

TITLE IX SEX NONDISCRIMINATION POLICY, GRIEVANCE PROCEDURE 510 AND PROCESS

These changes become effective August 1, 2024

Forest Lake Area Schools does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights or both. The District's Title IX Coordinator is Donna Friedmann, Director of Administration and Human Resources, 6100 N 210th St, Forest Lake, MN 55025, dfriedmann@flaschools.org, 651-982-8123.

The District's nondiscrimination policy and grievance procedures can be located at Forest Lake Area Schools [website](#).

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to Forest Lake Area Schools [website](#).

Grievance Procedure for Complaints of Sex Discrimination

The District has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

Complaints:

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged discrimination under Title IX:

A "complainant," which includes:

a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or

a person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the District's education program or activity;

A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or

The District's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

Any student or employee the District; or

Any person other than a student or employee who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

The District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

Basic Requirements of Title IX Grievance Procedures:

The District will treat complainants and respondents equitably.

The District requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

The District presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The District has established the following timeframes for the major stages of the grievance procedures:

Evaluation of whether to dismiss or investigate a complaint: 3 school days

Investigation of complaint: Within 5 school days

Determination of responsibility after completion of investigation: Within 5 school days

The District has also established the following process that allows for the reasonable extension of time frames on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay: Should the District determine that extenuating circumstances exist (including, but not limited to: seeking additional evidence may be desirable but the evidence cannot reasonably be obtained within the established time frame; key District personnel are not available (due to school calendar, vacation schedules, or other exigent circumstances) and no other personnel can reasonably participate in the process;

The District will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

The District will objectively evaluate all evidence that is relevant and not otherwise impermissible - including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- A. Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- B. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- C. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the

alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Notice of Allegations:

Upon initiation of the District's Title IX grievance procedures, the District will notify the parties of the following:

The District's Title IX grievance procedures and any informal resolution process;

Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

Retaliation is prohibited; and

The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence. [If the District provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.]

If, in the course of an investigation, the District decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the District will notify the parties of the additional allegations.

Dismissal of a Complaint:

The District may dismiss a complaint of sex discrimination if:

The District is unable to identify the respondent after taking reasonable steps to do so;

The respondent is not participating in the District's education program or activity and is not employed by the District;

The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the District will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the District will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

The District will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

Procedural irregularity that would change the outcome;

New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and

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 would change the outcome.

If the dismissal is appealed, the District will:

Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;

Implement appeal procedures equally for the parties;

Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;

Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and

Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, the District will, at a minimum:

Offer supportive measures to the complainant as appropriate;

If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Forest Lake Area Schools education program or activity.

Investigation:

The District will provide for adequate, reliable, and impartial investigation of complaints.

In determining the specific form of the investigation, the Title IX Coordinator will consult with the building principal or administrator responsible for a program or department, as well as with any other District personnel with a need to know and who may be able to bring knowledge of the parties into consideration. The District will consider relevant factors including: the age of the student(s) involved; whether there have been previous allegations of misconduct by the respondent; whether either the complainant or respondent holds a position of authority over the other or over other students or employees; whether the complainant, respondent or other potential witnesses have any disability that may impact their ability to participate in the investigation; and other factors deemed relevant given the specific allegations.

The burden is on the District—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The District will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

The District will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. [If the District provides a description of the evidence: the District will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.];

The District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and

The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

The District will use a process that enables the decision maker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. Depending upon the nature of the investigation, the decision maker may meet personally with parties and/or witnesses, may use written questions, may delegate another appropriately trained administrator to question parties and/or witnesses.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the District will:

Use the clear and convincing standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.

Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;

Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

Coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to Forest Lake Area Schools education program or activity limited or denied by sex discrimination;

Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and

Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Forest Lake Area Schools education program or activity.

Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and

Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Supportive Measures:

The District will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Forest Lake Area Schools education program or activity or provide support during Forest Lake Area Schools Title IX grievance procedures or during the informal resolution process. For complaints of sex-based harassment, these supportive measures may include schedule changes, additional staff supervision, seating arrangements, early class release, break time scheduling, bus transportation arrangements, access to school counselors, arrangements for a party to meet with the party's own counselor, directives not to have contact with one or more other people, or other appropriate arrangements in consideration of the specific circumstances.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions, which may include consequences ranging from a student conversation or the provision of work direction to expulsion or termination of employment. The District may also provide remedies, which may include check-in conversations, counseling, school work exemptions, grade revisions, job reassignment or other measures as appropriate for the circumstances. Inclusion and listing in this policy does not indicate that all remedies will be employed.

Definitions:

Complainant means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Disciplinary sanctions means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Party means a complainant or respondent.

Relevant means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.

Remedies means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

Retaliation means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- (ii) The type, frequency, and duration of the conduct;
- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (iv) The location of the conduct and the context in which the conduct occurred; and
- (v) Other sex-based harassment in the recipient's education program or activity; or

(3) Specific offenses.

- (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- (ii) Dating violence meaning violence committed by a person:
 - (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship;
- (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (C) Shares a child in common with the victim; or
 - (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (A) Fear for the person's safety or the safety of others; or
 - (B) Suffer substantial emotional distress.

Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures or during an informal resolution process.

Legal References: Minn. Stat. § 121A.04 (Athletic Programs; Sex Discrimination)
 Minn. Stat. § 121A.40 – 121A.575 (Minnesota Pupil Fair Dismissal Act)
 Minn. Stat. Ch. 363A (Minnesota Human Rights Act)
 20 U.S.C. §§ 1681-1688 (Title IX of the Education Amendments of 1972)
 34 C.F.R. Part 106 (Implementing Regulations of Title IX)
 20 U.S.C § 1400, *et seq.* (Individuals with Disabilities Education Act)
 29 U.S.C. § 794 (Section 504 of the Rehabilitation Act)
 42 U.S.C. § 12101, *et seq.* (Americans with Disabilities Act)
 20 U.S.C. § 1232g (Family Educational Rights and Privacy Act of 1974)

20 U.S.C. § 1092 *et seq.* (Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”))

Cross References: Equal Educational Opportunity Policy 535
Harassment and Violence Policy 425
Student Discipline Policy 515
Student Parental, Family, and Marital Status Nondiscrimination Policy 530

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