

ANN ARBOR PUBLIC SCHOOLS UNIFORM GRIEVANCE PROCEDURES
APPLICABLE TO TITLE IX COMPLAINTS, VIOLATIONS OF POLICY 5010 (NON-DISCRIMINATION)
AND POLICY 5800 (BULLYING/CYBERBULLYING)

PURPOSE: The purpose of these procedures is to secure, at the lowest possible level, prompt and equitable resolutions of complaints based on violations of Title IX of the Education Amendments of 1972 ("Title IX"), the Ann Arbor Public Schools Policy 5010 (Non-Discrimination) and the Ann Arbor Public Schools Policy 5800 (Anti-Bullying/Cyberbullying) (collectively, the "Policies").

These procedures shall be available in every school site administrative office and posted on the District website.

I. DEFINITIONS:

A. "Complainant" - A complainant is a student or employee of the District who submits a complaint alleging any action or treatment prohibited by the Policies.

B. "Respondent" - the person alleged to be responsible for the prohibited conduct alleged in a complaint.

C. "Day" - The calculation of days in complaint processing, except as otherwise expressly provided, shall exclude Saturdays, Sundays, and federal, state and school holidays or closures.

D. "Title IX" of the Educational Amendments of 1972 - No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Sex discrimination under Title IX includes sexual harassment and sexual violence.

E. "Sexual Harassment" – Conduct occurring between any persons, including members of the same sex, that:

(1) is sexual in nature;

(2) is unwelcome; and

(3) denies or limits an individual's ability to participate in or benefit from a program or activity offered by the District.

Sexual Harassment may include acts of sexual violence. Sexual Harassment is a form of sex discrimination prohibited by Title IX.

F. "Sexual Violence" - Physical sexual acts occurring between any persons, including members of the same sex, perpetrated by against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

G. "Policy 5010"-- No student shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any educational program or activity available in any school on the basis of race, color, sex, religion, creed, political belief, age, national origin, immigration status, linguistic and language differences, sexual orientation, gender, gender identity, gender

expression, socioeconomic status, height, weight, marital or familial status, disability or veteran status.

H. "Policy 5800"-- The Ann Arbor Public Schools Board of Education recognizes that a safe and civil environment within the school community is necessary for students to learn and achieve high academic standards. The District finds that bullying/cyberbullying, like other disruptive or violent behavior, is conduct that disrupts both a student's ability to learn and a school's ability to educate its students in a safe environment. This policy prohibits bullying/cyberbullying "at school", as well as off-campus conduct that could likely lead to a material or substantial disruption of the school learning environment for one or more students. This policy is intended to protect all students from bullying/cyberbullying regardless of the subject matter or motivation for the behavior.

This policy prohibits bullying/cyberbullying against students in any form, regardless of its subject matter or motivating animus. Retaliation or false accusation against a target of bullying/cyberbullying, a witness or another person with reliable information about an act of bullying/cyberbullying, is also prohibited.

As used in these Procedures the term "bullying" shall include both bullying and cyberbullying.

I. "Complaint Submission Date" - the date on which a written complaint was received by the Responsible Administrator.

J. "Responsible Administrator" - The District Executive Director responsible for the school or program at which the events underlying the complaint occurred, the Title IX Coordinator, Deputy Superintendent for Human Resources, the authorized designee of these individuals, or the administrator designated by the Superintendent, as appropriate.

II. PROCEDURAL REQUIREMENTS.

A. Time Limits. A complaint under this procedure should be filed as soon as possible after the time of occurrence of the alleged violation(s) of the Policies. Failure of a complainant or appellant to comply with any time limitation in the complaint procedure may result in dismissal of the complaint and/or denial of the appeal. Dismissal shall not preclude the individual's right to pursue the complaint through other appropriate external agencies.

B. Service. Service of any notice or decision provided for under this procedure shall be deemed effective on the person served as of the date of delivery, if personally served, faxed or emailed, or effective three (3) calendar days of deposit by first class mail if delivered by mail.

C. Employees. When a complaint makes allegations involving a Respondent who is an employee of the District, these Procedures shall supplement and not supersede any Investigation Procedures required by the Department of Human Resources & Legal Services.

D. Confidentiality.

1. Confidentiality will be maintained to the greatest extent possible. Any information gathered during an informal procedure may be used during a formal procedure, if initiated. While there can be no assurance of complete confidentiality, complaints under this procedure will be treated as sensitive information not to be shared with others except in limited circumstances. Examples of exceptions to maintaining confidentiality include:

- information the law requires to be reported.
- information imparted to others in supervisory positions in order to further an investigation or halt a discriminatory practice.

- information given to the respondent in order to have sufficient information to respond to the allegations.

2. The District will take all reasonable steps to investigate and respond to a complaint consistent with a request by the complaining party not to disclose his/her name. However, such requests for confidentiality may limit the District's ability to adequately investigate and respond to the allegations raised in the complaint.

3. Requests for confidentiality, therefore, will be evaluated in the context of the District's responsibility to provide a safe and nondiscriminatory environment for all students, and the request will be weighed against whatever factors the District deems relevant, including, without limitation:

- the complainant's age; circumstances that suggest there is an increased risk of future acts of harassment and/or sexual violence under similar circumstances; and
- whether the District possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence).

4. All parties to a grievance, including the Complainant, Respondent and witnesses, have privacy interests and, therefore, all parties should be cautioned not to divulge or publicize the nature of the proceedings or the identity of those involved outside the scope of the investigation.

III. INFORMAL AND FORMAL PROCESSES.

A. INFORMAL RESOLUTION PROCESS:

Informal resolution may be an appropriate choice when the conduct involved is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process, and the informal resolution process shall not be considered a precondition for the filing of a formal written complaint pursuant to Section III.B., below.

1. A written request for informal resolution must be made within ten (10) days of the date of the alleged incident. The school principal or designee shall determine whether the nature of the problem is such that it is likely to be resolved by agreement on an informal basis.

2. Methods for informal resolution may include, but are not limited to, coaching the person on how to directly address a situation which is causing a problem; mediating the dispute with the parties; restorative practices; developing written behavior expectations of the alleged offender to redirect conduct; assisting with the resolution of a real or perceived problem; or arranging a documented meeting with the alleged offender that involves a discussion of the policy at issue and requirements for compliance.

3. The principal or designee shall document any informal resolution, and a copy of such documentation shall be forwarded to the Responsible Administrator within three (3) days of resolution.

B. FORMAL COMPLAINT PROCEDURES:

Initiation of the formal complaint procedures requires a written complaint. All written complaints regarding harassment or discrimination of students or employees in violation the Policies shall be submitted to the appropriate Title IX Coordinator or the District Executive Director responsible for the school or program at which the events underlying the complaint occurred.

Step 1 - Reporting Complaints.

(a) The Complainant may obtain a Complaint Form from the Title IX Coordinator, Human Resources Department, school principal, or the District website. The Complainant may attach a written narrative explaining the nature of the complaint to the Form. The Complaint Form or narrative shall contain information that describes the conduct that has violated the Policies, and identify with reasonable particularity the respondent(s) and any witnesses to the alleged conduct.

(b) If the Complainant is unwilling or unable to provide a written statement including the information set forth above, but nonetheless expresses their intent to file a formal written complaint, the Responsible Administrator shall ask for such details in an oral interview and file a written complaint on behalf of the Complainant. In the event the Complainant is a student with disabilities, the Responsible Administrator will carefully review the reporting student's IEP or 504 plan to determine what specific accommodations that child should have to aid in their reporting such written complaint.

(c) Any District employee who either reasonably believes a violation of the Policies involving a student has occurred or who receives a complaint of a violation of the policies from a student (or staff member on behalf of a student) through informal verbal communication or other means (such as email) shall immediately take the following steps to preserve evidence in the event that a written complaint is filed:

1. Report the incident to the Responsible Administrator.
2. The Responsible Administrator or his/her designee shall obtain written statements from all witnesses to the incident, including staff, students and, if appropriate third parties;
3. In the event that the incident meets the definition of sexual violence as set forth above, the Title IX Coordinator and/or Responsible Administrator shall: (a) Report the incident to local law enforcement officials pursuant to District procedures; and (b) file a DHS-3200 report pursuant to the District Child Abuse and Neglect Reporting Procedures;
4. The Title IX Coordinator and Responsible Administrator and/or their designees shall preserve any evidence of the incident, including, without limitation, incident reports, text messages, images, postings on social media and available video recordings from security cameras.

The above requirements are not intended to limit any District employee's right to file a written complaint pursuant to these Procedures if that individual so chooses.

Step 2 - Determining Applicability of the Procedures.

The Responsible Administrator shall initially review the written complaint to determine whether the matter falls within the scope of these procedures. Within ten (10) days after the Complaint Submission Date, the Responsible Administrator shall initiate an investigation of the matters alleged, or inform the Complainant in writing that the matters alleged in the complaint are not within the jurisdiction or authority of the District to investigate and that the District will not carry out any further investigation. If the matter does not involve allegations of violations of the Policies within the scope of these procedures, the Responsible Administrator shall forward the matter to the proper District

administrative authority for review, if appropriate.

Step 3 - Investigation.

(a) The Responsible Administrator shall oversee that an adequate, reliable and impartial investigation of the complaint is conducted by the principal or designee of the school site where the student is enrolled, the employee is assigned, and/or where the alleged discrimination occurred.

(b) In order to provide a neutral and objective investigation, neither the Responsible Administrator, nor the principal or designee conducting the investigation shall be a party to the complaint in the investigation.

(c) In the event that the principal or his/her designee is not a neutral party, the Responsible Administrator shall designate a neutral and objective administrator to conduct the investigation. In the event that the Responsible Administrator is not a neutral party, the Superintendent shall designate a neutral and objective administrator to oversee the investigation. Whenever appropriate, the Responsible Administrator may contact the office of the General Counsel who may designate an attorney to conduct or assist in the investigation subject to the oversight of the Responsible Administrator.

(d) In conducting the investigation, the designated investigator shall interview all parties identified in the complaint who consent to be interviewed and other witnesses that the investigator determines may provide information relevant to resolving the complaint allegation(s). Both the Complainant and Respondent shall have the opportunity to identify witnesses to be interviewed and provide documentation or other evidence for the designated investigator to review.

(e) The Responsible Administrator shall consider the evidence compiled by the designated investigator and take whatever additional actions the Responsible Administrator deems necessary to complete the investigation.

(f) The Responsible Administrator will maintain documentation of all proceedings, which may include written findings of facts, transcripts, notes, or audio recordings.

Step 4 - Notice of Resolution.

(a) Notice. The Responsible Administrator shall notify both the Complainant and Respondent in writing within sixty (60) days from the Complaint Submission Date of the results of the investigation.

(i) Written Determination. The Responsible Administrator shall consider the totality of the evidence and determine whether the preponderance of the evidence establishes that the alleged violation of the Policies occurred (i.e., it is more likely than not that discrimination/sexual harassment/sexual violence/bullying occurred). If the Responsible Administrator determines that the preponderance of the evidence does not support the allegations of discrimination or bullying, the Complainant may appeal the determination pursuant to Step 5, below.

(ii) If the Responsible Administrator determines that the preponderance of the evidence supports the allegations of discrimination or bullying by the Respondent, the Responsible Administrator shall provide written findings and conclusions supporting the determination. In addition, the written determination shall make recommendations for (A) immediately ending the conduct at issue; (B) ways to remedy the effects of any such behavior on the complaining party and, if applicable, the District's educational environment, and (C) the

steps to be taken to prevent the recurrence of the conduct found to have occurred. The recommendations of the Responsible Administrator shall become final and shall be implemented unless either party appeals as provided in Step 5 - Appeal Rights.

Step 5 - Appeal Rights.

(a) A party not satisfied with the resolution in Step 4, above, may submit a written appeal within five (5) days to the Superintendent. The written appeal shall state with particularity the nature of the disagreement, the reasons underlying such disagreement, and how the outcome would be changed by reconsideration of the determination.

(b) The Superintendent or designee shall conduct a review of the record to determine whether the preponderance of the evidence supports the determination. The Superintendent or designee shall issue a written decision and mail it to the parties within thirty (30) days of the receipt of the appeal. The Superintendent's decision is a final decision.

Step 6 - Complaints to an External Agency.

If a party is not satisfied with the Superintendent's decision in Step 5, above, the party may file a complaint with the Office of Civil Rights ("OCR") in Cleveland, Ohio. More information is available at the United States Department of Education, Office of Civil Rights, 1350 Euclid Avenue, Suite 325. Cleveland, OH 44115.

IV. DISCIPLINE.

Employees and students may be disciplined if it is determined through this procedure that discriminatory action, treatment, harassment or retaliation for complaining, has occurred in violation of federal or state laws or District policies. The Responsible Administrator shall refer the matter to the appropriate District administrator to initiate disciplinary proceedings against the Respondent.

- A. Students. If the recommended disciplinary consequences involve either a long-term suspension or expulsion, the student is entitled to pursue the hearing and appeal rights pursuant to the District's Rights and Responsibilities Guide and Michigan state law.
- B. Employees. If the disciplinary consequence involves discharge or termination, the employee's hearing and appeal rights will be governed by Michigan law and District policies.

V. NON-RETALIATION

- A. Students, employees or parents who make complaints in good faith, shall be free from retaliation, coercion, and reprisal in seeking resolution of their complaint. Furthermore, persons acting as witnesses to a complaint, in good faith, shall be free from reprisal.
- B. Retaliation is a separate violation distinct from the initial underlying allegation. Claims of retaliation, submitted in good faith and in writing to the Responsible Administrator, shall be investigated pursuant to these procedures. Individuals who engage in retaliation will be subject to discipline, regardless of whether there has been a finding of cause for the underlying complaint.

VI. FALSE COMPLAINTS.

- A. Individuals who knowingly file a false or misleading complaints alleging a violation of

the Policies are subject to appropriate disciplinary action, including, but not limited to, dismissal of the complaint.

- B. If the preponderance of the evidence supports a finding that the Complainant submitted a false or misleading complaint alleging a violation of the Policies, the complaint will be dismissed, and the student or employee who submitted the complaint will be recommended for discipline in a manner consistent with the District's Rights and Responsibilities Guide.

VII. RELATIONSHIP OF THESE PROCEDURES AND TIMELINES TO LAW ENFORCEMENT ACTIVITIES.

- A. Nothing in these Procedures should in any way be deemed to discourage the Complainant from reporting acts subject to these Procedures, including acts of sexual violence, to local law enforcement. In the event that the Complainant files a criminal complaint, the Responsible Administrator should not wait for the conclusion of a criminal investigation or criminal proceeding to begin the District's own investigation.
- B. Although the District may need to delay temporarily the fact-finding portion of an investigation while local law enforcement officials are gathering evidence, it is important for the Responsible Administrator to understand that during this brief delay in the investigation, the District must take interim measures to protect the Complainant in the educational setting. The District should also continue to update the parties on the status of the investigation and inform the parties when the District resumes its investigation

VII. INTERIM MEASURES PENDING FINAL DETERMINATION OF THE COMPLAINT.

- A. The District shall take steps to ensure equal access to its education programs and activities and protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. The District should take these steps promptly once it has notice of a violation of the Policies and should provide the complainant with periodic updates on the status of the investigation. The Responsible Administrator should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow the complainant to change academic and extracurricular activities as appropriate. The Responsible Administrator should also ensure that the complainant is aware of his or her Title IX rights and any available resources, such as victim advocacy, housing assistance, academic support, counseling, disability services, health and mental health services, and legal assistance, and the right to report a crime to local law enforcement.
- B. The specific interim measures implemented and the process for implementing those measures will vary depending on the facts of each case. The Responsible Administrator should consider a number of factors in determining what interim measures to take, including, for example, the specific need expressed by the complainant; the age of the students involved; the severity or pervasiveness of the allegations; any continuing effects on the complainant; whether the complainant and alleged perpetrator share the class, transportation, or extra-curricular activities; and whether other judicial measures have been taken to protect the complainant (e.g., civil protection orders).

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