

SEXUAL HARASSMENT AND TITLE IX GRIEVANCE PROCEDURES

I. GENERAL STATEMENT

These grievance procedures relate to the District's prohibitions identified in Board Policy AC related to Sexual Harassment. These procedures also address concerns of retaliation for engaging in a protected activity related to these procedures.

Complaints of discrimination or discriminatory harassment other than sexual harassment are not addressed by these procedures. Such complaints are otherwise addressed by Board Policy AC and the District's Non-Title IX Discrimination Grievance Procedures.

Complaints of general misconduct or of sexual conduct that does not meet the definitions of sexual harassment provided in these procedures are not addressed by these procedures. Such matters may still be inappropriate and may warrant remedial action through other District processes.

II. DEFINITIONS OF PROHIBITED CONDUCT

These procedures apply to concerns of sexual harassment. For purposes of these procedures, sexual harassment is defined as conduct that 1) occurs on the basis of an individual's sex, 2) occurs within an education program or activity of the District (this includes locations, events, or circumstances over which the District exercises substantial control over both the Respondent and the context in which the sexual harassment occurs), 3) occurs within the United States, and 4) satisfies one or more of the following definitions:

A. Quid Pro Quo Sexual Harassment:

1. For students: A school employee conditioning an educational aid, benefit, or service upon a student's participation in unwelcome sexual conduct or using a student's submission to, or rejection of, such conduct as the basis for educational decisions regarding the student;
2. For employees and applicants: a school employee in a supervisory or comparable role conditioning an employment benefit upon the employee's or applicant's participation in unwelcome sexual conduct or using an individual's submission to, or rejection of, such conduct as the basis for employment decisions regarding the employee or applicant;

B. General Sexual Harassment:

Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the education program or activity; or effectively denies an employee or applicant equal access to employment.

C. Sexual Assault, which includes:

1. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. For purposes of these procedures, attempted rape may constitute a rape violation.
2. Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age and/or because of his/her temporary or permanent mental incapacity. For purposes of these procedures, the touching by the offender must be direct (for example, not through the victim's clothing), "private body parts" include a victim's genitalia, anus, or breasts, and the touching must have occurred with a sexualized intent on the part of the offender.
3. Incest: Sexual Intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
4. Statutory Rape: sexual intercourse with a person who is under the statutory age of consent.

D. Dating Violence:

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

E. Domestic Violence

Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under a domestic or family violence law.

F. Stalking:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

III. REPORTING

Any student or employee who believes they have been subjected to a violation addressed by these procedures by another person is encouraged, but not required, to notify the offender in an effort to stop the behavior.

If a student or employee believes they have been subject to a violation addressed by these procedures or has actual knowledge that others have been subjected to such behavior, they should report the incident to the District's Title IX Coordinator. District employees with actual

knowledge of a student being subject to Sexual Harassment are required report the conduct to the Title IX Coordinator.

A report can be submitted verbally or in writing. A written report can be made by completing the Sexual Harassment Complaint Form and submitting it to the Title IX Coordinator.

Regardless of whether a complaint is received by an alleged victim or a third party, the Complainant for purposes of these procedures will be the alleged victim.

IV. COMPLAINT INTAKE AND ASSIGNMENT

Upon receipt of a complaint alleging a violation of this policy, the Title IX Coordinator shall review the complaint to ensure it alleges conduct subject to these procedures. The Title IX Coordinator must ensure they do not have a conflict of interest with the Complainant or Respondent or with complainants or respondents generally.

The Title IX Coordinator will contact the Complainant directly to clarify the allegations, confirm the Complainant is alleging conduct that meets the applicable definitions of prohibited conduct, to discuss these grievance procedures and the investigative procedure, and to confirm the Complainant's desire to proceed with an investigation pursuant to these procedures. If deemed appropriate, the Title IX Coordinator may discuss other remedies or avenues through which the Complainant's concerns might be addressed. In most cases, the Complainant will retain the right to elect to not proceed with an investigation and will retain the right to discontinue an investigation even after it has been initiated.

If the Complainant confirms they are alleging conduct that meets one of the definitions identified in these procedures and confirms their desire to proceed with a formal investigation, the Title IX Coordinator will continue to follow these Title IX Procedures. However, if the Complainant elects to not proceed with an investigation, the Title IX Coordinator will document that decision in writing and, in most cases, will close the matter accordingly. In some extreme instances, the Title IX Coordinator may initiate a Title IX investigation without the consent of the Complainant.

The Title IX Coordinator must also contact the Complainant to discuss the availability of interim supportive measures available to Complainant. Such measures should be reviewed even if the Complainant does not proceed with a formal Complaint under these procedures. While interim supportive measures might not be required for all Complaints, the Title IX Coordinator will work to implement any measures they identify as appropriate after their review with the Complainant and with consideration of the Complainant's wishes. In each instance, the Title IX Coordinator must document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If a Complainant is not provided supportive measures, the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Supportive measures include, but are not limited to:

- Mental Health Counseling Referrals
- Absence Excusal

- Planning Center Supports
- Modified Schedules
- Classroom Reassignments
- Extensions of Assignment or Other Deadlines
- No Contact or Limited Contact Agreements or Orders
- Parent Conferences
- Transfers or Reassignments

The District will treat complainants and respondents equitably by offering supportive measures to a Complainant and, if appropriate, a Respondent, and by following this grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent. This section does not preclude the District from initiating an emergency removal, administrative leave, or other non-disciplinary action with respect to either party.

If the Complainant confirms their desire to proceed with a formal complaint, the Title IX Coordinator will provide both the Complainant and Respondent a copy of these grievance procedures and a written notice of the allegations including the alleged conduct constituting sexual harassment, and known identities of the parties involved, date, and location of the alleged incident(s). The written notice must include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence related to the Complaint, including evidence both favorable and unfavorable to them. The written notice must inform the parties that Board Policy AC prohibits them from knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of the grievance process, the allegations are amended to include additional incidents not captured by the notice of allegations described above, an additional notice of the updated allegations must be provided to both parties.

The Title IX Coordinator may elect to consolidate multiple complaints of sexual harassment into a single Complaint if the allegations arise out of the same facts or circumstances.

V. MEDIATION

If deemed appropriate by the Title IX coordinator, the Complainant and Respondent may be provided an opportunity to participate in an informal resolution process of mediation in order to resolve their concerns without a formal investigation occurring. The informal resolution will only occur if both the Complainant and Respondent agree in writing to participate in the mediation process. Mediation is not available in cases involving a student Complainant and an employee Respondent. If the parties do agree to participate in mediation, the Title IX Coordinator will assign the concern to a mediator. The assigned mediator must not have any

conflict of interest with either the Complainant or the Respondent or complainants or respondents generally. The assigned mediator should attempt to begin the mediation process by contacting the Complainant within five school days of the assignment and should attempt to conclude the mediation process within ten school days of such contact. The mediation timeline may be extended if the mediator believes the parties are making meaningful progress towards a resolution of the Complaint. Either party may elect to withdraw from the mediation process and proceed with the investigation provided by these procedures.

If the mediation successfully resolves the complaint, the mediator will document the resolution with both parties and the Title IX Coordinator. The parties will work to execute the terms of the mediation agreement and the Complaint will be considered resolved. Parties who reach an agreement through mediation are precluded from resuming a formal complaint related to the same allegations unless they demonstrate that the other party materially failed to meet their obligations under the mediation agreement.

If a Complaint is not resolved through mediation in advance of proceeding to a formal investigation, mediation may still be attempted at a later time at the request of any party upon the agreement of all parties. A mediation attempt in such a situation pauses any applicable investigative timelines while the mediation is attempted.

Mediation under these procedures is not available unless a formal Complaint has been filed.

VI. ASSIGNMENT OF INVESTIGATOR AND DECISION-MAKER

If a Complaint is not resolved through mediation, either because mediation was not attempted or because mediation was attempted but unsuccessful, the Title IX Coordinator will promptly identify two separate, appropriate individuals to serve in the roles of Investigator and Decision-Maker for the Complaint. The Investigator and Decision-Maker may be District officials or third parties designated by the District.

Prior to formal assignment, the Title IX Coordinator will confer with the prospective Investigator and Decision-Maker to ensure no conflict of interest exists between the either individual and the Complainant or Respondent or complainants or respondents generally. Previous service as an Investigator or Decision-Maker with respect to either party does not constitute a conflict of interest. However, an individual may not serve in both an Investigator or Decision-Maker role and in an adverse and formal representative role with respect to a specific issue or complaint.

VII. INVESTIGATION

The assigned Investigator will conduct an impartial investigation of the alleged conduct. Within ten school days of the assignment to the Investigator and Decision-Maker, the Investigator will meet with the Complainant in order to review the alleged conduct, ask clarifying questions, and solicit evidence relevant to the allegations. The Investigator will share the investigative evidence with the Decision-Maker.

If, after the Investigator meets with the Complainant, the Decision-Maker determines the alleged conduct would not constitute a violation subject to these procedures, even if true as

alleged, the Decision-Maker must dismiss the complaint by documenting the decision in writing to the Complainant, Respondent, and the Title IX Coordinator. Such a dismissal does not preclude action under another provision of the District's policies, procedures, or Codes of Conduct.

The District may also dismiss the formal complaint or any allegations if, at any time, the Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations; the Respondent is no longer enrolled or employed by the District; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. Such dismissal and the reason for the dismissal will be documented in writing to the Complainant and Respondent. Such a dismissal does not preclude action under another provision of the District's policies, procedures, or Codes of Conduct.

If the Complaint is not dismissed, the Investigator will meet with the Respondent between ten and fifteen school days later to ask clarifying questions, and provide the Respondent an opportunity to share their recollections of the alleged conduct and present any evidence in their defense. The Respondent may also submit additional information to the Investigator within five school days after the interview. If the Respondent fails to meet with the Investigator after reasonable attempts to engage, the Investigator may proceed with the investigation based on the available evidence.

The Investigator may determine whether the collection of additional evidence or interviewing of additional witnesses is appropriate. Both the Complainant and Respondent may identify fact or expert witnesses or exculpatory or inculpatory evidence supporting their position. The Investigator is not required to interview every individual identified by either party, but should provide deference to requests that witnesses be interviewed if the Investigator reasonably believes the identified witnesses may provide information material to the investigative determination.

Within ten school days after the Investigator completes their collection of evidence, the Investigator will draft a report that fairly summarizes the evidence and testimony of the Complainant, Respondent, and any witnesses. The Investigator will share a copy of the draft report, along with copies of all relevant evidence that has been collected, including any relevant evidence that has been collected but the Investigator does not expect the District to rely on when rendering a determination, with the Complainant and Respondent and provide each an opportunity to provide, within ten calendar days, a written response to the investigative report. At the conclusion of the ten-day response period, the Investigator will finalize the investigative report and submit the final investigative report, evidence, and each party's responses to the Decision-Maker.

When the final investigative report is submitted, each party will have a ten-calendar-day opportunity to further respond to the final investigative report in writing and to submit relevant cross-examination questions to be asked of the other party or a witness to the Decision-Maker. The Decision-Maker will review any cross-examination questions submitted to determine whether the questions are relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless offered to prove that someone other than the Respondent committed the conduct alleged by the complainant, or if the

questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

If a cross-examination question is relevant, the Decision-Maker will submit the questions to the appropriate party and provide a ten-calendar-day period for response. Responses will be submitted to the Decision-Maker and shared with the Complainant and Respondent and additional, limited follow-up questions from each party will be allowed. If any question is denied by the Decision-Maker for not being relevant, the Decision-Maker will inform the submitting party in writing of that decision and the basis for the decision and the question will not be submitted to the other party.

Within fifteen school days of receipt of the investigative report, evidence, investigative report responses, additional evidence, and all cross-examination responses, the Decision-Maker must conduct an objective evaluation of all relevant evidence, including inculpatory and exculpatory evidence, and issue a written determination as to whether a violation of these procedures has occurred. The determination shall include:

- Identification of the allegations potentially constituting sexual harassment that were the subject of the investigation
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the recipient's code of conduct to the facts;
- A statement of, and rationale 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 or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and
- The District's procedures and permissible bases to appeal the determination.

The standard of evidence to be used to determine responsibility is the preponderance of the evidence standard for all formal complaints of sexual harassment, including complainants against students and against employees and faculty. The Decision-Maker may make and rely on credibility determinations regarding the Complainant, Respondent, or any witnesses, but those determinations may not be based on a person's status as a complainant, respondent, or witness. The Decision-Maker may not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The Decision-Maker shall submit a written report of their conclusions to the Complainant, Respondent, and Title IX Coordinator simultaneously. The Title IX Coordinator is responsible for the effective implementation of any identified remedies.

VIII. APPEAL

A Complainant or Respondent who does not agree with the Decision-Maker's determination to dismiss a Complaint or determination on the merits after an investigation has concluded may file an appeal by contacting the Title IX Coordinator in writing within ten calendar days of the issuance of determination. The notice of the appeal must include the specific reasons for the appeal. The only permitted bases for an appeal are:

- A procedural irregularity that affected the outcome;
- The identification of new evidence not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter; and
- That the Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the Complainant, Respondent, or complainants or respondents generally respondent that affected the outcome of the matter.

Upon receipt of a valid, timely appeal request, the Title IX Coordinator will immediately assign the appeal to an Appeal Officer. The Title IX Coordinator is responsible for ensuring that the Appeal Officer does not have a conflict of interest with the Complainant, Respondent, or complainants or respondents generally.

The Title IX Coordinator will notify both parties in writing that a timely appeal has been filed, the basis for the appeal, the name of the Appeal Officer, and that each party will have a ten-calendar-day period to present a narrative or evidence in support of or challenging the determination to the Appeal Officer.

After the ten calendar days have passed, the Appeal Officer will review the underlying evidence and determination, the appeal notice, and any narrative or additional evidence produced by either party. Within ten school days, the Appeal Officer will issue a written determination simultaneously to both parties describing the result of the appeal and rationale.

A determination under these procedures becomes final upon the issuance of an Appeal determination or, if no appeal is timely requested, at the conclusion of the tenth calendar day after the determination issuance.

IX. SCHOOL DISTRICT ACTION

The District presumes a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

If the grievance process confirms sexual harassment has occurred, the results and any relevant evidentiary information will be shared with the appropriate District administrator responsible for considering disciplinary and/or corrective action. The District will take prompt, appropriate action to address a Respondent found responsible for a violation. Appropriate actions related to students may include but are not limited to restorative practices, counseling, awareness training, parent-teacher conferences, warning, suspension, expulsion, involuntary transfer, or other corrective actions identified in the Student Code of Conduct. Appropriate actions related to employees may include but are not limited to counseling, awareness training, warning,

transfer, suspension, or termination. District action taken for a violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, the Student Code of Conduct, state and federal law, and the District's policies on disciplinary action. Disciplinary action specific to a Title-IX violation of sexual harassment will only occur after these investigative procedures have concluded. However, inappropriate conduct, including sexual conduct not amounting to a Title-IX sexual harassment violation as defined by these procedures, may result in disciplinary action via other proscribed means without an investigation pursuant to these procedures.

Remedies will include actions designed to restore or preserve equal access to the District's education program or activity and may include the same individualized services described above as "supportive measures" as well as disciplinary actions.

The School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligation to investigate, to take appropriate action, and to conform to any discovery or disclosure obligations. Copies of all complaints and investigative reports pursuant to this policy shall be maintained for a period in accordance with the state statutes of limitations and the District's Record Retention Policy by the Director of EEO.

In the event that the evidence suggests that the violation at issue is also a crime in violation of an Ohio criminal statute requiring law enforcement notification, the Director of EEO shall report the results of the investigation as required.

X. EXTENSIONS OF TIMELINES

All timelines identified in these procedures may be extended for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

XI. RETALIATION

Neither the District nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or these procedures or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing provided by these procedures. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or these procedures, constitutes retaliation. Retaliation, as defined by these procedures, is not tolerated by the District and may form the basis for a Complaint and investigation pursuant to these procedures.

Making a materially false statement in bad faith in the course of a grievance proceeding under these procedures does not constitute retaliation. However, a determination regarding

responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Students and employees found responsible for deliberately making false statements in bad faith may be subject to a full range of disciplinary consequences.

XII. TRAINING

The Title IX Coordinator is responsible for coordinating the training needs of District staff responsible for implementing these procedures. The Title IX Coordinator, Investigators, Decision-Makers, Mediators, and Appeals Officers must receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to perform their applicable role within these procedures, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision-Makers must receive training on any technology to be used at a hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, Investigators, Decision-Makers, Mediators, or Appeals Officers must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

XIII. RECORDS MAINTENANCE

The Title IX Coordinator is required to maintain records, for the greater of seven years or the term identified by the District's record retention policy, of:

- A. Each sexual harassment investigation, determinations, evidence, support measures, disciplinary action, appeal records, and mediation records and agreements.
- B. Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. These materials must also be posted on the District's website.