



Title IX - Gender Equity, Gender Discrimination, Sexual Harassment or Sexual Misconduct Practices Guide

Introduction & Historic Background

Title IX is a federal law that was passed in 1972 to ensure that male and female students and employees in educational settings are treated equally and fairly. It protects against discrimination based on gender. Title IX was the first comprehensive federal law to prohibit gender discrimination against students and employees of educational institutions. It is one of several federal and state anti-discrimination laws that define and ensure equality in education. The regulations passed to guide educational organizations like the Waterbury Public School (WPS) regarding Title IX prohibit discrimination, exclusion, denial, limitation, or separation based on gender.

Title IX formally states no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

State and federal laws, over the years, have also expanded or changed, to prohibit broader discrimination based on gender and sexual orientation or forms of sexual harassment or sexual violence. For example, at the federal level, the U.S. Department of Education, which enforces Title IX, has broadly defined the prohibitions of Title IX to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access our educational programs and opportunities. Essentially, taken together, school districts like WPS, have an obligation to:

- protect students, teachers, staff and other people within the school community;
- to ensure that its programs and curriculum are free of bias and prejudice
- to formally coordinate and provide formal procedures to report, process, review, investigate and appeal allegations of sexual assault, sexual harassment or other forms of sexual misconduct.

WPS is committed to addressing any violations of its policies, programs or practices that may be found to violate Title IX. To this end, even in instances where the alleged misconduct may be found to fall outside the formal parameters of Title IX and/or its complaint/grievance procedures WPS retains authority to investigate and determine the allegations under its varied disciplinary policies and procedures defined within the WPS Code of Conduct or by the State of Connecticut.

Non-Discrimination Statement & Non-Discrimination in Application

Non-Discrimination Statement

The Waterbury Public Schools do not discriminate in admission to, access to, treatment in, or employment in its services, programs, and activities, on the basis of race, color, or national origin, in accordance with Title VI of the Civil Rights Act of 1964 (Title VI); on the basis of sex, in accordance with Title IX of the Education Amendments of 1972 (Title IX); on the basis of disability, in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (ADA); on the basis of age, in accordance with the Age Discrimination Act of 1975 (Age Discrimination Act) as amended; gender identity and expression, (PA 11-55); status as a veteran (PA 17-127); or any other protected status, such as sexual orientation. The term "disability" shall be broadly construed.

The question of whether an individual's impairment is a disability under the ADA shall not demand extensive analysis. The District provides equal access to the Boy Scouts and other designated youth groups.

Legal References to Statement:

- Title VII, Civil Rights Act, 42 U.S.C. 2000e, et seq.
- 29 CFR 1604.11, EEOC Guidelines on Sex Discrimination.
- Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681 et seq.
- 34 CFR Section 106.8(b), OCR Guidelines for Title IX.
- Definitions, OCR Guidelines on Sexual Harassment, Fed. Reg. Vol 62, #49, 29 CFR Sec. 1606.8 (a0 62 Fed Reg. 12033 (March 13, 1997) and 66 Fed. Reg. 5512 (January 19, 2001)
- 20 U.S.C. 7905 (Boy Scouts of America Equal Access Act)
- Meritor Savings Bank. FSB v. Vinson, 477 U.S. 57 (1986)
- Faragher v. City of Boca Raton, No. 97-282 (U.S. Supreme Court, June 26, 1998)
- Gebbser v. Lago Vista Indiana School District, No. 99-1866, (U.S. Supreme Court, June 26,1998)
- Davis v. Monro County Board of Education, No. 97-843, (U.S. Supreme Court, May 24, 1999.)
- The Vietnam Era Veterans' Readjustment Act of 1974, as amended, 38U.S.C. §4212
- Title II of the Genetic Information Nondiscrimination Act of 2008
- Connecticut General Statutes
 - 46a-51 Definitions. (as amended by PA 17-127)
 - 46a-58 Deprivation of rights. Desecration of property. Placing of burning cross or noose on property. Penalty. (as amended by PA 17-127)
 - 46a-60 Discriminatory employment practices prohibited. (as amended by PA 17-127)
 - 10-15c Discrimination in public schools prohibited. School attendance by five-year olds. (Amended by P.A. 97-247 to include "sexual orientation" and P.A. 11-55 to include "gender identity or expression")
 - 10-153 Discrimination on account of marital status
 - 17a-101 Protection of children from abuse
- The Americans with Disabilities Act as amended by the ADA Amendments Act of 2008
- Public Law 111-256
- Meacham v. Knolls Atomic Power Laboratory 128 S.Ct. 2395, 76 U.S.L.W. 4488 (2008)
- Federal Express Corporation v. Holowecki 128 S.Ct. 1147, 76 U.S.L.W. 4110 (2008)
- Kentucky Retirement Systems v. EEOC 128 S.Ct. 2361, 76 U.S.L.W. 4503 (2008)
- Sprint/United Management Co. v. Mendelsohn 128 S.Ct. 1140, 76 U.S.L.W. 4107 (2008)

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the State of Connecticut Office of Education's Office for Civil Rights.

Retaliation Prohibited

The Waterbury Public Schools do not retaliate against any complainant who alleges discrimination.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Procedures.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the Superintendent of Schools, Title IX Coordinator or the Board of Education Chairperson

Filing a Title IX Complaint/Grievance

To File A Discrimination Complaint

Title IX requires that school districts, like WPS, have a clear and formal complaint/grievance procedure that provides for prompt and equitable resolution of student and/or employee complaints/grievances alleging any actions that may violate Title IX. Please be advised that Title IX refers to a complaint as a grievance. For WPS purposes, the two terms are used interchangeably.

A district complaint form is to be available to all students, staff and faculty of the Waterbury Public Schools. This Title IX complaint form can be found directly at www.waterbury.k12.ct.us.

Although a district complaint form does exist it is important to know that other avenues to submit a complaint/grievance **notification** do exist. Any person may report sex discrimination, 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 notification. Such a notification may be made at any time (including during 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.

However, beyond **initial notification**, to file a Formal Complaint/Grievance, a complainant should provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint/Grievance under this Grievance Procedure if they are currently students or their parents or guardians or employees of the education programs or activities of WPS.

If a complainant does not wish to make a Formal Complaint, the Title IX Coordinator may still determine a Formal Complaint is necessary. WPS will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Grievance Procedure.

Nothing in the Title IX Grievance Policy or Code of Conduct prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate WPS process.

District Title IX Coordinator & Contacts Information

Title IX requires that each school district or educational setting, like WPS, have at least one person designated as the Title IX Coordinator. These individuals are the main points of contact and coordinate the school district's efforts to comply with and carry out its responsibilities under Title IX, including investigations of any complaints made known to the district of alleged noncompliance with Title IX, or alleging any actions of the district which are prohibited by Title IX.

District-Wide Title IX General Email Address For Any Questions or Complaint Submissions

tixharrassment@waterbury.k12.ct.us

WPS District Title IX Coordinator

Director of Human Capital Geen Thazhampallath, geen.thaz@waterbury.k12.ct.us

Title IX Training and Building Level Coordination

Sr. HR Generalist Lisa Dunn, ldunn@Waterbury.k12.ct.us

Title IX Building Level Coordinators

School	Title IX Coordinator	Email
Academic Academy	Melissa Desjardins	mdesjardins@waterbury.k12.ct.us
Bucks Hill	Sofia Branco	Sofia.Branco@waterbury.k12.ct.us
Bucks Hill Annex	Sofia Branco	Sofia.Branco@waterbury.k12.ct.us
Bunker Hill	Jennifer Westerville	Jennifer.Westerville@waterbury.k12.ct.us
Carrington	Lisa Vecca Tucker	lvecca@waterbury.k12.ct.us
Chase	Deisha Barriera	dbarriera@waterbury.k12.ct.us
Wendell Cross	Raymond Irrera	rirrera@waterbury.k12.ct.us
Driggs	Ann Drewry	adrewry@waterbury.k12.ct.us
Duggan	Carla Fidanza	cfidanza@waterbury.k12.ct.us
Generali	Shernett Evans-Foster	sevansfoster@waterbury.k12.ct.us
Gilmartin	Erika Lanza	elanza@waterbury.k12.ct.us
Hopeville	Julissa Crespo	jcrespo@waterbury.k12.ct.us
International	Diurca Tomasella	dtomasella@waterbury.k12.ct.us
Kingsbury	Hannah Sakyi-Sam	hannah.sam@waterbury.k12.ct.us
Maloney	Janet Phillips	jphillips@waterbury.k12.ct.us
Reed	Erik Brown	epbrown@waterbury.k12.ct.us
Regan	Angela Razza	arazza@waterbury.k12.ct.us
Rotella	Dana Wallace	dwallace@waterbury.k12.ct.us
Sprague	Kimberly Mays	kimberly.mays@waterbury.k12.ct.us
Tinker	Elizabeth Alagno	ealagno@waterbury.k12.ct.us
Walsh	Dr. Maureen Wilson	mowilson@waterbury.k12.ct.us
Washington	Inez Ramirez	iramirez@waterbury.k12.ct.us
W. Wilson	Michael Theriault	mtheriault@waterbury.k12.ct.us
Adult Ed	Stephen Barieri	sbarbieri@waterbury.k12.ct.us
Enlightenment	Kristin Altwies	kaltwies@waterbury.k12.ct.us
State Street	Benjamin Germain	bgermain@waterbury.k12.ct.us
North End M.S.	Michelle Romero	Michelle.Romero@waterbury.k12.ct.us
Wallace M.S.	Paula Krampitz	pkrampitz@waterbury.k12.ct.us
Waterbury Arts Magnet	Jennifer Deeley	jdeeley@waterbury.k12.ct.us
West Side M. S.	Cathie Rinaldi	crinaldi3@waterbury.k12.ct.us
Crosby H.S.	Sean Mosley	smosley@waterbury.k12.ct.us
Kennedy H.S.	Karlyn Fitzpatrick	kfitzpatrick1@waterbury.k12.ct.us
Wilby H.S.	Elizabeth Henson	ehenson@waterbury.k12.ct.us
Career Academy H.S.	Jennifer Franceskino	jfranceskino@waterbury.k12.ct.us
Districtwide	Lisa Dunn	tixharrassment@waterbury.k12.ct.us
	Joseph Britton	jbritton@waterburyct.org
	Anthony Brooks	anthony.brooks@waterbury.k12.ct.us
	Dr. Joseph Johnson	Joseph.Johnson@waterbury.k12.ct.us
	Geen Thazhampallath	Geen.Thaz@waterbury.k12.ct.us
	Christine Farris	christine.farris@waterbury.k12.ct.us

Julie Ostuno
Carla Martinelli
Jennifer Marino

jostuno@waterbury.k12.ct.us
carla.martinelli@waterbury.k12.ct.us
jorso-marino@waterbury.k12.ct.us

Important Definitions

Covered Sexual Harassment

For the purposes of this Title IX Grievance Procedures, “covered sexual harassment” includes any conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity;
- Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
- Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
- Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
- Note that conduct that does not meet one or more of these criteria may still be prohibited under WPS misconduct policies or CT law and/or training.

Education Program or Activity

For the purposes of this Title IX Grievance/Complaint procedures, a WPS “education program or activity” includes:

- Any on-WPS school/grounds or campus premises;
- Any off-WPS premises or programs that WPS has substantial control over;
- Activities or programs occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the WPS’s programs and/or activities over which the WPS has substantial control.

School Calendar Days

For the purposes of this Title IX Grievance/Complaint Procedures, “school calendar days” means the weekdays (Mondays through Fridays) when WPS classes are in session. The school calendar is subject, on an annual basis, to the approval of the Waterbury Board of Education. If sexual harassment, sexual misconduct or gender discrimination should occur during summer school hours and within WPS locations, this policy and related procedures will be deemed to apply.

Formal Complaint

For the purposes of this Title IX Grievance/Complaint Procedures, “formal complaint” means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment or sexual misconduct or gender based discrimination against a respondent about conduct within WPS’ education program or activity and requesting initiation of the practices consistent with the Title IX Grievance/Complaint Procedures to investigate the allegation of sexual harassment or sexual misconduct or gender based discrimination.

Formal Complaint Timeline

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) school calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to 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. The procedure for applying for extensions is described below.

Complainant

For the purposes of this Title IX Grievance/Complaint Procedures, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment, sexual misconduct or gender based discrimination as defined under this practice guidance.

Relevancy

“Relevant” evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true. “Relevant” evidence and questions **do not** include the following types of evidence and questions, which are deemed “**irrelevant**” at all stages of the Title IX Grievance/Complaint Process:

- Evidence and questions about the complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - They concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent.

Respondent

For the purposes of this Title IX Grievance Procedures, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment, sexual misconduct or gender discrimination as defined under this practice guidance.

Privacy vs. Confidentiality

References made to confidentiality refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or district officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to privacy mean WPS offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee(s), who is/are responsible for tracking patterns and spotting systemic issues. WPS will limit the disclosure, as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

The following district officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this practice guidance:

- Superintendent of Schools, Deputy Superintendent of Schools, Assistant Superintendents of Schools,
- District Security & Safety Director
- Title IX Coordinator or designee(s)
- Deputy Title IX Coordinators or Investigators, Appeals Officers
- Responsible Employees such as Human Resources
- Local or Federal Law Enforcement or Health Agencies

In all circumstances WPS will adhere to the provisions and language of the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or any other applicable Federal or State Law. As necessary, WPS will consult with in-house and external counsel to guide its decisions regarding confidentiality and all other aspects of any Title IX matter or aspect or question of law or practice.

Disability Accommodations

This Grievance Procedure does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance/Complaint Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Supportive Measures

Complainants who report allegations that could constitute covered sexual harassment, sexual misconduct or gender discrimination under this practice guidance, have the right to receive supportive measures from WPS regardless of whether they desire to file a complaint. Supportive measures are non-disciplinary and non-punitive. As appropriate, supportive measures may include, but not be limited to:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of classes, assignments or schedules
- school/campus escort services
- restrictions on contact between the parties (no contact orders)
- excused absences for some limited time, scope and reason
- notification to building level leadership and counselors and security to increase awareness and monitoring of the impacted students.

Emergency Removal

WPS retains the authority to remove a respondent from WPS' program or activity on an emergency basis, where WPS assesses that there is an increased safety risk or an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment, sexual misconduct or gender discrimination.

If WPS determines such removal is necessary, the respondent will be provided notice and an opportunity pursuant to WPS policies and governing State of Connecticut statutory provisions to challenge the decision following the removal.

Administrative Leave

WPS retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process, consistent with collective bargaining agreements and human resource policies.

Determining Jurisdiction

The Title IX Coordinator will determine if the instant Title IX Grievance/Complaint Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct is alleged to have occurred in WPS' education program or activity; and
- The alleged conduct, if true, would constitute covered sexual harassment, sexual misconduct or gender discrimination as defined in this policy.

If all of the elements are met, WPS will investigate the allegations according to the Grievance/Complaint Process.

Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance/Complaint Process will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

Mandatory Dismissal

If any one of these elements are not met, the Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Procedures. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

Discretionary Dismissal

The Title IX Coordinator may dismiss a Formal Complaint brought under the Title IX Grievance Procedures, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled or employed by WPS; or,
- If specific circumstances prevent WPS from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in "Appeals," below.

Notice of Dismissal

Upon reaching a decision that the Formal Complaint will be dismissed, WPS will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their institutional email accounts and/or to their representatives, parents, guardians or by mail to their known address to WPS. It is the responsibility of parties to maintain and regularly check their email accounts or regular mail.

Notice of Removal and/or Other Discipline

Upon dismissal for the purposes of Title IX, WPS retains discretion to utilize the WPS Code of Conduct and/or other disciplinary practices and procedures to determine if other sanctions or discipline should be issued to the student or employee. If so, CSCC will promptly send written notice of the dismissal or other discipline.

Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment, sexual misconduct or gender discrimination. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint/Grievance of the allegations, if there are no extenuating circumstances.

The parties (a student or employee) will be notified by their institutional email accounts and/or regular mail or by other reasonable means. WPS will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview. The Notice of Allegations will include the following:

- listing of the WPS Web Site hyperlink/address which contains the grievance forms, Title IX information and this to a copy of this practices guide.
- Notice of the allegations potentially constituting covered sexual harassment, sexual misconduct or gender discrimination and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- 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.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney
- A statement that before the conclusion of the investigation, the parties may inspect and review 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 institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source
- A statement that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance/Complaint Procedures, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Notice of Meetings and Interviews

WPS will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Advisors of Choice

WPS will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally. WPS has a long-standing practice of requiring students or employees to participate in the process directly and not through an advocate, parent, guardian or representative.

Students participating, as Complainant or Respondent, in this process may be accompanied by an Advisor of Choice, parent, or guardian to any meeting or hearing to which they are required or are eligible to attend.

The Advisor of Choice is **not** an advocate. Advisors of Choice, parent, or guardian shall not participate directly in the process as per standard policy and practice of WPS. WPS will not intentionally schedule meetings or hearings on dates where the Advisors of Choice, parents or guardians for all parties are not available, provided that the Advisers, parents, or guardians act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

WPS cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. WPS will not be obligated to delay a meeting or hearing under this process more than five (5) school calendar days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by WPS.

General Rules of Investigations

An investigator designated by the Title IX Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment, sexual misconduct or gender discrimination after issuing the Notice of Allegations.

WPS and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation of Title IX has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from WPS and does not indicate responsibility.

WPS cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. WPS will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations).

Investigative Report

The investigator designated by the Title IX Coordinator or the Title IX Coordinator will create a Report that fairly summarizes relevant evidence, and will provide that Report to the parties at least ten (10) school calendar days prior the hearing in an electronic format or a hard copy for each party's review and written response. The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence. Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report. The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

General Rules of Disciplinary Hearings or Meetings

WPS will hold a disciplinary meeting prior to issuing any sanction arising from an allegation of covered sexual harassment, sexual misconduct or gender discrimination unless the Title IX complaint is otherwise resolved through an informal resolution process.

- The disciplinary meeting/hearing may be conducted with all parties physically present in the same geographic location, or participants may appear at the meeting/hearing virtually through remote video conferencing. This technology will enable participants simultaneously to see and hear each other. At its discretion, WPS may delay or adjourn a hearing based on technological errors not within a party's control.
- All proceedings will be recorded through either an audio recording, audiovisual recording or transcript. That recording or transcript will be made available to the parties for inspection and review.
- Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.
- WPS may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the meeting/hearing until a later date or time) is needed to complete a meeting/hearing. If so, WPS will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.
- As a general rule, no new evidence or witnesses may be submitted during the live meeting/hearing.

- If a party identifies new evidence or witnesses that were not reasonably available prior to the live meeting/hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live meeting/hearing.
- The Hearing Official/Panel will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.
- If the Hearing Official/Panel answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.
- Live meetings/hearings are not public, and the only individuals permitted to participate in the hearing are as follows:
 - Complainant and Respondent (The Parties)
- WPS may still proceed with the live meeting/hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.
- The hearing body will consist of a panel of three WPS decision-makers.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney. The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination. The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party. The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case. The advisor is not prohibited from being a witness in the matter.
- Witnesses cannot be compelled to participate in the live meeting/hearing, and have the right not to participate in the hearing free from retaliation
- If a witness does not submit to cross-examination, as described below, the hearing body cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- For all live meetings/hearings conducted under this Title IX Grievance/Complaint Process, the procedure will be as follows:
 - The hearing body will open and establish rules and expectations for the hearing;
 - The Parties will each be given the opportunity to provide opening statements;
 - The hearing body will ask questions of the Parties and Witnesses;
 - Parties will be given the opportunity for live cross-examination after the hearing body conducts its initial round of questioning; During the Parties' cross-examination, the hearing body will have the authority to pause cross-examination at any time for the purposes of asking the hearing body's own follow up questions; and any time necessary in order to enforce the established rules of decorum.
 - Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the hearing body. A Party's waiver of cross-examination does not eliminate the ability of the hearing body to use statements made by the Party.

- Each party's advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.
- Before any cross-examination question is answered, the hearing body will determine if the question is relevant. See Relevance Procedures. Cross-examination questions that are duplicative of those already asked, including by the hearing body may be deemed irrelevant if they have been asked and answered.

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

- Identification of the allegations potentially constituting covered sexual harassment, sexual misconduct or gender discrimination;
- 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;
- Findings of fact supporting the determination;
- Conclusions regarding which policy violations or professional standards, if any, the respondent has or has not violated.
- Notice to a right to appeal as set forth below

If there are no extenuating circumstances, the determination regarding responsibility will be issued by WPS within fifteen (15) school calendar days of the completion of the meeting/hearing.

The determination regarding responsibility becomes final if an appeal is not filed and thus, the date on which the opportunity to appeal expires. WPS uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Grievance Procedure. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Title Grievance/Complaint Procedure occurred.

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Hearing Body.

The hearing body shall not draw inferences regarding a party or witness' credibility based on the party or witness' status as a complainant, respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness' testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that the hearing body allow parties to call “expert witnesses” for direct and cross examination. WPS does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that WPS allow parties to call character witnesses to testify. WPS does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that WPS admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a party or witness’ conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the hearing body may draw an adverse inference as to that party or witness’ credibility.

Appeals

Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within ten (10) school calendar days of being notified of the decision, indicating the grounds for the appeal. The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution’s own procedures);
- 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;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter;
- The severity of sanctions.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and other learning opportunities/alternative settings remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals will be decided by an Appeals Officer, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision maker in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.