

# CATASAUQUA AREA SCHOOL DISTRICT

No. 128  
SECTION: Programs  
TITLE: Nondiscrimination  
  
ADOPTED: November 10, 2005  
REVISED: February 13, 2006  
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**Attachment – Form for Complaint of Unlawful Discrimination or Harassment**

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**1. Policy**

Public School Code § 1310; Civil Rights Act Title VI: 42 USC § 2000d *et seq.*; Title VII: 42 USC § 2000e *et seq.*; 1972 Ed. Am. Act. Title IX: 20 USC § 1681; 42 USC § 12101 *et seq.*; ADEA: 29 USC § 621 *et seq.*; Genetic Info. Non-Discr. Act: 42 USC § 2000ff *et seq.*; 29 USC § 701 *et seq.*, esp. § 794; 34 CFR Parts 100, 104, 106, 110; Pa. Unfair Ed. Practices: 24 PA. STAT. ANN. § 5004; Pa. HRA: 43 PA. STAT. ANN. § 951 *et seq.*; 16 Pa. Code ch. 41, 44, 47; PHRC guidelines; 34 CFR § 106.10

The Board declares it to be the policy of this District to provide an equal opportunity for all students to achieve their maximum potential through the programs offered in the schools regardless of race, color, age, creed, religion, sex (including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity), ancestry, national origin, marital status, familial status, genetic information, handicap/disability, or any other legally protected classification. The District shall provide to all students, without discrimination, course offerings, counseling, assistance, employment, athletics and extracurricular activities. Discrimination is inconsistent with the educational and programmatic goals of the District and is prohibited on school property, at school-sponsored activities, and on any conveyance providing transportation to or from a school facility or school-sponsored activity.

The Board declares it to be the policy of this District to provide to all persons equal access to all categories of employment in this District, regardless of race, color, age, creed, religion, sex (including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity), ancestry, national origin, marital status, familial status, genetic information, handicap/disability, or any other legally protected classification.

Further, in all other respects, the Board declares it to be the policy of this District that no person shall be excluded from participation in, be denied the benefits of, or otherwise subjected to unlawful discrimination on the ground of race, color, age, creed, religion, sex (including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity), ancestry, national origin, marital status, familial status, genetic information, handicap/ disability or any other legally protected classification with respect to any of its programs or activities or in the employment of any personnel.

The District shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, consistent with the requirements of federal and state laws and regulations.

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29 CFR §  
1606.8(a);  
22 Pa. Code §§  
4.4, 12.1, 12.4,  
15.1 *et seq.*

Sexual Harassment and other types of unlawful Harassment (as defined below) are forms of unlawful discrimination and are expressly prohibited under this policy.

The Board encourages students, employees, and third parties who believe they or others have been subject to discrimination to promptly report such incidents to designated employees, even if some elements of the related incident took place or originated away from school property, school activities, or school conveyances.

The Board directs that oral and written reports and complaints of discrimination shall be investigated promptly, and corrective action be taken when allegations are substantiated.

34 CFR § 106.71

No retaliation may be taken against any person. Any such retaliation is in itself unlawful discrimination prohibited by this policy and constitutes an independent violation of this policy. When the District has information about conduct that reasonably may constitute such retaliation, the District shall comply with Part 3 of this policy. Upon receiving a complaint alleging retaliation, the District shall initiate its grievance procedures under Part 6 of this policy, or, as appropriate, an informal resolution process under Part 7 of this policy.

**2. Definitions**

*A. Harassment*

29 CFR §  
1606.8(a);  
62 Fed. Reg.  
12033 (3/13/97);  
66 Fed. Reg. 5512  
(1/19/01)

For purposes of this policy, “harassment” shall consist of unwelcome verbal, written, electronic, graphic, or physical conduct (including but not limited to offensive jokes, slurs, epithets, and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, or other conduct which may be harmful or humiliating) relating to an individual’s race, color, national origin/ethnicity, ancestry, sex (including sexual orientation and sexual identity), age, disability/handicap, religion, creed, marital status, familial status, pregnancy, genetic information, or any other legally protected classification when such conduct:

1. Is sufficiently severe, persistent, or pervasive that it affects an individual’s ability to participate in or benefit from an educational program or activity or to perform job functions, or creates an educational or work environment that a reasonable person would consider intimidating, hostile, or abusive.
2. Has the purpose or effect of substantially or unreasonably interfering with an individual’s academic or work performance.
3. Otherwise adversely affects an individual’s learning or employment opportunities.

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The term “harassment” also includes all activity which constitutes “sexual harassment.”

34 CFR §§ 106.2,  
106.10

B. *Sexual Harassment / Sex-based Harassment*

For purposes of this policy, “sexual harassment” or “sex-based harassment” is a form of sex discrimination and means conduct on the basis of sex (including discrimination 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 or agent of the District, or other person authorized by the District to provide an aid, benefit, or service under the District’s education programs or activities (including employment), explicitly or impliedly conditioning the provision of such an aid, benefit, or service on an individual’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 District’s education program or activity (including employment) (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - a. the degree to which the conduct affected the complainant’s ability to access the District’s education program or activity;
  - b. the type, frequency, and duration of the conduct;
  - c. the parties’ ages, roles within the District’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - d. the location of the conduct and the context in which the conduct occurred; and
  - e. other sex-based harassment in the District’s education program or activity;
3. *Sexual assault* — an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

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- 4. *Dating violence* — 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:
    - i. the length of the relationship.
    - ii. the type of relationship.
    - iii. the frequency of interaction between the persons involved in the relationship;
  
- 5. *Domestic violence* — felony or misdemeanor crimes of violence 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 Commonwealth of Pennsylvania, or a person similarly situated to a spouse of the victim,
  - b. is cohabitating with 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 an adult or youth victim who is protected from those acts under the domestic or family violence laws of the Commonwealth; or
  
- 6. *Stalking* — engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - a. fear for his or her safety or the safety of others; or
  - b. suffer substantial emotional distress.

Examples of conduct that may constitute sexual harassment include, but are not limited to, sexual flirtations, advances, touching or propositions; verbal abuse of a sexual nature; graphic or suggestive comments about an individual’s dress or body; sexually degrading words to describe an individual; jokes; pin-ups; calendars; objects; graffiti; vulgar statements; abusive language; innuendoes; references to sexual activities; overt sexual conduct; or any conduct that has the effect of unreasonably interfering with a student’s ability to work or learn or creates an intimidating, hostile, or offensive learning or working environment.

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This policy covers, without limitation, sexual harassment by a student to another student; a student to an employee; an employee to a student; an employee to an employee; a third party to a student or employee; a student or employee to a third party; a male to a male; a female to a female; a male to a female; and a female to a male.

34 CFR §§ 106.2, 106.45(a)(1)

C. *Parties*

For purposes of this policy—

1. “Complainant” means a student, employee, or other person who was participating or attempting to participate in the District’s education program or activity at the time in question, who is alleged to have been subjected to conduct that could constitute prohibited discrimination under this policy.
2. “Respondent” means a person who is alleged to have violated this policy’s prohibition of discrimination. The requirements of this policy related to a respondent apply only to prohibited discrimination complaints alleging that a person violated the District’s prohibition of discrimination. When a prohibited discrimination complaint alleges that the District’s policy or practice discriminates on the basis of sex or other prohibited classification, the District is not considered a respondent.

34 CFR § 106.2

D. *Complaint*

For purposes of this policy, “complaint” means an oral or written request that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under this policy.

34 CFR § 106.2

E. *Supportive Measures*

For purposes of this policy, “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 equal access to the District’s education programs and activities (including employment), including measures designed to protect the safety of the parties or the District’s educational environment, or

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- 2. provide support during the District’s grievance procedures under Part 6 of this policy or during the informal resolution process under Part 7 of this policy.

34 CFR § 106.2

*F. Confidential Employees*

For purposes of this policy, “confidential employee” means:

- 1. A District employee whose communications are privileged or confidential under federal or state law. The employee’s confidential status for purposes of this policy is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; or
- 2. A District employee whom the District has designated as confidential under this policy for the purpose of providing services to persons related to sex or other prohibited discrimination. If the employee also has a duty not associated with providing those services, the employee’s confidential status is only with respect to information received about sex or other prohibited discrimination in connection with providing those services.

34 CFR § 106.2

*G. Relevant*

For purposes of this policy, “relevant” means related to the allegations of prohibited discrimination under investigation as part of the grievance procedures under Part 6 of this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged prohibited discrimination occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged prohibited discrimination occurred.

34 CFR § 106.2

*H. Pregnancy or Related Conditions*

For purposes of this policy, “pregnancy or related conditions” means (1) pregnancy, childbirth, termination of pregnancy, or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.



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34 CFR § 106.2

*I. Retaliation.*

For purposes of this policy, “retaliation” means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District’s education programs or activities, for the purpose of interfering with any right or privilege secured by the nondiscrimination laws or this policy, 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 this policy, including in an informal resolution process under Part 7 of this policy, grievance procedures under Part 6 of this policy, and in any other action taken by the District under Part 3(E) of this policy. Nothing in this definition or this policy precludes the District from requiring an employee or other person authorized by the District to provide aid, benefit, or service under the District’s education programs or activities to participate as a witness in, or otherwise assist with, any investigation, proceeding, or hearing under this policy.

**3. Delegation of Responsibility**

34 CFR § 106.8(a)

*A. Compliance Officer / Title IX Coordinator.*

In order to maintain a program of nondiscrimination practices and a learning and working environment that is in compliance with applicable laws and regulations, the Board designates the Assistant to the Superintendent as the District’s Compliance Officer to coordinate its responsibilities under nondiscrimination laws and regulations and serve as the Title IX Coordinator for purposes of Title IX of the Educational Amendments Act of 1972, and the coordinator and/or compliance official for purposes of the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, the Age Discrimination in a Employment Act of 1967, Section 504 of the Rehabilitation Act of 1973, and all other nondiscrimination statutes and regulations. In all matters relating to discrimination on the basis of sex, the District shall refer to the Compliance Officer as the Title IX Coordinator. As appropriate, the Compliance Officer may delegate specific duties to one or more designees.

34 CFR § 106.8(c)

*B. Notice of Nondiscrimination.*

The Compliance Officer shall notify applicants for employment, students, parents, guardians, or other authorized legal representatives of school students, employees, and all unions or professional organizations holding collective bargaining agreements or professional agreements with the District—

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34 CFR § 106.2

1. of the name or title, office address, email address, and telephone number of the employee designed as the Title IX Coordinator and Compliance Officer;
2. that the District does not discriminate on the basis of sex (including discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity), race, color, age, creed, religion, ancestry, national origin, marital status, familial status, genetic information, handicap/disability, or any other legally protected classification, in the educational programs and activities the District operates (including employment), and prohibits such discrimination as required by Title IX of the Educational Amendments Act of 1972, regulations under Title IX, and other federal and state statutes and regulations. Inquiries about the application of Title IX and its regulations, and other nondiscrimination statutes and regulations, to the District may be referred to the Title IX Coordinator/Compliance Officer, to the Office for Civil Rights of the U.S. Department of Education, or both; and
3. that the District has adopted Policy 128 to prohibit such discrimination, and provide grievance procedures for the prompt and equitable resolution of complaints of prohibited discrimination, including how to report information about conduct that may constitute sex or other discrimination and how to make a complaint of sexual or other discrimination, and that copies of Policy 128 may be obtained from the Title IX Coordinator/Compliance Officer or on the District website, [www.cattysd.org](http://www.cattysd.org).

The District shall also prominently display the above notifications on the District’s website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to persons entitled to the above notifications, or which are otherwise used in connection with the recruitment of students or employees. However, if necessary due to the format or size of any such publication, the District may instead include in those publications a statement that the District prohibits sex discrimination in any education program or activity that it operates, and that individuals may report concerns or questions to the Compliance Officer, and provide the location of the notice on the District website, [www.cattysd.org](http://www.cattysd.org).

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34 CFR §  
106.44(a)(1),  
(c)(1)

C. *Internal Notifications to Compliance Officer; Response.*

Whenever any District employee (other than a confidential employee) has knowledge of conduct that reasonably may constitute sex or other prohibited discrimination in the District’s education programs or activities, the employee shall promptly notify the Compliance Officer, and the Compliance Officer shall respond promptly and effectively.

D. *Confidential Employee Requirements.*

34 CFR §  
106.44(d)(1)

The Compliance Officer shall notify all participants in the District’s, education programs and activities of how to contact District confidential employees, if any.

34 CFR §  
106.44(d)(2)

A confidential employee of the District must explain to any person who informs the confidential employee of conduct that reasonably may constitute sex or other prohibited discrimination under this policy:

1. The employee’s status as confidential for purposes of this policy, including the circumstances in which the employee is not required to notify the Compliance Officer/Title IX Coordinator about conduct that reasonably may constitute sex or other prohibited discrimination;
2. How to contact the Compliance Officer/Title IX Coordinator and how to make a complaint of sex or other prohibited discrimination; and
3. That the Compliance Officer/Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process under Part 7 of this policy or investigation under the grievance procedures in Part 6 of this policy.

E. *Compliance Officer Requirements.*

34 CFR §  
106.44(f)

The Compliance Officer/Title IX Coordinator is responsible for coordinating the District’s compliance with its obligations under this policy.

When notified of conduct that reasonably may constitute sex or other prohibited discrimination under this policy, the Compliance Officer/Title IX Coordinator shall take the following actions to promptly and effectively end any sex or other prohibited discrimination in the District’s education programs and activities, prevent its recurrence, and remedy its effects:

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1. Treat the complainant and respondent equitably;
2. Offer and coordinate supportive measures as described in Parts 3(F) and 6(J)(1) of this policy, as appropriate, for the complainant. In addition, if the District has initiated grievance procedures under Part 6 of this policy, or offered an informal resolution process under Part 7 of this policy to the respondent, offer and coordinate supportive measures as described below, as appropriate, for the respondent;
3. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures under Part 6 of this policy, and the informal resolution process under Part 7 of this policy, if available and appropriate. In addition, if a complaint is made, notify the respondent of the grievance procedures under Part 6 of this policy, and the informal resolution process under Part 7 of this policy, if available and appropriate;
4. In response to a complaint, initiate the grievance procedures under Part 6 of this policy, or the informal resolution process under Part 7 of this policy, if available and appropriate and requested by all parties;
5. In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex or other prohibited discrimination that complies with the grievance procedures under Part 6 of this policy. To make this fact-specific determination, the Compliance Officer/Title IX Coordinator must consider, at a minimum, the following factors:
  - a. The complainant’s request not to proceed with initiation of a complaint;
  - b. The complainant’s reasonable safety concerns regarding initiation of a complaint;
  - c. The risk that additional acts of sex or other prohibited discrimination would occur if a complaint is not initiated;
  - d. The severity of the alleged sex or other prohibited discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination, and prevent its recurrence;
  - e. The age and relationship of the parties, including whether the respondent is a District employee;

- f. The scope of the alleged sex or other prohibited discrimination, including information suggesting a pattern, ongoing sex or other prohibited discrimination, or sex or other prohibited discrimination alleged to have impacted multiple individuals;
- g. The availability of evidence to assist a decision-maker in determining whether sex or other prohibited discrimination occurred; and
- h. Whether the District could end the alleged sex or other prohibited discrimination and prevent its recurrence without initiating its grievance procedures under Part 6 of this policy.

If, after considering these and other relevant factors, the Compliance Officer/Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education programs or activities, the Compliance Officer/Title IX Coordinator may initiate a complaint;

- 6. If initiating a complaint under paragraph 5 above, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant’s safety or the safety of others, including by providing supportive measures consistent with the provisions below; and
- 7. Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex or other prohibited discrimination does not continue or recur within the District’s, education programs or activities.

The Compliance Officer/Title IX Coordinator is not required to comply with paragraphs 1 through 7 of this Part 3(E) upon being notified of conduct that may constitute sex or other prohibited discrimination if the Compliance Officer/Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex or other prohibited discrimination under this policy.

34 CFR §  
106.44(g)

*F. Supportive Measures.*

The supportive measures referred to above must be offered and coordinated, as appropriate, as follows. For allegations of sex or other prohibited, discrimination, other than sex-based harassment or retaliation, the District’s provision of supportive measures does not require the District, its employee, or any other person authorized to provide aid, benefit, or ser-

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vice on the District’s behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure:

1. Supportive measures may vary depending on what the District deems to be reasonably available. These measures may include but are not limited to: counseling; extension of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.
2. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the District’s educational environment, or to provide support during the District’s grievance procedures under Part 6 of this policy or during the informal resolution process under Part 7 of this policy. The District shall not impose such measures for punitive or disciplinary reasons.
3. The District may, as appropriate, modify, or terminate supportive measures at the conclusion of the grievance procedures under Part 6 of this policy, or at the conclusion of the informal resolution process under Part 7 of this policy, or the District may continue them beyond that point.
4. The District must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the District’s decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in Part 2(E) of this policy. The District must provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.
5. The District shall not disclose information about any supportive measures to a person other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party’s access to the District’s education programs or activities, or when an exception described in Part 3(I) below applies.

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6. If a complainant or respondent is a student with a disability, the Compliance Officer/Title IX Coordinator shall consult with one or more members, as appropriate, of the student’s Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student’s placement decision under 34 CFR § 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education, Act and section 504 of the Rehabilitation Act in the implementation of supportive measures.

34 CFR §  
106.44(h)

*G. Emergency Removal.*

Nothing in this policy precludes the District from removing a respondent from the District’s education programs or activities on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant, or any students, employees, or other persons arising from the allegations of sex or other prohibited discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, section 504 the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990.

34 CFR §  
106.44(i)

*H. Administrative Leave.*

Nothing in this policy precludes the District from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the District’s grievance procedures. This provision must not be construed to modify any rights under section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990.

34 CFR §  
106.44(j)

*I. Personally Identifiable Information.*

The District shall not disclose personally identifiable information obtained in the course of complying with this policy, except in the following circumstances:

- 1. When the District has obtained prior written consent from a person with the legal rights to consent to the disclosure;

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- 2. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is that issue;
- 3. To carry out the purposes of this policy, including action taken to address conduct that reasonably may constitute sex or other prohibited discrimination in the District’s education programs or activities;
- 4. As required by federal law, federal regulations, or the terms and conditions of a federal award, including a grant award or other funding agreement; or
- 5. To the extent such disclosures are not otherwise in conflict with federal nondiscrimination laws or regulations, are required by state or local law, or when permitted under the Family and Educational Rights and Privacy Act (FERPA) or its implementing regulations.

20 U.S.C. §  
1232g; 34 CFR  
part 99

**4. Rights Not Infringed**

The Compliance Officer shall publish and disseminate a notice of this policy and grievance procedure at least annually to students, parents/guardians, employees, and the public, together with either a copy of this policy or a statement how to obtain a copy of this policy. A copy of this policy will be distributed to all buildings and facilities within the District, and included or referenced in all student or employee handbooks.

34 CFR §  
106.6(d), (g)

Notwithstanding anything that could appear to be to the contrary, nothing in this policy shall—

- 1. Restrict any rights that would otherwise be protected from government action by the First Amendment of the U.S. Constitution;
- 2. Deprive a person of any rights that would otherwise be protected from government action under the Due Process Clause of the Fifth and Fourteenth Amendments of the U.S. Constitution;
- 3. Restrict any other rights guaranteed against government action by the U.S. Constitution; or
- 4. Be read in derogation of any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a “complainant,” “respondent,” or other person, including but not limited to making a complaint through the District’s grievance procedures under Part 6 of this policy for complaints of sex or other prohibited discrimination.



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**5. Implementa-  
tion**

The Compliance Officer is responsible to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to existing procedures, and to monitor the implementation of nondiscrimination procedures in the following areas:

4 CFR § 106.8(d)

1. *Curriculum and Materials* — Review of curriculum guides, textbooks and supplemental materials for discriminatory bias.
2. *Training* —The following persons shall receive training related to their duties under this policy promptly upon hiring or change of position that alters their duties under this policy, and annually thereafter. This training must not rely on sex or other stereotypes:
  - a. *All employees* must be trained on:
    - i. The District’s obligation to address sex and other prohibited discrimination in its education programs and activities;
    - ii. The scope of conduct that constitutes sex or other prohibited discrimination under this policy, including the definition of harassment and sex-based harassment; and
    - iii. All applicable notification and information requirements under Parts 3, 7, and 8(B) of this policy.
  - b. *All investigators, decision-makers, and other persons who are responsible for implementing the District grievance procedures or have the authority to modify or terminate supportive measures under Part 3(F) of this policy* must be trained on the following topics to the extent related to their responsibilities:
    - i. Those matters set forth in subparagraph a above;
    - ii. The District’s obligations under Parts 3, 5, and 7 of this policy;
    - iii. The District’s grievance procedures under Part 6 of this policy;
    - iv. How to serve impartially, including by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias; and
    - v. The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the grievance procedures in Part 6 of this policy.

- c. *Facilitators of informal resolution process under Part 7 of this policy* must be trained on the following topics:
  - i. Those matters set forth in subparagraph a above;
  - ii. The rules and practices associated with the District’s, informal resolution process;
  - iii. How to serve impartially, including by avoiding conflicts of interest and bias.
- d. *The Compliance Officer/Title IX Coordinator and designees* must be trained on the following topics:
  - i. Those matters set forth in subparagraphs a, b, and c above;
  - ii. Their specific responsibilities under Part 3(A), Part 3(E), Part 3(F), and Part 8(C) of this policy;
  - iii. The District’s recordkeeping system;
  - iv. The recordkeeping requirements of Part 5(8) of this policy and
  - v. Any other training necessary to coordinate the District’s compliance with this policy.
- 3. *Student Access* — Review of programs, activities, and practices to ensure that all students have equal access and are not segregated except when permissible by law or regulation.
- 4. *District Support* — Assurance that like aspects of the school program receive like support as to staffing and compensation, facilities, equipment, and related matters.
- 5. *Student Evaluation* — Review of tests, procedures, and guidance and counseling materials for stereotyping and discrimination.
- 6. *Employment Relations* — Review of personnel practices and actions for discriminatory bias and compliance with this policy and anti-discrimination laws, including the following areas:
  - a. Development of position qualifications, job descriptions and essential job functions.
  - b. Recruitment materials and practices.
  - c. Procedures for screening, interviewing and hiring.

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|                    | d. Performance evaluations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 3  |
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|                    | f. Disciplinary actions, up to and including terminations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 7  |
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| 34 CFR § 106.45    | 7. <i>Reports and Complaints</i> — Administration of the reporting and grievance procedure provided in Part 6 of this policy. Any provisions, rules, or practices utilized by the District as part of its grievance process for handling complaints of sexual harassment must apply equally to complainants and respondents, unless otherwise required under Part 6 of this Policy.                                                                                                                                                                                | 9  |
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| 34 CFR § 106.8(f)  | 8. <i>Recordkeeping</i> — Maintaining for a period of at least seven (7) years:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 16 |
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|                    | a. For each complaint of sex or other prohibited discrimination, records documenting the informal resolution process under Part 7 of this policy or the grievance procedures under Part 6 of this policy, and the resulting outcome.                                                                                                                                                                                                                                                                                                                               | 18 |
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|                    | b. For each notification the Compliance Officer/Title IX Coordinator receives of information about conduct that reasonably may constitute sex or other prohibited discrimination under this policy, including notifications received from employees under Part 3 of this policy, records documenting the actions the District took to meet its obligations under Parts 3, 5, and 7 of this policy.                                                                                                                                                                 | 23 |
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|                    | c. All materials used to provide training under Part 5(2) of this policy. These training materials shall be made available on request for inspection by members of the public.                                                                                                                                                                                                                                                                                                                                                                                     | 30 |
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|                    | 9. <i>Resources</i> — Maintaining and providing information to staff on resources available to alleged victims.                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 34 |
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| 34 CFR § 106.44(b) | 10. <i>Barriers to Reporting</i> — Monitoring the District’s education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex or other prohibited discrimination under this policy, and taking steps reasonably calculated to address such barriers.                                                                                                                                                                                                                                                       | 37 |
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| 34 CFR §§ 106.8(e) | 11. <i>Students with Disabilities</i> — If a complainant or respondent is a student with a disability, the Compliance Officer/Title IX Coordinator shall consult with one or more members, as appropriate, of the student’s Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student’s placement decision under 34 CFR § 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and section 504 of the Re- | 43 |
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habilitation Act throughout the District’s implementation of grievance procedures under Part 6 of this policy.

Each employee shall be responsible to maintain a learning and working environment free from all forms of unlawful discrimination and harassment, and, except for confidential employees, to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.

Each student shall be responsible to respect the rights of their fellow students and District employees and to ensure an environment free from all forms of unlawful discrimination and harassment, and to report all incidents of unlawful discrimination or harassment which he/she observes or is informed about to the building principal or Compliance Officer.

6. Grievance Procedures

A. Reporting Violations and Making Complaints.

A student (or his/her parent/guardian), employee, or third party who believes he/she or any other person has been subject to conduct that constitutes a violation of this policy is encouraged to report the incident to the building principal as soon as possible. For employees assigned to the District Administration Office, the relevant building principal is the principal of Sheckler Elementary School. A student may also report incidents/violations to any teacher, coach/advisor, counselor, or administrator.

Any school employee who suspects or is notified that a student has been subject to conduct that constitutes a violation of this policy, shall report the incident to the building principal as soon as possible (not later than twenty-four (24) hours unless extenuating circumstances justify a reasonable extension of that deadline) and shall make proper and timely police and child protective services reports required by law. If it is not possible to contact the building principal in a timely fashion, the school employee shall report the incident to the Compliance Officer or another building principal as soon as possible.

If the building principal is the subject of the report or otherwise not impartial, the student (or his/her parent or guardian), third party, or employee shall report the incident directly to the Compliance Officer. If the Compliance Officer is also a subject of the report or otherwise not impartial, the report shall be made to another building principal.

Notwithstanding the preceding paragraphs, any person may report any discrimination prohibited by this policy, including sex-based harassment or other harassment, whether or not the person reporting is the alleged victim of the discrimination or harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the

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Title IX Coordinator and Compliance Officer, or by any other means that results in the Title IX Coordinator/Compliance Officer receiving the person’s verbal or written report. Such a report may be made at any time (including non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator/Compliance Officer.

The building principal or Compliance Officer shall inform any complainant or potential complainant who is a minor that he/she may be accompanied by a parent/guardian during all steps of the grievance procedure.

The person receiving an oral or written report may provide factual information on the grievance procedures and investigation process, the rights to file criminal charges, and relevant information on available resources besides the school grievance procedure, such as domestic violence or rape crisis programs and community health resources including counseling resources. In all other respects, the person receiving the report or complaint shall handle the case objectively, neutrally, and professionally, setting aside personal biases that might favor or disfavor the complainant or those accused of a violation of this policy.

Any building principal or other administrator who knows or receives a report of a possible violation of this policy shall inform the Compliance Officer.

The following persons have a right to make a complaint of sex or other prohibited discrimination, including complaints of sex-based harassment or other forms of harassment, requesting that the district investigate and make a determination about alleged discrimination under this policy:

1. A complainant;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
3. The Compliance Officer/Title, IX Coordinator, after making the determinations specified in Part 3(E)(5) of this policy;
4. With respect to complaints of prohibited discrimination, other than sex-based harassment, any student or employee or any other person who was participating or attempting to participate in the District’s, education programs or activities at the time of the alleged discrimination.

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34 CFR §  
106.45(b)

B. *Basic Requirements.*

Throughout the grievance procedure, District personnel shall:

1. Treat complainants and respondents equitably.
2. Require that any person designated as a Compliance Officer, investigator, or decision-maker shall not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. The decision-maker may be the same person as the Compliance Officer or investigator.
3. Presume that the respondent is not responsible for the alleged prohibited discrimination until a determination is made at the conclusion of the grievance procedure.
4. Establish reasonably prompt time frames for the major stages of the grievance procedure, including a 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. Major stages include, for example, evaluation (*i.e.*, the District’s decision whether to dismiss or investigate a complaint of prohibited discrimination); investigation; determination; and appeal, if any.
5. Take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance procedure, provided that the steps do not restrict the ability of the parties to:
  - a. observe and present evidence, including by speaking to witnesses, subject to the retaliation provisions of this policy;
  - b. consult with their family members, confidential resources, or advisors; or
  - c. otherwise prepare for or participate in the grievance procedure.
6. Make an objective evaluation of all evidence that is relevant, as defined in Part 2(G) of this policy, and not otherwise impermissible under paragraph 7 below, including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person’s status as a complainant, respondent, or witness.
7. Exclude the following types of evidence, and questions seeking that evidence, as impermissible (*i.e.*, must not be accessed or considered, except by the District to determine whether an exception in the following subparagraphs a through c applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:

- a. Evidence that is protected under a privilege as 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, psychiatrist, 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 the grievance procedure; or
- c. Evidence that relates to a 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 complaints consent to the alleged sex-based harassment or precluded determination that sex-based harassment occurred.

C. *Notice of Allegations.*

Upon initiation of the District’s grievance procedures, the Compliance Officer shall provide notice of the allegations to the parties whose identities are known. The notice must include:

- 1. The District’s grievance procedures under Part 5 of this policy, and the informal resolution process under Part 6 of this policy;
- 2. Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute prohibited discrimination or harassment, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the District;
- 3. A statement that retaliation is prohibited; and
- 4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence as set out in Part 6(F)(4) of this policy; and if the District provides a description of the evidence, the

34 CFR §  
106.45(c)

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parties are entitled to an equal opportunity to access to 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 prohibited discrimination by the respondent toward the complainant that are not included in the notice provided above, or that are included in a complaint that is consolidated under Part 6(E) of this policy, the District must provide notice of the additional allegations to the parties whose identities are known

D. Dismissal of a Complaint.

34 CFR § 106.45(d)

- 1. The District may dismiss a complaint of sex or other prohibited discrimination made through its grievance procedures under Part 6 of this policy, for any of the following reasons:
  - a. The District is unable to identify the respondent after taking reasonable steps to do so;
  - b. The respondent is not participating in the District’s education programs or activities, and is not employed by the District;
  - c. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Compliance Officer declines to initiate a complaint under Part 3(E)(5) of this policy, 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 or other prohibited discrimination under this policy, even if proven; or
  - d. The District determines the conduct alleged in the complaint, even if proven, would not constitute sex or other prohibited discrimination under this policy. Prior to dismissing the complaint under this clause, the District must make reasonable effort to clarify the allegations with the complainant.
- 2. Upon dismissal, the District must 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 must 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.

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- 3. The District must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases set out in Part 6(I)(1) of this policy. If the dismissal occurs after the respondent has been notified of the allegations, then the recipient must also notify the respondent that the dismissal may be appealed on the bases set out in Part 6(I)(1) of this policy. If the dismissal is appealed, the District must:
  - a. Notify the parties of any appeal, including notice of the allegations, consistent with Part 6(C) of this policy, if notice was not previously provided to the respondent;
  - b. Implement appeal procedures equally for the parties;
  - c. Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
  - d. Ensure that the decision-maker for the appeal has been trained as set out in Part 5(2)(b) of this policy;
  - e. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - f. Notify the parties of the results of the appeal and the rationale for the result.
  
- 4. If the District dismisses a complaint, the Compliance Officer/Title IX Coordinator must, at a minimum:
  - a. Offer supportive measures to the complainant as appropriate under Part 3(F) of this policy;
  - b. For dismissals under Part 6(D)(1)(c) or (d) of this policy in which the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate under Part 3(F) of this policy; and
  - c. Take other appropriate prompt and effective steps to ensure that sex or other prohibited discrimination does not continue or recur within the District’s education programs or activities under Part 3(E)(7) of this policy.

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34 CFR §  
106.45(e)

*E. Consolidation of Complaints.*

The District may consolidate complaints of sex or other prohibited 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 or other prohibited discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references in this Part 6 of this policy to a party, complainant, or respondent include the plural, as applicable.

34 CFR §  
106.45(f)

*F. Complaint Investigation.*

The District shall provide for adequate, reliable, and impartial investigation of complaints. To do so, the District shall:

1. Ensure that the burden is on the District—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex or other prohibited discrimination occurred;
2. Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
3. Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible, regardless of relevance, consistent with Parts 2(G) and 6(B)(7) of this policy; and
4. Provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex or other prohibited discrimination, and not otherwise impermissible, consistent with Parts 2(G) and 6(B)(7) of this policy, in the following manner:
  - a. The District must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of the evidence. If the District provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
  - b. The District must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence described in Part 6(F)(4)(a) of this policy; and;

c. The District must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this clause, disclosures of such information and evidence for the purposes of administrative proceedings or litigation related to the complaint of sex or other prohibited discrimination are authorized.

34 CFR § 106.45(g)

G. *Questioning Parties and Witnesses.*

The grievance procedures shall provide 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 or other prohibited discrimination.

34 CFR § 106.45 (h)

H. *Determination Whether Discrimination Occurred.*

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence under Part 6(F) ad 6(G) of this policy, the District shall:

1. Use the preponderance of the evidence standard of proof to determine whether sex or other prohibited discrimination occurred. This standard requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decision-maker is not persuaded under the applicable standard by the evidence that sex or other prohibited discrimination occurred, whatever the quantity of the evidence is, the decision-maker must not determine that sex or other prohibited discrimination occurred;
2. Notify the parties in writing of the determination whether sex or other prohibited discrimination occurred under this policy, including the rationale for such determination, and the procedures and permissible bases for the complainant and responded to appeal, if applicable;
3. If there is a determination that sex or other prohibited discrimination occurred, as appropriate, the Compliance Officer/Title IX Coordinator shall:
  - a. coordinate the provision and implementation of remedies to a complainant and other person the District identifies as having had equal access to the District's education programs and activities limited or denied by sex or other prohibited discrimination;

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- b. coordinate the implementation of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- c. take other appropriate prompt and effective steps to ensure that sex or other prohibited discrimination does not continue or recur within the District’s education programs or activities under Part 3(E)(7) of this policy.

The District may not impose discipline on a respondent for sex or other prohibited discrimination unless there is a determination at the conclusion of the District’s grievance procedures that the respondent engaged in sex or other prohibited discrimination.

- 4. Comply with Part 6 of this policy before the imposition of any disciplinary sanctions against respondent; and
- 5. Not discipline a party, witness, or others participating in the District’s grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the District’s determination whether sex or other prohibited discrimination occurred.

34 CFR §  
106.45(i)

*I. Appeals.*

In addition to an appeal of a dismissal consistent with Part 6(D)(3) of this policy, the District shall offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints.

34 CFR §  
106.45(l)

*J. Provisions Limited to Sex-Based Harassment Complaints.*

For complaints alleging sex-based harassment:

- 1. The range of supportive measures available to complainants and respondents under Part 3(F) of this policy includes, but is not limited to: counseling; extension of deadlines, modification of class or work schedules and/or assignments, and other course- or work-related adjustments; assigned escort; changed seating; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs related to sex-based harassment; and other similar measures.

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2. The range of possible disciplinary sanctions that the District may impose following a determination that the sex-based harassment occurred includes: written warning, restriction or loss of certain privileges (such as access to extracurricular activities, school events, or certain facilities), requirement to attend counseling, requirement to attend educational programs that address the unacceptable behavior, disciplinary probation (monitoring), requirement to issue a written apology(ies), restitution for damages or losses, suspension, expulsion, and termination of employment.

3. The range of possible remedies that the District may provide following a determination that the sex-based harassment occurred includes: restricting or prohibiting contact with the complainant by the respondent (including through class or work schedule changes), educational programs/training for students and/or employees (which may be live or online, and produced directly by the District or through outside organizations), and restitution for damages or losses,

A. *Discretion to Offer.*

At any time prior to determining whether sex or other prohibited discrimination occurred under the grievance procedures in Part 6 of this policy, the District may, in its discretion, offer to a complainant and respondent an informal resolution process. The District may decline to offer an informal resolution process as it sees fit, including, but not limited to, when it determines that the alleged conduct would present a future risk of harm to others, and despite the wishes of one or more of the parties. However, an informal resolution process may not be utilized if the complaint includes allegations that an employee engaged in sex-based harassment of a student or such a process would conflict with federal, state, or local law.

B. *Participation Not Required.*

The District may not require or pressure the parties to participate in an informal resolution process. The District must obtain the parties', voluntary consent to the informal resolution process, and must not require waiver of the rights to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.

**7. Informal Resolution**

34 CFR § 106.44(k)

34 CFR § 106.44(k)(2)

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34 CFR §  
106.44(k)(3)

*C. Notice to Parties.*

Before initiation of an informal resolution process, the District must provide it to the parties notice that explains:

1. the allegation;
2. the requirements of the informal resolution process;
3. that, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the District’s grievance procedures;
4. that the parties’ agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
5. the potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
6. what information the District will maintain and whether and how the District could disclose such information for use in grievance procedures under Part 6 of this policy if grievance procedures are initiated or resumed.

34 CFR §  
106.44(k)(4)

*D. Facilitator.*

The facilitator for the informal resolution process must not be the same person as the investigator or the decision-maker in the District’s grievance procedures. Any persons designated by the District to facilitate an informal resolution process must not have a conflict of interest or bias for or against complaints or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training under Part 5(2)(c) of this Policy.

34 CFR §  
106.44(k)(5)

*E. Potential Terms of an Agreement.*

Potential terms that may be included in an informal resolution agreement include, but are not limited to:

1. restrictions on contact; and
2. restrictions on the respondent’s participation in one or more of the District’s programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or

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disciplinary sanctions had the District determined at the conclusion of the District’s grievance procedures that sex or other prohibited discrimination occurred.

**8. Pregnancy or Related Conditions**

34 CFR § 106.40(b)

*A. Nondiscrimination.*

The District shall not discriminate in its education programs or activities against any student based on the student’s current, potential, or past pregnancy or related conditions. The District may allow a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of the District’s education programs or activities provided the District ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions.

*B. Compliance Officer Contact and Other Information.*

The District shall ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student’s pregnancy or related conditions, unless the employee reasonably believes that the Compliance Officer/Title IX Coordinator has been notified, the employee properly provides that person with the Compliance Officer’s contact information and informs that person that the Compliance Officer can coordinate specific actions to prevent sex discrimination and ensure the students equal access to the District’s education programs and activities.

*C. Specific Actions Required.*

The District shall take the following specific actions to promptly and effectively prevent sex discrimination and ensure equal access to the District’s education programs and activities once the student, or a person who has a legal right to act on behalf of the student, notifies the Compliance Officer/Title IX Coordinator of the student’s pregnancy or related conditions. The Compliance Officer must coordinate these actions:

1. Responsibility to Provide Information.

The District shall inform the student, and if applicable, the person who notified the Compliance Officer of the student’s pregnancy or related conditions and has the legal right to act on behalf of the student, of the District’s obligations under this subpart C and obligation not to disclose personally identifiable information obtained in the course of complying with this policy except in the circumstances described in Part 3(I) of this policy, and provide the District’s notice of nondiscrimination under Part 3(B) of this policy.

2. Reasonable Modifications.

a. The District shall make reasonable modifications to the District’s policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the District’s education programs and activities. Each reasonable modification must be based on the student’s individualized needs. In determining what modifications are required under this clause, the District must consult with the student. A modification that the District can demonstrate would fundamentally alter the nature of its education programs or activities is not a reasonable modification.

b. The student has discretion to accept or decline each reasonable modification offered by the District. If a student accepts the District’s offered reasonable modification, the District must implement it.

c. Reasonable modifications may include, but are not limited to:

i. breaks during class to express breastmilk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom;

ii. intermittent absences to attend medical appointments;

iii. access to online or homebound, education;

iv. changes in schedule or course sequence;

v. extensions of time for coursework and rescheduling of tests and examination;

vi. allowing a student to sit or stand, or carry or keep water nearby;

vii. counseling;

viii. changes in physical space or supplies (for example, access to a larger desk, or a footrest);

ix. elevator access; or

x. other changes to policies, practices, or procedures.

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3. Voluntary Access to Separate and Comparable Programs.

The District shall allow the student to voluntarily access any separate and comparable portion of the District’s education program or activity under Part 8(A) of this policy.

4. Voluntary Leaves of Absence.

The District shall allow the student to voluntarily take a leave of absence from the District’s education programs and activities to cover, at a minimum, the period of time deemed medically necessary by the student’s licensed healthcare provider. To the extent that a student qualifies for a leave under a leave policy maintained by the District that allows a greater period of time than the medically necessary period, the District must permit the student to take voluntary leave under that policy instead if the student chooses. When the student returns to the District’s education programs and activities, the student must be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the voluntary leave began.

5. Lactation Space.

The District shall ensure that the student can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

6. Limitation on Supporting Documentation.

The District shall not require supporting documentation under paragraphs 2 through 5 of this Part 8(C) unless the documentation is necessary and reasonable for the District to determine the reasonable modifications to make or whether to take additional specific actions under paragraphs 2 through 5 of this Part 8(C). Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to:

- a. when the student’s need for a specific action under paragraphs 2 through 5 of this Part 8(C) is obvious, such as when is student who is pregnant needs a bigger uniform;
- b. when the student has previously provided the District with sufficient supporting documentation;

- c. when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom;
- d. when the student has lactation needs; or
- e. when the specific action under paragraphs 2 through 5 of this Part 8(C) is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

*D. Comparable Treatment to Other Temporary Medical Conditions.*

To the extent consistent with the above Part 8(C) of this policy, the District shall treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical condition with respect to any medical or hospital benefit, service, plan, or policy the District administers, operates, offers, or participates in with respect to students admitted to the District’s, education programs and activities.

*E. Certification to Participate.*

The District shall not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the District’s class, program, or extracurricular activity, unless:

- 1. The certified level of physical activity or health is necessary for participation in the class, program, or extracurricular activity;
- 2. The District requires such certification of all students participating in the class, program, or extracurricular, activities; and.
- 3. The information obtained is not used as a basis for discrimination prohibited by this policy.

*A. Marital Status.*

The District shall not make a pre-employment inquiry as to the marital status of any applicant for employment, including whether such applicant is “Miss or Mrs.”

**9. Pre-employment Inquiries**

34 CFR § 106.60

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*B. Sex.*

The District may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants, and if the response is not used as a basis for discrimination prohibited by this policy.

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