

For all formal reports determined to meet the criteria for a Title IX report, the district will engage the formal resolution process in 3205P – Exhibit B, which includes additional Title IX requirements.

### **Formal Title IX Report to District**

Anyone may initiate a formal report of sexual harassment. Any District employee in receipt of a report will promptly notify Jeff Lowell, Title IX Coordinator. Once the grievance process is initiated through a formal report, the District will provide supportive measures to protect the reporting party before the outcome of the District’s investigation. Formal reports where the allegations arise out of the same facts will be consolidated when possible. The following resolution process will be followed:

#### **Filing of Report**

- All formal reports will be in writing and will set forth the specific acts, conditions or circumstances alleged to have occurred and to constitute sexual harassment. The Title IX Coordinator or designee may draft the report based on the report from the reporting party for the reporting party to review and approve.
- The superintendent or Title IX Coordinator may also conclude that the District needs to investigate based on information in his or her possession, regardless of the reporting party’s interest in filing a formal report.
- The time for filing a report is one (1) year from the date of the occurrence that is the subject matter of the report. However, a report filing deadline may not be imposed if the reporting party was prevented from filing due to:
  - Specific misrepresentations by the District that it had resolved the problem forming the basis of the report; or
  - Withholding of information that the District was required to provide under WAC 392-190-065 or WAC 392-190-005.
- Reports may be submitted to Jeff Lowell, Title IX Coordinator through any of the following methods:
- Email: lowellj@bsd405.org
- Phone: 425-456-4010 or 425-456-4050
- US Mail: Jeff Lowell, Title IX Coordinator, P.O. Box 90010 Bellevue, WA 98009
- In-person at the District’s Educational Service Center address 12111 NE 1<sup>st</sup> St Bellevue, 98005.

#### **Investigation and Response**

- The Title IX Coordinator or designee will, upon receipt of a report:
  - Promptly contact the reporting party confidentially to:
    - assess whether a formal report of sexual harassment meets the criteria for a Title IX report and provide the reporting party with notice of whether the grievance process will continue under Title IX or state law or both.
    - discuss the availability of supportive measures,
    - consider the reporting party’s wishes with respect to supportive measures,
    - inform the reporting party of the availability of supportive measures with or without the filing of a formal report,
    - provide the reporting party a copy of the report, investigation, and grievance processes under this procedure,
    - and explain to the reporting party the process for filing a formal report

- Direct the report to the appropriate lead staff member to investigate all formal, written reports of sexual harassment or information in the coordinator's possession that they believe requires further investigation.
  - The Title IX Coordinator will delegate his or her authority to participate in this process if such action is necessary to avoid any potential conflicts of interest.
- Identify the individual who will be responsible for making a determination related to the report. This individual cannot be the Title IX Coordinator, or the individual tasked with investigating the report.
- The Title IX Coordinator or designee will, upon receipt of a report:
  - Promptly contact the reporting party and person(s) being reported to provide notice:
    - of the allegations of sexual harassment with sufficient time for the parties to prepare a response before any initial interview and with sufficient detail. Such sufficient detail includes 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.
    - that the parties may have an advisor of their choice who may be an attorney or non-attorney, and who may inspect and review evidence of the alleged sexual harassment.
    - that the person(s) being reported is presumed not responsible for the alleged conduct and that a determination regarding responsibility for alleged sexual harassment is made at the conclusion of the grievance process.
    - of any provision in student conduct policies and procedures that prohibits false statements or submitting false information.
- Investigations will be carried out in a manner that is adequate in scope, reliable and impartial.
- During the investigation process, the reporting party(s) and person(s) being reported(s) will have equal opportunity to present witnesses and relevant evidence.
- Prior to initiating an interview with reporting parties, person(s) being reported, and/or witnesses, investigators will ask the reporting party, person(s) being reported, and/or witnesses if they wish to have an individual present as an advisor during any District-initiated investigatory activities. Each party may choose their advisor who may be, but need not be, an attorney.
- When the investigation is completed, the investigator will compile a full written report of the report and the results of the investigation.
- The District must, at the first opportunity but in all cases within forty-eight hours of receiving a report alleging sexual misconduct by a school employee, notify the parents of a student alleged to be the victim, target, or recipient of the misconduct.

**During the grievance process and when investigating:**

- The burden of gathering evidence and burden of proof remains on the school. Any investigation begins with a presumption that the person(s) being reported is not responsible for the alleged behavior.
- Reporting parties and person(s) being reported have equal opportunity to present fact and expert witnesses and other evidence.
- Reporting parties and person(s) being reported can gather evidence but must refrain from retaliation while doing so. (e.g., no “gag orders”).
- Written notice of any investigative interviews, meetings, or hearings will be sent to all parties and their advisors.
- Investigators must send the parties, and their advisors, evidence directly related to the allegations, in

electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.

- Investigators must send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
  - After the school has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) must:
    - afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness,
    - provide each party with the answers,
    - and allow for additional, limited follow-up questions from each party.
      - Questions and evidence about a reporting party's prior sexual behavior are irrelevant unless offered to prove that someone other than the person(s) being reported committed the alleged misconduct or offered to prove consent.

### **Standard of Evidence**

The standard of evidence the District will use to determine responsibility is the preponderance of the evidence standard. This standard will be used for all formal reports of sexual harassment whether the person(s) being reported is a student or an employee (including faculty member(s)).

### **Formal Written Response**

- The District's decision-maker must issue a written determination regarding responsibility to the reporting party and the person(s) being reported within thirty (30) calendar days of receipt of the report, unless otherwise agreed to by the reporting party or if exceptional circumstances related to the report require an extension of the time limit.
  - In the event an extension is needed, the District's decision-maker will notify the reporting party in writing of the reason for the extension and the anticipated response date.
  - At the time the District responds to the reporting party, the District's decision-maker must send a copy of the response to the office of the superintendent of public instruction.
- The response of the District's decision-maker will be sent to both parties and include:
  - 1) a summary of the results of the investigation.
  - 2) a statement as to whether a preponderance of the evidence establishes responsibility of the person(s) being reported, including rationale for the result as to each allegation.
  - 3) if a finding of responsibility is returned, the corrective measures the District deems necessary, including assurance that the District will take steps to prevent recurrence and remedy its effects on the reporting party and others, if appropriate.
  - 4) notice of reporting party's and person(s) being reported's appeal rights and the necessary filing information; and
  - 5) any corrective measures the District will take, including.
    - a. remedies for the reporting party (e.g., sources of counseling, advocacy, and academic support),
    - b. and notice of potential sanctions for the person(s) being reported(s) (e.g., discipline).
  - 6) inform the reporting party and their parent/guardian how to report any subsequent problems.
    - a. Additionally, the District will conduct follow-up inquiries to see if there have been any new incidents or instances of retaliation, and to promptly respond and appropriately address continuing or new problems.

b. Follow-up inquiries will follow a timeline agreed to by the District and reporting party.

- The decision-maker's response will be provided in a language the reporting party and person(s) being reported can understand and may require language assistance for reporting parties with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964.
  - *If the report alleges discriminatory harassment by a named party or parties, the coordinator will provide the accused party or parties with notice of the outcome of the investigation and notice of their right to appeal any discipline or corrective action imposed by the District.*
- Any corrective measures deemed necessary will be instituted as quickly as possible, but in no event more than thirty (30) days after the decision maker's mailing of a written response, unless the person(s) being reported is appealing the imposition of discipline and the District is barred by due process considerations or a lawful order from imposing the discipline until the appeal process is concluded. Staff may also pursue reports through the appropriate collective bargaining agreement process or anti-discrimination policy.

Appeal rights for the reporting party and person(s) being reported are included in Procedure 3205P – Level Two, Appeal Rights.

**Date: 8.22**