

TITLE IX GRIEVANCE PROCEDURE

HOW TO FILE A COMPLAINT OF DISCRIMINATION FOR SEX DISCRIMINATION, INCLUDING SEXUAL HARASSMENT

The District has established a number of methods for filing complaints of discrimination on the basis of sex, including claims of sexual harassment. They include:

1. Filing a report online at Norwalk Public Schools website or intranet.
2. Completing a paper complaint form, which is available in your school's counseling office.
3. Contacting the Title IX Coordinator, using the contact information provided on the website or the District Title IX Coordinator.
4. Contacting the United States Department of Education's Office for Civil Rights ["OCR"] to report discrimination by writing a letter or filing a complaint form at: <https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>

GRIEVANCE PROCESS

The District has two sets of grievance procedures for processing complaints of sex-based discrimination, both of which provide for the prompt and equitable resolution of complaints alleging discrimination.

1. Grievance process for complaints of sex discrimination that DO NOT include allegations of sexual harassment

The District will process complaints of sex, or gender, discrimination that do not include an allegation of sexual harassment under its standard investigation policies and procedures for claims of misconduct.

2. Grievance process for complaints of sexual harassment

Formal complaints of sexual harassment and complaints including allegations of sexual harassment trigger a specific grievance process which can be found below.

PARTIES' RIGHTS DURING THIS GRIEVANCE PROCESS

During the grievance process for formal complaints of sexual harassment, the Title IX regulations guarantee parties a number of rights, including:

1. Presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

2. Equal opportunity to (i) present witnesses and other evidence, and (ii) inspect and review any evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint.
3. Protections against being compelled to share information that is covered by a legally recognized privilege, such as communications with or records maintained by a physician, psychiatrist, psychologist, clergyman, attorney, or social worker.
4. Credibility assessments that are not based upon or predetermined simply by a person's status as a complainant, respondent, or witness.
5. Objective evaluation of all relevant evidence.
6. No conflict of interest or bias by the investigators or by the decision-makers for or against an individual complainant or respondent, or for or against complainants or respondents in general.
7. The right to have at the party's own expense an advisor of choice, who may be, but is not required to be, an attorney.
8. The right of either party to appeal an adverse decision to the appellate decision maker.
9. The right to pursue an informal-resolution process for resolving complaints, with the understanding that either party can opt out of such resolution process at any time prior to coming to an agreement resulting from that informal resolution process, and with the further understanding that should one or both of the parties opt out of the informal-resolution process, the investigation and determination of the formal complaint will begin or resume.
10. The right to be free from threats or retaliation for filing a complaint or for participating as a witness on behalf of either party.

HOW LONG WILL THE GRIEVANCE PROCESS TAKE?

The grievance process consists of multiple components, including:

- 1. The investigation;**
- 2. The parties' right to review and comment on the evidence prior to the completion of the investigation report;**
- 3. The drafting of the investigation report;**
- 4. The right of the parties to review and comment on the investigation report;**
- 5. The rights of the parties to submit questions to be asked by the decision maker of the other party or of witnesses;**

6. The right to be provided with the answers to any such questions the decision maker deems relevant and appropriate as well as the limited right to ask submit follow-up questions to the decision maker;
7. The decision based upon the results of the investigation, determining whether or not sexual harassment occurred as defined under Title IX and setting forth the rationale for such determination;
8. The right under limited circumstances to appeal the decision-maker's determination;
9. The determination of such appeal.

The entire process will be completed in a reasonably prompt time frame, which the District designates as 90 school days from receipt of the formal complaint.

Temporary delays or limited extensions of timelines by the investigator or decision maker(s) may be permitted for good cause with written notice to both the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include, but will not necessarily be limited to, considerations such as: the absence of a party, a party's advisor, or a witness; concurrent law enforcement or Department of Children & Families ["DCF"] activity; the parties' availing themselves of an informal resolution process, the need for translation or similar language assistance; or the need to accommodate disabilities.

WHAT HAPPENS DURING THE INVESTIGATION PHASE OF THE GRIEVANCE PROCESS?

Upon receipt of a formal complaint, the Title IX Coordinator will provide the known parties written notice of the grievance process -- including the option of pursuing informal resolution -- as well as the specific allegations of sexual harassment and other information required by Title IX and its regulations.

The District's inquiry will be prompt, thorough, and impartial. The burden of gathering evidence that is sufficient to reach a determination regarding whether or not the alleged sexual harassment occurred ultimately rests on the District, and not on the parties. At the same time, as the District's ability to compel cooperation by the parties and by witnesses is limited by the Title IX regulations, its ability to obtain sufficient evidence is, in large part, dependent upon the parties' and their respective witnesses' voluntary and good-faith participation in the process.

The investigation may include, but is not limited to, the following:

1. Interviews of the parties and/or witnesses;
2. Requests for written statements from the parties and/or witnesses; and/or
3. Review and collection of relevant documentation or information.

The investigator will create an investigative report that fairly summarizes the relevant evidence.

Prior to completion of the investigative report, however, each party and their respective advisors, if any, will be provided with the opportunity to review the evidence gathered by the investigator.

The parties will have 10 school days to submit a written response to the evidence provided to them by the investigator. Each party's written response will also be provided to the other party.

The investigator will review and consider such written responses prior to completing the investigation report, but the investigator is neither bound by nor required to adopt them or otherwise incorporate them into the investigation report.

After the investigator has considered any written response by the parties regarding the evidence the investigator has provided to them, the investigator will prepare and send the final investigation report to each party and to their respective advisors, if any, for their review and written response. A copy of such written response will also be provided to the other party. The parties and their respective advisors, if any, will have 10 school days to respond in writing to the report. If neither party responds in writing within 10 school days, the investigator will provide a copy of the final investigation report to the decision-maker.

If one or both of the parties or their respective advisors do submit a written response to the investigation report, the investigator will review and consider such written responses prior to forwarding the investigation report to the decision maker, but the investigator is not bound by or required to adopt or incorporate into the final report the written responses. The investigator will, however, append to the investigation report the parties' respective written responses, if any.

The investigation report will be advisory in nature and will not bind the decision-maker to any particular decision, course of action, or remedial measure.

WHAT HAPPENS AFTER THE INVESTIGATIVE REPORT HAS BEEN FINALIZED?

After receiving a copy of the investigation report and the parties' written responses – if any -- the decision-maker will give each party the opportunity to submit no later than 10 calendar days written, relevant questions that the party wants asked of any other party or witness. The decision maker is not bound by, or otherwise required to ask, any question that the decision maker deems irrelevant or inappropriate.

Those questions that the decision maker deems relevant and appropriate will be posed by the decision maker to the relevant individual. The decision maker will then provide each party with the answers to those questions and will allow for additional, limited follow-up questions from each party, which the decision maker will pose to the extent that they are deemed relevant or appropriate.

PLEASE NOTE: Any questioning by the decision maker will be posed to the relevant individual either in the context of a meeting – either in-person or virtual -- between the decision maker and the individual, or by way of either written or oral communications between the decision maker and the individual. **There will be no formal or informal hearing**, nor will either party or the party's advisor, if any, be permitted to be present or a part of any questioning by the decision maker.

Following the decision maker's review of the investigation report and the questioning of any individual as deemed appropriate by the decision maker, the decision maker will then issue a

written determination regarding responsibility in accordance with Title IX and its regulations. The written determination will include, among other things:

1. The findings of fact supporting the determination
2. The rationale for the determination; and
3. Any disciplinary sanctions that the decision maker recommends be imposed and any remedies deemed necessary to restore or preserve equal access to the District's education program or activity for the complainant.

CAN I APPEAL THE PANEL'S DETERMINATION?

Either party can appeal the decision maker's determination regarding responsibility within 10 school days of its issuance. A complainant also has the right to appeal the District's mandatory or discretionary decision dismissing a complaint.

Any party may file an appeal by making a written request to the Title IX Coordinator detailing the reason for the appeal.

Appeals are limited to the following bases:

1. A procedural irregularity that had a material impact upon the outcome of the matter;
2. New evidence that was not reasonably available at the time that the determination of responsibility or a dismissal was made and that could have a material impact upon the outcome of the matter; or
3. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against the individual complainant or respondent or for or against complainants or respondents in general sufficient to have a material impact upon the outcome of the matter.

WHAT IS THE APPEAL PROCESS?

Upon receipt of a timely appeal, the Title IX Coordinator will notify the parties that an appeal has been filed. The Title IX Coordinator will also appoint an appellate decision maker to consider the appeal and will notify the parties of the identity and contact information of the appellate decision maker.

The appellate decision maker will notify the parties of the appeal procedures and set a schedule for the parties to submit a written statement in support of, or challenging, the decision maker's determination.

Upon reviewing both parties' written statements, the reviewer will issue a written decision, setting forth the appellate decision and detailing the rationale for the result. The appellate decision maker's decision will be final and binding on the parties.

WHAT REMEDIES ARE AVAILABLE UNDER THIS GRIEVANCE PROCEDURE?

Remedies under this grievance procedure must be designed to restore or preserve equal access to the education program or activity. Possible remedies may include, but are not limited to: counseling, safety escorts, no-contact orders, or a change of classes. The Title IX Coordinator is responsible for effective implementation of any remedies.

This grievance procedure may also provide for discipline or recommendations for discipline where a determination of responsibility for sexual harassment has been made against the respondent. The range of possible discipline may extend from verbal counseling up to and including expulsion. Recommendations for discipline will be pursued according to applicable District policies and procedures as well as applicable state and federal law.

IS THERE AN OPTION FOR INFORMAL RESOLUTION?

In cases involving a complaint of sexual harassment by one student against another student, the District may offer the parties the opportunity to engage in an informal resolution process. This informal resolution process may be offered at any time after a formal complaint has been filed but before a determination has been made regarding responsibility.

An informal resolution process may *not* be offered or utilized where the allegations involve an employee sexually harassing a student.

The District must obtain the parties' voluntary, written consent to the informal resolution process. The Title IX Coordinator must also provide the parties with a written notice of the substance of the formal, written complaint and of the process provided by the District for informal resolution.

The District must also advise the parties that at any time prior to agreeing to a resolution resulting from an informal resolution process, either party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.