

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

RESOLUTION PROCEDURES FOR ALLEGED VIOLATIONS OF THE TITLE IX SEXUAL HARASSMENT POLICY FOR ALL STUDENTS, EMPLOYEES, AND THIRD PARTIES **(Hereinafter the “Resolution Process”)**¹

1. Overview

Capital School District (the “District”) will act on any Notice/Formal Complaint of a potential violation of the District’s Title IX Sexual Harassment Policy (“the Policy”) that the Title IX Coordinator or any other Employee receives by applying the Resolution Process below.²

These procedures apply to all allegations of Sexual Harassment involving Students, Employees, or third parties. For complaints associated with sex discrimination, see policy #500-21: District Nondiscrimination policy.

2. Executive Summary

Every District employee is a **Mandatory Reporter**. If a student or staff member discloses sexual harassment or violence to you:

1. **Obtain Minimal Facts for an Initial Assessment by the Title IX Coordinator:** Your role is to stabilize the situation and gather only the baseline information for an initial assessment by the Title IX Coordinator. A full investigation should not be conducted until after speaking with the Title IX Coordinator. Do not attempt to make a determination whether the alleged conduct occurred or issue discipline at this time.
 - o **The Minimal Fact Questions:**
 1. What happened? (Type of abuse/maltreatment alleged)
 2. Who is/are the alleged respondent(s)?
 3. Where did it happen? (Check for multiple locations.)
 4. When did it happen? (Specific date or timeframe)
 5. Are there any witnesses and/or other victims?
 6. If students are involved, please note whether the students have a 504 Plan or IEP.
2. **Report Immediately:** Contact **Damien Burke, Title IX Coordinator**, via email (TitleIX@capital.k12.de.us) or phone (302-857-4252) within 24 hours of notice.
3. **Offer Support:** Ensure the student is safe. The Title IX Coordinator will determine optimal "Supportive Measures" (counseling, schedule changes, etc.).

Phase	Critical Task	Primary Owner	Estimated Timeline
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¹ These procedures are based on the ATIXA 2020 Model Policy and Procedure for K-12 Education (K-12 AMPP). ©2025 ATIXA. Used with permission.

² Anywhere this procedure indicates “Title IX Coordinator,” the school/district may substitute a trained designee.

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Notice	Obtain Minimal Facts and report to the TIX Coordinator.	Principal / Staff	Immediately
Initial Assessment	Conduct initial assessment; check jurisdiction & policy relevance.	Title IX Coordinator	3 Business Days
Support	Coordinate supportive measures with the Complainant and/or Respondent.	Title IX Coordinator	Promptly
Investigation	Gather evidence and conduct interviews.	Assigned Investigator	< 60 Business Days
Determination	Issue written determination of responsibility.	Decision-Maker	Promptly
Appeals	Review appeal requests (based on error or new evidence).	Appeals Officer	10 Business Days

3. Notice/Complaint

Upon receipt of Notice or a Formal Complaint of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial assessment to determine the District's next steps. If applicable, the Title IX Coordinator will immediately report suspected child abuse consistent with other District policies and state law. The Title IX Coordinator will also contact the Complainant to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.³

4. Initial Assessment

The Title IX Coordinator will conduct an initial assessment, typically within three (3) business days of receiving Notice or a Formal Complaint. The initial assessment typically includes:⁴

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether the District has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties⁵
- Notifying the Complainant of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution options if a Formal Complaint is made

Helping a Complainant to Understand Resolution Options

³ Throughout this policy, "Complainant" includes a student's parent(s)/guardian(s).

⁴ If circumstances require, the Superintendent or Title IX Coordinator will designate another person to oversee the Formal Grievance Process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

⁵ Throughout these procedures, the terms "party," "Parties" (if both are Students), "Complainant," and "Respondent" include the parent(s)/guardian(s) when the term refers to a minor Student.

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If the Complainant wishes to make a Formal Complaint, the Title IX Coordinator will work with the Complainant to determine which resolution option they prefer. The Title IX Coordinator will seek to abide by the Complainant's wishes but may have to take another approach depending upon their assessment of the situation.

If the Complainant chooses the Formal Resolution Process, the Title IX Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title IX Coordinator will determine whether Informal Resolution is available and whether the other Parties consent to participate. Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant.⁶

If the Complainant does not want any action taken, the Title IX Coordinator will consider that request. Typically, allegations of Student-on-Student and Employee-on-Employee misconduct will not prompt the Formal Resolution Process unless deemed necessary by the Title IX Coordinator, though the Complainant can elect to pursue the Formal Resolution Process in the future. The Title IX Coordinator may need to refer allegations of Employee-on-Student misconduct to the Formal Resolution Process regardless of the Complainant's wishes, depending on the nature of the allegations.

The Title IX Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint.

Title IX Coordinator Authority to Initiate a Complaint

The Title IX Coordinator has ultimate discretion as to whether a Formal Complaint is made and may consult with appropriate District Employees, and/or conduct a violence risk assessment to aid their determination whether to sign a Formal Complaint on behalf of the Complainant. When the Title IX Coordinator signs a Formal Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct.

5. Dismissal (Mandatory and Discretionary)⁷

The District **must** dismiss a Formal Complaint or any allegations therein if, at any time during the Formal Resolution Process, it is determined that:

⁶ 34 C.F.R. § 106.45.

⁷ 34 CFR § 106.45.

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- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment even if proven
- 2) The conduct did not occur in the School/District's Education Program or Activity and/or the School/District does not have control of the Respondent
- 3) The conduct did not occur against a person in the United States
- 4) The Complainant is not participating in or attempting to participate in the District's Education Program or Activity at the time of filing the Formal Complaint, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on the District's behalf⁸

The District **may** dismiss a Formal Complaint or any allegations therein if, at any time prior to a final determination:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
- 2) The Respondent is no longer enrolled in or employed by the District
- 3) Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

Upon any dismissal, the District will promptly and simultaneously send the Parties written notice of the dismissal and the rationale for the dismissal.

This dismissal decision is appealable by any party.

6. Appeal of Dismissal

The Parties may appeal a decision to dismiss their Formal Complaint. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal decision.

A dismissal may be appealed on the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding dismissal was made that could affect the outcome of the matter

⁸ Such a Complainant is still entitled to supportive measures, but the Formal Resolution Process is not applicable unless the Title IX Coordinator signs the Formal Complaint in the event the Complainant cannot/will not do so.

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- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

The appeal request should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the request and supporting documentation with all other Parties and provide three (3) business days for other Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the request, as well as any response provided by the other Parties and/or the Title IX Coordinator to the Dismissal Appeal Decision-maker for consideration.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so. The Dismissal Appeal Decision-maker will notify the Parties and Title IX Coordinator of their decision and rationale in writing.

7. Student Emergency Removal

The District may emergency remove a Student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Resolution Process. Prior to an emergency removal, the District will conduct an individualized risk assessment and may remove the Student if that assessment determines that an immediate threat to the physical health or safety of any Student or other individual justifies removal.

When an emergency removal is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the Student (and their Advisor, if desired) as soon as reasonably possible thereafter allowing them to demonstrate why the removal/action should not be implemented or should be modified.

An emergency removal may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

During the removal period, educational services must be provided to the Student. A temporary alternative placement (e.g., online school, different brick and mortar school) may be considered for a removed Student if the anticipated removal period is lengthy.

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8. Placing an Employee on Leave

When the Respondent is an Employee, the Respondent may be placed on leave during the pendency of the resolution procedures at the discretion of the Title IX Coordinator.

9. Counter-Complaints

The District is obligated to ensure that the resolution process is not used for retaliatory purposes. Although the District permits counter-complaints, the Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counter-complaint are legitimate and/or made in good faith. When counter-complaints are not legitimate and/or made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute Policy violation.

Counter-complaints determined to have been reported legitimately and/or in good faith will be processed using the Formal Resolution Process below. At the Title IX Coordinator's discretion, investigation of such claims may take place at the same time or after resolution of the initial Formal Complaint.

10. Parent(s)/Guardian(s) of Minor Students in the Formal Resolution Process

A. Parent/Guardian Role in the Formal Resolution Process

Parent(s)/Guardian(s), have a right to attend Formal Resolution Process meetings with their Student, though the Student is expected to answer questions on their own behalf, to the extent possible.

B. Records Shared with Parent(s)/Guardian(s)

Parent(s)/Guardians(s) are entitled to the same opportunity as their Student to access Relevant and Directly Related Evidence and the Final Investigation Report.

Parent(s)/Guardian(s) are expected to maintain the confidentiality of the records shared with them. Parent(s)/Guardian(s) may not disclose any District work product or evidence the District created or obtained solely through the resolution process for any purpose not explicitly authorized by the District.

C. Parent/Guardian Expectations

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The District generally expects Parent(s)/Guardian(s) to adjust their schedule to allow them to attend District meetings/interviews when planned, but the District may change scheduled meetings/interviews to accommodate a Parent(s)/Guardian(s) inability to attend, if doing so does not cause an unreasonable delay.

The District may also make reasonable provisions to allow a Parent(s)/Guardian(s) to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

Any Parent/Guardian who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the District's established rules of decorum will be warned. If the Parent/Guardian continues to disrupt or otherwise fails to respect the limits of their role, the meeting/interview may be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Parent/Guardian's non-compliance and future role. These limitations may be flexible when deemed necessary or appropriate by the Title IX Coordinator, such as when a child's age or mental capacity warrants additional parental involvement.

11. Advisors in the Formal Resolution Process

The Parties may each have an Advisor of their choice (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews within the Formal Resolution Process. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.⁹ Student Parties may have an Advisor in addition to their parent(s)/guardian(s).

The District fully respects and accords the Weingarten rights of Employees, meaning that for Parties who are entitled to union representation, the District will provide contractual notice and allow the unionized Employee to have their union representative (if requested by the party) present for all meetings and interviews. To uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have an advisor. Witnesses are not permitted to have representatives or Advisors present.

A. Advisor's Role in the Formal Grievance Process

⁹ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. The Advisor cannot have conflicting roles, such as being an administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions. Additionally, choosing an Advisor who is also a witness in the process creates potential for bias and conflicts of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker(s).

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Advisors are expected to advise ethically, with integrity, and with their advisee's best interests in mind. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

B. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file. Parties will be asked to sign releases for the District to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records the School/District shares with them. The District may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the District's confidentiality expectations.

C. Advisor Expectations

The District generally expects an Advisor to adjust their schedule to allow them to attend District meetings/interviews when planned, but the District may change scheduled meetings/interviews to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The School/District may also make reasonable provisions to allow an Advisor to attend a meeting/interview by telephone, video conferencing, or other similar technologies.

D. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with the District's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview may be ended, or other appropriate measures implemented, including the District requiring the party to use a different Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

12. Resolution Options Overview

The Formal Resolution Process is the District's primary resolution approach unless all Parties and the District agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

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Resolution proceedings are private. All individuals present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

A. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a Final Determination, or the Title IX Coordinator may offer the option to the Parties. The District will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. The Title IX Coordinator must also agree that the allegation is appropriate for Informal Resolution. To engage in Informal Resolution, a Complaint must first submit a Formal Complaint.

Three approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Title IX Coordinator are agreeable to the resolution terms.
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to try Informal Resolution first to move forward with the Formal Resolution Process. Any party participating in Informal Resolution can leave the Informal Resolution Process at any time and start or resume the Formal Resolution Process.

As a condition of engaging in Informal Resolution, the Parties may agree on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Resolution Process should Informal Resolution not be successful.

If an investigation is already underway, the Title IX Coordinator has discretion to determine if an investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

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Prior to implementing Informal Resolution, the District will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that the District will maintain and under which circumstances they may be released.

If an Informal Resolution option is not available or selected, the District will follow the Formal Resolution Process to determine whether the Policy has been violated.

B. Formal Resolution Process

The Formal Resolution Process starts with a thorough, reliable, and impartial investigation.

1) Rights of the Parties (See [Appendix B](#))

2) Notice of Investigation and Allegations (NOIA)

The Title IX Coordinator will provide written notification of the investigation to the Parties prior to any investigation interviews. Typically, notice is given at least two (2) business days in advance of an interview. The NOIA will include a summary of the allegations, including the date, time, location, and involved Parties; a detailed explanation of the Parties' rights; and the contact information for the assigned Investigator(s). Changes and updates to the NOIA may be made as the investigation progresses and more information becomes available.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official District records, or emailed to the Parties' District-issued email or other approved accounts. Once mailed, emailed, and/or received in-person, notice is considered delivered.

3) Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

The Investigator will provide the Parties and their respective Advisors an opportunity to review all evidence obtained as part of the investigation that is directly related to the reported misconduct for a period of ten (10) business days. The evidence will be

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provided in a Draft Investigation Report and evidence file. The Parties may provide a written response to the evidence, which may include, but is not limited to, suggesting additional witnesses, suggesting questions for other Parties or witnesses, submitting additional evidence, challenging the inclusion of evidence as relevant or the exclusion of evidence as not relevant. The Parties may elect to waive the full ten (10) days.

The Investigator will then incorporate any new, Relevant Evidence and information obtained through the Parties' evidence review and any follow-up meetings into the Final Investigation Report, including responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report.

The District may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, when the allegations arise from the same facts or circumstances or implicate a pattern, mutually planned upon actions, and/or other shared or similar actions.

4) Witness Role and Participation in the Investigation

Witnesses who are District Employees are strongly encouraged to cooperate with and participate in the District's Formal Resolution Process. Student witnesses and witnesses from outside the District community are encouraged to cooperate with District investigations and to share what they know about a Formal Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. The District will take appropriate steps to ensure the security/privacy of remote interviews.

5) Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Resolution Process, by recording, transcript, or written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

6) Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the

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Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with making a determination without the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker agree to the new evidence being considered by the Decision-maker without reopening the investigation,
- The evidence includes information not already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not intentional.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the determination
- Provide the Parties with at least three (3) business days to review the Relevant Evidence
- Reopen the investigation
- Allow the Parties time to review and comment on the new evidence

If the evidence is not relevant, the Decision-maker may proceed to make a determination without considering the new evidence.

Neither the Investigator(s) nor the Decision-maker will consider:

1. Questions or evidence about the Complainant's sexual predisposition¹⁰
2. Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent¹¹
3. Questions or evidence about a party or witness's records that are made or maintained by a physician, psychiatrist, psychologist, or other professional with

¹⁰ The District defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

¹¹ The District defines "prior sexual behavior" to include only sexual actions taken by or involving a Complainant prior to the reported incident(s), not the absence of such actions.

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legal privilege unless the party or witness provides voluntary, written consent for the records to be considered

The investigation and Final Determination can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Unless there is a pattern allegation, this information is only considered at the sanction stage of the process and is not shared until then.

7) Referral for Final Determination

When the Final Investigation Report is shared with the Parties, the Title IX Coordinator will refer the matter for a Final Determination. The determination cannot be made less than ten (10) business days from the conclusion of the investigation – when the Final Investigation Report is provided to the Parties and the Decision-maker – unless all Parties and the Decision-maker agree to an expedited timeline.

During this ten (10) business-day period, each party may submit questions they wish to have asked of another party or witness, the Decision-maker will ask all relevant submitted questions as well as any questions they have for a party or witness, and the Decision-maker will relay the responses to all Parties. Parties are permitted to ask relevant follow-up questions at the discretion of the Decision-maker.

8) Decision-Maker's Written Determination Regarding Responsibility

The Decision Maker will typically provide the Parties a written determination regarding responsibility within ten (10) business days of the conclusion of all questioning. Extensions to this timeframe may be granted by the Decision Maker or Title IX Coordinator for appropriate reasons. New timelines will be communicated to the Parties.

The written determination regarding responsibility will include the following:

(A) Identification of the allegations potentially constituting sexual harassment;

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(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, and methods used to gather other evidence;

(C) Findings of fact supporting the determination;

(D) Conclusions regarding the application of the Policy 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 recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the District to the Complainant; and

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Decision-maker will provide the Parties with the outcome notification without significant time delay between notifications. Notice may be delivered by one or more of the following methods: in person, mailed to the Parties' local or permanent address(es) as indicated in official District records, or emailed to the Parties' District-issued email or other approved accounts. Once mailed, emailed, and/or received in-person, notice is considered delivered.

9) Resolution Timeline

The District will make every effort to complete the Formal Resolution Process within forty-five to sixty (45 - 60) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Formal Resolution Process, as well as notification and a rationale for any extensions or delays, and an estimate of the new timeline.

Determinations for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to ensure a prompt resolution.

10) Sanctions

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Factors the Decision-maker may consider when recommending/determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Sexual Harassment
- The need for sanctions/responsive actions to prevent the future recurrence of Sexual Harassment
- The need to remedy the effects of the Sexual Harassment on the Complainant and the community
- The impact on the Parties
- The Respondent's acceptance of responsibility
- Any other information deemed relevant by the Decision-maker(s)

The sanctions will be implemented as soon as possible once a determination is final, either upon the outcome of any appeal or the deadline to appeal, without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, actions taken by external authorities.

a. Student Sanctions

The following are the common sanctions that may be imposed upon Students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any District policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Required Counseling*: A mandate to meet with and engage in either District-sponsored or external counseling to better comprehend the misconduct and its effects
- *Restrictions*: A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, or participation in certain activities or extracurriculars
- *Alternative Placement*: The Student is placed in an alternative learning environment (e.g., placed in a different school)
- *Suspension*: In-school, out-of-school, etc. for a specific duration and/or until specified conditions are met

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- *Expulsion:* Permanent separation from the District. The Student may be banned from District property, and the Student's presence at any District-sponsored activity or event may be prohibited. This action may be enforced with a trespass action, as necessary.
- *Other Actions:* In addition to, or in place of, the above sanctions, the District may assign any other sanctions as deemed appropriate

b. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an Employee found to have violated the Policy include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Assignment to a New Supervisor*
- *Restriction of Stipends and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the District may assign any other responsive actions as deemed appropriate

11) Appeal of the Determination

The Title IX Coordinator will designate an Appeal Decision-maker to decide the appeal. The Appeal Decision-maker(s) will not have been previously involved in the Formal Resolution Process for the Complaint.

a. Appeal Grounds

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Appeals are limited to the following grounds:

- 1) A procedural irregularity that would change the outcome.
- 2) New evidence that would change the outcome and that was not reasonably available at the time the determination regarding responsibility was made.
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the specific Complainant or Respondent that would change the outcome.

b. Request for Appeal

Any party may submit a written appeal request to the Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds (a Review for Standing) and was submitted by the appeal deadline. If the appeal request does not meet the grounds in the Procedures or is not submitted by the appeal deadline, the request will be denied, and the Parties will be notified in writing.

If any information in the appeal request meets the grounds in the Procedures, all other Parties, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds. These individuals will then be given five (5) business days to submit a response to the approved portion of the appeal that involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds and the subsequent responses, and will promptly render a decision.

c. Appeal Determination Process

In most circumstances, appeals are limited to a review of the written documentation or record of the original determination and relevant documentation regarding the specific appeal grounds. An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Final Determination and/or sanction(s).

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Appeal Decision-makers should only make changes to the Final Determination when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by applying the preponderance of the evidence standard of evidence.

d. Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be returned (or partially returned) to the original Investigator(s) and/or Decision-maker with corrective instructions for remedying the error(s)/issue(s) identified by the Appeal Decision-maker, or reconsideration. In rare circumstances where an error/issue cannot be corrected by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new determination with different individuals serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter including the rationale supporting the appeal outcome will be sent to all Parties without significant time delay between notifications.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on appeal (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

e. Sanction Status During the Appeal

Any sanctions imposed because of the Final Determination are not implemented during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

12) Investigation Process Delays and Interactions with Law Enforcement

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The District may undertake a brief delay in its investigation for reasons such as:

- A request from law enforcement to temporarily delay the investigation
- The need for language assistance
- The absence of Parties and/or witnesses
- Health conditions

The District will promptly resume its Formal Resolution Process as soon as possible. The District will implement and maintain supportive measures for the Parties as deemed appropriate during the delay.

District action(s) or processes are not typically changed or stopped due to civil or criminal charges involving the underlying incident(s) being filed or criminal charges being dismissed or reduced.

The District will make every effort to complete the Formal Resolution Process as promptly as possible and will regularly communicate with the Parties to update them on the progress and timing of the process.

13. Ensuring Impartiality

No individual significantly involved in the administration of the Formal Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will evaluate the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Resolution Process, and the Title IX Coordinator will determine whether the concern is reasonable and supportable.

The Formal Resolution Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations will not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

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14. Withdrawal or Resignation Before Complaint Resolution

A. Students

Should a Student Respondent decide not to participate in the Formal Resolution Process, the process will continue absent their participation to a reasonable resolution. If a Student Respondent withdraws from the District, the Formal Resolution Process may continue, or the Title IX Coordinator may dismiss the Complaint. If the Complaint is dismissed, District will still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sexual Harassment.

Regardless of whether the Complaint is dismissed, the District will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged Sexual Harassment.

B. Employees

Should an Employee Respondent decide not to participate in the Formal Resolution Process, the process proceeds to a reasonable resolution absent their participation. If an Employee Respondent leaves their employment with the District with unresolved allegations pending, the Formal Resolution Process may continue, or the Title IX Coordinator may dismiss the Complaint. If the Complaint is dismissed, the District may still provide reasonable supportive or remedial measures as deemed necessary to address safety and/or remedy any ongoing effects of the alleged Sexual Harassment.

15. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the District community that are intended to stop the Sexual Harassment.

At the Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies the District may owe the Respondent to ensure no effective denial of educational access.

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The District will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the District's ability to provide these services.

16. Failure to Comply with Sanctions, Responsive Actions, and/or Informal Resolution Terms

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker, or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the District.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

An Employee suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

17. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Formal Grievance Process, the District will maintain records of:

- 1) Each Sexual Harassment Formal Resolution Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent
- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to the District's Education Program or Activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result therefrom
- 6) All materials used to train the Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing the District's resolution processes. The District will make these training materials publicly available its website
- 7) Any other actions taken in response to a report or Formal Complaint including:
 - a. The basis for all conclusions that the response was not deliberately indifferent

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- b. Any measures designed to restore or preserve equal access to the District's Education Program or Activity

The District will also maintain all records in accordance with federal and state laws.

18. Disability Accommodations

The District is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the District's resolution process.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with other personnel within the District as appropriate to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

19. Other Support

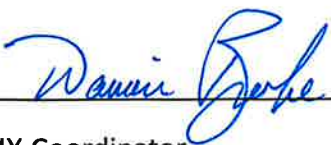
The District will also address reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding use of technology throughout the Resolution Process
- Other support as deemed reasonable and necessary to facilitate participation in the resolution process

20. Revision of these Procedures

The Title IX Coordinator regularly reviews and updates the Policy and associated procedures. The District reserves the right to make changes to this document as necessary, and those changes are effective once they are posted online.

APPROVALS



Title IX Coordinator

2/26/26

Date

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

Cheryl A. Brooks

Director of Human Resources

Patricia A. Wilson

Superintendent

2/26/26

Date

2/27/26

Date

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

APPENDIX A: DEFINITIONS

The following definitions apply to the Title IX Sexual Harassment Policy and Resolution Procedures:

- **Advisor.** Any person chosen by a party who may accompany the party to all meetings related to the Resolution Process and advise the party on that process.
- **Appeal Decision-maker.** The person or panel who accepts or rejects a submitted appeal request, determines whether any of the appeal grounds are met, and directs responsive action(s) accordingly.
- **Complainant.** An individual who has allegedly been subjected to conduct that could constitute Sexual Harassment, Retaliation, or Other Prohibited Conduct under the Policy.
- **Day.** A business day when the District is in normal operation. All references in the Policy to days refer to business days unless specifically noted as calendar days.
- **Decision-maker.** The person who reviews evidence, determines relevance, and makes the Final Determination of whether the alleged conduct has violated the Policy and/or assigns sanctions.
- **Education Program or Activity.** Locations, events, or circumstances where the District exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.
- **Employee.** A person employed by District either full- or part-time.
- **Final Determination.** A conclusion by the standard of evidence that the alleged conduct did or did not violate the Policy.
- **Finding.** A conclusion by the standard of evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Complaint.** A document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in Sexual Harassment under the Policy and requesting that the District investigate the allegation(s).
- **Formal Resolution Process.** The District’s method of formal resolution to address Sexual Harassment, allegations, which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45).
- **Informal Resolution.** A Resolution the Parties agree to, and approved by the Title IX Coordinator, which occurs prior to a Final Determination.

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- **Investigation Report.** The Investigator's written summary of all Relevant Evidence gathered during the investigation. Versions include the Draft Investigation Report and the Final Investigation Report.
- **Investigator.** The person(s) the District authorizes to gather facts about an alleged violation of the Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an Investigation Report of Relevant Evidence and a file of Directly Related Evidence.
- **Mandated Reporter.** A District Employee who is obligated by Policy to share knowledge, Notice, and/or reports of Sexual Harassment with the Title IX Coordinator.¹²
- **Notice.** When an Employee, Student, or third party informs the Title IX Coordinator or other Employee of the alleged occurrence of Sexual Harassment.
- **Parties.** The collective term for the Complainant(s) and Respondent(s) involved in a complaint.
- **Reasonable Person.** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Relevant Evidence.** Evidence that tends to prove or disprove any element of an offense or any issue materials to resolving a complaint.
- **Remedies.** Typically, post-Resolution actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the District's Education Program or Activity.
- **Resolution.** The result of an Informal Resolution or Formal Resolution Process.
- **Respondent.** A person who is alleged to have engaged in conduct that could constitute Sexual Harassment.
- **Sanction.** A consequence imposed on a Respondent who is found to have violated the Policy.
- **Sex.** Birth sex; an individual's immutable biological classification as either male or female.
- **Student.** Any individual who is registered for or enrolled in the District's education program, and who maintains an ongoing educational relationship with the District.
- **Title IX Coordinator.** At least one official designated by the District to ensure compliance with Title IX of the Education Amendments of 1972 (34 C.F.R. § 106) and the District's

¹² Not to be confused with those mandated by state law to report child abuse and/or any other mandatory reporting obligations to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility under this Policy.

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

Title IX program. References to the Coordinator throughout the Policy may also encompass a Coordinator's designee for specific tasks.

APPENDIX B: STATEMENT OF THE PARTIES' RIGHTS

Under the Policy and Procedures, the Parties have the right to:

- An equitable investigation and resolution of all credible allegations of prohibited Sexual Harassment when reported to District officials
- Timely written notice of all alleged violations, including the identity of the Parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions
- Timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional reports or Formal Complainants) by updating the Notice of Investigation and Allegation(s) (NOIA) as needed to clarify potentially implicated Policy violations
- Be informed in advance of any District public release of information regarding the allegation(s) or underlying incident(s), whenever possible
- Have all personally identifiable information protected from the District's release to the public without consent, except to the extent permitted by law
- Be treated with respect by District officials
- Have District Policy and Procedures followed without material deviation
- Voluntarily agree to resolve allegations under the Policy through Informal Resolution without District pressure, if Informal Resolution is approved by the Title IX Coordinator
- Not be discouraged by District officials from reporting Sexual Harassment to both District and external authorities
- Be informed of options to notify proper law enforcement authorities, including District and local police, and the option(s) for the District to assist in notifying such authorities, if the party chooses. This also includes the right not to be pressured to report. If, however, the alleged conduct falls within the state's mandated reporting requirements, the District will act consistent with state law, which may include a report to law enforcement
- Have District officials respond promptly to alleged Policy violations
- Be informed of available supportive measures, such as counseling, advocacy, health care, and/or other services, both in school and in the community
- Have the District maintain supportive measures for as long as necessary, ensuring they remain confidential, provided confidentiality does not impair the District's ability to provide the supportive measures or comply with the law
- Receive sufficiently advanced written notice of any District meetings or interviews involving another party, when possible
- Review the Relevant and Directly Related Evidence (if applicable) obtained and respond to that evidence

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- A fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record
- Receive a copy of all Relevant and Directly Related Evidence (if applicable) obtained during the investigation, subject to privacy limitations imposed by federal and state law, and a ten (10)-business-day period to review and comment on the evidence
- Receive a copy of the Final Investigation Report, including all factual, Policy, and/or credibility analyses performed, and to have at least ten (10) business days to review prior to a Final Determination
- Be informed of the names of all witnesses whose information will be used to make a Finding, in advance of that Finding, when relevant
- Have reports of alleged Policy violations addressed by individuals who have received relevant annual training as required
- Preservation of confidentiality/privacy, to the extent possible and permitted by law
- Be able to select an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process
- Apply the appropriate standard of evidence, preponderance of the evidence, to make a Finding and Final Determination after an objective evaluation of all Relevant Evidence
- Be promptly informed of the resolution process Finding(s) and sanction(s) (if any) and be given a detailed rationale for the decision in a written outcome letter delivered to the Parties simultaneously (without undue delay)
- Be informed of the opportunity to appeal the Finding(s) and sanction(s) and the procedures for doing so in accordance with the District's appeal grounds
- A fundamentally fair resolution as defined in the Procedures

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

APPENDIX C: TITLE IX POLICY STATEMENT

The Capital School District (the “District”) adheres to all federal, state, and local civil rights laws prohibiting sex discrimination and sex-based harassment in employment and education. The District does not discriminate in its admissions practices, employment practices, or educational programs or activities on the basis of sex, except as may be permitted by law. As a recipient of federal financial assistance for education activities, the District is required by Title IX of the Education Amendments of 1972 (Title IX) to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sex discrimination is prohibited under Title IX and by District Policy, and it includes sex-based harassment, sexual assault, dating and domestic violence, stalking, quid pro quo harassment, hostile environment harassment, disparate treatment, and disparate impact.

The District also prohibits retaliation against any person opposing sex discrimination or sex-based harassment or participating in any internal or external investigation or complaint process related to allegations of sex discrimination.

Any District Employee or Student who acts to deny, deprive, or limit the educational, employment, opportunities, and/or benefits of any member of the District community on the basis of sex is in violation of the Title IX Sexual Harassment Policy.

Any person may report sex discrimination (whether or not the person reporting is alleged to have experienced the conduct) in person, by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator (below). A report may be made at any time (including during non-business hours).

Questions regarding Title IX, including its application and/or concerns about noncompliance, should be directed to the Title IX Coordinator. For a complete copy of the Policy or more information, please contact the Title IX Coordinator or visit the website below to view Policy #: 500-28.

https://www.capital.k12.de.us/discover/capital/board_of_education/board_policies

For sex-based allegations:

Damien Burke
Chief Operating Officer and Title IX Coordinator
Capital School District
District Office
198 Commerce Way
Dover, DE 19904

CAPITAL SCHOOL DISTRICT – ADMINISTRATIVE PROCEDURE

P: 302-857-4252

Damien.burke@capital.k12.de.us

<https://www.capital.k12.de.us/>

A person may also file a complaint with the appropriate federal, state, or local agency within the time frame required by law. Depending upon the nature of the complaint, the appropriate agency may be the U.S. Department of Education Office for Civil Rights (OCR), the Department of Justice, the Equal Employment Opportunity Commission, and/or another appropriate federal or state agency.

- Office for Civil Rights
U.S. Department of Health and Human Services
801 Market Street, Suite 9300
Philadelphia, PA 19107-3134
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov

- Assistant Secretary for Civil Rights
Office for Civil Rights, National Headquarters
U.S. Department of Education
Lyndon Baines Johnson Dept. of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Within any resolution process related to this Policy, the District provides reasonable accommodations to persons with disabilities and religious accommodations, when that accommodation is consistent with federal and state law.