

## Title IX Sexual Harassment Grievance Process

### Section A - Introduction

Sexual harassment affects a student's ability to learn and an employee's ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its educational programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District's educational programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties, as stated in Board Policy 5:10 - Nondiscrimination Including Title IX and Section 504.

### Section B - Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual's sex that satisfies one or more of the following:

1. A District employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (34 CFR Part 106.30(a)); 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 educational program or activity (34 CFR Part 106.30(a)); or
3. Sexual assault as defined in 20 U.S.C. §1092(f)(6)(A)(v); or
4. Dating violence as defined in 34 U.S.C. §12291(a)(10); or
5. Domestic violence as defined in 34 U.S.C. §12291(a)(8); or
6. Stalking as defined in 34 U.S.C. §12291(a)(30).

Examples of sexual harassment may include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

### Section C - Definitions

- Complainant - An individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 C.F.R. §106.30
- Respondent - An individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. 34 C.F.R. §106.30
- Title IX Coordinator - An individual assigned by the superintendent to coordinate the process of a Formal Title IX Sexual Harassment Complaint. The Title IX Coordinator cannot be the same person as the Initial Decision-Maker or the Appellate Decision-Maker. 34 C.F.R. §106.45(b)(8)(iii)(B). The Title IX Coordinator must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).
- Investigator - The Title IX Coordinator or an individual designated by the Title IX Coordinator to investigate a Formal Title IX Sexual Harassment Complaint (defined above) according to 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. The Investigator must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).

- Initial Decision-Maker - An individual designated by the Title IX Coordinator to reach an initial determination regarding responsibility in a Formal Title IX Sexual Harassment Complaint (defined above) by applying the standard of proof set forth in 2:265-AP2, Formal Title IX Sexual Harassment Complaint Grievance Process. See 85 Fed. Reg. 30054. The Title IX Coordinator cannot be the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(i). The Initial Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).
- Appellate Decision-Maker - An individual or group, e.g., a Board-appointed appeal examiner or the Board, which reviews an appeal of the Initial Decision-Maker's determination regarding responsibility or a dismissal of a Formal Title IX Sexual Harassment Complaint (defined below). The Appellate Decision-Maker cannot be the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Appellate Decision-Maker must be free from conflicts of interest or bias against complainants and respondents generally or against an individual Complainant or Respondent, and must be trained to serve impartially. 34 C.F.R. §106.45(b)(1)(iii).
- Educational program or activity means locations, events, or circumstances where the District has substantial control over both the Respondent and the context in which alleged sexual harassment occurs. 34 C.F.R. §106.30
- Formal Title IX Sexual Harassment Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation. 34 C.F.R. §106.30
- Supportive measures mean 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 Title IX Sexual Harassment Complaint or where no Formal Title IX Sexual Harassment Complaint has been filed. 34 C.F.R. §106.30

#### Section D - Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District works to prevent and respond to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program incorporates (a) age-appropriate sexual abuse and assault awareness and prevention programs in grades 9 through 12, and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 9-12. This includes incorporating student social and emotional development into the District's educational program as required by State law.
2. Incorporates education and training for school staff as recommended by the Superintendent, Title IX Coordinator, Building Principal, Assistant Building Principal, or Dean of Students (as identified on the district's website).
3. Notifies applicants for employment, students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator (as identified on the district's website) by, at a minimum, prominently displaying them on the District's website, if any, and in each handbook made available to such persons.

#### Section E - Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance policy may make a report to a Title IX Coordinator, Building Principal, Associate Building Principal, or Dean of Students (as

identified on the district's website), or any employee with whom the person is comfortable speaking. A person may choose to whom to report.

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator (as identified on the district's website). An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge. The district website shall include the names of the designated school and district Title IX Coordinators.

#### Section F - Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator will promptly contact the Complainant to:

1. discuss the availability of supportive measures,
2. consider the Complainant's wishes with respect to supportive measures,
3. inform the Complainant of the availability of supportive measures with or without the filing of a Formal Title IX Sexual Harassment Complaint, and
4. explain to the Complainant the process for filing a Formal Title IX Sexual Harassment Complaint.

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it. For any report received, the Title IX Coordinator shall review:

- Board Policy 2:260 - Uniform Grievance;
- Board Policy 5:20 - Harassment - Employees;
- Board Policy 5:90 - Abused and Neglected Child Reporting;
- Board Policy 5:120 - Employee Ethics and Conduct;
- Board Policy 7:180 - Bullying;
- Board Policy 7:181 - Harassment of Students;
- Board Policy 7:185 - Teen Dating Violence Prohibited; and
- Board Policy 7:190 - Student Behavior, Misconduct, and Rights and Responsibilities

to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duties to follow applicable law and regulations, afford due process, and investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

#### Section G - Formal Title IX Sexual Harassment Complaint Grievance Process

When a Formal Title IX Sexual Harassment Complaint is filed, the Title IX Coordinator will investigate it or appoint a qualified person to undertake the investigation.

The Superintendent or designee shall implement procedures to ensure that all Formal Title IX Sexual Harassment Complaints are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45. The District's grievance process shall, at a minimum:

1. Treat Complainants and Respondents equitably by (a) providing appropriate remedies to a Complainant where the Respondent is determined to be responsible for sexual harassment, (b) providing appropriate protections to a Respondent where the Respondent is determined not to be responsible for sexual harassment, and (c) following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a Respondent.

2. Require 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.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
  - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent.
  - b. Receive training on the definition of sexual harassment, the scope of the District’s educational program or activity, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), consistent with applicable law, regulation, and policy, and how to serve impartially.
4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including, without limitation, when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the Respondent is not responsible for the alleged conduct unless and until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the preponderance of evidence standard.
10. Include the procedures and permissible bases for the Complainant and Respondent to appeal.
11. Describe the range of supportive measures available to Complainants and Respondents.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

#### Section H - Appeals

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. 34 C.F.R. §106.45(b)(7)(iii).

<b>Actor</b>	<b>Action</b>
Complainant or Respondent	<p>Within 10 school business days after receiving the either the Initial Decision-Maker’s written determination regarding responsibility or the notice of dismissal of Formal Title IX Sexual Harassment Complaint, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on:</p> <ul style="list-style-type: none"> <li>● Procedural irregularity that affected the outcome.</li> <li>● New evidence now available that could affect the outcome but that was not reasonably available at the time of the determination.</li> <li>● The Title IX Coordinator, Investigator, or Initial 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. 34 C.F.R. §106.45(b)(8)(i).</li> </ul>
Title IX Coordinator	<p>Upon receiving an appeal from one party:</p> <ul style="list-style-type: none"> <li>● Notifies the other party in writing that an appeal has been filed.</li> <li>● Provides both parties five (5) school business days to submit a written statement in support of, or challenging, the outcome.</li> <li>● Promptly forwards all materials relative to the appeal to the Appellate Decision-Maker.</li> </ul>
Appellate Decision-Maker	<ul style="list-style-type: none"> <li>● Within 30 school business days, affirms, reverses, or amends the written determination regarding responsibility or the notice of dismissal.</li> <li>● Within five (5) school business days after its decision, simultaneously issues a written decision to both parties that describes the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(b)(8)(iii)(E), (F).</li> </ul>

**Section I - Enforcement**

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with student behavior policies. Any person making a knowingly or recklessly false accusation regarding sexual harassment will likewise be subject to such disciplinary action.

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law.

Section J - Retaliation Prohibited

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation using Board policy 2:260 - Uniform Grievance.

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

Adopted: December 11, 2023