Central Islip Union Free School District

Board of Education & School District Policy Book
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Section	Section Title	Type
0000	Philosophy, Goals and Objectives	Required
Policy	**Policy Title**	
0110	Title IX and Sexual Discrimination	

The District is committed to establishing and maintaining education programs and activities which are free from discrimination and harassment. This policy addresses complaints of sex discrimination, including sexual harassment, made under Title IX of the Education Amendments Act of 1972 and its implementing regulations (Title IX). It will serve as a component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by an institution that receives federal financial assistance. As required by Title IX, the District does not discriminate on the basis of sex in its education programs and activities or when making employment decisions.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of sex discrimination, including sexual harassment. The District will promptly respond to reports of sex discrimination, ensure that all investigations are conducted within a reasonably prompt time frame and under a promulgated fair grievance process that provides due process protections to complainants and respondents, and impose sanctions and implement remedies when warranted.

Inquiries concerning this policy or the application of Title IX may be directed to the District's Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

Scope and Application of Policy

This policy is limited to addressing complaints of sex discrimination, including sexual harassment, that fall within the scope of Title IX which, among other things, has a specific definition of sexual harassment and applies only to sex

discrimination occurring against a person in the United States. This policy applies to any individual participating in or attempting to participate in the District's education programs or activities including students and employees.

Other District policies and documents address sex-based misconduct and may have varying definitions, standards of review, and grievance procedures. These documents must be read in conjunction with this policy as they may cover incidents of sex-based misconduct not addressed by Title IX.

If the allegations forming the basis of a formal complaint of sexual harassment, if proven, would constitute prohibited conduct under Title IX, then the grievance process outlined in this policy would be applied to the investigation and adjudication of all the allegations. Depending on the allegations, additional grievance procedures may apply.

The dismissal of a formal complaint of sexual harassment under Title IX does not preclude action under any other related District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

What Constitutes Sex Discrimination Including Sexual Harassment

Title IX prohibits various types of sex discrimination including, but not limited to: sexual harassment; the failure to provide equal gender opportunity; sex-based discrimination in a District's science, technology, engineering, and math (STEM) courses and programs; and discrimination based on pregnancy.

Under Title IX, sexual harassment includes conduct on the basis of sex that satisfies one or more of the following:

a. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
b. 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;
c. Sexual assault, meaning an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
d. Dating violence, meaning violence committed by a person:
    1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
    I. The length of the relationship;
    II. The type of relationship;
    III. The frequency of interaction between the persons involved in the relationship;

e. Domestic violence, meaning felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
f. Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    1. Fear for his or her safety or the safety of others; or
    2. Suffer substantial emotional distress.

Title IX Coordinator

The District has designated and authorized the following District administrators to serve as its Title IX Coordinator:

Matthew Matera, Assistant Superintendent for Administration
50 Wheeler Road
Central Islip, NY 1172
631-348-5000 ext. 1006
mmatera@centralislip.k12.ny.us

Thomas Weiner, Director of School Safety
50 Wheeler Road
Central Islip, NY 11722
631-348-5000 ext. 1013
tweiner@centralislip.k12.ny.us

The Title IX Coordinator, who will be referred to as such, will coordinate the District's efforts to comply with its responsibilities under Title IX. However, the responsibilities of the Title IX Coordinators may be delegated to other personnel.

Where appropriate, the Title IX Coordinators may seek the assistance of the District's Civil Rights Compliance Officer (CRCO) and/or Dignity Act Coordinator

(DAC) in investigating, responding to, and remedying complaints of sex discrimination, including sexual harassment.

Reporting Allegations of Sex Discrimination

Any person may report sex discrimination, including sexual harassment, regardless of whether they are the alleged victim or not. Reports may be made in person, by using the contact information for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

Reports of sex discrimination may also be made to any other District employee including a supervisor, building principal, or the District's CRCO. All reports of sex discrimination, including sexual harassment, will be forwarded to the District's Title IX Coordinator. Reports may also be forwarded to other District employees depending on the allegations.

All District employees who witness or receive an oral or written report of sex discrimination must immediately inform the Title IX Coordinator. Failure to immediately inform the Title IX Coordinator may subject the employee to discipline up to and including termination.

Making a report of sexual harassment is not the same as filing a formal complaint of sexual harassment. A formal complaint is a document either filed by a complainant or a parent or legal guardian who has a right to act on behalf of the complainant or one signed by the Title IX Coordinator which alleges sexual harassment against a respondent and requests that the District investigate the allegations. While the District must respond to all reports it receives of sexual harassment, the Title IX grievance process is only initiated with the filing of a formal written complaint.

In addition to complying with this policy, District employees must comply with any other applicable District policy, procedure, collective bargaining agreement, or other document such as the District's Code of Conduct. This includes, but is not limited to the Dignity for All Students Act (DASA) which requires District employees to make an oral report promptly to the Superintendent or principal, their designee, or the DAC not later than one school day after witnessing or receiving an oral or written report of harassment, bullying, and/or discrimination of a student. Two days after making the oral report, DASA further requires that

the District employee file a written report with the Superintendent or principal, his/her designee, or the DAC.

If the Title IX Coordinator is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to the other Title IX Coordinator. If the District has not designated another Title IX Coordinator, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the Title IX Coordinator.

Grievance Process for Complaints of Sex Discrimination Other than Sexual Harassment

The District will provide for the prompt and equitable resolution of reports of sex discrimination other than sexual harassment. In responding to these reports, the Title IX Coordinator will utilize, as applicable, the grievance process set forth in Policy #110 and any other applicable District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

Grievance Process for Formal Complaints of Sexual Harassment

The District will respond to allegations of sexual harassment in a manner that is not deliberately indifferent whenever it has actual knowledge of sexual harassment in an education program or activity of the District. The District is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. For purposes of reports and formal complaints of sexual harassment under Title IX, education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent(s) and the circumstances under which the sexual harassment occurred.

The District will follow a grievance process that complies with law and regulation before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The District will conduct the grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is anticipated that, in most cases, the grievance process will be conducted within a reasonably prompt time and follow the time frames established in this policy.

Definitions

A. "Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the

District, or to any District employee. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the District with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the District. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in this policy.

B. "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
C. "Days" means in session ("school days").
D. "Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District concerning which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or email, by using the contact information required to be provided for the Title IX Coordinator, and any additional method designated by the District. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by email or through an online portal provided for this purpose by the District) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party, and must comply with the requirements of law and regulation.
E. "Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
F. "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. These 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. Supportive measures may include counseling, extensions of deadlines or

other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

General Requirements for the Investigative and Grievance Process

During the investigation of a formal complaint and throughout the grievance process, the District will ensure that:

A. Complainants and respondents are treated equitably. This includes applying any provisions, rules, or practices incorporated into the District's grievance process, other than those required by law or regulation, equally to both parties.
B. All relevant evidence is objectively evaluated, including both inculpatory and exculpatory evidence. Inculpatory evidence implicates or tends to implicate an individual in a crime or wrongdoing. Exculpatory evidence frees or tends to free an individual from blame or accusation.
C. The Title IX Coordinator, investigator, hearing officer, appellate decision-maker involved in the grievance process, or any person designated by the District to facilitate any informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
D. Respondents are presumed not to be responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
E. The grievance process, including any appeals or informal resolutions, is concluded within a reasonable time frame and that the process is only temporarily delayed or extended for good cause. Good cause includes, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. When the time frame is temporarily delayed or extended, written notice will be provided to all complainants and respondents of the delay or extension and the reasons for the action.

F. The range of possible disciplinary sanctions and remedies that may be implemented by the District following any determination regarding responsibility are described to any known party.
G. The same standard of evidence is used to determine responsibility in all formal complaints.
H. The procedures and permissible bases for an appeal are known to all complainants and respondents.
I. The range of supportive measures available are known to all complainants and respondents.
J. There is no requirement, allowance of, reliance on, or otherwise use of questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.
K. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the parties.
L. The Title IX Coordinator, the investigator, hearing officer, appellate decision-maker, or any other person participating on behalf the District does not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for the grievance process. If the party is not an eligible student, as defined in FERPA as a student who has reached 18 years of age or is attending a postsecondary institution, the District will obtain the voluntary, written consent of a parent
M. The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
N. Credibility determinations are not to be based on a person's status as a complainant, respondent, or witness.
O. The ability of either party to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.
P. The parties are provided with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for any complainant or respondent in any meeting or grievance proceeding. However, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.

Q. Written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, is provided to any party whose participation is invited or expected with sufficient time for the party to prepare to participate.
R. The parties are provided with equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely on in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
S. Any document sent to a minor or legally incompetent person is also sent to the party's parent or legal guardian.
T. Any document sent to a party is also sent to the party's advisor, if known.

After a Report of Sexual Harassment Has Been Made

After receiving a report of sexual harassment, the Title IX Coordinator will:

A. Promptly contact the complainant to discuss and offer supportive measures;
B. Inform the complainant both of the range of supportive measures available and that these measures are available regardless of whether a formal complaint is filed;
C. Consider the complainant's wishes with respect to supportive measures; and
D. Explain to the complainant the process for filing a formal complaint.

The Title IX Coordinator may also contact the respondent to discuss and/or impose supportive measures.

Requests for confidentiality or use of anonymous reporting may limit the manner in which the District is able to respond to a report of sexual harassment.

Emergency Removal and Administrative Leave

At any point after receiving a report or formal complaint of sexual harassment, the District may immediately remove a respondent from the District's education program or activity on an emergency basis, provided that the District:

A. Undertakes an individualized safety and risk analysis;

B. 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
C. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

The District must coordinate its Title IX compliance efforts with special education staff when initiating an emergency removal of a student with a disability from an education program or activity as the removal could constitute a change of placement under the IDEA or Section 504.

The District may place a non-student employee respondent on administrative leave with or without pay during the pendency of the grievance process in accordance with law and regulation and any applicable District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

Filing a Formal Complaint

A complainant may file a formal complaint with the Title IX Coordinator in person or by mail, email, or other method made available by the District. The complainant must be participating in or attempting to participate in the education program or activity of the District at the time of filing the complaint. The filing of a formal complaint initiates the grievance process.

A formal complaint must be signed by the complainant, the complainant's parent or legal guardian as appropriate, or the Title IX Coordinator. Where a parent or legal guardian signs the complaint, the parent or legal guardian does not become the complainant; rather the parent or legal guardian acts on behalf of the complainant. The Title IX Coordinator may sign the formal complaint, but his or her signature does not make him or her a complainant or a party to the complaint. If the formal complaint is signed by the Title IX Coordinator, the Title IX Coordinator is still obligated to comply with the grievance process outlined in this policy.

The complainant, or the complainant's parent or legal guardian, must physically or digitally sign the formal complaint, or otherwise indicate that the complainant is the person filing the formal complaint. When a formal complaint is filed, the Title IX Coordinator must send a written notice of allegations to all parties identified within the formal complaint allegedly possessing culpability.

The District will not discriminate on the basis of sex in its treatment of a complainant or a respondent in responding to a formal complaint of sexual harassment.

The formal complaint form may be obtained from the District's Title IX Coordinator or found on the District's website.

Consolidation of Formal Complaints

The District may consolidate formal complaints of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Written Notice of Allegation

Upon receipt of a formal complaint, the District will send all known parties written notice of:

A. The District's grievance process, including any informal resolution process; and
B. The allegations of sexual harassment which will:
    1. Provide sufficient details known at the time and sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known;
    2. State that the respondent is presumed not to be responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
    3. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
    4. Inform the parties that they may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint; and
    5. Include notice of any provision in any applicable District policy, procedure, collective bargaining agreement, or other document such as the District's Code of Conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about any complainant or respondent that were not included in the initial notice, the District will provide another notice of the additional allegations to the parties whose identities are known.

Investigation of a Formal Complaint

The Title IX Coordinator will oversee the District's investigation of all formal complaints. During the investigation of a formal complaint, the Title IX Coordinator or another District employee may serve as the District's investigator. The District may also outsource all or part of an investigation to appropriate third parties. The outsourcing of all or part of an investigation does not relieve the District from its obligation to comply with law and regulation.

It is anticipated that most investigations will be completed within thirty (30) school days after receiving a formal complaint.

During the investigation of a formal complaint, the investigator will, as appropriate:

A. Collect, review, and preserve all evidence including, but not limited to, any relevant documents, videos, electronic communications, and phone records.
B. Interview all relevant persons including, but not limited to, any complainants, respondents, and witnesses. Interviews of complainants and respondents will be conducted separately. If a student is involved, the District will follow any applicable District policy, procedure, or other document such as the District's *Code of Conduct* regarding the questioning of students.
C. Create written documentation of the investigation (such as a letter, memo, or email), which contains the following:
    1. A list of all documents reviewed, along with a detailed summary of relevant documents;
    2. A list of names of those interviewed, along with a detailed summary of their statements;
    3. A timeline of events; and
    4. A summary of prior relevant incidents, reported or unreported.
D. Keep any written documentation and associated documents in a secure and confidential location.

Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have ten (10) school days to

submit a written response, which the investigator will consider prior to completion of the investigative report. At the end of the investigation, an investigative report will be created that fairly summarizes all relevant evidence.

The Title IX Coordinator(s) will conduct a hearing within twenty (20) school days of receipt of the written response by a party or the parties. Ten (10) school days prior to the hearing regarding responsibility, the investigative report will be sent to each party and the party's advisor, if any, in an electronic format or a hard copy, for their
review.

Dismissal of a Formal Complaint

The District must investigate the allegations in a formal complaint. The District must dismiss a formal complaint under Title IX if the conduct alleged:

A. Would not constitute sexual harassment even if proven;
B. Did not occur in the District's education program or activity; or
C. Did not occur against a person in the United States.

Further, the District may dismiss a formal complaint or any of its allegations under Title IX, if at any time during the investigation or hearing:

A. A complainant notifies the Title IX Coordinator in writing that the complainant would prefer to withdraw the formal complaint or any of its allegations;
B. The respondent is no longer enrolled or employed by the District; or
C. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or any of its allegations.

Upon a dismissal of a formal complaint, the District must promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude action under any other related District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

Informal Resolution

Before reaching a determination regarding responsibility, but only after a formal complaint is filed, the District may offer and facilitate the use of an informal

resolution process, such as mediation, that does not involve a full investigation and adjudication of the formal complaint. It is anticipated that most informal resolutions will be completed within 15 school days.

The District will not require that parties participate in an informal resolution process. The District will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Further, the District will not require the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

If the District offers and facilitates the use of an informal resolution process, it will:

A. Provide written notice to all known parties which details:
    1. The allegations in the formal complaint;
    2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint;
    3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
B. Obtain the parties' voluntary, written consent to the informal resolution process.

Hearings and Determination Regarding Responsibility

If a hearing is deemed warranted the District will designate an individual hearing officer or a panel of hearing officers to issue a written determination regarding responsibility. A hearing officer can either be a District employee or, where appropriate, a third-party. He or she cannot be the same individual as either the Title IX Coordinator or the investigator(s).

If a hearing is provided, the District will make all evidence subject to the parties' inspection and review available to provide each party equal opportunity to refer to this evidence during the hearing, including for purposes of cross-examination.

Before reaching a determination regarding responsibility, the Title IX Coordinator(s), or hearing officer, or any other duly assigned individual will afford each party the opportunity to:

A. Submit written, relevant questions that a party wants asked of any party or witness after the parties have received the investigative report;
B. Provide each party with the answers given by any party or witness;
C. Allow for additional, limited follow-up questions and responses from each party to occur after the parties have received responses to their initial questions.

Questions and evidence concerning a complainant's sexual predisposition or prior sexual behavior will not be considered, unless the questions regarding evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The hearing officer will explain to the party proposing the questions any decision to exclude a question as not relevant.

The hearing officer will issue a written determination regarding responsibility to the Title IX Coordinator, the Superintendent, and all parties simultaneously within three (3) school days after all follow-up questions have been responded to or after the hearing, if one has been provided.

To reach this determination, the hearing officer will use the “clear and convincing” evidence standard which is the standard of evidence that will be applied in all formal complaints of sexual harassment. This standard is understood to mean concluding that a fact is highly probable to be true.

The written notice of the determination regarding responsibility will include:

A. Identification of the allegations potentially constituting sexual harassment;
B. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
C. Findings of fact supporting the determination;
D. Conclusions regarding the application of any applicable District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct* to the facts;
E. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the

District is imposing 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.

Finality of Determination Regarding Responsibility

The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Where a determination regarding responsibility for sexual harassment has been made against the respondent, remedies will be provided to a complainant and disciplinary sanctions may be imposed on a respondent. Remedies will be designed to restore or preserve equal access to the District's education program or activity. Remedies and disciplinary sanctions will be implemented in accordance with applicable laws and regulations, as well as any District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

The Title IX Coordinator is responsible for the effective implementation of any remedies and/or disciplinary sanctions. The Title IX Coordinator will collaborate with other individuals as necessary to effectively implement remedies and/or disciplinary sanctions.

Appeals

Either party may file an appeal from a determination regarding responsibility or from the District's dismissal of a formal complaint or any of its allegations. Appeals must be submitted in writing to the Title IX Coordinator within ten (10) school days of the written notice of the determination regarding responsibility or dismissal of the formal complaint or any of its allegations.

An appeal may only be based upon one or more of the following grounds:

A. Procedural irregularity that affected the outcome of the matter;
B. New evidence that was not readily available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
C. The Title IX Coordinator, investigator, 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. The bases on which a party is seeking an appeal must be specifically stated in the party's written appeal.

Upon receipt of an appeal, the District will:

A. Notify the other party in writing that an appeal has been filed and implement appeal procedures equally for both parties;
B. Ensure that any appellate decision-maker for the appeal:
    1. Is not the same person as any hearing officer that reached the initial determination regarding responsibility or dismissal, investigator, or Title IX Coordinator;
    2. Does not have any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
C. Give all parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. Parties are to submit these written within ten (10) school days after the parties have been notified of the appeal;
D. Issue a written decision describing the result of the appeal and the rationale for the result; and
E. Provide the written decision simultaneously to the Title IX Coordinator, the Superintendent, and all parties within ten (10) school days after receiving the parties written statements in support of, or challenging, the outcome.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

The District prohibits retaliation against any individual for the purpose of interfering with his or her Title IX rights or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing under Title IX.

Charging an individual with *Code of Conduct* or other applicable violations that do not involve sex discrimination, including sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Charging an individual with a *Code of Conduct* or other applicable violation for making a materially false statement in bad faith during a grievance proceeding does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

All complaints alleging retaliation will be handled in a manner consistent with the District's policies and procedures regarding the investigation of discrimination and harassment complaints, including Policy #0100 --. Non-Discrimination and Equal Opportunity.

If the Title IX Coordinator is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to the other Title IX Coordinator, if the District has designated another individual to serve in that capacity. If the District has not designated another

Title IX Coordinator, the Superintendent will ensure that another person with the appropriate training and qualifications is appointed to act as the Title IX Coordinator.

Confidentiality

Except where disclosure may be permitted or required by law or regulation, the District will keep confidential the identity of any:

A. Individual who has made a report or complaint of sex discrimination;
B. Individual who has made a report or filed a formal complaint of sexual harassment;
C. Complainant;
D. Individual who has been reported to be the perpetrator of sex discrimination;
E. Respondent; and
F. Witness.

Training

The District will ensure that:

A. All Title IX Coordinators, investigators, hearing officer, appellate decision-makers, or persons who facilitate an informal resolution process receive training on:
    1. The definition of sexual harassment as defined in Title IX;
    2. The scope of the District's education program or activity;
    3. How to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; and
    4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

B. All hearing officers are to receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence concerning a complainant's sexual predisposition or prior sexual behavior are not relevant.
C. All investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
D. All District employees receive training on mandatory reporting obligations and any other responsibilities that they may have relative to Title IX.

Materials used to train Title IX Coordinators, investigators, hearing officer, appellate decision-makers, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment. Training materials will be made publicly available on the District's website.

Notification

The District will notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District of this policy.

Further, the District will prominently publish this policy and the contact information for the Title IX Coordinator(s) on its website and in other publications, including in each handbook or catalog that it makes available to the individuals and entities referenced above.

Record Keeping

For a period of seven years, the District will retain the following:

A. Records of each sexual harassment investigation including any:
    1. Determination regarding responsibility;
    2. Audio or audiovisual recording or transcript required under law or regulation;
    3. Disciplinary sanctions imposed on the respondent; and
    4. Remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity.
B. Any appeal and its result.
C. Any informal resolution and its result.
D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

E. For each response to sexual harassment where the District had actual knowledge of sexual harassment in its education program or activity against a person in the United States, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the District must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If a District does not provide a complainant with supportive measures, then the District must document the reasons why such a measure 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.

Adoption date: December 8, 2008
Revision date: October 10, 2023

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[1] While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

[2] A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

Reference:20 USC § 1092(f)(6)(A)(v)
20 USC § 1681, et. seq.
34 USC § 12291(a)(8, 10, and 30)
34 CFR Part 106
Education Law § 13
8 NYCRR § 100.2(kk)
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