

**Nondiscrimination/Equal Opportunity
(Complaint and Compliance Process)**

The Title IX Coordinator for the District: Ronda Rein

The Title IX Coordinator may be contacted at the following:

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I. INTRODUCTION

Pueblo School District 70 is committed to providing safe and equitable learning and working environments that are affirming, inclusive, and free from sex-based discrimination and sexual harassment. The district will utilize this Policy and Procedure to respond to all claims of sex discrimination or sexual harassment as defined in Section II of this policy. If the District determines that a report or complaint does not allege conduct within the scope of Title IX, it may still proceed to investigate or respond to that report or complaint under any other applicable District policy or procedures. This Policy applies to all persons participating in the district's education program or activity, including students and employees and applicants for employment. Under Title IX, the District has jurisdiction over locations, events, or circumstances over which it substantially controls the context in which the harassment occurs.

II. DEFINITIONS

Advisor: A person selected by a Party, of the Party's own choosing, to provide support and advocacy during the Title IX grievance process, including, but not limited to, a parent, legal guardian, or attorney.

Appeal: A process through which a Party may seek to overturn a Determination for limited reasons, consistent with this policy. It may also reference the document filed by the Party bringing the Appeal.

Appeals Officer: The person (or group of people) who reviews and rules on any Appeal properly filed by a Party. This person(s) must be free from conflicts of interest and bias. This person(s) must be trained in accordance with this policy. The Appeals Officer cannot be the same person(s) as the Title IX Coordinator, the Investigator, or the Decision-maker.

Complainant: An individual who is alleged in a Formal Complaint to be the victim of conduct that could constitute Sexual Harassment. Parents and guardians do not become complainants (or respondents), even if they file the Formal Complaint on behalf of their child.

Decision-maker: The person who reviews the Investigative Report prepared by an Investigator and makes a written Determination regarding the responsibility or not of the Respondent for the alleged conduct. This person must be free from conflicts of interest and bias. This person must be trained in accordance with this policy. The Decision-maker cannot be the same person(s) as the Title IX Coordinator or the Investigator.

Determination: A written finding by the Decision-maker determining, using a preponderance of the evidence standard, that the Respondent was or was not responsible for the alleged conduct; or a finding by the Appeals Officer consistent with the process for appeals under this policy.

Education Program or Activity: Locations, events, or circumstances over which the school exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

Employee: An employee of or, in the case of a Complainant, an applicant for employment to the school.

Final Determination: A Determination that becomes final after an Appeal and/or after the deadline to file an Appeal is lapsed without an Appeal being filed.

Formal Complaint: A written document filed by a Complainant or their parent/legal guardian, or signed by the Title IX Coordinator, alleging Sexual Harassment, against a Respondent, and requesting investigation by the School/District of the allegations made therein. A formal complaint may be filed with the Title IX Coordinator at any time in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator.

Complaint Process: A process of formal resolution pursued in response to the filing of a Formal Complaint that alleges Sexual Harassment, which includes without limitation an Investigation, Determination, and opportunity for appeal; or an Informal Resolution.

Informal Resolution: An alternative dispute resolution process facilitated by an Informal Resolution Facilitator, which may include but is not limited to a mediation or restorative justice process between the Parties.

Investigator: The person who conducts the evidence gathering phase of the Complaint Process and compiles the evidence into an Investigative Report for the Decision Maker to use to make a Determination. This person must be free from conflicts of interest and bias. This person must be trained in accordance with this policy.

Party or Parties: The Complainant and the Respondent, individually or collectively.

Remedies: Actions taken after resolution of a Formal Complaint designed to restore or preserve access to the School's/District's education program. Such remedies may include the same individualized services utilized as Supportive Measures. However, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent if a determination finds a Respondent responsible.

Report: A verbal, electronic, or written communication alleging possible sexual harassment, triggering the Title IX Coordinator's responsibility to make contact with the alleged Complainant, offer Supportive Measures, and discuss the option to file a Formal Complaint. May also be referred to as a "concern."

Respondent: An individual who has been reported and is alleged to be the perpetrator of conduct that could constitute Sexual Harassment.

Retaliation: Intimidation, coercion, or discrimination against an individual because the individual made a good-faith report about or participated in good faith in an Investigation of Sexual Harassment. The school will investigate and respond to an allegation of Retaliation in the same manner as an allegation of Sexual Harassment under this policy.

Sexual harassment: conduct on the basis of sex that satisfies one or more of the following:

- 1). "Quid Pro Quo" Harassment. An employee of the district conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
- 2). Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's Education Program or Activity (any conduct of a sexual nature directed by a student toward an employee or by an employee toward a student is presumed to be unwelcome); or 3). Sexual assault, dating violence, domestic, or "stalking" as defined below:
 - A. Sexual Assault is an offense classified as a forcible or nonforcible sex offense under the uniform crime system of the Federal Bureau of Investigation, as follows:

- B. Forcible Rape: the carnal knowledge of a person, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their temporary or permanent mental or physical incapacity (or because of their youth).
- C. Forcible sodomy - oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against that person's will where the person is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.
- D. Sexual assault with an object - the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly against the person's will where the person is incapable of giving consent because of their youth or because of temporary or permanent mental or physical incapacity.
- E. Forcible fondling - the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or not forcibly or against that person's will where the person is incapable of giving consent because of their youth or because of temporary mental incapacity.
- F. Incest - non-forcible sexual intercourse between people who are related to each other within the degrees wherein marriage is prohibited by law.
- G. Statutory rape - non-forcible sexual intercourse with a person who is under the statutory age of consent.
- H. Dating violence is violence committed by a person who is or has been in a social relationship (as determined by the length, type, and frequency of the interactions between the people involved in the relationship) of a romantic or intimate nature with the Complainant.
- I. Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Colorado or by any other person against a complainant who is protected from that person's acts under the domestic or family violence laws of Colorado
- J. Stalking means engaging in a course of conduct directed specifically at the complainant that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Student: A student currently attending or seeking enrollment in the school.

Supportive Measures: Supportive Measures are steps taken or interventions implemented that are designed to restore or preserve a party's equal access to the School's/District's educational program or activity. They should be designed to protect and promote the health and safety of all parties. They must be non-disciplinary/punitive and offered as appropriate and as available at no cost to the

receiving party, and they must not unreasonably burden the other party. Supportive Measures may include (by way of example, not an exhaustive list): Counseling; Schedule changes; Class changes; Breaks; Course modifications; Counseling resources; Deadline extensions for assignments; Mutual restrictions on contact; changes in work locations; Check-ins with a trusted adult; Monitoring/supervision; or Online Learning.

Title IX Coordinator: The person who ensures compliance with Title IX and the District/School's Title IX program, including the school's response to reported concerns and/or Formal Complaints. This person must be free from conflicts of interest and bias. This person must be trained in accordance with this policy.

III. CONFIDENTIALITY

The district is committed to creating an environment that encourages individuals to come forward if they have experienced or witnessed sexual harassment. However, the District cannot promise absolute confidentiality to any party. District employees cannot promise confidentiality to any student who reports possible sexual harassment to them.

The District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation, **except** as required to carry out the purposes of this Policy (including the conduct of any complaint resolution process), applicable law, or as permitted by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g.

IV. REPORTING SEXUAL MISCONDUCT, INCLUDING SEXUAL ASSAULT AND SEXUAL HARASSMENT

Any individuals who believe that they or someone else has been a victim of or witness to Sexual Harassment or Retaliation as defined in this policy are encouraged to make a Report of their concern to the Title IX Coordinator.

A concern or Report may be submitted to the Title IX Coordinator in any format, although it is encouraged to utilize e-mail or hard copy transmission to better ensure a record can be more readily maintained of the content of the Report or concern. The Title IX Coordinator will make and maintain notes from any verbal Reports made.

A. Employee Reporting Obligations

All employees of the district must make a Report to the Title IX Coordinator of any Sexual Harassment of which they or someone else has allegedly been a victim, even if not witnessed first-hand by the employee. Other members of the community are encouraged to make a Report of concerns regarding the same to the Title IX Coordinator. Anyone, even if they are not the individual who experienced the Sexual Harassment, can make a Report to the Title IX Coordinator.

It must be noted that an employee making a Report of concerns for Title IX purposes is separate and distinct from an employee's mandatory reporting obligations under state law when an employee reasonably suspects a child has been subjected to child abuse and/or neglect. Mandatory reporting of child abuse and/or neglect must be made directly to appropriate law enforcement and/or local child protection agencies and reporting to the Title IX Coordinator does not satisfy this requirement. It should not be assumed that reporting for Title IX purposes will satisfy an employee's other mandatory reporting obligations.

B. Reporting to Law Enforcement

In most instances an Investigation will not commence, or will be paused, if law enforcement is investigating the matter in connection with any potential criminal proceedings or another outside agency is investigating the matter in connection with any abuse/dependency/neglect proceedings. Once law enforcement or the outside agency has completed its investigation or otherwise notifies the District/School that it may proceed with its processing of the Formal Complaint without concern for interfering with their investigation then the District/School will proceed with its processing of the Formal Complaint.

A. Retaliation Prohibited

Retaliation against a person who makes a report or complaint of sexual harassment, or who assists, or participates in any manner in an investigation or resolution of a sexual harassment report or complaint is strictly prohibited. Retaliation includes threats, coercion, discrimination, intimidation, reprisals, and/or adverse actions related to employment or education. Any individual who believes they have been retaliated against in violation of this Policy should immediately contact the District's Title IX Coordinator.

This Policy's anti-retaliation protections do not apply to any individual who makes a materially false statement in bad faith in the course of any complaint, investigation, hearing, or other proceeding under this Policy. However, a determination that an

individual made a materially false statement in bad faith must be supported by some evidence other than the determination of whether the Respondent violated this Policy alone. An individual who makes a materially false statement in bad faith may be subject to discipline up to and including suspension or expulsion of a student or termination of an employee's employment.

D. Time Frames for Reporting and Response

The district strongly encourages prompt reporting of complaints and information. While there is no time limit in invoking this Policy in responding to complaints of alleged sexual harassment, a complaint should be submitted as soon as possible after the event takes place in order to maximize the district's ability to respond promptly and equitably.

The district may not be able to fully investigate a formal complaint against an individual who is no longer affiliated with the district. Under those circumstances, the district will still consider whether it can offer supportive measures to the Complainant or proceed under another applicable law, policy, procedure, handbook provision, or rule.

In all cases, the district will conduct a prompt and equitable investigation of allegations of sexual misconduct. Generally, the District will attempt to complete the investigation and make a determination regarding responsibility within forty-five (45) calendar days of receipt of a formal complaint. However, the District may alter or extend this time with notice to both parties. The time it takes to complete the resolution of a sexual harassment complaint may vary based on the complexity of the investigation and the severity and extent of the alleged conduct, as well as on whether there is a parallel criminal investigation, or if school breaks occur during the process.

V. PROCESS FOR RESPONDING TO REPORTS OF SEXUAL HARASSMENT

Once the Title IX Coordinator is in receipt of a Title IX concern or Report (which is not automatically treated as a Formal Complaint, but may lead to a Formal Complaint being filed) then the Title IX Coordinator will complete the following steps (if the Title IX Coordinator's first knowledge of a concern is in the form of a Formal Complaint then these same steps will be followed, except instead of evaluating it and explaining to the Complainant how to file a formal complaint, the Title IX Coordinator will advance the Formal Complaint to the Complaint Process):

A. Ensure there is no conflict of interest or bias with the Title IX Coordinator.

1. If a conflict of interest or bias is discovered then an alternate Title IX Coordinator without a conflict of interest or bias will be assigned by the Superintendent to fulfill the obligations of this policy.

- B.** Evaluate the Report or concern to determine if it meets the definitions to be covered by Title IX.
 - 1. If it is not covered by Title IX, then this process will stop, and the allegations will be referred to the appropriate School/District administrator for resolution under the code of conduct.
 - 2. If it is covered by Title IX, then this process will continue. **C.** Contact alleged Complainant.
- D.** Inform Complainant of availability of Supportive Measures, whether a Formal Complaint is filed or not.
- E.** Consider the Complainant's wishes with respect to Supportive Measures.
- F.** Develop and implement a plan with respect to Supportive Measures; and **G.** Explain the process for filing a Formal Complaint

VI. FORMAL COMPLAINT AND COMPLAINT PROCESS A. The Complaint Process

- 1. The Complaint Process is designed to treat Complainants and Respondents equitably.
- 2. The Respondent is presumed not responsible until the Final Determination at the conclusion of the Complaint Process.
- 3. The Complaint Process will be followed before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.
- 4. The Complaint Process requires an objective evaluation of all relevant evidence - including both inculpatory and exculpatory evidence - and credibility determinations, which may not be based on a person's status as a Complainant, Respondent, or witness.
- 5. The Complaint Process requires that any individual designated as a Title IX Coordinator, Investigator, Decision-maker, Appeal Officer, or Informal Resolution Facilitator not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- 6. The burden of proof and collecting evidence sufficient to reach a Determination regarding responsibility is on the School/District and not on the Parties provided that the District/School cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, 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, unless the District/School obtains that Party's (or the Party's parent/guardian as appropriate) voluntary, written consent to do so.
- 7. Each Party will be given a fair and equal opportunity to present any evidence or witnesses. Parties will not be unreasonably restricted in discussing the allegations or in gathering and presenting relevant evidence.
- 8. Each Party will have a fair and equal opportunity to inspect the evidence obtained during the Complaint Process, including evidence upon which the District/School does not intend to rely in reaching a Determination.

9. The standard of evidence used to make a Determination will be the preponderance of the evidence standard, meaning more likely than not.
10. Knowingly providing false statements or false information is prohibited and will be referred to the appropriate administrator for resolution under District/School's code of conduct.
11. Retaliation is prohibited and, if it occurs, it is subject to the Formal Complaint and Complaint Process described in this policy.
12. Any notice required by the Complaint Process means a notification of the availability of information required by this policy to be disclosed, provided to an individual on a one-to-one basis through an appropriate mailing or publication, including direct mailing through the U.S. Postal Service, campus mail, or electronic mail. Posting on an Internet website or an Intranet website does not constitute a notice.

B. Filing a Formal Complaint - This may be filed by a Complainant in person, by mail, or by electronic mail to the Title IX Coordinator at the contact information for the Title IX Coordinator listed in this policy, or via the link on the District/School's website: (Insert Link Here)

C. Formal Complaint:

1. The Formal Complaint must include details regarding the allegations of Sexual Harassment against the Respondent, a request that the District/School investigate the allegation of Sexual Harassment, and the Complainant's signature (physical or electronic).
2. The Title IX Coordinator may sign a Formal Complaint to initiate the Complaint Process, even without the alleged victim's permission, when not doing so would be unreasonable in light of the known circumstances. A Title IX Coordinator signing a Formal Complaint does not make the Title IX Coordinator the Complainant and does not create a conflict of interest or bias.
3. The District/School may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of Sexual Harassment arise out of the same facts or circumstances. When a Complaint Process involves more than one Complainant or more than one Respondent, references in this policy to the singular "party," "complainant," or "respondent" include the plural, as applicable.

D. Review the Complaint: Upon the filing of a Formal Complaint the Title IX Coordinator will complete the following:

1. Ensure there is no conflict of interest or bias for the Title IX Coordinator.

- a. If a conflict of interest or bias exists then an alternate Title IX Coordinator without a conflict of interest or bias will be assigned by the Superintendent to fulfill the obligations of this policy.
- b. Evaluate the Report or concern to determine if it meets the definitions to be covered by Title IX.
 - i. If it is not covered by Title IX, then this process will stop, and the allegations will be referred to the appropriate School/District administrator for resolution under the code of conduct.
 - ii. If it is covered by Title IX, then this process will continue.
- c. The Title IX Coordinator may notify appropriate law enforcement agencies if the allegations could constitute criminal violations.

E. **Initial Meeting:** At the initial intake meeting with the Complainant, the Title IX Coordinator or designee will seek to determine how the Complainant wishes to proceed. The Complainant may opt for: (1) Informal Resolution (2) Formal Resolution; or (3) not proceeding. Supportive measures may still be offered whether or not the Complainant chooses any of these options.

F. Formal Resolution - Written Notices

1. Provide the following:

- a. Notice of the District/School's Complaint Process as outlined in this document, including any Informal Resolution process.
- b. Notice of the allegations potentially constituting Sexual Harassment as defined in this document, including sufficient details known at the time and with sufficient time for a Party to prepare a response before any initial interview.
- c. Sufficient details include the identities of the individuals involved in the incident, if known; the conduct allegedly constituting Sexual Harassment; and the date and location of the alleged incident(s), if known.
- d. The written notice will include a statement that the Respondent is presumed not responsible for the alleged conduct and that a Determination regarding responsibility is not made until the conclusion of the Complaint Process.

- e. The written notice will inform the Parties that they may have an Advisor of their choice, who may be, but is not required to be, an attorney.
- f. The written notice will inform the Parties that they have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the District/School does not intend to rely in reaching a Determination regarding responsibility, and including all inculpatory or exculpatory evidence whether obtained from Party or other source, so that each Party can meaningfully respond to the evidence prior to conclusion of the Investigation.
- g. The written notice will inform the Parties of any provision in the District/School's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Complaint Process.
- h. If, in the course of an Investigation, the District/School discovers new allegations and plans to investigate the allegations, whether they be against the Complainant or Respondent, which are not included in the original notice, then the District/School will provide notice of the additional allegations to the Parties whose identities are known.

G. Informal Resolution

1. If the Complainant wishes to proceed with either informal or formal resolution, a written document must be filed by the Complainant or signed by the Title IX coordinator alleging harassment against a respondent (formal complaint). Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not the Complainant or otherwise a party to a complaint proceeding under this policy.
2. Upon filing a formal complaint, a Complainant who does not wish to pursue formal resolution may request a less formal proceeding, known as "Informal Resolution." Informal Resolution is available to the parties any time prior to a determination of responsibility being issued.
3. Informal Resolution is a voluntary process that requires the written consent of the Complainant and Respondent. The district will not require the parties to participate in the Informal Resolution process as a condition of enrollment, employment, or of any other right conferred by the District/School. The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk for others in the district community to determine whether informal resolution may be appropriate. Informal Resolution will **never** be used to resolve allegations involving an employee sexually harassing a student.

4. The Title IX Coordinator will provide the parties with a written notice setting forth the allegations, the requirements of the informal resolution process set forth in this policy, the right of any party to withdraw from the informal process and proceed with the formal complaint process at any time prior to agreeing to a resolution; and any consequences resulting from the participation in the informal process, including the records that will be maintained or could be shared by the district.
5. Upon receipt of written consent from the parties to participate in informal resolution, the Title IX Coordinator will consult separately with the Complainant and Respondent and gather additional relevant information as necessary. The Title IX Coordinator may also put in place any appropriate supportive measures to protect the educational and work environment to the parties.
6. The Title IX Coordinator will work with parties to determine a mutually acceptable resolution to the complaint. This resolution will be reduced to writing and signed by the Complainant and Respondent. Once Signed, the written resolution becomes final and neither party can initiate the formal complaint process for the allegations in the formal complaint. The written resolution is not subject to appeal.
7. Either party may, at any time prior to signing an informal resolution agreement, elect to end the informal resolution process and initiate formal resolution instead.
8. In order to promote honest, direct, communication, information disclosed during informal resolution will remain confidential, except where disclosure may be required by law or authorized in connection with duties on behalf of the district.

H. Dismissal – Mandatory Dismissal: The District shall dismiss any formal complaint if the allegations in the formal complaint:

- a. Would not constitute sexual harassment as defined in Section II of this manual, even if proved.
- b. Did not occur in the district's education program or activity; or
- c. Did not occur against a person in the United States.

1. Permissive Dismissal

- a. The Title IX Coordinator may dismiss a Formal Complaint, unless doing so would be unreasonable in light of the known circumstances, if:
 - Complainant notifies the Title IX Coordinator in writing of a desire to withdraw the Formal Complaint or any allegation.
 - The Respondent is no longer enrolled or employed by the District/School; or

- Certain circumstances prevent the District/School from gathering evidence sufficient to reach a Determination as to the Formal Complaint or allegations.
- b. If dismissed, the allegations will be referred to the appropriate District/School administrator for resolution under the District/School's code of conduct.
- c. Upon a dismissal permitted under this section, the District/School must promptly send written notice of the dismissal and reason(s) therefore simultaneously to the Parties. The dismissal is subject to Appeal

I. Supportive Measures – Documentation of District Response

1. To the extent not already being offered/provided, but in any case, no later than 3 business days after the filing of the Formal Complaint, the Title IX Coordinator will discuss and make available appropriate Supportive Measures to the Parties.
2. The need for and types of Supportive Measures may change over time and the Title IX Coordinator will regularly review the plan for Supportive Measures with each Party and make updates as appropriate.

J. Emergency Removal (Student is Respondent)

1. Notwithstanding any other requirements of Title IX or this policy, the District/School may remove a Respondent from the School's education program or activity on an emergency basis, provided that the school undertakes an individualized safety and risk analysis and 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 said removal.
2. If removed, the Respondent will be provided with notice and an opportunity to challenge the decision immediately following the removal by submitting a written rebuttal as to why the removal is not justified to the Director of Student Services or designee. After review and consideration of the written rebuttal, the Director of Student Services or designee will make a final decision regarding the removal and provide a written decision and rationale to the Respondent.
3. The District/School must still comply with any other legal requirements, including without limitation conducting a manifestation determination if any removal would constitute a change in placement for students with an IEP or 504 plan.

K. Paid Administrative Leave (Employee is Respondent)

1. Nothing in this document should be construed to limit a District/School's ability to place a Respondent who is an employee on paid administrative leave. **L. Advisors**

1. Each Party may have an Advisor of their choice present with them throughout the decision in the Investigative Report.
2. Relevance of Evidence
 - a. Evidence is generally relevant if it tends to make an issue of material fact to the Investigation more or less likely to be true.
 - b. A Complainant's prior sexual history is not relevant and shall not be asked about, included, or relied upon in the Investigation or otherwise used in any manner in any part of the Complaint Process unless:
 - i. Offered to prove that someone other than the Respondent is responsible for the alleged Sexual Harassment; or
 - ii. 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.
3. Privileged Information
 - a. The Complaint Process will not require, 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 in writing.
 - b. A Party will not be required to provide or disclose any privileged information under a legally recognized privilege, including without limitation attorney-client communications, medical records, or psychological records.
 - c. A Party may voluntarily provide privileged information with a written and signed consent waiving that privilege. Please note that any information provided, once a privilege is waived, will be shared with the other Party, as required by this policy.

M. Investigation Report

1. The Investigator will produce an Investigation Report that:
 - a. Provides an overview of the Investigation, including:
 - i. a list of individuals interviewed;
 - ii. A fair summary of the facts, including undisputed and disputed facts.
 - iii. A fair summary of all the relevant evidence, including all inculpatory and exculpatory evidence, and evidence that relates to credibility of the Parties or witnesses.
 - iv. Any other information or evidence collected that is relevant and will enable the Decision-maker to make a fair Determination.
2. The Investigation Report must be impartial and present all the relevant evidence in an objective manner.

3. The Investigation Report must not include any evidence that is irrelevant or protected by a legally recognized privilege (unless waived)
4. At least 10 calendar days prior to finalizing the Investigation Report each Party will be provided with an equal opportunity to inspect and review any evidence obtained as part of the Investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the School does not intend to rely in reaching a Determination regarding responsibility, and including all 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.
5. Prior to completion of the Investigation Report, the Investigator must send to each Party and their advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have 10 calendar days to submit a written response. The District/School may require the Parties and their Advisors to sign non-disclosure agreements prior to sharing any evidence or information under this policy.
6. The Investigator will consider any written responses submitted by the Parties before the end of that 10-calendar day period and may take additional investigative steps as the Investigator deems appropriate. In the final Investigation Report the Investigator will include a summary of and response to any written responses from the Parties received.
7. Once the Investigation Report is finalized it will be simultaneously presented in written form to the Parties and the Decision-maker.

N. Determination – Decision on Formal Complaint

1. The Decision-maker will not hold a hearing. However, before making a determination, the Decision-maker must provide each Party the opportunity to submit written, relevant questions that a Party wants asked of any Party or witness who participated in the Investigation, and then provide each Party with the answers. The Decision-maker may then allow for additional, limited (no more than two rounds) of follow-up questions from each Party. Questions that are not relevant, like those relating to a Complainant's prior sexual history (unless an exception applies) or that are otherwise prohibited from being asked under this policy (i.e., privileged information), will be excluded by the Decision-maker. The Decision-maker must explain in writing to the Party proposing the questions any decision to exclude a question. This questioning process will be concluded within 10 calendar days of the Investigation Report being provided to the Parties and Decision-maker.
2. In order to make a Determination as to whether the Respondent is responsible or not responsible for the alleged conduct, the Decision-maker will review the Investigation Report, ask in written format any follow up questions of the

Parties or witnesses who participated in the Investigation or of the Investigator, and will provide any questions and responses to both Parties.

3. The Decision-maker will apply the preponderance of the evidence standard to the evidence to make a Determination of responsibility.
4. The Decision-maker cannot request or rely upon evidence that is irrelevant or protected by a legally recognized privilege (unless waived).
5. The written Determination must include:
 - a. Identification of the allegations potentially constituting Sexual Harassment.
 - b. 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, methods used to gather other evidence, and hearings held.
 - c. Findings of fact supporting the Determination.
 - d. Conclusions regarding the application of the school's code of conduct to the facts.
 - e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District/School imposes on the Respondent consistent with District/School policies and state and federal law, and whether Remedies designed to restore or preserve equal access to the District/School's education program or activity will be provided by the District/School to the Complainant; and
 - f. The District/School's procedures and permissible bases for the Complainant or Respondent to Appeal.
6. The District/School must provide the written Determination to the Parties simultaneously.

O. Appeal -

1. After receipt of the Determination or a dismissal of a Formal Complaint either Party has 10 calendar days to file an Appeal with the Title IX Coordinator, which must describe the basis and rationale for the Appeal and specific details and any available evidence supporting any allegation made in the Appeal.
2. Any Appeal filed can only be on one or more of the following bases:
 - a. A procedural irregularity that affected the outcome of the matter.
 - b. New evidence that was not reasonably available at the time the Determination or dismissal occurred regarding the finding of responsibility or dismissal, that could affect the outcome of the matter; or
 - c. An allegation that the Title IX Coordinator, Investigator, or Decision-maker(s) 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.

3. Once an Appeal is filed the Title IX Coordinator will:
 - a. Notify the other Party in writing, provide a copy of the Appeal, and provide a timeline for the other Party to respond, which will be 10 calendar days from the time of the notice.
 - b. The Title IX Coordinator will provide the Appeal to the Appeals Officer, who will then conduct the remainder of the Appeal.
4. The Appeals Officer will:
 - a. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome, and will provide a reasonably prompt timeline with deadlines for accomplishing the Appeal.
 - i. The Appeals Officer may ask questions of the Parties, Investigator, Decision-maker, or other witnesses who participated in the Investigation, in written form and will provide the responses to all Parties.
 - ii. The Appeals Officer may allow the Parties to ask additional questions of the Parties, Investigator, Decision-maker, or other witnesses in written form and will provide the responses to all Parties.
 - iii. All aspects of the Appeals process must be consistent with and in compliance with all the same rules with which other aspects of the Complaint Process must comply.
 - b. Issue a written decision describing the result of the Appeal, including without limitation whether or not the Appeal is dismissed for not having an allowable bases, and the rationale for the result; and
 - c. Provide the written decision simultaneously to both Parties.

P. Determination is Final

1. The Determination regarding responsibility becomes a Final Determination either on the date that the District/School provides the Parties with the written decision 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.

Q. Remedies

1. If it is determined that Sexual Harassment did occur, then Remedies designed to restore or preserve access to the District/School's education program will be implemented. Remedies may include the same individualized services as Supportive Measures. However, Remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
2. The Title IX Coordinator is responsible for effective implementation of any Remedies.
3. Remedies may include, but are not limited to:
 - a. Taking steps to ensure separation of the Parties.
 - b. Providing counseling to either or both Parties.

- c. Additional training for District/School staff.
- d. Modifying District/School policies and procedures.
- e. Discipline against the Respondent, if the Respondent is determined to be responsible in the Determination. The range of possible disciplinary sanctions shall be as defined in the District/School's Student and/or Employee discipline policies, up to and including a recommendation for expulsion for Students and employment termination for Employees, consistent with District policies and state and federal law.

R. Timelines

1. Complaint Process Timeline

- a. Within 3 business days of the filing of the Formal Complaint the Title IX Coordinator will develop and provide to the Parties a timeline for completion of the complaint process, including dates by which it is reasonably anticipated that the investigation report will be completed, and the Determination will be issued. To the extent feasible, the Title IX Coordinator will attempt to develop a timeline that completes the Complaint Process within 60 calendar days.
- b. A person whose participation is invited or expected, must be provided written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the person to prepare to participate.

2. Informal Resolution Timeline

- a. Within 3 business days of the Parties' consent to enter into an Informal Resolution process the Title IX Coordinator will develop and provide to the Parties a timeline for completion of the Informal Resolution process. To the extent feasible, the Title IX Coordinator will attempt to develop a timeline that completes the Informal Resolution process within 20 calendar days.

3. Delays for Good Cause

- a. Temporary delay of the Complaint Process or the limited extension of time frames may occur for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include without limitation considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. These delays and/or extensions may apply to any deadline described in this policy.
- b. The District/School may unilaterally extend timelines for good cause, or the Parties and the District/School may mutually agree to extend timelines for good cause.

4. Investigation by Law Enforcement or Outside Agency

- a. In most instances an Investigation will not commence, or will be paused, if law enforcement is investigating the matter in connection with any potential criminal proceedings or another outside agency is investigating the matter in connection with any abuse/dependency/neglect proceedings. Once law enforcement or the outside agency has completed its investigation or otherwise notifies the District/School that it may proceed with its processing of the Formal Complaint without concern for interfering with their investigation then the school will proceed with its processing of the Formal Complaint.
5. Supportive Measures
 - a. Any processing delays notwithstanding, the District/School will continue to offer and/or implement any Supportive Measures, consistent with this policy, without delay.

VII. RECORD KEEPING - The District/School must maintain for a period of seven years records of:

1. All records and evidence related to a Sexual Harassment Complaint Process, including any relevant evidence, Investigation Report, Appeals decision, Determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any Remedies.
2. Any Informal Resolution and the result therefrom; and
3. All materials used to train Title IX Coordinators, Investigators, Decision-makers, Informal Resolution Facilitators, and Appeals Officers.
4. The District/School must create, and maintain for a period of seven years, records of any actions, including any Supportive Measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must 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 the recipient's education program or activity.
5. If the District/School does not provide a Complainant with Supportive Measures, then the District/School must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

VIII. Training

- A. The School will ensure that the Title IX Coordinator, Investigator(s), Decision-maker(s), Appeal Officer(s) and Informal Resolution Facilitator(s) receive training on the definition of Sexual Harassment, the scope of the District/School's Education Program or Activity, how to conduct an Investigation and the Complaint Process, 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, and how to serve in their respective role impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

1. Investigators must receive training on issues of relevance and how to create an investigative report that fairly summarizes relevant evidence, as set forth in this policy.
2. Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.
3. These training materials must be publicly available on the district's website and must make these materials available upon request for inspection by members of the public.
4. All staff will annually receive training to enable them to fulfill their reporting obligations under this policy.

Adopted: October 24, 2023

NONDISCRIMINATION STATEMENT

Pueblo County School District 70 does not unlawfully discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity/expression, marital status, religion, national origin, age, disability, need for special education services, genetic information, pregnancy or childbirth status, or other status protected by law in admission or access to, or treatment, or employment in its education programs or activities. Additionally, a lack of English language skills is not a barrier to admission or participation in activities. Inquiries about ADA, Section 504, Title VI, and Title IX may be addressed to the Superintendent of Schools, 24951 US Highway 50 East, Pueblo, Colorado 81006 719-295-6548 or nondiscrimination@district70.org