



## **Bibb County School District Title IX Grievance Procedures**

The Bibb County School District (“District”) does not discriminate on the basis of sex in any of its education programs or activities, admissions or employment and will not tolerate sexual harassment. All forms of sex discrimination, including sexual harassment, are prohibited in the District. Individuals with questions on Title IX or who would like to file a Formal Complaint under Title IX should contact:

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The *Bibb County School District Title IX Formal Complaint Form* may be found on the District’s website on its Title IX page.

### **I. Application of these Procedures**

The following procedures outline the District’s response to Formal Complaints of sexual harassment under Title IX. These procedures do not apply to complaints alleging other forms of sex discrimination that do not meet the definition of sexual harassment under Title IX as defined in Section II below. Complaints regarding general allegations of sex discrimination may be filed with the District’s Title IX Coordinator and will be responded to in accordance with Policy JAA, Equal Educational Opportunities, the Student Code of Conduct or Policy GAAA, Equal Opportunity Employment and the Employee Handbook. The District will update these procedures as may be required by law.

### **I. Definitions**

- a. *Actual Knowledge* – Notice of sexual harassment or allegations of sexual harassment to the District’s Title IX Coordinator, any District official who has authority to institute corrective measures on behalf of the District or any District employee.
- b. *Administrative Leave* – The District may place a non-student employee respondent on administrative leave during the pendency of the Grievance Process for a Formal Complaint.
- c. *Complainant* – An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- d. *Days* – Includes days when the District’s Board of Education office is open. Days shall not include holidays, weekends or any weekday during the school year on which the District is closed (e.g., inclement weather). Should a deadline under these procedures fall on a Saturday, Sunday, or federal or state recognized holiday, then the deadline will be fall on the next business day.
- e. *Disciplinary Actions* – Students found to be responsible for sexual harassment may be disciplined in accordance with the Code of Conduct and based on the severity of

- circumstances. Such disciplinary actions include, but are not limited to, suspension and expulsion. For employees, disciplinary actions may include, but are not limited to, suspension or termination.
- f. *Education Program or Activity* – Any location, event, or circumstances in which the District exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
  - g. *Emergency Removal* – The District may remove a respondent from their education program or activity on an emergency basis, provided 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.
  - h. *Formal Complaint* – 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 a District education program or activity. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the Title IX Coordinator’s contact information set forth above. A complainant that completes a Bibb County School District Title IX Formal Complaint Form is considered to have filed a formal complaint.
  - i. *Remedial Measures or Remedies* – Such measures must be designed to restore or preserve equal access to the District’s education program or activity. Such remedies may include services for supportive measures, as defined below. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
  - j. *Respondent* – An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
  - k. *Sexual Harassment* – Conduct on the basis of sex that satisfies one or more of the following:
    - i. A District employee conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct;
    - ii. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a District education program or activity; or
    - iii. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).
  - a. *Supportive Measures* – 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 a District 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. Examples 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 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 District's ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. Supportive measures may be implemented even if a Formal Complaint is not filed.

## **II. District's General Response to Sexual Harassment**

- a. The District will respond when it has actual knowledge of sexual harassment in one of its education programs or activities against a person in the United States. The District will respond promptly in a manner that is not deliberately indifferent. The District would only be deliberately indifferent if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
- b. The District will treat complainants and respondents equally when implementing supportive measures and the Formal Grievance Process.
- c. The District's Title IX Coordinator and school administration will respond promptly to all general reports of sex discrimination or harassment and implement supportive and remedial measures as appropriate.

## **III. District's Grievance Process for Formal Complaints of Sexual Harassment under Title IX**

### **a. Formal Grievance Process**

- i. *Equitable Treatment* – The District will treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this Formal Grievance Process before implementing any disciplinary sanctions or remedies.
- ii. *Objective Evaluation Process* – Throughout the Formal Grievance Process, the District will provide an objective evaluation of all relevant evidence, including evidence that may be considered favorable to respondent and evidence that may show respondent's involvement in the matter. Respondent is presumed not responsible for the alleged conduct until a Determination of Responsibility is made. The District will use the preponderance of evidence standard when making determinations under these procedures.
- iii. *Conflict 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 as described in Section III(b) below, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

- iv. *Reasonably Prompt Timeframes* – It is expected that in most cases, the Formal Grievance Process will be concluded through at least the Determination of Responsibility decision within 80 days from the date the Formal Complaint is filed. In more complex cases, the time necessary to complete a fair and thorough investigation or other circumstances mean that a determination of responsibility cannot reasonably be made within that timeframe. The Title IX Coordinator will update the parties on timeframes throughout the grievance process. Any timeframes outlined in these grievance procedures may be temporarily delayed for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; or the absence of a party, a party’s advisor, or a witness.
- v. *Consolidation of Formal Complaints* – The District may consolidate formal complaints as to allegations 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.
- vi. *Advisors or Attorneys* – A party may 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. The District will not limit the choice or presence of an advisor for either the complainant or respondent in a 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.
- vii. *Investigation of Formal Complaints*
  - 1. Written Notices in Formal Grievance Investigation Process
    - a. *Initial Notice of Allegations* – Upon receipt of a Formal Complaint under Title IX, the Title IX Coordinator or designated investigator will provide:
      - i. Notice of this grievance process, including any informal resolution process.
      - ii. Notice of the allegations of the alleged sexual harassment, including sufficient details known at the time and with sufficient time for the parties 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.
      - iii. 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 grievance process.

- iv. Notice to the parties that they may have an advisor of their choice, who may be, but is not required to, be an attorney.
    - v. Notice that an advisor may inspect and review evidence.
    - vi. Notice of the District's Code of Conduct provision that prohibits making false accusations, reports or allegations.
  - b. *Additional Allegations* – If, in the course of an investigation, the District determines additional allegations about the complainant or respondent not included in the initial notice, the District will provide notice of the additional allegations to the parties whose identities are known.
  - c. *Meeting Notices* – Written notice will be provided to a party whose participation is invited or expected. This notice will include the date, time, location, participants, and purpose of the investigative interview or other meetings, with sufficient time for the party to prepare to participate.
- 2. Investigation Process
  - a. The District has the burden of gathering evidence sufficient to reach a determination regarding responsibility.
  - b. The District cannot access, consider, disclose or otherwise use a party's confidential medical or psychological records that are made or maintained in connection with the treatment to a party, unless the District obtains the party's voluntary, written consent. For students under the age of 18, such written consent may be obtained from the student's parent or guardian.
  - c. The Title IX Coordinator or investigator will provide an opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence that may support or dispute the respondent's responsibility.
  - d. Prior to the conclusion of the investigation, the Title IX Coordinator or investigator will provide both parties with 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 complaint, including the evidence upon which the District does not intend to rely on in reaching a determination regarding responsibility and any evidence that may support or dispute the respondent's responsibility, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
  - e. Prior to completion of the investigative report, the District must 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, and the parties will have at least 10 days to submit a

written response, which the investigator will consider prior to completion of the investigative report.

3. Investigation Report

- a. The Title IX Coordinator, or the designated investigator, will prepare an investigation report that fairly summarizes the relevant evidence.
- b. The Title IX Coordinator will publish the investigation report to each party and the party's advisor, if any, 10-days prior to a hearing, as outlined below. The investigative report will be in an electronic format or a hard copy.
- c. Each party may prepare a written response to the investigation report, which will be included as an exhibit to the report.

4. Emergency Removal

- a. A student-respondent may be subject to an emergency removal, as defined above, during the investigation. The school principal will determine if an emergency removal is appropriate. Such removal may continue through the hearing and Determination of Responsibility process as described in Section III(c) below. Students subject to emergency removal may be allowed to participate in remote learning options. Appeals regarding a determination of emergency removal shall be made to the Title IX Coordinator.

5. Supportive Measures during the Investigation Process

- a. The Title IX Coordinator may implement supportive measures, as defined above, during the investigation process for both the complainant and respondent.

**b. Informal Resolution Process for Formal Complaints**

- i. In lieu of a full investigation and Determination of Responsibility, an informal resolution process is available to resolve allegations of sexual harassment between students. In no event will the informal resolution process be used to resolve allegations that an employee sexually harassed a student.
- ii. Participating in an informal resolution process is voluntary and is available any time prior to a Determination of Responsibility, as discussed below.
- iii. In order for an informal resolution process to be implemented, all parties must voluntarily agree in writing. In the event that a resolution is reached during the informal resolution process and agreed to in writing by the parties, then the formal complaint will be dismissed, and the complainant is precluded from filing a second complaint concerning the original allegation, however, patterns of conduct may be considered in subsequent complaints involving the same respondent. At any time prior to agreeing to a resolution, any party may withdraw from the informal resolution process and resume the grievance process.
- iv. The Title IX Coordinator will designate an impartial facilitator for the informal resolution process.

- v. Students with inquiries on the on the Informal Resolution Process should contact the Title IX Coordinator.

**c. Determination of Responsibility**

- i. *District's Decision Maker* – The Chief of Staff has been designated as the District's Decision Maker. After the investigative report has been finalized, the report will be submitted to the decision-maker.
- ii. *Review and Response Process* – The Decision Maker will oversee the review process for a formal complaint filed under Title IX and make a final Determination of Responsibility. The Decision Maker will not conduct an in-person hearing, but will facilitate the exchange of questions and statements between the parties.
- iii. *Procedures* – The following procedures will be used when determining responsibility under Title IX:
  - 1. Notice
    - a. The Decision Maker shall provide all parties with a notice that includes the participants, the purpose of the review process, and the deadlines for each party to submit written questions to the other party or witnesses and the date responses are due.
  - 2. Burden of Proof and Evidence
    - a. The District will apply the preponderance of evidence standard during this review process for both students and employees.
    - b. The District will not require, allow or rely upon questions or evidence that constitutes, or seeks disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - 3. Statements and Questions
    - a. The Decision Maker will provide an equal opportunity for the parties to present statements from witnesses, including fact and expert witnesses, and other evidence that may support or dispute the respondent's responsibility.
    - b. The Decision Maker shall provide an equal opportunity for the parties to submit written questions to the opposing party and witnesses.
    - c. No party may submit more than (25) written questions, including subparts, to any party or witness without the permission of the Decision Maker and upon a showing of a complex matter or undue hardship if such additional questions are not permitted.
    - d. The Decision Maker may exclude questions, but must explain to the party proposing the question(s) what was not relevant.
    - e. The Decision Maker will help facilitate the exchange of questions and provide a deadline for the individual to respond to the questions.

- f. The Decision Maker will provide each party with copies of any statements or answers to submitted questions. Limited follow-up questions may be allowed for each party.
  - g. 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 questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
  - h. The Decision Maker cannot draw an inference about the determination of responsibility based solely on a party's or witness's refusal to answer questions.
  - i. The Decision Maker may ask any party or witness questions to seek clarification on matters and evidence presented.
  - j. After all answers and statements are provided to the parties, the Decision Maker will provide a deadline for each party to submit a final response to any information presented.
- iv. *Written Determination of Responsibility*– The Decision Maker is responsible for issuing a written determination regarding responsibility.
- 1. The written Determination of Responsibility must include:
    - a. Identification of the allegations potentially constituting sexual harassment as defined above;
    - 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 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, 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.
  - 2. The Written Determination of Responsibility shall be provided 15 days after the deadline for submission of all answers to questions and/or statements has passed.
  - 3. The written Determination of Responsibility will be provided to both parties simultaneously via hand delivery, statutory overnight delivery or certified mail.



**d. Appeals of Formal Complaints**

- i. Either party may appeal the Determination of Responsibility to the District's Student Disciplinary Hearing Officer. An appeal may also be made on a dismissal of a formal complaint or any allegations therein.
- ii. Appeals must be filed within twenty (20) days from the date the Determination of Responsibility is rendered or a complaint or allegation is dismissed.
- iii. Any discipline sanctions imposed will remain in place during the appeal process, but may be suspended by the Superintendent pending the outcome of the appeal.
- iv. An appeal must be based on:
  1. Procedural irregularity that affected the outcome of the matter;
  2. 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;
  3. 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 of the matter; and
  4. The disciplinary sanction was excessive or there is an inherent disproportion between the offense and the disciplinary action.
- v. The District's Student Discipline Hearing Officer will be responsible for:
  1. Notifying the other party in writing when an appeal is filed and implementing appeal procedures equally for both parties;
  2. Giving both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
  3. Issuing a written decision describing the result of the appeal and the rationale for the result; and
  4. Providing the written decision simultaneously to both parties. The Student Discipline Hearing Officer shall have 10 days from the deadline for the parties to submit written statements to provide a written decision.
- vi. Appealing Student Disciplinary Sanctions.
  1. Any student that receives discipline sanctions under the District's Code of Conduct in response to a Formal Complaint, may appeal the discipline sanctions to the Board of Education as provided by O.C.G.A. § 20-2-754(c).
  2. Appeals to the Board of Education regarding the discipline imposed, must be made within twenty (20) days from the date the District's Student Discipline Hearing Officer renders a written decision on the appeal.

**e. Dismissal of a Formal Complaint**

- i. The District must dismiss Formal Complaints if the alleged conduct in the Formal Complaint does not constitute sexual harassment, as defined above, did not occur at a District education program or activity, or did not occur in

the United States. Such a dismissal does not preclude action under another provision of the District's Code of Conduct.

- ii. The District may dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the Formal Complaint or any allegations therein; the respondent is no longer enrolled or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- iii. Upon a dismissal of a Formal Complaint, the District must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.
- iv. A dismissal of a Formal Complaint does not preclude the District from taking additional action against a student under the District's Code of Conduct. In such circumstances, employees may also be held responsible for violations of Board policies, regulations, or guidelines, the Employee Handbook, the Code of Ethics for Educators or any contractual obligations.

#### **IV. Title IX Training Requirements**

- a. The District will provide all individuals designated as the District's Title IX Coordinator, investigator(s), Decision Maker, Student Disciplinary Hearing Officer and any other person designated to facilitate an informal resolution process with training in compliance with 34 C.F.R. § 106.45(b)(1)(iii).

#### **V. Confidentiality and Recordkeeping Requirements**

- a. Except as necessary to complete a thorough and effective investigation under the Formal Grievance Process, the District will comply with state and federal laws regarding the confidentiality of student and employee records.
- b. The District will maintain for seven years the following records: documents and evidence collected during a Title IX investigation; audio or audiovisual records or transcripts; disciplinary sanctions implemented; remedies; supplemental measures; written Determinations of Responsibility; and Title IX training materials.

#### **VI. Retaliation is Prohibited**

- a. An individual will not be discriminated for exercising their rights under Title IX or these grievance procedures. 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 sex 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 part, constitutes retaliation.