Powell County Title IX Sexual Harassment Procedural Outline

The Powell County School District takes claims of sexual harassment as defined in Board Policy 09.428111, 03.2621, and 03.1621 very seriously. The following outline provides Complainants, Respondents, and staff an overview of the process that will be followed as per Board Procedure 09.428111, 03.2621, and 03.1621.

Throughout the process the Complainant is to be considered as being truthful in his/her claim and the Respondent maintains a presumption of innocence. Both parties to the claim will be offered supportive measures as needed.

REPORT

1. A staff or student reports that he or she has been sexually harassed as defined in policy prompting the filing of a Formal Complaint or a Formal Complaint is directly filed.
2. The Title IX Coordinator determines if the claim meets the definition of sexual harassment as defined in policy.
3. The Title IX Coordinator provides written notices to the parties explaining why a complaint is being dismissed OR begins the process of notifying both parties of supportive measures, the exact allegations in the formal complaint, and the process that will be followed.
4. The Title IX Coordinator may offer both parties an informal resolution process in some instances or may determine the complete grievance procedure as outlined in Board Procedure will be followed.

INVESTIGATION

1. If the formal grievance procedure is determined to be necessary, the complaint will be investigated by a trained internal or external individual designated by the Superintendent.
2. The Investigator will provide notice of any meeting and its purpose to either party with no less than ten (10) days to prepare for an interview.
3. All parties are allowed to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process. The advisor can be a parent, guardian, an attorney (provided at the expense of the individual), or a trusted friend. If a student does not have an advisor, the District will assign one for the student.
4. Witnesses will be interviewed and the investigator will conduct other activities that will assist in ascertaining facts.
5. During the course of the investigation, both parties will have an equal opportunity to inspect and review ALL evidence obtained in the course of the investigation. This will include both favorable and unfavorable evidence.
6. When the Investigator completes his or her investigation, both parties will have ten (10) calendar days to review the evidence and submit a written response. This evidence must not be publicly shared.

7. The Investigator will consider all evidence and the written responses to the evidence provided by the parties and will then create an investigative report summarizing the evidence and will provide a recommendation on whether or not the evidence supports a finding that the Respondent engaged in conduct constituting Title IX Sexual Harassment.
8. The Investigator will send this report to both parties and their advisors for their review and written responses which must be filed with the Investigator within ten (10) calendar days of their receipt of the report.
9. The Investigator will send the report and responses (if any) to the Decision Maker.

DECISION

1. The Powell County Schools will utilize a panel of no less than three (3) administrators to formulate a decision. Decision Makers will be trained to arrive at a determination of responsibility based upon a "Preponderance of the Evidence." One Decision Maker in the panel will be named the Lead Decision Maker by the Superintendent and all communication between the Decision Maker panel and the parties will be with this Lead Decision Maker.
2. Upon receipt of the Investigation Report and responses, the Lead Decision Maker will immediately provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or witness. Each party shall have five (5) calendar days of when the Decision Maker received the investigation report and party responses to provide questions.
3. The Decision Making panel will determine if questions are relevant and will provide written explanation to a party if a question is determined not relevant.
4. Each party shall be provided five (5) calendar days to respond to questions from the other party.
5. Each party shall then have an additional five (5) calendar days to review the responses of another party and/or witness, and to ask limited written follow-up questions.
6. Each party will receive a copy of the responses to any follow-up questions.
7. The Decision Making panel will then review the investigation report, the parties' responses and other relevant materials, and apply the preponderance of the evidence standard "more likely than not" to determine a decision.
8. A written determination as outlined in Board Procedure shall be provided to both parties simultaneously. This determination shall be issued within thirty (30) calendar days of the Decision Maker's receipt of the Investigator's report and recommendations, but reasonable extension of the time for good cause shall be allowed.
9. Depending upon the determination, remedies, discipline, and other actions may be applied.

APPEALS

1. The Superintendent shall serve as the Appellate Decision Maker.
2. Both parties shall have an equal opportunity to participate in the appeals process.
3. Appeals will be considered only on the following grounds:

a. A procedural irregularity that affected the outcomes.
b. New evidence that was not reasonably available as of the date of the determination of responsibility or dismissal of the formal complain that could affect the outcome is provided
c. The Title IX Coordinator, Investigator, or Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent that affected the outcome.

4. An appeal must be filed in writing to the Superintendent within five (5) calendar days of the receipt of the determination decision. The written appeal must state the grounds and arguments for reversal or modification of the determination.
5. The appeal must explain the impact of any asserted error on the outcome and, in the case of new evidence, must explain why such evidence was not available, summarize the evidence and explain how the party contends such evidence would have affected the outcome.
6. The Superintendent shall notify the other party in writing of the appeal and include copies of the document setting forth the grounds and arguments in support of the appeal. The other party then has five (5) calendar days to respond to the appeal documentation.
7. The Superintendent shall review all arguments and may consult with legal counsel in the decision-making process.
8. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result and provide notice of the written decision simultaneously to the parties.

The Title IX grievance determination of responsibility is final when there is no timely appeal or on the date when the Superintendent sends his or her decision to the parties.