation**” means intimidation, threats, coercion, or discrimination by either the District or any other person, against any individual for the purpose of interfering with any right or privilege secured by Title IX and/or this Policy, 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 in connection with this Policy. 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 sexual 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 policy, constitutes retaliation.

Limitation in Scope.

- i. Material False Statements. Actions taken in response to **materially** false statements made in bad faith, or to submitting **materially** false information in bad faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A determination of responsibility alone is insufficient to conclude that a person made a materially false statement in bad faith.
- ii. 1st Amendment Protections. The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this Policy.

M. “**Sexual harassment**” prohibited under Title IX and by this Policy is conduct on the basis of sex, occurring in an education program or activity of the District, against a person in the United States, that satisfies one or more of the following:

1. A school district employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct; **OR**
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**
3. Or any conduct which would satisfies one or more of the following definitions:
  - a. Sexual assault: Any sexual act(s) directed at another person without consent of the victim, including instances where the victim is unable to lawfully give consent because of age or cognitive ability. Consent to a sexual act exists where words, actions or other non-verbal conduct objectively communicates a desire to participate in the sexual act(s). Consent to some sexual act(s) does not indicate consent to all sexual

acts. Consent may be withdrawn at any time by objectively communicating through words, actions or other non-verbal conduct AND/OR

- b. Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or an intimate nature with the victim. The existence of the relationship shall be considered with reference to the length of the relationship, the type of relationship and the frequency of the interactions between the persons involved in the relationship. AND/OR
- c. Domestic violence: 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, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner or any other persons protected under 15 V.S.A. section 1101 from domestic abuse. AND/OR
- d. Stalking: A course of conduct by a person directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Limitation in Scope. For purposes of this policy conduct shall not be deemed to satisfy Title IX's definition of "sexual harassment" if the conduct occurred either (1) outside of the United States and/or (2) includes locations, events or circumstances over which the District did not exercise substantial control over both the respondent and the context in which the harassment occurred.

- N. **"Supportive Measures"** are 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 District's education program or activity without unreasonably burdening the other party including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. These measures may include, but are not limited to, the following:
- 1.counseling;
  - 2.extensions of deadlines or other course-related adjustments;
  - 3.modifications of work or class schedules;
  - 4.campus escort services;
  - 5.mutual restrictions on contact between the parties;
  - 6.changes in work or housing locations;
  - 7.leaves of absence;
  - 8.increased security and monitoring of certain areas of the district campus;
  - 9.and other similar measures.



### III. **Duties**

#### A. **Reports of Sexual Harassment**

1. **Any Person May Make a 'Report of Sexual Harassment'.** Any person may report sexual harassment whether relating to her/himself or another person. A Report of Sexual Harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
  - a. **Any Staff Member May Receive Reports.** Additionally, while the District strongly encourages Reports of Sexual Harassment to be made directly to the Title IX Coordinator, the report may be made to **any** District staff member, including, for instance, a counselor, teacher or principal.
  - b. **In Cases where Title IX Coordinator is Alleged Respondent.** If the Title IX Coordinator is the alleged respondent, in such cases either the Report of Sexual Harassment or Formal Complaint of Sexual Harassment may be made directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that Report/Complaint, or delegate the function to another person.

#### B. **District Response to Report of Sexual Harassment.**

1. **Duty to respond.** The District will promptly respond when there is Actual Knowledge of sexual harassment, even if a Formal Complaint of Sexual Harassment has not been filed.
  - a. **District Response Must Be Equitable.** In its response the District shall treat Complainants and Respondents equitably by providing supportive measures to the Complainant and by following the Title IX Grievance Process prior to imposing any disciplinary sanctions or other actions that are not supportive measures against a Respondent.
  - b. **Reports of Harassment Received by District Employees Shall Be Referred to Title IX Coordinator.** Where any District employee – other than the employee harasser, or the Title IX Coordinator – receives information of conduct which may constitute sexual harassment under this Policy, s/he shall, without delay, inform the Title IX Coordinator of the alleged sexual harassment. Failure to report will subject the employee to discipline up to and including dismissal.
  - c. **Complainant Contact.** As soon as reasonably possible after receiving a Report of Sexual Harassment from another District employee or after receiving a report directly through any means, the Title IX Coordinator shall contact the Complainant [and parent/guardian in cases where the complainant is a student under the age of 18] to:
    - i. discuss the availability of and offer supportive measures;
    - ii. consider the complainant's wishes with respect to supportive measures;
    - iii. inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
    - iv. explain to the complainant the process for filing a Formal Complaint of Sexual Harassment.

2. Formal Investigation of Sexual Harassment. Before the District may conduct a formal investigation of sexual harassment or take any action (other than supportive measures) against a Respondent, a Formal Complaint that contains an allegation of sexual harassment and a request that the District investigate the allegations is required and must be filed by either the Complainant, the Complainant's Parent/Guardian, or the Title IX Coordinator, as set forth under Section IV.B. below.
3. Initiating the Title IX Grievance Process. A Report of Sexual Harassment alone does **not** initiate a Title IX Grievance Process. Before the District may initiate that process, a Formal Complaint of Sexual Harassment must be filed under the procedures set out in IV.A. ("Title IX Grievance Process").

**C. Formal Complaints of Sexual Harassment.**

1. Process for Filing a Formal Complaint of Sexual Harassment. The process for filing a Formal Complaint of Sexual Harassment is set forth in Section IV.A. ("Title IX Grievance Process").
2. District Response to Receipt of Formal Complaint.
  - a. Investigation of Sexual Harassment. The District must investigate the allegations of a Formal Complaint unless both parties voluntarily consent to engage in Informal Resolution, or Dismissal otherwise occurs under Section IV. G. below.
2. District Written Notification to Parties in Response to Receipt of Formal Complaint. Upon receipt of a Formal Complaint, the District must provide written notice as set forth in Section IV.C. below of the Title IX Grievance Process. In response to a Formal Complaint of Sexual Harassment, the District must follow the Title IX Grievance Process set forth in Section IV.

**D. District Duty to Respond When Determination of Responsibility For Sexual Harassment Has Been Made Against a Respondent.** The District must provide remedies to a Complainant where a determination of responsibility for sexual harassment has been made against a Respondent designed to restore or preserve equal access to the District's education program or activity. Such remedies may include "supportive measures" but also need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

**E. Reporting to Other Agencies.**

1. Reports to Department of Children and Families. When a report made pursuant to this policy includes allegations of child abuse, any person responsible for reporting suspected child abuse under 33 V.S.A. § 4491, et seq. must report the allegation to the Commission or DCF. If the victim is over the age of 18 and a report of abuse is warranted, the report shall be made to Adult Protective Services in accordance with 33 V.S.A. § 6901 et seq.
2. Reports to Vermont Agency of Education. If a report of sexual harassment is made to the District about conduct by a licensed educator that might be grounds under Vermont law for licensing action, the principal shall report the

alleged conduct to the Superintendent and the Superintendent shall report the alleged conduct to the Secretary. [If a report of sexual harassment is made in an independent school about conduct by a licensed educator that might be grounds under Vermont law for licensing action, the head of school is encouraged to report the alleged conduct to the Secretary of Education.]

3. Reporting Incidents to Police.

- a. FERPA Rights. Information obtained and documented by school administration regarding the school's response to notice of student conduct that may constitute sexual harassment may constitute an "educational record" regarding the student or student(s) involved as defined by the Family Education Rights and Privacy Act. Accordingly, such information may not be disclosed without prior parent approval to local law enforcement except in response to a lawfully issued subpoena, or in connection with an emergency if disclosure is necessary to protect the health or safety of the student or other individuals.
  - b. First Hand Reports. Nothing in this policy shall preclude persons from reporting incidents and/or conduct witnessed first-hand that may be considered to be a criminal act to law enforcement officials.
4. Continuing Obligation to Investigate. Reports made to DCF, AOE or law enforcement shall not be considered to absolve the school administrators of their obligations under this policy, or other school policies where appropriate, to respond, and when appropriate to investigate and follow the Title IX Grievance Process.

F. Disseminating Information and Notice.

1. Notice of Title IX Policy. The District will make this Policy publicly available on the District's website (OR if the District does not maintain a website, available upon request for inspection by members of the public).
2. Notice of Title IX Obligations and Coordinator Information. The District shall include in all student and employee handbooks, and shall make publicly available on the district's website (OR if the District does not maintain a website, available for inspection to members of the public upon request) the following information:
  - a. The District's policy of non-discrimination on the basis of sex, that it is required by Title IX not to discriminate in such a manner, and that such requirement not to discriminate in the education program or activity of the District extends to admission and employment (all to be prominently displayed on both the website and in publications);
  - b. The title, name, office address, email address, and telephone number of the District's Title IX Coordinator (all to be prominently displayed on both the website and in publications);
  - c. A statement that Title IX inquiries may be referred to either the District's Title IX Coordinator or to the Assistant Secretary for Civil Rights.  
The same information shall be otherwise provided to students, employees, unions or professional organizations holding collective bargaining or professional agreements with the District, and all persons seeking

employment with the District, or seeking to enroll or participate in the District's educational programs or activities. Those persons shall also be informed of the grievance procedures and process provided for under Section IV. of this Policy, including how to file either a Report of Sexual Harassment or Formal Complaint of Harassment, and the response the District will take in response to such filings.

3. Training Materials. Additionally, the District will make any materials used to train personnel as required under Sec. V.F. publicly available on the District's website (OR if the District does not maintain a website, available upon request for inspection by members of the public).

#### **G. Record Keeping**

The District shall maintain for a period of seven years records of

1. **Sexual Harassment Investigations.** The District shall maintain records of any:
  - a) determination regarding responsibility;
  - b) any disciplinary sanctions imposed on the respondent;
  - c) any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity; and
  - d) any appeal and result therefrom.
2. **Any informal resolution and the result therefrom.**
3. **All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.**
4. **For each response required of the District by this Policy to Actual Knowledge of Sexual Harassment, the District must create and maintain for a period of seven years the following:**
  - A) Records of any actions, including any supportive measures, taken in response to a Report of Sexual Harassment or Formal Complaint of 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 educational program or activity. Where 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.

#### **H. Confidentiality**

1. **Duty to Maintain Confidentiality.**

The District must keep confidential the identity of any individual who has made a Report of Sexual Harassment or Formal Complaint of Sexual Harassment under this Policy, any Complainant, Respondent, and any witness, except either:

1. As may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99;
2. or as required by law, such as reports to DCF, law enforcement or the Agency of Education as set forth in Section III.E above;
3. or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing or judicial proceeding arising thereunder, as set forth in this policy (Section IV.C.2, IV.E.7,8, and 10, IV.F.5., IV.G.3., and IV.H.7.);
4. where maintaining confidentiality with respect to supportive measures offered to the Complainant or Respondent would impair the ability of the school district to provide the supportive measures;

#### IV. **TITLE IX GRIEVANCE PROCESS.**

##### A. **General Provisions.**

1. Triggers for Implementation. The Title IX Grievance Process is used only upon the filing of a **Formal Complaint** of sexual harassment as described below. This process must be followed before any discipline of a Respondent to allegations of Sexual Harassment may be imposed by the District.
2. Protections for Equitable Treatment in The Handling of Formal Complaints by District. The District response to a Formal Complaint of Sexual Harassment shall treat Complainant and Respondents equitably. In particular, this Title IX Grievance Process shall require:
  - a) **“Presumption of Non Responsibility”** presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX Grievance Process;
  - b) **“Objectivity”** an objective evaluation of all relevant evidence - including both inculpatory and exculpatory evidence - and provide that credibility determinations may not be based on a person’s status as a Complainant, Respondent, or Witness;
  - c) **“Conflict and Bias Free Personnel”** that individuals designated by the District to act as Title IX Coordinator, investigator, decision-makers, or to facilitate an informal resolution process, shall have no conflict of interest nor bias for or against a Complainant or Respondent individually, or complainants or respondents generally;
  - d) **“No Interference with Legal Privileges”** such that at no point in the grievance process will the Title IX Coordinator, the investigator, any decision maker, or any other person participating on behalf of the District, require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege (e.g., doctor/patient, attorney/client, clergy, etc.), unless the person holding such privilege (parent/guardian for minor student) has waived the privilege in writing to use the information with respect to the Title IX Grievance Process;
  - e) **“Proof of Responsibility for Sexual Harassment by a Preponderance of the Evidence,”** which is only met when the party with the burden convinces the fact finder (the Initial Decision- Maker) that there is a

greater than 50% chance that the claim is true (i.e., more likely than not). This standard shall be applied to all Formal Complaints of Sexual Harassment, whether they involve students or faculty; and

- f) **“Reasonably Prompt Time Frames for Conclusion of the Title IX Grievance Process.”** The District shall make a good faith effort to conduct a fair, impartial grievance process in a reasonably prompt manner designed to provide all parties with a prompt and equitable resolution. It is expected that in most cases, the grievance process will be concluded - through at least the determination of responsibility decision - within 80 days after filing the Formal Complaint of Sexual Harassment. However, more complex cases or other case specific circumstances, may require additional time beyond that timeframe. In such cases, good cause must be shown and written notice provided.

1. Grievance Process Timeline.

- a. Investigation 20 +/- days (as the complexity of the case demands);
- b. 10 days for reviewing information prior to conclusion of investigation;
- c. 10 days after receiving investigative report -by either- party to respond;
- d. 10 days for decision maker to allow initial questions;
- e. 10 days for responses to questions;
- f. 10 days for questions and responses to follow-up questions;
- f. 10 days for determination of responsibility decision;
- g. 10 days for appeal (6 additional days for administrative steps);
- h. 10 days for argument/statement challenging or supporting determination;
- i. 10 days for decision on appeal.

2. Delays and Extensions of Time. At any stage of the grievance process, the District (through the Superintendent, or if the Superintendent is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties, party advisors, witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain language interpreters or accommodation of disabilities. For any such delay or extension of time, the Superintendent or the Title IX Coordinator will provide simultaneous written notice to the parties of the delay/extension and the reason(s).

3. Delivery of Copies and Notices. Except as specifically stated elsewhere in this Policy, for any document, information or material required to be delivered to a party or to a person assigned with responsibility under the Title IX Grievance Process, the manner of transmittal may be by electronic mail, regular mail or such other manner reasonably calculated to assure prompt delivery with evidence thereof (such as a commercial carrier or other receipted delivery).

Hand delivery will only be permitted if made to the District official charged with the specific function under this Policy (e.g., Title IX Coordinator, Superintendent, investigator, decision maker(s), etc.). Any document required to be delivered to a minor or other non-eligible student, must also be delivered to the minor's parent/guardian. Copies should also be sent to a party's advisor if the information for the advisor has been previously communicated to the sending party. Under federal regulations, copies of the investigative evidence, as well as the investigative report, must be forwarded to a party's advisor.

4. Notice of Range of Disciplinary Sanctions and Remedial Actions Upon Final Determination of Responsibility.
  - a. Employee Respondents. "Disciplinary sanctions" against an employee respondent may include any available sanction available for the discipline of employees, up to and including dismissal or non-renewal for any other violation of Board policy,, applicable individual or collective bargaining contract, or state or federal laws or regulations.
  - b. Student Respondents. "Disciplinary sanctions" against a student may include any available discipline or sanction, up to and including expulsion, permitted by District policies, and any other District rules and procedures or student code of conduct.
  - c. Remedial Actions. Remedial actions as to a Respondent after a Title IX Sexual Harassment Final Decision, whether employee or student, may include the imposition upon a responsible respondent of any additional non-disciplinary measures appropriate to effecting a remedy for sexual harassment, and may include such measures as no-contact requirements, scheduling adjustments, removal or exclusion from extracurricular activities, class reassignments, limits on future class registrations, restrictions on access to various spaces in the school buildings, reassignment of attendance, and similar measures fine-tuned to respond appropriately to the circumstances surrounding a successful complainant's right to access the district's program and activity. Additional remedial actions may include recommendations that a school-wide or system-wide response is needed in order to respond to the sexual harassment in a way that is not clearly unreasonable under the circumstances. In such cases, the Superintendent shall provide additional staff training, harassment prevention programs, or such other measures as determined appropriate to protect the safety of the educational environment and/or to deter sexual harassment.
5. Emergency Removal. Nothing in this Policy, or Title IX Grievance Process, precludes a District from removing a Respondent from the District's 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. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. Such removal shall not be disciplinary.

6. Administrative Leave. Nothing in this Policy precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of the Title IX Grievance Process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

**B. Formal Complaints of Sexual Harassment.** The Title IX Grievance Process is initiated by way of a Formal Complaint (“complaint” or “formal complaint”) filed by the Complainant, the Complainant’s parent/guardian, or the Title IX Coordinator.

1. Complainant Options. In cases of Actual Knowledge (and/OR) Reports of Sexual Harassment, the Complainant retains the option to either file a Complaint of Sexual Harassment or choose not to and instead simply receive the supportive measures, except as set forth below.
  - a. Filings by Title IX Coordinator. In cases where the Complainant does not file a Formal Complaint of Sexual Harassment, the Title IX Coordinator may nevertheless choose to sign and thus initiate a Formal Complaint of Harassment, but only if:
    - i. initiating the grievance process against the respondent is not clearly unreasonable in light of the known circumstances;
    - ii. in other cases where, in the exercise of good judgment and in consultation with the District’s attorney as appropriate, the Title IX Coordinator determines that a grievance process is necessary to comply with the obligation not to be deliberately indifferent to Actual Knowledge of sexual harassment.
    - iii. If the Complaint is filed by the Title IX Coordinator, he/she is not a party to the action, and the District must comply with all of the provisions of the Title IX Grievance Process relative to respondents and complainants.
  - b. Supportive Measures. The Title IX Coordinator will contact the Complainant to discuss and offer supportive measures.
2. Respondent Rights. In cases where no Formal Complaint of Sexual Harassment is either filed by the Complainant or the Title IX Coordinator **no disciplinary action may be taken** against the Respondent based upon conduct that would constitute sexual harassment under this policy. Nevertheless, the Title IX Coordinator may contact the respondent to discuss, and or impose, non-disciplinary supportive measures.
3. Timeliness of Formal Complaints of Sexual Harassment. Although the District will initiate the Title IX Grievance Process regardless of when the Formal Complaint of Sexual Harassment is submitted, delays in reporting may



significantly impair the ability of school officials to investigate and respond to the allegations.

4. Jurisdiction Over Parties. Although there is no time limit per se to filing a Formal Complaint of Sexual Harassment, Complaints may be dismissed if either the Complainant or Respondent is no longer enrolled or employed by the District.
5. Manner of Filing and Content of Formal Complaints of Sexual Harassment. Formal Complaints of Sexual Harassment may be filed with the Title IX coordinator in person, by mail, or by email and must be in writing. While forms may be obtained from the Title IX Coordinator or on the District or school website, at a minimum, a Formal Complaint of Sexual Harassment must:
  - a. contain the name and address of the Complainant and the student's parent or guardian if the complainant is a minor student;
  - b. describe the alleged sexual harassment;
  - c. request an investigation of the matter;
  - d. when filed by the Complainant be signed by the Complainant or otherwise indicate that the complainant is the person filing the complaint, or if not filed by the Complainant be signed by the Title IX Coordinator.
6. Consolidation of Complaints. The District may consolidate formal complaints of allegations of sexual harassment where the allegations of sexual harassment arise out of the same facts or circumstances and the formal complaints are against more than one respondent; or by more than one complainant against one or more respondents; or by one party against the other party. When the District has consolidated formal complaints so that the grievance process involves more than one complainant or more than one respondent, references to the singular "party", "complainant", or "respondent" include the plural, as applicable.

**C. Notification of Formal Complaint to Parties ("Notification").** Upon receipt of a Formal Complaint of Sexual Harassment, the District must provide the following written notice to the parties who are known:

1. Notice of the District's Title IX Grievance Process (Section IV), including any informal resolution process.
2. Notice of the allegations potentially constituting sexual harassment as defined by Section II.M., 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 as defined by Section II.M., and the date and location of the alleged conduct, if known.
  - a. Supplemental Notice Required Upon Change in Investigative Scope. 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 Notification, the District must provide simultaneous notice of the additional allegations to the parties whose identities are known.

3. The written notice must include 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 Title IX Grievance Process set forth in Section IV. of the Policy.
4. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney (who may be present during any Grievance proceeding, including any related meeting or proceeding). 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.
5. The written notice must inform the parties 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.

**D. Informal Resolution.** At any time prior to reaching a determination regarding responsibility (but only after the filing of a formal complaint), the District may offer an optional informal resolution process (e.g., mediation, arbitration), provided that the District:

1. May not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a Sexual Harassment Investigation of a Formal Complaint of Sexual Harassment, such as may occur through Informal Resolution;
2. May not offer an informal resolution process unless a Formal Complaint of Sexual Harassment is filed;
3. Provides written notice to the parties disclosing:
  - a) The allegations of the Formal Complaint of Sexual Harassment;
  - b) The requirements of the information 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 an informal final 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
  - c) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
4. Obtains the parties' voluntary written consent to the informal resolution process; and
5. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

**E. Sexual Harassment Investigation.**

The Title IX Coordinator shall designate a qualified, trained, person to investigate. The investigation must:

1. Include objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence. (Evidence about the complainant's sexual predisposition or prior sexual behavior are **not** relevant, unless such evidence

- about the complainant's prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the evidence concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent.)
2. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on either of the parties;
  3. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
  4. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
  5. Provide the parties with the same opportunities to have others present during any interview or other part of the investigation, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. 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;
  6. Provide, to a party (e.g., Respondent or Complainant – and parent/guardian as appropriate) whose participation is invited or expected, 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;
  7. Provide both parties 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 recipient 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 the conclusion of the investigation;
  8. PRIOR to completion of the Sexual Harassment Investigative Report, the District, through the Title IX Coordinator, must send to each party and 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 days to submit a written response, which the investigator will consider prior to completion of the investigative report;
  9. Prepare a written Sexual Harassment Investigative Report that fairly summarizes relevant evidence, including, without limitation, witness credibility, discrepancies, inculpatory and exculpatory information, and relevant District policies, rules and regulations, and the manner in which the same were made known to the pertinent school populations or specific parties. The investigative report shall include a description of the procedural steps taken, starting with the receipt of the formal complaint, and continuing through the preparation of the investigative report, including any notifications to the parties, interview with parties and witnesses, site visit, and methods used to gather evidence.

10. The investigator shall provide the Investigative Report in hard copy or electronic format to the Title IX Coordinator, to each party and each party's advisor, if any. Each party will have 10 days from receipt to provide the Title IX Coordinator a written response to the Investigative Report.

**F. Initial Determination of Responsibility.** The initial determination of responsibility of the respondent shall be made by the Initial Decision-Maker.

1. Initial Decision-Maker. The Initial Decision-Maker cannot be the same person(s) as the IX Coordinator or the Investigator(s).
2. Opportunity for Relevant Party Questions. After the Investigator Report has been sent to the parties pursuant to Section IV. E.10 (above), and PRIOR to making a determination of responsibility, the Initial Decision-Maker will afford each party 10 days to submit written, relevant questions to the Initial Decision-Maker that the party wants asked of any party or witness. Only relevant questions may be posed. The Initial Decision-Maker shall explain to the party proposing the questions any decision to exclude a question as deemed "not relevant."
  - a. Irrelevant Questions and Evidence. 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 question and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
  - b. Written Responses to Questions. The Initial Decision-Maker will provide the questions to the party/witness, with copies to each party, and provide no less than 10 days for written responses, likewise to be provided to each party.
  - c. Opportunity for Limited Supplemental Questions. The Initial Decision-Maker will provide 5 days each for supplementary, limited follow-up questions and 5 days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
3. Prohibition on Negative Inferences. The Initial Decision-Maker may not make any credibility determinations based on the person's status as a complainant, respondent or witness.
4. Presumption of Non-Responsibility. The Respondent must be deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX Grievance Process.
5. Written Initial Determination Regarding Responsibility. Within 10 days following the close of the period set for responses to the last round of follow-up questions, the Initial Decision-Maker must issue a Written Initial Determination to the Title IX Coordinator, the Superintendent and the parties simultaneously, which, while applying the preponderance of the evidence standard, must include:

- a. Identification of the allegations potentially constituting Sexual Harassment as defined in this Policy, section II.M.;
  - b. A description of the procedural steps taken from the receipt of the formal complaint through the Initial Determination Regarding Responsibility, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather evidence, and hearings held;
  - c. Findings of fact supporting the Written Initial Determination Regarding Responsibility;
  - d. Conclusions regarding the application of the District's applicable codes of conduct, policies, administrative regulations or rules to the facts;
  - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility (i.e., whether or not the respondent is responsible for sexual harassment), 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
  - f. The District's procedures and permissible bases for the Complainant and Respondent to appeal (as set forth in Section IV.H, below).
6. Finality of Decision. The Initial Determination Regarding Responsibility becomes final, and identified as the **Title IX Sexual Harassment Final Decision** either:
- a. On the date that District provides the parties with Written Determination of the Appeal, if an appeal is taken as set forth in Section IV.H. (below); OR
  - b. Where no appeal is taken, the date on which an appeal would no longer be considered timely.
7. Duty to Effectuate Title IX Sexual Harassment Final Decision.
- a. District Response to Sexual Harassment. Once a **Title IX Sexual Harassment Final Decision** is issued, the District may implement remedies as set forth in Section III.D. above, and action as necessary to respond in a manner not deliberately indifferent in light of the known circumstances in cases of a Determination of Title IX Sexual Harassment Final Decision concluding responsibility for Sexual Harassment. The issue of responsibility for the conduct at issue shall not be subject to further review or appeal within the District (except as provided by District policy or collective bargaining agreement or applicable law). Appeals of disciplinary sanctions may be made pursuant to the District's ordinary review process for discipline, or to the extent applicable through any statutory or other processes provided under collective bargaining agreements or individual contracts.
  - b. Responsibility for Response. The Title IX Coordinator is responsible for effective implementation of remedies.
  - c. Other Actions Pursuant to Applicable Code of Conduct, Policies, Agreements, Contracts. The District may also proceed against the Respondent or Complainant pursuant to the District's applicable code of conduct or other Board policies, collective bargaining agreement, individual contract or administrative rules/regulations/procedures.

**G. Dismissal of a Formal Complaint.**

1. The District must dismiss a formal complaint with regard to Title IX sexual harassment if the alleged conduct:
  - a. Would not constitute sexual harassment, even if proved;
  - b. Did not occur in the District's education program or activity; or
  - c. Did not occur against a person in the United States.
2. The District may dismiss a formal complaint with regard to Title IX sexual harassment if at any time during the investigation or determination of responsibility stage(s):
  - a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - b. The respondent is no longer enrolled or employed by the District; or
  - c. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
3. Upon dismissal of a formal complaint, the District must promptly send written notice of the dismissal and the reason(s) therefore simultaneously to the parties.
4. The dismissal of a formal complaint under Title IX does not preclude the District from continuing any investigation or taking action under other District policies, code of conduct or administrative rules/regulations. In some cases, the District may have an obligation to continue an investigation and proceed under a different policy or mandated process.

**H. Appeals.** The District must offer both parties an appeal from a Initial Determination Regarding Responsibility, and from a Dismissal of a Formal Complaint, or any allegations therein.

1. Method of Filing. Either party may appeal the Initial Determination of Responsibility or the dismissal of a Formal Complaint of Sexual Harassment (or any allegations therein) by notifying the Superintendent in writing ("written appeal"), with a copy to the Title IX Coordinator. If there are multiple determinations of responsibility, the written appeal shall specify which ones are included in the appeal.
2. Deadline for Notice of Appeal. The Notice of Appeal must be in writing and received by the Superintendent, with a copy to the Title IX Coordinator, within 10 days of either the Initial Determination of Responsibility or the written Notice of Dismissal being communicated to the parties, as appropriate.
3. Grounds For Appeal. Either party may only appeal the Initial Determination of Responsibility or the Dismissal of a Formal Complaint of Sexual Harassment (or any allegations therein) based upon one or more of the following grounds, which must be stated specifically in the party's written appeal:
  - a. Procedural irregularity that affected the outcome of the matter;
  - b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or

- c. 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.
- 4. Appellate Decision-Maker. The Appellate Decision-Maker shall not be the same person as the Initial Decision-Maker that reached the determination regarding responsibility or the Dismissal of a Formal Complaint of Sexual Harassment, the Investigator(s) or the Title IX Coordinator. The Appellate Decision-Maker shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Appellate Decision-Maker shall be trained as set forth in section V.F.2. and 3.
- 5. District Notification of Appeal and Duty to Equitable Treatment of Parties During Appeal. The District must notify the both parties in writing when an appeal is filed and implement appeal procedures equally for both parties.
- 6. Opportunity to Brief Appellate Decision-Maker.
  - a. Deadline In Cases Other than Newly Available Evidence. Except in cases of newly available evidence, each party shall have 10 days “reasonable and equal opportunity] from the date of the Notification of Appeal under section H.5. above, to submit to the Appellate Decision-Maker a written statement in support of, or challenging, the Initial Determination Regarding Responsibility.
  - b. Deadline in Cases of Newly Available Evidence. In cases where the basis of the appeal is newly available evidence affecting the outcome, the party relying upon such evidence shall submit to the Appellate Decision-Maker such evidence or a summary of such evidence along with the party’s appeal statement first and within 7 days from the date of the Notification of the Appeal. In such instances the Appellate Decision-Maker shall then forward such documentation on to the opposing party, whereupon the opposing party shall thereafter have 7 days to review and submit their Brief to the Appellate Decision-Maker.
- 7. Written Determination of the Appeal
  - a. The Appellate Decision-Maker shall provide a Written Determination of the Appeal after considering the record and the parties’ appeal statements, describing the result of the appeal and the rationale of the result. The appeals decision maker will only overturn the Initial Determination of Responsibility upon a conclusion that it was clearly erroneous (i.e., either made on unreasonable grounds, or without any proper consideration of the circumstances). If the basis or one of the bases for the appeal was new evidence, the appeals decision maker may either make a determination of responsibility regarding that evidence or refer it back to the appropriate stage of the Title IX Grievance Process. The Appellate Decision shall be provided simultaneously to both parties, with a copy to the Title IX Coordinator and the Superintendent of Schools.
  - b. Upon issuance of the Written Determination of the Appeal, it becomes a **Title IX Sexual Harassment Final Decision**, as set forth in Section

IV.F.6, with commensurate Title IX obligations for the District to act as set forth in Section IV.F.7.

V. **Responsible Personnel.**

A. **Bias or Conflicts of Interest.**

No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

B. **Title IX Coordinator.**

The District must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this Policy, which employee must be referred to as the "Title IX Coordinator." Any individual designated by the District as a Title IX Coordinator shall be free of conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

1. **Notice of Title IX Coordinator Contact Information.** The name or title, office address, electronic mail address, and telephone number of the employee(s) designated as the Title IX Coordinator shall be provided to the following:

- a. all applicants for admission and employment;
- b. parents or legal guardians of elementary and secondary school students;
- c. employees; and
- d. all unions or professional organizations holding collective bargaining or professional agreements with the recipient.

2. **Duties of Title IX Coordinator** In addition to coordinating the District's efforts to comply with its responsibilities under this Policy, and any other duties assigned, the Title IX Coordinator shall be responsible for:

- a. **Receipt of Reports of Sexual Harassment.** 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 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.

i. **Responding to general reports and formal complaints of sexual harassment.**

(a). The Title IX Coordinator shall promptly contact the Complainant (or where Complainant is a minor their parent/guardian) (regardless to whether a formal complaint has been received) to discuss:

- i. **Supportive Measures:** the availability of supportive measures (as defined in section II.N. above); to consider Complainant's wishes with respect to supportive measures; to inform of the availability of supportive measures with or without the filing of a Formal Complaint of Sexual Harassment;



- ii. Formal Complaint and explain the process for filing a Formal Complaint of Sexual Harassment.
  - ii. Signing and/or receiving Formal Complaints of Sexual Harassment and in such cases commencing the Title IX Grievance Process set out in Section IV. above;
  - iii. Coordinating the effective implementation of supportive measures; and
  - iv. Coordinating the District's efforts to comply with its responsibilities related to the Title IX Grievance Process set forth in Section IV of this policy, including any other specific duties as assigned by the Superintendent to fulfill the District's obligations under this policy.
- 3. Conflict of Interest or Bias/Unavailability. In cases where the Title IX Coordinator is unavailable, including unavailability due to a conflict of interest or other disqualifying reason, the Superintendent shall assure that another person with the appropriate training and qualifications is appointed as acting Title IX Coordinator for that case, in such instances "Title IX Coordinator" shall include the acting Title IX Coordinators.

**C. Investigators.**

- 1. Conflict of Interest or Bias. Any individual assigned to investigate a Formal Complaint of Sexual Harassment shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 2. Responsibilities. Investigators shall be responsible for conducting Sexual Harassment Investigations as set forth in Section IV.E. above.

**D. Decision-Makers.**

- 1. Conflict of Interest or Bias. Any individual assigned as a Decision-Maker in the case of a Sexual Harassment under this Policy shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 2. Responsibilities.
  - a. **Initial Decision-Makers** shall be responsible for issuing an Initial Determination Regarding Responsibility following a Sexual Harassment Investigation and other duties set forth in Section IV.F. above.
  - b. **Appellate Decision-Makers** shall be responsible for issuing a Written Determination of the Appeal, and other duties set forth in Section IV.H. above.

**E. Informal Resolution Process Facilitators ("Facilitators").**

- 1. Conflict of Interest or Bias. Any individual assigned to facilitate an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- 2. Responsibilities. Facilitators shall be responsible for facilitating a process of informal resolution as permitted in section IV. D. above.

**F. Training.** The District shall ensure that training of the following personnel occur:

1. All District Employees. Training of District Employees shall occur relative to mandatory reporting obligations, and any other responsibilities they may have relative to this Policy.
2. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These individuals must be trained on the following topics:
  - a. the definition of sexual harassment as contained within this Policy;
  - b. the scope of the recipient's education program or activity;
  - c. how to conduct an investigation, appeals, and informal resolution process;
  - d. how to serve impartially, including by avoiding prejudice of the facts at issue; and
  - e. conflicts of interest and bias.
3. Decision-makers. In addition to the topics set forth in II.D.2. above, decision-makers shall be trained on the following topics:
  - a. 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 as set forth in Section IV.E.1. and IV.F.2.a.
4. Investigators. In addition to the topics set forth in II.D.2. above, investigators shall be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in Section IV.E.9 above.
5. Training Materials. Any materials used for trainings of Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must:
  - a. Not rely on sex stereotypes; and
  - b. Promote impartial investigations and adjudications of formal complaints of sexual harassment.
  - c. Be made available to the public either on its website, or if the District does not maintain a website, must make those materials available upon request for inspection by members of the public.

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**Legal References:**

1. *Title IX of the Education Amendments of 1972, 20 U.S.C 1681, et seq* 20 U.S.C. §1232g, *Family Educational Rights and Privacy Act*
2. *34 CFR. Part 99, Family Educational Rights and Privacy Act Regulations*
3. *34 CFR 106.8, Designation of responsible employee and adoption of grievance procedures.*
4. *34 CFR 106.30, Definitions*
5. *34 CFR 106.44, Recipient's response to sexual harassment*
6. *34 CFR 106.4, Grievance process for formal complaints of sexual harassment*
7. *34 CFR 106.71, Retaliation*

**Legal References Disclaimer:** *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*