

FLORIDA STATE UNIVERSITY SCHOOLS

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POLICY MANUAL

BOARD GOVERNANCE AND ORGANIZATION

CHAPTER 2.0

2.70

**PROHIBITING DISCRIMINATION, INCLUDING SEXUAL AND OTHER FORMS
OF HARASSMENT**

I. Policy Against Discrimination

A. The FSUS School Board prohibits all forms of unlawful discrimination against students, employees and other persons in all aspects of the school's programs, activities and operations. The term "unlawful discrimination" encompasses any unlawful policy, practice, conduct, or other unlawful denial of rights, benefits, or privileges that is based on any legally protected status or classification under applicable federal, state, or local law including but not limited to race (including anti-Semitism), color, religion, gender, age, marital status, sexual orientation, pregnancy, disability, political or religious beliefs, national or ethnic origin, or genetic information. Various state and federal laws establish the actions that do (and do not) constitute unlawful discrimination with respect to each protected status or classification. Where applicable, unlawful harassment that is based on a legally-protected status is one form of unlawful discrimination. The FSUS School Board shall comply with all state and federal laws, which prohibit discrimination and are designed to protect the civil rights of applicants, employees, and/or students, or other persons or organizations protected by applicable law.

- B. Pursuant to 1002.32(4), a lab school may establish and implement an admissions process that is designed to result in a representative sample of public school enrollment based on gender, race, socioeconomic status, and academic ability.
- C. The School Board prohibits retaliation by any District personnel against a person for reporting, filing or being a witness in a discrimination (including harassment) charge, complaint, investigation or lawsuit associate or in connection with this policy.
- D. Established grievance procedures and appropriate discrimination complaint forms are available from the Office of Civil Rights & Equity (Professional Standards), Student Support Services or the Equity Coordinator at each school/ district office.

Complaints/inquiries regarding compliance with these regulations may be submitted in writing to:

1. For Employee – FSU’s Office of Equity, Diversity and Inclusion (Michelle Douglas, 850-644-7950)
2. For Students – Student Support Services at (245-3700)
3. Job applicants with disabilities requesting accommodations under the American with Disabilities Act (ADA) may contact FSU Human Resources at (850-645-1458)
4. Current School District employees with disabilities requesting accommodations under the ADA may contact FSU Human Resources at (850-645-1458)

II. Policy Against Sexual Harassment or Other Forms of Harassment Prohibited by Law

- A. The FSUS School Board desires to maintain an academic and work environment in which all employees, volunteers, and students are treated with respect and dignity. A vital element of this atmosphere is the FSUS

Board's commitment to equal opportunities and the prohibition of discriminatory practices. The FSUS Board's prohibition against discriminatory practices includes prohibitions against sexual harassment, or any other form of harassment based upon a person's membership in a protected class and specifically prohibited by applicable state or federal law. The School Board forbids sexual harassment, or any other form of illegal harassment, of any employee, student, volunteer or visitor. The FSUS Board will not tolerate sexual harassment, or any other form of illegal harassment by any of its employees, students, volunteers or agents.

- B. The prohibition against discrimination including sexual and other forms of illegal harassment shall also apply to nonemployee volunteers who work subject to the control of school authorities, and to all vendors or service providers who have access to School Board facilities.

III. Policies, procedures and definitions related to other discrimination or illegal harassment for employees can be found at Florida State University's Office of Human Resources website.

IV. Definitions

- A. Compliance Officer is the person designated by the School Board to receive complaints of harassment referred by the FSUS Title IX Coordinator and oversees the investigation of those complaints as described below.
- B. Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:
 - 1. An employee of the School Board conditioning the provision of an aid, benefit, or service of the School Board on an individual's participation in unwelcome sexual conduct (quid pro quo)
 - 2. Any unwanted or unwelcome conduct that a reasonable person would find so severe, pervasive and objectively offensive that it denies a person equal educational access.

3. Reports of sexual assault, dating violence, domestic violence and stalking, as defined in the federal Violence Against Women Act do not need to meet the description of severe, pervasive and objectively offensive.
- C. Prohibited sexual harassment includes, but is not limited to, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when
1. Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
 2. Submission to or rejection of the conduct by an individual is used as the basis for employment or academic decisions affecting the individual.
 3. The conduct has the purpose or effect of having a negative impact on the individual's academic performance or employment, unreasonably interfering with the individual's education or employment, or creating an intimidating, hostile, or offensive educational or employment environment.
 4. Submission to or rejection of the conduct by the individual is used as the basis for any decision affecting the individual regarding any term or condition of employment, employment or academic benefits, or services, honors, programs, or activities available at or through the school.
- D. Types of conduct which are prohibited at FSUS and which may constitute sexual harassment include, but are not limited to
1. Graphic verbal comments about an individual's body or appearance.
 2. Sexual jokes, notes, stories, drawings, pictures or gestures.

3. Sexual slurs, leering, threats, abusive words, derogatory comments or sexually degrading descriptions.
4. Unwelcome sexual flirtations or propositions for sexual activity or unwelcome demands for sexual favors, including but not limited to repeated unwelcome requests for dates.
5. Spreading sexual rumors.
6. Touching an individual's body or clothes (including one's own) in a sexual way, including, but not limited to, grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, and fondling.
7. Cornering or blocking normal movements.
8. Displaying sexually suggestive drawings, pictures, written materials, and objects in the educational environment.

V. Definition of Other Forms of Prohibited Harassment

- A. Illegal harassment on the basis of any other characteristic protected by state or federal law is strictly prohibited. This includes verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race (including ant-Semitism), color, religion, gender, national or ethnic origin, age, disability, marital status, sexual orientation, political or religious beliefs, citizenship, pregnancy or genetic information or any other distinguishing physical or personality characteristic protected by law and that
1. Has the purpose or effect of creating an intimidating, hostile or offensive work or academic environment;
 2. Has the purpose or effect of interfering with an individual's work or academic performance; or
 3. Otherwise, adversely affects an individual's employment or academic performance.

- B. Examples of prohibited actions, which may constitute harassment include, but are not limited to, the following:
 - 1. Epithets, slurs or negative stereotyping; or
 - 2. Threatening, intimidating or hostile acts, such as physical acts of aggression against a person or his property; or
 - 3. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the school or District office premises or circulated in the workplace or academic environment.
- V. Procedures for Filing Complaint of Discrimination, Sexual Harassment, or Other Form of Illegal Harassment
 - C. Procedures for Filing Complaints
 - 1. Any person who believes that he or she has been discriminated against, or placed in a hostile environment based on gender, marital status, sexual orientation, race, color, national or ethnic origin, religion, age, disability, political or religious beliefs, pregnancy or any other distinguishing physical or personality characteristics by an employee, volunteer, agent or student of FSUS should report the alleged harassment to the Title IX Coordinator or to any school personnel. The alleged harassment should be reported within sixty (60) days of alleged occurrence. The complaint should set forth a description of the alleged discriminatory actions/harassment, the time frame in which the alleged discrimination occurred, the person or persons involved in the alleged discriminatory actions, and any witnesses or other evidence relevant to the allegations in the complaint. Any school personnel who has notice that a student or other school personnel may have been a victim of prohibited harassment shall immediately report the alleged harassment to the Title IX Coordinator. The formal complaint must be resolved according to

the federal regulations and FSUS processes that specifically apply to such formal complaints; and

2. After receiving a complaint, the Title IX Coordinator makes an initial determination whether the allegations may be sexual harassment prohibited by Title IX. If they may be, the Title IX Grievance Process listed below is followed. If it does not meet the sexual harassment prohibited by Title IX, then the complaint is referred to the Compliance Officer who follows the procedures set forth below. The Title IX Coordinator will also determine whether the alleged harassment may also constitute criminal conduct and ensure that law enforcement officials are notified, if necessary. If the alleged harassment may also constitute child abuse, then it must be reported to the Department of Children and Families.
3. The complaint should be filed with the School Principal, Site Administrator or Supervisor. Complaints filed with the Principal, Site Administrator, or supervisor must be forwarded to the District's Title IX Coordinator within five (5) days of the filing of the complaint. If the complaint is against the principal, site administrator, or supervisor, the complaint may be filed directly with the EEO (*Equity or Professional Standards coordinator) officer.
4. If the complaint is against the District's District's Title IX Coordinator, the Director, or other member of the School Board, the complaint may be filed with the School Board Attorney.

D. Procedures for Processing Complaints of Harassment

1. Complaints filed against persons other than the District's Title IX Coordinator, Director or member of the School Board.

- a. Upon receipt of the written complaint by the FSUS District's Title IX Coordinator , the FSUS District's Title IX Coordinator shall appoint an investigator to conduct an investigation of the allegations in the complaint. The investigation may be conducted by school personnel or a third party designated by FSUS. The investigation will be conducted within thirty (30) days. The investigator shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the person allegedly harassed. The investigator shall interview the complainant and the accused; interview any witnesses identified by the complainant, accused, or by other sources; take statements from all witnesses; and review any relevant documents or other evidence. Upon completing a review of all evidence relevant to the complaint, the investigator shall prepare a written summary of the investigation, and make a recommendation to the FSUS as to District's Title IX Coordinator whether there is reasonable cause to believe a violation of the FSUS's antidiscrimination policy has occurred. Copies of documents, evidence and witness statements which were considered in the investigation must be sent to the District's Title IX Coordinator along with the summary and recommendation.
- b. If the complaint is against the District's Title IX Coordinator , the School Board Attorney shall appoint an investigator, who shall conduct an investigation in the manner set forth in section V.B.1.a.

- c. The investigation, summary, relevant documents, witnesses' statements and recommendation should be completed and forwarded to the District's Title IX Coordinator within thirty (30) days, or to the School Board Attorney within thirty (30) days, if the complaint is against the District's Title IX Coordinator. The District's Title IX Coordinator, or School Board Attorney, respectively, shall review the investigation summary, evidence and recommendation, and determine within ten (10) days whether there is reasonable cause to believe a discriminatory practice occurred.
- d. If the District's Title IX Coordinator or School Board Attorney determines there is reasonable cause to believe a violation of the nondiscriminatory policy occurred, he or she shall within ten (10) days provide notice of the reasonable cause finding to the complainant and the accused. The District's Title IX Coordinator or School Board Attorney shall then forward the investigatory file, reasonable cause determination, and all related documents and evidence, to the Director.
- e. If the District's Title IX Coordinator or School Board Attorney determines, after a review of the investigation, summary, recommendation and other evidence, that there is no reasonable cause to believe a discriminatory practice occurred, he or she shall provide within ten (10) days notice of the finding of no reasonable cause to the complainant and accused. The complainant may request a no reasonable cause finding by the District's Title IX Coordinator or School Board Attorney be reviewed by the Superintendent within ten (10) days of receipt of this notice. The complainant shall

provide a written statement detailing facts in support of his or her disagreement with the determination.

- f. The complainant will also be given an opportunity to meet with the Director and District's Title IX Coordinator /School Board Attorney to present his or her position. The Director and District's Title IX Coordinator /School Board Attorney shall prepare a written memorandum summarizing the content of the conference to be included in the complaint file. The Director shall within ten (10) days of receipt of the notice make a final determination as to whether there is reasonable cause to believe a discriminatory practice occurred.
- g. If review by the Director is not timely requested, the District's Title IX Coordinator or School Board Attorney's determination of no reasonable cause shall be final.
- h. The accused may request, within ten (10) days of receipt of a notice of a finding of reasonable cause, that the determination be reviewed by the Director. The request must include a written statement expressing the accused's position on the complaint and findings, and address any facts, statements or evidence which he or she submits are inaccurate. The accused will be given an opportunity to meet with the Director and the District's Title IX Coordinator /School Board Attorney to present his or her position. The Director and District's Title IX Coordinator /School Board Attorney must within ten (10) days of receipt of the notice prepare a memorandum summarizing the content of the meeting to be included in the complaint file.

- i. If review by the Director is not timely requested, the District's Title IX Coordinator or School Board Attorney's determination of no reasonable cause shall be final.
- j. After providing the opportunity for an informal hearing as referenced in section V.B.1.h., the Director shall evaluate all the evidence, the investigation summary, recommendations and findings, along with any input by the accused and complainant, and make a final determination as to whether there is reasonable cause to support the complainant's allegations. He or she shall then determine any necessary disciplinary, remedial, or other action. Notice of the final disposition of the complaint and any disciplinary and/or remedial action shall within ten (10) days of the informal hearing be forwarded to the accused and the complainant, and a copy of the notice will be filed with and maintained in the office of the FSUS District's Title IX Coordinator and FSUS Human Resources.
- k. All employees shall cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency.
- l. Employees may choose to pursue their complaints through the relevant employee grievance procedure instead of the complaint procedure in this policy.
- 2. Complaints against School Board Members or against the Director
 - a. Complaints against School Board Members or the Director shall be filed with the School Board Attorney. The School Board Attorney will within twenty (20) days appoint an outside, independent investigator to conduct an investigation and make a recommendation as to whether a

discriminatory practice has occurred. It is recommended, but not mandatory, that the investigator be an attorney familiar with federal and state law prohibiting discrimination on the basis of a protected status.

- b. The complainant and accused shall be interviewed by the outside investigator. Both shall provide written lists of witnesses to be interviewed, and documents or other evidence to be reviewed as relevant to the complaint. The investigator shall interview all witnesses identified by the complainant or accused, in addition to witnesses with relevant knowledge which the investigator may discover from other sources. The investigator shall also review relevant documents and other evidence. The investigator shall within twenty (20) days of receiving the complaint prepare a written summary of his or her investigation, and a recommendation to the School Board Attorney as to whether there is reasonable cause to believe that a discriminatory practice may have occurred.
- c. If reasonable cause is recommended by the investigator against a School Board Member or an elected Superintendent, the recommendation shall within twenty (20) days be forwarded to the Governor's office to determine if there is evidence that a misfeasance or malfeasance of office occurred. The Governor's office will be responsible for taking any necessary action in accordance with applicable law with reference to an elected official. The School Board shall receive and make the final determination if the Superintendent is appointed by the Board.

- d. A finding of no reasonable cause by the outside investigator, which is reviewed and confirmed by the School Board Attorney shall be final. In compliance with Florida Statute, the investigation file shall become public record and the Director or School Board Member shall answer to their community.
- e. Penalties for Confirmed Discrimination or Harassment
- f. Student - A substantiated allegation of discrimination or harassment against a student shall subject that student to disciplinary action consistent with the Code of Student Conduct.
- g. Employee or Volunteer - A substantiated allegation of discrimination or harassment against an employee may result in disciplinary actions including termination and referral to appropriate law enforcement authorities. A volunteer shall be removed from service and a referral may be made to appropriate law enforcement authorities.

E. Limited Exemption from Public Records Act and Notification of Parents of Minors

1. To the extent possible, complaints will be treated as confidential and in accordance with Florida Statutes and the Family Educational Rights and Privacy Act (FERPA). Limited disclosure may be necessary to complete a thorough investigation as described above. The District's obligation to investigate and take corrective action may supersede an individual's right to privacy.
2. The parents of a person under the age of 18 who has filed a complaint of discrimination and/or harassment shall be notified within three (3) days of receipt of a complaint.

VI. Sexual Harassment Prohibited by Title IX

A. Definitions

1. Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment prohibited by Title IX.
2. Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment prohibited by Title IX against a respondent and requesting that the allegation be investigated. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. When the Title IX coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party. The allegations in a formal complaint must be investigated. In response to a formal complaint, the Title IX grievance process noted below is followed.
3. Program or Activity includes locations, events or circumstances over which the School Board exercises substantial control over both the respondent and the context in which the sexual harassment occurs.
4. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment prohibited by Title IX.
5. Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the School Board's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all

parties or the educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security or monitoring of parts of campus, and other similar measures. Any supportive measures provided to the complainant or respondent are maintained as confidential, to the extent that maintaining such confidentiality does not impair the ability to provide supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

B. Title IX Complaint (Grievance) Process

1. Any person may report sex discrimination prohibited by Title IX, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or by any other means that results in the Title IX Coordinator 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.
2. Complainants and respondents are treated equitably by offering supportive measures to a complainant and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

3. The Title IX Coordinator promptly contacts the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain the process for filing a formal complaint.
4. Nothing herein precludes a respondent from being removed from the School's education program or activity on an emergency basis, provided that an individualized safety and risk assessment determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and that the respondent is provided with notice and an opportunity to challenge the decision immediately following the removal.
5. Nothing herein precludes a non-student employee respondent from being placed on administrative leave during the pendency of a grievance process.
6. This grievance process treats complainants and respondents equitably by providing remedies to complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following this process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies are designed to restore or preserve equal access to the School's education program or activity.
7. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

8. All relevant evidence is evaluated objectively, including both inculpatory and exculpatory evidence. Credibility determinations are not based on a person's status as a complainant, respondent, or witness.
9. Any Title IX Coordinator, investigator, decision-maker, or any person who facilitates an informal resolution process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
10. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must receive training on the definition of sexual harassment prohibited by Title IX, the scope of the School's education program or activity, how to conduct an investigation and grievance process including appeals, and informal resolution processes, and how to serve impartially, including by avoiding pre-judgment of the facts at issue, conflicts of interest, and bias. Decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators receive training on issues of relevance in order to create investigative reports that fairly summarize relevant evidence.
11. A finding of responsibility may result in disciplinary action up to and including expulsion for students or dismissal of employees.
12. The standard of evidence used to determine responsibility is preponderance of the evidence.
13. This grievance process does not allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived the privilege.

14. Notice of allegations

a. On receipt of a formal complaint, the Title IX coordinator gives the following written notice to the parties who are known:

(3) notice of the grievance process, including any informal resolution process, and

(3) notice of the allegations of sexual harassment potentially constituting sexual harassment prohibited by Title IX, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment prohibited by Title IX, and the date and location of the alleged incident, if known.

15. The Written Notice

a. includes the identities of parties involved;

b. includes the conduct allegedly constituting sexual harassment;

c. includes the date and location of the alleged incident;

d. a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;

e. informs the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and

f. informs the parties of any provisions in the School Board's code of conduct or the superintendent's Standards of

Student Conduct that prohibit knowingly making false statements or knowingly submitting false information during the grievance process.

- g. If, in the course of an investigation, the investigator decides to investigate allegations about the complainant or respondent that are not included in the notice previously provided, notice of the additional allegations is provided to the parties whose identities are known.

16. Dismissal of formal complaints

- a. A formal complaint or any allegations therein must be dismissed if the conduct alleged in the complaint would not constitute sexual harassment prohibited by Title IX even if proved; or did not occur in the School's education program or activity; or did not occur against a person in the United States.
- b. Such a dismissal does not preclude action under another provision of the School Board's code of conduct.
- c. A formal complaint or any allegations therein may be dismissed if at any time during the investigation: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the School Board; or specific circumstances prevent the School Board from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

17. Investigation of formal complaint

- a. When investigating a formal complaint and throughout the grievance process, the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the School Board and not on the parties provided that a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party are not accessed, considered, disclosed or otherwise used without the voluntary, written consent of the party's parent, or the party if the party is an eligible student, to do so for this grievance procedure.
- b. The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- c. The ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.
- d. The parties have the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The choice or presence of advisor for either the complainant or respondent is not limited in any meeting or grievance proceeding.
- e. Any party whose participation is invited or expected is provided written notice of the date, time, location,

participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare to participate.

- f. The investigator provides both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence which will not be relied upon in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to the completion of the investigative report, the investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- g. The investigator creates an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the time a determination regarding responsibility is made, sends to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.
- h. After the investigator has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each

party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the question any decision to exclude a question as not relevant.

18. Determination regarding responsibility

- a. The decision-maker, who cannot be the same person as the Title IX Coordinator or the investigator, must issue a written determination regarding responsibility.
- b. The written determination must include:
 - (3) identification of the allegations potentially constituting sexual harassment prohibited by Title IX;
 - (3) a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence; findings of fact supporting the determination;
 - (3) conclusions regarding the application of the School Board's code of conduct to the facts;
 - (3) a statement of, and rationale for, the result as to each allegation including a determination regarding

responsibility, any disciplinary sanctions the School Board imposes on the respondent, and whether remedies designed to restore or preserve equal access to the School Board's education program or activity will be provided to the complainant; and the procedures and permissible bases for the complainant and respondent to appeal.

- c. The decision-maker must provide the written determination regarding responsibility to the parties simultaneously.
- d. The determination regarding responsibility becomes final either on the date that the parties are provided with the written determination of the result of the appeal, if an appeal is filed, or, if an appeal is not filed, the date on which an appeal would no longer be considered timely.
- e. The Title IX Coordinator is responsible for effective implementation of any remedies.

19. Appeals

- a. Either party may appeal from a determination regarding responsibility or from a dismissal of a formal complaint or any allegations therein, for the following reasons:
 - (3) procedural irregularity that affected the outcome of the matter;
 - (3) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
 - (3) the Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the

individual complainant or respondent that affected the outcome of the matter.

- b. Notification of appeal must be given in writing to the Title IX Coordinator.
- c. As to all appeals, the Title IX Coordinator
 - (3) notifies the other party in writing when an appeal is filed and implements appeal procedures equally for both parties;
 - (3) ensures that the decision-maker for the appeal is not the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator; and ensures that the decision-maker for the appeal complies with the standards set forth in Title IX and this policy.
- d. The appeal decision-maker
 - (3) gives both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
 - (3) reviews the evidence gathered by the investigator, the investigator's report, and the decision-maker's written decision;
 - (3) issues a written decision describing the result of the appeal and the rationale for the result; and provides the written decision simultaneously to both parties and the Title IX Coordinator.

20. Timelines

- a. The investigative report will be provided to the parties within 35 days from the date the formal complaint is filed.

- b. A decision will be issued within 10 working days from the date the investigative report is submitted to the decision-maker.
- c. Either party may appeal within 5 working days from the date the written determination regarding responsibility is given to the parties.
- d. Any appeal will be resolved with 15 calendar days from the filing of the appeal.
- e. If the parties agree to an informal resolution process, these deadlines are tolled from the time one party requests an informal resolution process until either the time the other party responds, if that party does not agree to the informal resolution process, or until either party withdraws from the informal resolution processed.
- f. Temporary delays of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action are permitted. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; disciplinary processes required by law or School Board policy; or the need for language assistance or accommodation of disabilities.

VII. Informal Resolution Process

- A. At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the parties may participate in an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility. When one party

requests an informal resolution process, the other party must respond to the request within 3 days. The informal resolution process must be completed within 10 days of the agreement to participate in the process.

- B. The informal resolution process may be facilitated by a trained educational professional, consultant, or other individual selected by the Title IX Coordinator under the following conditions:
 - 1. The parties are provided a written notice disclosing the allegations, the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; provided, however that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process, resume the grievance process with respect to the formal complaint, and be informed of any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
 - 2. The parties, voluntarily and in writing, consent to the informal resolution process; and
 - 3. The informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student.
- C. If the matter is resolved to the satisfaction of the parties, the facilitator shall document the nature of the complaint and the resolution, have both parties sign the document and receive a copy, and forward it to the title IX Coordinator. If the matter is not resolved, the formal complaint process is resumed.
- D. Parties cannot be required to participate in an informal resolution process.
- E. An informal resolution process is not offered unless a formal complaint is filed.

VIII. Training

- A. Training is mandatory for all school-based Title IX Coordinators, investigators, decision-makers, hearing officers, and appeals decision-makers.
- B. All training materials is available to the public on request and is located on the district's website.

IX. Recordkeeping

- A. The School Board will maintain for a period of seven (7) years records of:
 - 1. Each investigation of allegations of sexual harassment prohibited by Title IX including any determination regarding responsibility and any audio or audiovisual recording or transcript, if any, required under the Title IX regulations, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the school's education program or activity.
 - 2. Any Appeal and the result therefrom;
 - 3. Any informal resolution and the result therefrom; and
 - 4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
 - 5. For each response required under 34 C.F.R. §106.44, the School Board must create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment prohibited by Title IX. In each instance, the School Board will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to its education program or activity. If the School Board does not provide a complainant with supportive measures, then it will document the

reasons why such a response was not clearly unreasonable in light of the known circumstances.

X. Retaliation Prohibited

- A. Any act of retaliation against an individual who files a complaint alleging a violation of the District’s antidiscrimination policy and/or sexual or illegal harassment policy or who participates in the investigation of a discrimination complaint is prohibited.
- B. Retaliation may include, but is not limited to, any form of intimidation, reprisal or harassment based upon participation in the investigation of, or filing a complaint of discrimination.

STATUTORY AUTHORITY: 120.54, 1001.41, 1001.42, 1012.23, F.S.

LAWS IMPLEMENTED: 112.51, 119.07, 760.01
ET SEQ. 1000.05, 1000.21, 1001.43, 1012.22, F.S. 34 CFR 99, 34 CFR 108, 34 CFR
200.43(C),P.L. 110-233

STATE BOARD OF EDUCATION RULE: 6A-19.001 ET. SEQ.

HISTORY:

ADOPTED: 3/28/01

REVISION DATE(S): 6/21/16; 8/10/21

FORMERLY: