

TITLE IX—SEX DISCRIMINATION AND SEXUAL HARASSMENT

Introduction and Policy

Title IX prohibits discrimination on the basis of sex in education programs and activities that receives federal financial assistance. Title IX applies to employees and students. The policy establishes procedures for reporting sex discrimination, sexual harassment, and related retaliation, provides the grievance process procedure for a Title IX formal complaint for sexual harassment, sets forth supportive measures for a complainant and, as appropriate, a respondent, and a range of possible sanctions should a respondent be found responsible for sexual harassment.

The district condemns discrimination in its education programs and activities based on sex. Any district employee with actual knowledge of conduct that constitutes sex discrimination and/or sexual harassment is directed to notify the Title IX Coordinator as soon as possible.

Scope of the Policy

This policy applies to individuals working or participating in the district's education programs and activities in locations where the district exercises substantial control over both the respondent and the context in which discrimination or harassment occurred. Title IX may apply to any of the district's education programs or activities in the United States, whether such programs or activities occur on-campus or off-campus, including online instruction, admissions, recruiting, financial aid, academic programs, student services, counseling and guidance, discipline, class assignment, grading, recreation, athletics, and employment. Reports of violations of this policy may be made in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. **Such a report may be made at any time, including during non-business hours, by using the telephone number or email address, or by mail to the office address listed for the Title IX Coordinator.**

Individuals are responsible for immediately reporting any knowledge or information concerning sexual harassment to the district's Title IX Coordinator.

Definitions

- A. Actual Knowledge: Notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any district employee. This standard is not met when the only official of the district with actual knowledge is the respondent.
- B. Advisor: A person who has agreed to assist a complainant or respondent during the Title IX process. The advisor may be a person of the student's choosing, including but not limited to a district faculty or staff member, a friend, or an attorney.

- C. Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- D. Title IX Coordinator(s): Employee(s) of the district who has/have primary responsibility for overseeing the process of coordinating the district's compliance efforts, receiving complaints, conducting investigations, imposing sanctions, facilitating appeals, and providing education and training associated with this policy. The Title IX Coordinator(s) will further monitor the district's education programs and activities for barriers to reporting information about conduct that constitutes sex discrimination and take steps reasonably calculated to address such barriers. The Coordinator should not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent that may affect the outcome of the grievance process.
- E. Deputy Coordinator: If desired by the district, this is a district employee designated by the Title IX Coordinator or the district to serve as the Coordinator where appropriate and to assist with the duties of the Title IX Coordinator. The Deputy Coordinator should not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that may affect the outcome of the grievance process.
- F. Formal complaint: A written document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegation(s) of sexual harassment and stating the date, time, place, name(s) of person(s) involved (e.g., the accused, witnesses) and sufficient detail to satisfy the basic elements of a Title IX claim under this policy. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district.
- G. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- H. Sex Discrimination: Sex discrimination includes sexual harassment and is defined as conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their education, employment, or school-related benefits, on account of sex or gender (including on the basis of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom). This may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex even if those acts do not involve conduct of a sexual nature.

I. Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct ("quid pro quo");
- b. 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 ("hostile environment"); or
- c. Sexual assault, dating violence, domestic violence, or stalking as defined by federal law.

Whether conduct creates a hostile environment is a fact-based inquiry that includes, but is not limited to, the following:

- The degree to which the conduct affected the complainant's ability to access the district's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the district's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- other sexual harassment in the district's education program or activity.

J. Supportive measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Examples of Supportive Measures:

- Counseling
- Extension of deadlines and other course-related adjustments
- Campus escort services
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Increased security measures and monitoring of district premises
- Training and education programs related to sexual harassment

K. Title IX Hearing Officer (decisionmaker): The individual may be a district administrator, legal counsel, or a specially trained officer but cannot be the Coordinator or Investigator. The primary responsibility of the Hearing Officer is to ensure both parties receive due process in the event allegations of a Title IX policy violation are directed to a hearing by the Title IX Coordinator. The Hearing Officer should not have a conflict of interest or bias for or against

complainants or respondents generally or an individual complainant or respondent that may affect the outcome of the grievance process.

- L. Title IX Investigators: An individual charged with collecting statements and any evidence directly related to any allegations, as directed by the Title IX Coordinator. Investigators may include but not be limited to district administration. The Investigator should not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that may affect the outcome of the grievance process.

M. Working days: Days on which the district administration's office is open.

Reporting

All forms of sex discrimination, including sexual harassment, may be reported to the Title IX Coordinator, any Deputy Title Coordinator, any district employee, or to law enforcement, no matter the severity. A report of sex discrimination and/or sexual harassment should be made as soon as possible but may be made at any time, regardless of length of time between alleged sex discrimination and/or sexual harassment, and the decision to report it. However, a delay in reporting may compromise subsequent investigation. The district will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of the grievance process, provided that the steps do not restrict the ability of the parties to obtain and present evidence, consult with family members or other advisors, or otherwise prepare for or participate in the grievance procedures;

Although anyone may report sexual harassment, only alleged victims of sexual harassment or their parent or guardian may file a formal complaint.

No employee or student may discourage an individual from reporting alleged sex discrimination, including sexual harassment.

All district employees are mandatory reporters and are required to immediately report to the Title IX Coordinator any allegations of sexual harassment. Failure to do so may result in disciplinary action up to and including termination of employment.

Pre-Investigation / Initial Response

Unless the Title IX Coordinator reasonably determines the conduct alleged could not constitute sex discrimination and/or sexual harassment, after receiving notice allegations involving purported sex discrimination and/or sexual harassment, the Title IX Coordinator will promptly contact the complainant, if known or identifiable, to notify them of receipt of the allegations of sex discrimination and/or sexual harassment.

The district will treat complainant and respondent equitably and offer supportive measures as appropriate. For complainants, this means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge before or after the filing of a formal complaint or where no formal complaint has been filed. For a respondent, this means at a minimum following the grievance procedure for sexual harassment before the imposition of disciplinary sanctions or other actions that are not supportive measures.

The district will promptly take necessary steps to protect the complainant and ensure safety as necessary, including taking interim steps before the final outcome of any investigation once a report or knowledge of sexual harassment has been reported.

Emergency Removal. In some instances, the district may implement an emergency removal of a student when an individualized safety and risk analysis indicates that an immediate threat exists to the physical health or safety of an individual arising from the allegations of sexual harassment. A party subject to an emergency removal shall have an opportunity to challenge the decision immediately following the removal. By no means does this provision modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Administrative Leave. A non-student employee may be placed on administrative leave during the pendency of the grievance process. By no means does this provision modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

Periodic updates on the status of the investigation will be provided to both the complainant and respondent.

Sex Discrimination without Harassment

If the allegations involve conduct that could constitute sex discrimination but not sexual harassment, the Title IX Coordinator will initiate an investigation in compliance with district policy.

Sexual Harassment

If the allegations involve conduct that could constitute sexual harassment, the Coordinator will contact the complainant to confidentially discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. A complainant's wishes regarding whether the district investigates will be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

Written Notice of Complaint

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice to all known parties in sufficient time and with sufficient detail to give the respondent time to prepare a response before an initial interview. Written notice includes:

- a. Notice of the grievance process, including any informal resolution process;
- b. Notice of the allegations of sexual harassment, including sufficient details (i.e., names of known parties, the conduct alleged to be sexual harassment, and the date and location of the conduct, if known);
- c. A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the grievance process;
- d. Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney) and to inspect and review evidence;
- e. A statement that retaliation by the parties or district is prohibited;
- f. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence; and
- g. Notice that knowingly making false statements or providing false information in the grievance process is a violation of the code of conduct of students or a violation of performance and conduct standards for employees.

Dismissal of a Formal Complaint

The district must investigate the allegations in a formal complaint.

Mandatory Dismissal. A formal complaint must be dismissed when it is determined the conduct alleged in the formal complaint: 1) would not constitute sexual harassment as defined herein even if proved; 2) did not occur in the district's program or activity; or 3) did not occur against a person within the United States.

Permissive Dismissal. A formal complaint may be dismissed if, during the investigation or hearing, 1) a complainant notifies the Coordinator in writing that they would like to withdraw the formal complaint or any allegations therein; 2) the respondent is no longer enrolled or employed by the district; or 3) specific circumstances prevent the district from gathering sufficient evidence to reach a determination as to the formal complaint or the allegations therein.

Upon either a mandatory or permissive dismissal, the district will promptly notify the complainant of the basis for the dismissal and provide the procedures to appeal the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the district will also promptly notify the respondent of the dismissal, the basis for the dismissal and the complainant's opportunity to appeal. Notification of dismissal should be in writing and delivered simultaneously to the parties.

Dismissal of a formal complaint does not prevent the district from addressing allegations or taking action under another district policy, including but not limited to a different provision of the district code(s) of conduct.

Investigation

An investigator will be designated to investigate the allegations contained in the formal complaint or which are developed in the course of the investigation. In the event the district decides to investigate allegations about the complainant or respondent that are not included in the written notice, the district must provide notice of additional allegations to the parties and given them a reasonable opportunity to respond in writing to the new information or evidence.

The burden of gathering evidence and burden of proof must remain on the district—not on the parties. The following evidence will not be considered by the district and excluded as impermissible:

- Evidence that is protected under a privilege as recognized by federal or state law unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the district obtains that party's or witness's voluntary, written consent for use in the district's grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless the evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sexual harassment or preclude determination that sexual harassment occurred.

The Investigator will endeavor to complete the investigation within 60 days. This timeline can be affected by one or both parties' right to have at least 10 days to review and respond to evidence and the draft investigative report or other good cause such as the unavailability of parties, party advisors, witnesses and evidence, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

In the investigation process, the Investigator will:

- Provide a party who is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with sufficient time for the party to prepare to participate.
- Meet personally with the complainant (unless extraordinary circumstances prevent a personal meeting).
- Meet personally with the respondent (unless extraordinary circumstances prevent a personal meeting).
- Presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made.
- Provide an equal opportunity for the parties to present fact witnesses and other relevant evidence that is not otherwise impermissible.
- Not restrict either party's ability to discuss the allegations or to gather and present evidence.
- Provide the parties with the same opportunities to have others present during interviews or related proceedings to have others present during interviews or related proceedings, including an advisor.
- Collect any physical evidence.
- Meet personally with any witnesses (unless extraordinary circumstances prevent a personal meeting with one or more witnesses).
- Review any documentary evidence.
- Prepare a written report of the investigation that fairly summarizes the relevant evidence.

Party Review of Evidence and Report.

Parties and advisors will have an equal opportunity to review all evidence directly related to the allegations in the formal complaint (both exculpatory and inculpatory), including evidence upon which the district does not intend to rely in reaching a determination, and will be given at least **10 calendar days** prior to the completion of the final investigation to meaningfully respond.

Parties and advisors will have the opportunity to review the investigative report and to issue a written response at least **10 calendar days** before a hearing or determination of responsibility.

Hearing

Absent extraordinary circumstances, a non-live hearing will be held. After the district has sent the investigative report to the parties and before reaching a determination regarding responsibility, the Hearing Officer must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow up questions from each party. Questions and evidence about the

complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the complainants prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concerns specific incidents of the complainants prior sexual behavior with respect to the respondent and are offered to prove consent. The Hearing Officer must explain to the party proposing questions any decision to exclude a question as not relevant.

Determination

Within five working days of the conclusion of the hearing, the Hearing Officer will issue a written determination regarding responsibility, applying the preponderance of evidence standard (whether it is more likely than not a violation occurred), to the parties simultaneously by mailing the determination by certified mail or other agreed form of notice. Preponderance of evidence requires significantly less proof than beyond a reasonable doubt, which is required for a criminal prosecution.

The written determination will include:

- Identification of the allegations potentially constituting sexual harassment;
- 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 facts supporting the determination for each individual allegation;
- Conclusions regarding the application of the district's code of conduct to the facts;
- A statement of, and rational for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore preserve equal access to the district's education program or activity will be provided to the complainant;
- The district's procedures and permissible basis or bases for the complainant and respondent to appeal.

The determination becomes final either on the date that the district provides the parties the written determination of the result of the appeal if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Appeal Procedures

A complainant or respondent may appeal the determination for any of the following reasons:

- Procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time the determination or dismissal was made that could affect the outcome of the matter.
- The Coordinator, Investigator, or Hearing Officer 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.

Appeals must be submitted in writing to the Superintendent within five (5) working days of receiving the decision and reference the reason(s) for the appeal as identified above with supporting argument(s). Failure to file an appeal within the prescribed time constitutes a waiver of any right to an appeal.

When an appeal is filed, the district will notify the non-appealing party in writing.

The Superintendent, or designee if Superintendent was Hearing Officer, Investigator, or Coordinator, will review the record of the original hearing, including documentary evidence and give each party a reasonable, equal opportunity to submit a written statement in support of or challenging, the outcome.

It is the Superintendent's (or designee's) discretion to affirm, overturn, or modify the determination. The Superintendent/designee may convert any sanction imposed to a lesser sanction, to rescind any previous sanction, or to return a recommended sanction to the original Hearing Officer for review/or reconsideration. If there is new evidence (unavailable at the time of the hearing through no fault of the parties) which is believed to substantially affect the outcome, or evidence presented at the previous hearing was "insufficient" to justify a decision, or a finding that a substantial procedural error resulting in prejudice occurred, the matter may be remanded for either a rehearing of the entire matter or reconsideration of specific issues. If remanded to the original Hearing Officer, either or both parties may appeal the Hearing Officer's decision to the Superintendent/designees and the procedures set out above shall control the appeal.

Appeal Decision. The final decision will be communicated in writing by the Superintendent to both parties describing the result of the appeal and the rationale for the result. The decision will be communicated to both parties simultaneously within ten (10) working days of receiving the appeal request.

The decision of the Superintendent or designee on appeal shall be final.

Informal Resolution

An informal resolution to a complaint is available in some circumstances. Informal resolutions are unavailable unless a formal complaint of sexual harassment is filed. Informal resolutions may be entered into any time prior to determining whether sexual harassment occurred. Informal resolution may include conflict resolution or a restorative agreement between the parties with a trained Title IX Officer presiding over the informal resolution conference. Participation in informal resolution is never mandatory and will only take place with the full written consent of both parties involved. The district may, in its sole discretion, decline to offer an informal resolution in certain circumstances.

Before informal resolution may be commenced written notice to the parties must be provided, disclosing the allegations and the requirements of the informal resolution process including when an informal complaint would preclude the parties from resuming a formal complaint arising from the same allegations.

No appeal is available from an informal resolution, but at any time prior to agreeing to a resolution, any party has a right to withdraw from the formal resolution process and resume the grievance process. and any consequences resulting from participating in the informal resolution process including the records that will be maintained or could be shared. Further, if the parties are unable to agree on a voluntary resolution, the matter will be referred by the Title IX Coordinator to a Title IX Hearing. No offers to resolve the conflict that were made or discussed during the informal voluntary resolution process may be introduced during the Title IX Hearing.

Outcomes

If it is determined under the preponderance of evidence standard (more likely than not to have occurred) that the respondent is not responsible for a violation of this policy, the complaint will be dismissed.

If it is determined under the preponderance of evidence standard that a respondent is responsible for sexual harassment under the jurisdiction of this policy, the Title IX Coordinator will 1) coordinate remedies to complainant and other persons identified having had equal access limited by the discrimination; 2) coordinate disciplinary sanctions on the respondent including notification to complainant; and 3) take other appropriate, prompt and effective steps to ensure sex harassment does not continue or reoccur.

The following sanctions may be considered where a respondent is found responsible for sexual harassment. The sanctions below are not intended to be exclusive; actions may be imposed singularly or in combination when a violation of this policy is found.

Student Respondent.

- **Restriction** – A limitation on privileges for a period of time and may include but not be limited to, the denial of the use of facilities or access to parts of campus, denial of the right to represent the district, or denial of participation in extracurricular activities.
- **Service Project** – Community service or an education class or project beneficial to the individual and campus or community.
- **Probation** – A specified period of time during which the student is placed on formal notice that he/she is not in good social standing with the district and that further violations of district policies will subject the student to suspension from school.

Suspension – If warranted by the severity of the incident, removal from classes and other privileges or activities for a definite period of time not to exceed the remainder of the semester in which the incident occurred and the following semester and until the conditions which are set forth in the hearing outcome letter are met. Students who are suspended from the district are not permitted on campus or in campus buildings, facilities or activities at any time for any reason during the period of suspension, unless otherwise directed by Superintendent or designee. Conditions to conclude a suspension and reinstatement process will be stated in the written notification. Notation on the student's transcript will not be made; however, a permanent record of the action will be maintained in the student's record.

- **Long-term Suspension** – Suspension of student for an indefinite period not to exceed the maximum period permitted by law, typically reserved for a sexual violence/assault finding. The conditions for readmission, if any, shall be stated in the hearing outcome letter. In addition, a student, though readmitted to the school by operation of law, may be denied the opportunity to participate in extracurricular activities for as long as the student is enrolled in the district. Notation on the student's transcript will not be made; however, a permanent record of the action will be maintained in the student's record. Removal should be reserved and used only in cases involving the most severe instances of misconduct.

Employee Respondent.

Employees found to have violated this policy will be subject to sanctions up to and including dismissal from employment.

Retaliation

Retaliation against an individual for reporting or participating in the Title IX grievance process is strictly prohibited. Retaliation in this context means intimidation, threats, coercion or discrimination for the purpose of interfering with any right or privilege secured by Title IX. Retaliatory conduct includes filing a charge against an individual for code of conduct violations that arise out of the same facts or circumstances or a report or formal complaint of sexual harassment if done

so in bad faith. Complaints alleging retaliation may be filed pursuant to the grievance process included herein, and sanctions may be imposed against an individual determined responsible for retaliation in accordance with this policy.

Nothing in this definition or this policy precludes the district from requiring an employee to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this policy.

Designees

The designation of a district official responsible for prescribed actions under this policy shall automatically include the official's designee in instances where an official is unable, unavailable or it appears that the official may have a conflict of interest that causes the official to recuse from involvement in the matter. The official's designee shall have the same authority as the official in matters involving this policy.

Availability of other Complaint Procedures

In addition to seeking criminal charges through local law enforcement, members of the district community may also file complaints with the following entities regardless of whether they choose to file a complaint under this procedure:

Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline: (800) 421-3481
Email: OCR@ed.gov

Office for Civil Rights:
Kansas City Field Office: OCR.KansasCity@ed.gov, (816) 268-0550;
Washington D.C.: OCR@ed.gov 1-800-421-3481

Equal Employment Opportunity Commission:
Oklahoma City Field Office: 1-800-669-4000;
Washington D.C.: 1-800-669-4000, Eeoc.gov/contact

Distribution

The district shall: prominently display on its website the required contact information for the Title IX Coordinator; post training materials used to train Title IX Coordinators and related Title IX Officials, Investigators, and Hearing Officers on its website; and notify applicants for employment, parents or legal guardians of elementary and secondary school students, and employee organizations—of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator.