



# DRAFT

Book	Policy Manual
Section	100 Programs
Title	Discrimination/Harassment Affecting Staff
Code	104
Status	Administrative Review
Adopted	June 19, 2006
Last Revised	October 27, 2020

## **Authority**

The Board declares it to be the policy of this district to provide to all persons equal access to all categories of employment in this district, regardless of race, color, age, religious creed, religion, sex, sexual orientation, gender identity, ancestry, national origin, marital status, genetic information, handicap/disability or pregnancy, childbirth or pregnancy-related medical conditions. The district shall make reasonable accommodations for identified physical and mental impairments that constitute disabilities, as well as pregnancy, childbirth and pregnancy-related medical conditions, consistent with the requirements of federal and state laws and regulations.[1][2][3][4][5][6][7][8][9][10][11][12][13]

The Board also declares it to be the policy of this district to comply with federal law and regulations under Title IX prohibiting sex-based discrimination and harassment. Inquiries regarding the application of Title IX to the district may be referred to the Title IX Coordinator, to the Office for Civil Rights of the U.S. Department of Education, or both.

## **Definitions**

### **General Definitions**

**Complaint** shall mean an oral or written request to the district that objectively can be understood as a request to investigate and make a determination about alleged discrimination.[14]

**Complainant** shall mean an individual who is alleged to **have been subject to conduct that could constitute discrimination in accordance with law and this policy.**[14]

**Pregnancy, childbirth and pregnancy-related medical conditions, as defined in federal law,** refers to the pregnancy or childbirth of the specific employee and includes, but is not limited to, current pregnancy; past pregnancy or recovery; termination of pregnancy; potential or intended pregnancy (which can include infertility, fertility treatment and the use of contraception); labor; childbirth; and lactation. Related medical conditions are medical conditions relating to the pregnancy, termination of pregnancy, childbirth or lactation of the specific employee.[14][15]

**Pregnancy, as defined in state law,** shall include the use of assisted reproductive technology, the state of being in gestation, childbirth, breastfeeding, the postpartum period after childbirth and medical conditions related to pregnancy.[16]

**Respondent** shall mean a person who is alleged to have violated the district's prohibition on discrimination in accordance with applicable law and this policy.[14]

**Retaliation** shall mean intimidation, threats, coercion or discrimination against any person by the district, a student, employee or other person authorized to provide a district aid, benefit or service, for the purpose of interfering with any right or privilege under applicable law or Board policy, or because the person has reported information, made a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding or hearing, including an informal resolution process or any other actions taken by the district in accordance with applicable law and this policy and procedures. This term shall not include the district requiring an employee or other individual providing a district aid, benefit or service to participate or assist with an investigation, proceeding or hearing in accordance with applicable law and this policy.[14][17]

#### Discrimination Other Than Title IX

**Discrimination** shall mean to treat individuals differently, or to harass or victimize based on a protected classification including race, color, age, religious creed, religion, sex, gender identity, sexual orientation, genetic information, ancestry, national origin, marital status, handicap/disability, pregnancy, childbirth or pregnancy-related conditions, or based on an individual's association with a person who has a protected classification.

**Harassment** is a form of discrimination based on the protected classifications listed in this policy, or association with an individual who has a protected classification, consisting of objectively and subjectively hostile conduct such as graphic, written, electronic, verbal or nonverbal acts including offensive jokes or comments, slurs, stereotypes, epithets and name-calling, ridicule or mockery, insults or put-downs, offensive objects or pictures, physical assaults or threats, intimidation, ostracism, misgendering or denial of access to facilities consistent with an individual's gender identity, or other conduct that affects a term, condition or privilege of employment, and may be harmful or humiliating or interfere with a person's school or school-related work performance, including when:[9]

1. Submission to such conduct is made explicitly or implicitly a term or condition of an employee's status; or
2. Submission to or rejection of such conduct is used as the basis for employment-related decisions affecting an employee; or
3. Such conduct is sufficiently severe, persistent or pervasive that a reasonable person in the complainant's position would find that it unreasonably interferes with the complainant's performance at work or otherwise creates an intimidating, hostile or offensive working environment such that it alters the complainant's working conditions **or affects a term, condition or privilege of employment.**

Examples of harassment based on race, color, ancestry or national origin may include but not be limited to harassment regarding traits or characteristics related to an individual's name, cultural dress or diet, accent, linguistic characteristics or manner of speech, or physical characteristics, such as hairstyles or hair texture.

Harassment based on religion, religious creed, sex, pregnancy or related conditions, or handicap/disability may include harassment based on a request for or receipt of a reasonable accommodation.

Discrimination or harassment based on handicap/disability may also include harassment based on how an individual speaks, looks or moves, as well as discrimination or harassment because an individual is regarded as having an impairment, even if the individual does not have an actual disability; has a record or history of a disability, even if the individual does not currently have a disability; or is associated with an individual who has a disability.

**Religious creed** includes all aspects of religious observance, practice or belief.[18]

**Religious beliefs include:[16]**

1. Moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.
2. The beliefs a complainant professes without regard to whether a religious group espouses these beliefs.

**Race includes all of the following:[16][19]**

1. Ancestry, national origin or ethnic characteristics.
2. Interracial marriage or association.
3. Traits associated with race, which includes but is not limited to, hair texture and protective hairstyles, such as braids, locks and twists.
4. Hispanic ancestry, national origin or ethnic characteristics.
5. Persons of any other national origin or ancestry as specified by a complainant or in a complaint.

**Sex includes:[16][20]**

1. Pregnancy.
2. Sex assigned at birth.
3. Gender, including a person's gender identity or gender expression. Gender identity or expression may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is part of a person's core identity.
4. Affectional or sexual orientation, including heterosexuality, homosexuality, bisexuality and asexuality.
5. Differences of sex development, variations of sex characteristics or other intersex characteristics.

Definitions Related to Title IX

**Title IX sex-based discrimination** includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation and gender identity.[14][21][22]

**Title IX sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including:[14]

1. ***Quid pro quo harassment*** - a district employee or other person authorized to provide a district aid, benefit or service explicitly or impliedly conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct.
2. ***Hostile environment harassment*** - unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a district education program or activity. Determination of whether a hostile environment has been created is a fact-specific inquiry that includes consideration of factors, including but not limited to:
  - a. The degree to which the conduct affected the complainant's ability to access the district's education program or activity;

- b. The type, frequency and duration of the conduct;
  - c. The complainant's and respondent's ages, roles in the district education program or activity, previous interactions and other relevant factors;
  - d. The location and context in which the conduct occurred; and
  - e. Other sex-based harassment in the district's education program or activity.
3. Sexual assault, dating violence, domestic violence or stalking.
- a. **Dating violence** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the following factors:[23]
    - i. Length of relationship.
    - ii. Type of relationship.
    - iii. Frequency of interaction between the persons involved in the relationship.
  - b. **Domestic violence** includes felony or misdemeanor crimes 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 has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving federal funding, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.[23]
  - c. **Sexual assault** means a sexual offense under state or federal law that is classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.[24]
  - d. **Stalking**, under Title IX means stalking on the basis of sex, for example when the stalker desires to date a victim. Stalking means to engage in a course of conduct directed at a specific person that would cause a reasonable person to either:[23]
    - i. Fear for their safety or the safety of others.
    - ii. Suffer substantial emotional distress.

Such conduct must have taken place during a district education program or activity and against a person in the United States to qualify as sex-based discrimination or harassment under Title IX. This includes conduct that is subject to the district's disciplinary authority. An education program or activity includes, but is not limited to, academic, extracurricular, research, occupational training and other education programs or activities of the district. The district is obligated to address a sex-based hostile environment in a district education program or activity, even when some conduct is outside the district's program or activity, or outside of the United States.[22][25][26][27]

**Supportive measures** shall mean nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, **without unreasonably burdening a complainant or respondent** and without fee or charge to the complainant or the respondent **in order to:[14][26]**

1. **Restore or preserve access to the district's education program or activity, including measures designed to protect the safety of the individuals or the district's educational environment; or**
2. **Provide support during the grievance procedures or during an informal resolution process.**



**Supportive measures** may include, but are not limited to: **[26]**

1. Counseling or Employee Assistance Program.
2. Extensions of deadlines or other course-related adjustments.
3. Modifications of work or class schedules.
4. Campus escort services.
5. Restrictions on contact applied to one or more parties.
6. Changes in work locations or other activities.
7. Leaves of absence.
8. Increased security.
9. Monitoring of certain areas of the campus.
10. Training and education programs related to sex-based harassment.
11. Assistance from domestic violence or rape crisis programs.
12. Assistance from community health resources, including counseling resources.

### **Delegation of Responsibility**

In order to maintain a program of nondiscrimination practices that is in compliance with applicable laws and regulations, the Board designates the Director of Secondary Education as the district's Compliance Officer and Title IX Coordinator. The Compliance Officer/Title IX Coordinator can be contacted at: **[28]**

Address: 540 E Pleasant St, Corry, PA 16407

Email: bwest@corrysd.net

Phone Number: 814-664-4677 ext. 1207

The Compliance Officer and Title IX Coordinator shall fulfill designated responsibilities to ensure adequate nondiscrimination procedures are in place, to recommend new procedures or modifications to procedures, to monitor and address barriers to reporting and to monitor the implementation of the district's nondiscrimination procedures in the following areas, as appropriate: **[26]**

1. Review - Review of personnel and hiring practices and actions for discriminatory bias and compliance with laws against discrimination and harassment, to include monitoring and promptly implementing corrective measures when appropriate. This may include, but is not limited to, changes to written position qualifications, job descriptions and essential job functions; recruitment materials and practices; procedures for screening applicants; application and interviewing practices for hiring and promotions; district designed performance evaluations; review of planned employee demotions, nonrenewal of contracts and proposed employee disciplinary actions up to and including termination; and provision of employee benefits and services.
2. Training - Provide training for supervisors and staff to prevent, identify and alleviate conduct which may constitute discrimination or harassment.
3. Resources - Maintain and provide information to staff on resources available to complainants in addition to the school complaint procedure or Title IX procedures, such as making reports to law enforcement, and available supportive measures such as assistance from domestic violence or rape crisis programs, and community health resources, including counseling

resources.

4. Reports/Complaints - Monitor and provide technical assistance to individuals involved in managing reports and complaints.

### **Guidelines**

When district programs and activities include separation on the basis of sex, in accordance with law and regulations, including but not limited to separate restroom or changing facilities, the district shall not implement such programs or activities in a manner that discriminates on the basis of sex, including an individual's gender identity.[22][29]

Violations of this policy, including acts of retaliation as defined in this policy, or knowingly providing false information, may result in disciplinary consequences under applicable Board policy and procedures, and in accordance with applicable law and regulations.[27][30][31]

The Board requires a notice stating that the district does not discriminate in any manner, including Title IX sex-based discrimination and harassment, in any district education program or activity, to be issued to all students, parents/guardians or other legal representatives of students, employment applicants, employees and all unions or professional organizations holding collective bargaining or professional agreements with the district. All discrimination notices and information shall include the name or title, office address, phone number and email address of the individual(s) designated as the Compliance Officer and Title IX Coordinator. The district's notice shall provide information on the location of the Board policy and complaint or grievance procedures, how to report information about conduct prohibited by this policy and how to file a complaint.[28]

The Board directs that this notice be included in each staff handbook, on the district website, and in each catalog, announcement, bulletin and application form for applicants and employees. An abbreviated statement of the district's prohibition of discrimination, that individuals may report concerns to the Title IX Coordinator and location of the full notice on the district website may be published when necessary due to size or format of publications. A copy of this policy and related attachments shall also be posted to the district's website.[28]

The Board shall engage in the interactive process with qualified employees and provide reasonable accommodations in accordance with applicable law and regulations.[11][12][32]

The district shall not require a qualified employee to take paid or unpaid leave for pregnancy, childbirth or pregnancy-related medical conditions if another reasonable accommodation can be provided to address the employee's known limitations.[33][34][35][36]

### **Reports of Title IX Sex-Based Discrimination and Harassment and Other Discrimination and Retaliation**

The Board encourages employees, applicants and third parties who believe they or others have been subject to Title IX sex-based discrimination and harassment, other discrimination, harassment or retaliation to promptly report such incidents to the building principal or Title IX Coordinator. A person who is not an intended victim or target of discrimination or harassment but is adversely affected by the conduct may file a report of sex-based discrimination.

An employee serving in a supervisory position who suspects or is notified that a district employee may have been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the Title IX Coordinator.

If the Title IX Coordinator is the subject of a complaint, the complainant, building principal or the individual making the report shall direct the report of the incident to the Superintendent or designee.

The complainant or the individual making the report may use the Discrimination/Harassment/Retaliation Report Form attached to this policy for purposes of reporting an incident or incidents in writing; however, oral reports of an incident or incidents shall be accepted, documented and the procedures of this policy and the relevant attachments followed.

The building principal shall promptly notify the Title IX Coordinator of all reports of discrimination, harassment, Title IX sex-based discrimination and harassment or retaliation. The Title IX Coordinator shall promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator shall consider the complainant's wishes with respect to supportive measures and reasonable safety concerns.[26]

The Title IX Coordinator shall conduct an assessment to determine whether the reported conduct meets the definition of Title IX sex-based discrimination or harassment and the appropriate procedures to address the conduct in accordance with this Board policy and procedures, or other Board policies.[26]

If the Title IX Coordinator reasonably determines that the conduct may constitute sex-based discrimination or harassment, or other discrimination or harassment, the Title IX Coordinator shall take the following steps under applicable law and regulations, this Board policy and procedures:[26]

1. Treat the complainant and respondent equitably.
2. Offer and coordinate supportive measures, as appropriate, for the complainant and respondent.
3. Notify the complainant or individual who reported the conduct of the grievance procedures and informal resolution process, if available and appropriate.
4. If a complaint is made, notify the respondent of the grievance procedures and, if applicable, the informal resolution process.
5. Initiate the grievance procedures or informal resolution process, if available and appropriate.
6. In the absence of a complaint or withdrawal of any or all allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint under the grievance procedures, in accordance with law, regulations and the grievance procedures.
7. If initiating a complaint under the grievance procedures, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety and the safety of others, including by providing supportive measures.
8. Take other prompt and effective steps to ensure that sex-based discrimination and harassment or other discrimination or harassment does not continue or recur within the district's education programs or activities.

#### Disciplinary Procedures when Reports Allege Title IX Sex-Based Discrimination or Harassment

When a report alleges Title IX sex-based discrimination or harassment, disciplinary sanctions may not be imposed until the completion of the grievance procedures. The district shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance procedures.[27]

#### *Administrative Leave –*

When an employee, based on an individualized safety and risk analysis, poses an imminent and serious threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis. The employee will be provided with notice and provided an opportunity to challenge the emergency removal immediately following the removal.[26][30]

An accused, nonstudent district employee may be placed on administrative leave during the pendency of the grievance procedures, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

### **Confidentiality**

Confidentiality of all parties, witnesses, the allegations, the filing of a report and the investigation related to any form of discrimination or retaliation, including Title IX sex-based discrimination or harassment, shall be handled in accordance with applicable law, regulations, Board policy and procedures, and the district's legal and investigative obligations to carry out the grievance procedures.[17][27][37][38]

The district shall not disclose personally identifiable information except in the following circumstances:[26][37][38][39][40][41][42]

1. When the district has obtained prior written consent in accordance with law.
2. When student information is disclosed to a parent/guardian as defined in Board policy or other authorized legal representative with the legal right to receive disclosures on behalf of the individual.
3. To carry out the requirements of this policy and the accompanying procedures.
4. As required or permitted by applicable law or regulations or the requirements of grant funding.

### **Retaliation**

The Board prohibits retaliation by the district or any other person against any person for:[17][43]

1. Reporting or making a complaint of conduct that may constitute discrimination or retaliation, including Title IX sex-based discrimination or harassment.
2. Testifying, assisting, participating in any manner or refusing to participate in a related investigation, process or other proceeding or hearing.
3. Acting in opposition to practices the person reasonably believes to be discriminatory.

The district, its employees and others are prohibited from intimidating, threatening, harassing, coercing or discriminating against anyone for actions described above. Individuals are encouraged to contact the Title IX Coordinator immediately if they believe retaliation has occurred. The district shall respond to reports of retaliation by initiating the appropriate procedures in accordance with applicable law, regulations and this Board policy. Retaliation that falls under Title IX shall be addressed through the grievance procedures or, as appropriate, through the informal resolution process.[17]

### **Title IX Sex-Based Discrimination and Harassment Training Requirements**

The district shall provide training annually to all school employees on:[28]

1. The district's obligation to address sex-based discrimination and harassment in district education programs and activities.
2. The scope of conduct that constitutes sex-based discrimination and harassment, as defined in the law and this policy.
3. Staff responsibility to provide the Title IX Coordinator's contact information to students or parents/guardians and to notify the Title IX Coordinator regarding conduct that may constitute sex-based discrimination or harassment, in accordance with Board policy and procedures.[41]

The Compliance Officer and Title IX Coordinator, investigators, decision-makers, or any staff responsible to implement grievance procedures related to Title IX sex-based discrimination or harassment and any staff authorized to modify or terminate supportive measures shall receive the following training annually, as required or appropriate to their specific role:[28]

1. The district's obligations under Title IX, including definitions of sex-based discrimination and harassment.
2. The grievance procedures used to address Title IX complaints.
3. How to conduct an investigation, including examination of evidence, interviewing witnesses, evaluating credibility, drafting reports and determinations, and handling appeals, as applicable.
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest and bias.
5. Issues of relevance in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.
6. How to address complaints when the alleged conduct does not qualify as Title IX sex-based discrimination or harassment but could be addressed under another complaint process or Board policy.[30][31][44][45]

Staff designated to facilitate the informal resolution process shall receive training annually on the rules and practices associated with the informal resolution process and how to serve impartially, including by avoiding conflicts of interest and bias.[28]

The Title IX Coordinator and designees shall receive the following training annually, in addition to all other training required by Title IX and this policy:[28]

1. Specific responsibilities of the Title IX Coordinator, in accordance with law and Board policy and procedures.
2. The district's recordkeeping system and requirements for recordkeeping in accordance with Title IX and Board policy and administrative regulations.[40][46]
3. Any other training required to coordinate the district's compliance with Title IX and other applicable laws, regulations and Board policy.

All training materials shall be retained for at least seven (7) years and must be made available for inspection upon request from a member of the public.[28][46][47]

### Disciplinary Consequences

An employee who violates this policy, including a determination of sex-based harassment, shall be subject to appropriate disciplinary action consistent with the applicable Board policy, collective bargaining agreement and individual contract, up to and including dismissal and/or referral to law enforcement officials.[30][31]

### **Handling of Reports**

#### *Reports of Discrimination –*

Any reports of discrimination that are reviewed by the Title IX Coordinator and do not meet the definition of Title IX sex-based discrimination or harassment but are based on race, color, age, religious creed, religion, sex, gender identity, sexual orientation, ancestry, genetic information, national origin, marital status, handicap/disability or pregnancy, childbirth or pregnancy-related conditions shall be handled in accordance with the Discrimination Complaint Procedures attached to this policy.



*Reports of Title IX Sex-Based Discrimination or Harassment –*

Any reports deemed by the Title IX Coordinator to meet the definition of sex-based discrimination or harassment under Title IX shall be handled in accordance with the Grievance Procedures attached to this policy.

**PSBA 7/24 @2024**

Legal

1. 43 P.S. 336.3
2. 43 P.S. 951 et seq
3. 34 CFR Part 106
4. 20 U.S.C. 1681 et seq
5. 29 U.S.C. 206
6. 29 U.S.C. 621 et seq
7. 29 U.S.C. 794
8. 42 U.S.C. 1981 et seq
9. 42 U.S.C. 2000e et seq
10. 42 U.S.C. 2000ff et seq
11. 42 U.S.C. 12101 et seq
12. 29 CFR Part 1636
13. U.S. Const. Amend. XIV, Equal Protection Clause
14. 34 CFR 106.2
15. 29 CFR 1636.3
16. 16 PA Code 41.204
17. 34 CFR 106.71
18. 16 PA Code 41.205
19. 16 PA Code 41.207
20. 16 PA Code 41.206
21. 34 CFR 106.10
22. 34 CFR 106.31
23. 34 U.S.C. 12291
24. 20 U.S.C. 1092
25. 34 CFR 106.11
26. 34 CFR 106.44
27. 34 CFR 106.45
28. 34 CFR 106.8
29. 34 CFR 106.41
30. Pol. 317
31. Pol. 317.1
32. 29 CFR 1630.1 et seq
33. 29 CFR 1636.4
34. Pol. 335

35. Pol. 336  
36. Pol. 339  
[37. 20 U.S.C. 1232g](#)  
[38. 34 CFR Part 99](#)  
39. Pol. 216  
40. Pol. 324  
41. Pol. 103  
42. Pol. 113.4  
[43. 29 CFR 1636.5](#)  
44. Pol. 806  
45. Pol. 824  
46. Pol. 800  
47. Pol. 801  
[18 Pa. C.S.A. 2709](#)  
[16 PA Code 41.201 et seq](#)  
[28 CFR 35.140](#)  
[28 CFR Part 41](#)  
[29 CFR Parts 1600-1691](#)  
[U.S. Equal Employment Opportunity Commission Questions and Answers on Religious Discrimination in the Workplace](#)  
[U.S. Equal Employment Opportunity Commission \(EEOC\) Enforcement Guidance on Harassment in the Workplace \(2024\)](#)  
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)  
Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998)  
Bostock v. Clayton County, 590 U.S., 140 S. Ct. 1731 (2020)  
Groff v. DeJoy, 600 U.S. 447 (2023)  
Pol. 320  
Pol. 815

104 Report Form.pdf (322 KB)

104-Discrimination Complaint Procedures.docx (49 KB)

104-Grievance Procedures.docx (85 KB)



DISCRIMINATION  
COMPLAINT PROCEDURES

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*The Discrimination Complaint Procedures prescribed in this attachment apply to reports of retaliation or discrimination on the basis of race, color, age, religious creed, religion, sex, gender identity, sexual orientation, ancestry, national origin, marital status, genetic information, handicap/disability or pregnancy, childbirth or pregnancy-related medical conditions that do not constitute Title IX sex-based discrimination or harassment as defined in Policy 104.*

*All reports of discrimination will be reviewed by the Title IX Coordinator upon receipt to determine if the allegations meet the definition and parameters of sex-based discrimination and harassment under Title IX. If the result of this review determines that the allegations fall within the scope of Title IX sex-based discrimination and harassment, then the Grievance Procedures set forth for Title IX Sex-Based Discrimination and Harassment will be followed.*

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All reports of discrimination and retaliation brought pursuant to the district's discrimination policy **will** also be reviewed for conduct which may not be proven discriminatory under Policy 104 but merits review and possible action under other Board policies or the Code of Student Conduct for students. (Pol. 103.1, **113.1**, 218, **233**, 317)

Reasonable Accommodations

Throughout the discrimination complaint procedures, the district will make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, as well as reasonable accommodations for pregnancy, childbirth or pregnancy-related medical conditions, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 104, 113, 234, 906)

Required Reporting Under Other Policies

In addition to implementing the complaint procedures, the building principal or Compliance Officer will ensure that reported conduct which meets the definition of other laws, regulations or Board policies, is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents involving school safety, reports of educator misconduct, threats or reports of suspected child abuse. (Pol. 218, 317.1, 805.1, 806, 824)

Timeframes

Reasonably prompt timeframes will be established for completing each step of the discrimination complaint procedures, including timeframes for filing and resolving appeals.

The established timeframes included in these procedures may be adjusted to allow for a temporary delay or a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action will be provided to the complainant and the respondent, and documented with the records of the complaint. Good cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. Request from law enforcement or child welfare agency.
3. Need for language assistance or accommodations.

## **PROCEDURES FOR COMPLAINTS OF DISCRIMINATION**

### **Step 1 – Reporting**

An employee or individual who believes they have been subject to discrimination by any district student, employee or third party is encouraged to immediately report the incident to the building principal or Title IX Coordinator using the Discrimination/Harassment/Retaliation Report Form or by making a general report orally or in writing. A person who is not an intended victim or target of discrimination but is adversely affected by the offensive conduct may file a report of discrimination.

An employee serving in a supervisory position who suspects or is notified that a district employee may have been subject to conduct that constitutes a violation of this policy shall immediately report the incident to the Title IX Coordinator.

If a student is identified as a party in the report, parents/guardians have the right to act on behalf of the student at any time. (Pol. 103)

Any person with knowledge of discrimination in violation of Board policy or this procedure is encouraged to immediately report the matter to the building principal or Title IX Coordinator.

The building principal will immediately notify the Title IX Coordinator and Compliance Officer of reported discrimination.

If the building principal, Title IX Coordinator or Compliance Officer is the subject of a complaint, the person making the report will report the incident directly to the Superintendent or designee.

The complainant or reporting individual will be encouraged to use the Discrimination/Harassment/Retaliation Report Form, however, complaints will be accepted in person, by phone, by mail or email or by any other means that results in the appropriate individual receiving the oral or written report. Oral reports will be documented using the Discrimination/Harassment/Retaliation Report Form, and these procedures will be implemented.



The Title IX Coordinator will review reports and complaints, and may gather additional information from the individual submitting the report and other parties identified in the report using the Discrimination/Harassment/Retaliation Report Form. The Title IX Coordinator will promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator will consider the complainant's wishes with respect to supportive measures.

The Title IX Coordinator will conduct an assessment to determine whether the reported circumstances are most appropriately addressed through the Discrimination Complaint Procedures prescribed in this document, or if the reported circumstances meet the definition and parameters of Title IX sex-based discrimination or harassment and are most appropriately addressed through the Grievance Procedures, or other applicable Board policies.

If the Title IX Coordinator determines that the report should be addressed through the discrimination complaint procedures, the Compliance Officer will be notified and the complaint procedures in this document will be implemented.

When a party is an identified student with a disability, or thought to be a student with a disability, the Title IX Coordinator will notify the Director of Special Education and coordinate to determine whether additional steps must be taken for the party, while the discrimination complaint procedures are implemented. Such measures may include, but are not limited to, conducting a manifestation determination, functional behavioral assessment (FBA) or other assessment or evaluation, in accordance with applicable law, regulations and Board policy. FBAs must be conducted when a student's behavior interferes with the student's learning or the learning of others and information is necessary to provide appropriate educational programming, and when a student's behavior violates the Code of Student Conduct and is determined to be a manifestation of a student's disability. (Pol. 113, 113.1, 113.2, 113.3)

## **Step 2 – Initial Communications/Supports**

The complainant will be informed about the Board's policy on discrimination, including the right to an investigation of both oral and written reports of discrimination.

The building principal or designee, in consultation with the Compliance Officer, Title IX Coordinator and other appropriate individuals, will promptly implement appropriate measures to protect the complainant and others as necessary from violation of the policy throughout the course of the investigation.

The building principal or designee may provide to the complainant factual information on the complaint and the investigative process, the impact of choosing to seek confidentiality and the opportunity to report incident(s) to law enforcement. The person accepting the complaint will handle the report objectively, neutrally and professionally, setting aside personal biases that might favor or disfavor the complainant or respondent.

The building principal or Compliance Officer will provide relevant information on resources available in addition to the discrimination complaint procedure, such as making reports to law

enforcement, available assistance from domestic violence or rape crisis programs and community health resources, including counseling resources.

### *Informal Remedies -*

At any time after a complaint has been reported, if the Compliance Officer believes the circumstances are appropriate, the Compliance Officer may offer the parties involved in the complaint the opportunity to participate in informal remedies to address the reported conduct. Informal remedies can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services such as an Employee Assistance Program or other measures to support the parties.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal remedies will document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation to indicate agreement with the resolution and receive a copy, and forward it to the Compliance Officer.

The Compliance Officer will contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies, and will document all appropriate actions.

\*If the informal remedies result in the final resolution of the complaint, the following steps are not applicable.

### **Step 3 – Investigation**

The Compliance Officer will assess whether the investigation should be conducted by the building principal, another district employee, the Compliance Officer or an attorney and will promptly assign the investigation to that individual. The individual assigned to investigate the complaint must not be an employee supervised by the respondent or complainant.

The Compliance Officer will ensure that the individual assigned to investigate the complaint has an appropriate understanding of the relevant laws pertaining to discrimination and retaliation issues and Board policy. The individual must have received training on how to conduct investigations, including interviewing witnesses and evaluating credibility, and how to draft an investigative report.

When investigating conduct that may be considered discriminatory harassment, and whether the harassment was objectively hostile, the investigator should review the conduct in its social context, from the perspective of a reasonable person of the complainant's protected class. For example, if investigating conduct related to harassment on the basis of race, the harassment should be evaluated from the perspective of a reasonable person of that same race.

The investigator will work with the Compliance Officer to assess the anticipated scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation.

The investigator will conduct an adequate, reliable and impartial investigation. The complainant and the respondent may suggest additional witnesses and provide other evidence during the course of the investigation. When the initial complaint involves allegations relating to conduct which took place away from school property, school-sponsored activities or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as harassment in school settings.

The investigation may consist of individual interviews with the complainant, the respondent and others with knowledge relative to the allegations. The investigator may also evaluate any other information and materials relevant to the investigation. The person making the report, parties, parents/guardians, if applicable, and witnesses will be informed of the prohibition against retaliation for anyone's participation in the process and that conduct believed to be retaliatory should be reported. All individuals providing statements or other information or participating in the investigation will be instructed to keep the matter confidential and to report any concerns about confidentiality to the investigator.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator will promptly notify the Compliance Officer, who will promptly inform law enforcement authorities about the allegations.

The obligation to conduct this investigation will not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to requests for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays will not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation, and the reason for such delay will be documented by the investigator.

#### **Step 4 – Investigative Report**

The investigator will prepare and submit a written report to the Compliance Officer within thirty (30) school days of the initial report of alleged discrimination, unless the nature of the allegations, anticipated extent of the investigation or the availability of witnesses requires the investigator and the Compliance Officer to establish a different due date. The parties will be notified of the anticipated date the investigative report will be completed and of any changes to the anticipated due date during the course of the investigation.

The investigative report will include a summary of the investigation, a determination of whether the complaint has been substantiated as factual, the information and evaluation that formed the basis for this determination, whether the conduct violated Board Policy 104 and of any other violations of law or Board policy which may warrant further district action, and a recommended disposition of the complaint. An investigation into discrimination or harassment will consider the record as a whole and the totality of circumstances in determining whether a violation of Board policy has occurred, recognizing that persistent and pervasive conduct, when taken together, may be a violation even when the separate incidents are not severe.

The complainant and the respondent will be informed of the outcome of the investigation, for example, whether the investigator believes the allegations to be founded or unfounded, within a reasonable time of the submission of the written investigative report, to the extent authorized by the Family Educational Rights and Privacy Act (FERPA) and other applicable laws. The respondent will not be notified of the individual remedies offered or provided to the complainant.

### **Step 5 – District Action**

If the investigation results in a finding that some or all of the allegations of the discrimination complaint are founded and constitute a violation of Board policy, the district will take prompt, corrective action designed to ensure that such conduct ceases and that no retaliation occurs. The district will promptly take appropriate steps to prevent the recurrence of the prohibited conduct and to address the discriminatory effect the prohibited conduct had on the complainant and the district education program or activity. District staff will document the corrective action taken and, where not prohibited by law, inform the complainant. The Compliance Officer will follow up by assessing the effectiveness of the corrective action at reasonable intervals.

If an investigation results in a finding that a different policy was violated separately from or in addition to violations of Policy 104 or these procedures, or that there are circumstances warranting further action, such matters will be addressed at the conclusion of this investigation or through disciplinary or other appropriate referrals where further evaluation or investigation is necessary. (Pol. 113.1, 218, 233, 317, 317.1, 806, 824)

Disciplinary actions will be consistent with Board policies and administrative regulations, the Code of Student Conduct for students, district procedures, applicable collective bargaining agreements and state and federal laws and regulations. (Pol. 103, 104, 113.1, 218, 233, 317, 317.1)

### **Appeal Procedure**

If the complainant or the respondent is not satisfied with a finding made pursuant to these procedures or with recommended corrective action, they may submit a written appeal to the Compliance Officer within fifteen (15) school days of receiving notification of the outcome of the investigation. If the Compliance Officer investigated the complaint, such appeal **will** be made to the Superintendent.

The individual receiving the appeal **will** review the investigation and the investigative report and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The person handling the appeal **will** prepare a written response to the appeal within twenty (20) school days.

Copies of the response **will** be provided to the complainant, the respondent and the investigator who conducted the initial investigation.







**GRIEVANCE PROCEDURES FOR COMPLAINTS OF TITLE IX SEX-BASED  
DISCRIMINATION AND HARASSMENT**

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*The Title IX sex-based discrimination and harassment grievance procedures prescribed in this attachment apply only when a complaint includes allegations of sex-based discrimination or harassment, including retaliation, subject to Title IX regulations. (34 CFR 106.44, 106.45)*

*All other reports or complaints of discrimination, harassment or retaliation will follow the Discrimination Complaint Procedures attached to Policy 104.*

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**General Provisions**

If the district has knowledge of conduct that reasonably may constitute Title IX sex-based discrimination or harassment in its education program or activity, it must respond promptly and effectively.

If a student is identified as a party in a report, parents/guardians have the right to act on behalf of the student at any time. (Pol. 103)

The district requires that the Title IX Coordinator, investigator and decision-maker be free from any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

As long as there is no conflict of interest or bias, the decision-maker may be the same person as the Title IX Coordinator or investigator during the grievance procedures; however, the facilitator for an informal resolution process must not be the same person designated as the investigator or decision-maker for the grievance procedures.

The district will treat all complainants and respondents equitably.

The district will assume that the respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the informal resolution process or grievance procedures.

**Definitions**

**Exculpatory evidence** means evidence tending to exonerate the accused or helps to establish their innocence.

**Inculpatory evidence** means evidence tending to incriminate the accused or indicate their guilt.

**Impermissible evidence** means evidence, and questions seeking such evidence, that will not be accessed or considered, except by the district to determine whether one (1) of the exceptions

listed below applies; will not be disclosed; and will not otherwise be used, regardless of relevance:

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

**Relevant** means related to the allegations under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged conduct occurred, and evidence is relevant when it may aid a decision-maker in determining whether the alleged conduct occurred.

**Remedies** means measures provided, as appropriate, to a complainant or any other person the district identifies as having had their equal access to the district's education program or activity limited or denied by sex-based discrimination or harassment.

These measures are provided to restore or preserve that person's access to the district's education program or activity after the district determines that sex-based discrimination or harassment occurred.

#### General Reporting

A report of Title IX sex-based discrimination or harassment may be made using the Discrimination/Harassment/Retaliation Report Form or by making a general report orally or in writing to the building principal, or by using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Upon receipt of a report, school staff will immediately notify the Title IX Coordinator.

A report may be made at any time, including during nonbusiness hours. Oral reports will be documented by the Title IX Coordinator or employee receiving the report using the

Discrimination/Harassment/Retaliation Report Form, and these procedures will be implemented appropriately.

An employee serving in a supervisory position who suspects or is notified that a district employee may have been subject to conduct that constitutes a violation of this policy will immediately report the incident to the Title IX Coordinator.

All reports and complaints received by the building principal will be promptly directed to the Title IX Coordinator, in accordance with Board policy. The Title IX Coordinator will use the Discrimination/Harassment/Retaliation Report Form to gather additional information from the reporter and/or other parties identified in the report.

The Title IX Coordinator will promptly contact the complainant regarding the report to gather additional information as necessary, and to discuss the availability of supportive measures. The Title IX Coordinator will consider the complainant's wishes with respect to supportive measures and reasonable safety concerns.

The Title IX Coordinator will initially assess whether the reported conduct:

1. Meets the definition of Title IX sex-based discrimination or harassment.
2. Involves other Board policies or the Code of Student Conduct.
3. Indicates, based on an individualized safety and risk analysis, that there is an imminent and serious threat to the physical health or safety of an individual.
4. Involves a student identified as a student with a disability under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act. (Pol. 103.1, 113, 113.1, 113.2, 113.3)

If the result of this initial assessment determines that none of the allegations fall within the scope of Title IX sex-based discrimination or harassment, but the matter merits review and possible action under other Board policies, the Code of Student Conduct or complaint procedures, then the Title IX Coordinator will redirect the report to the appropriate administrator to address the allegations. (Pol. 103, 103.1, 104, 113.1, 218, 317, 317.1, 906)

If the result of the initial assessment determines that the allegations may constitute Title IX sex-based discrimination or harassment, the Title IX Coordinator will promptly explain to the complainant the process for filing a complaint and inform the complainant of the continued availability of supportive measures with or without the filing of a complaint.

### **Filing a Complaint**

Individuals specified below may request that the district investigate and make a determination about alleged conduct.

***Sex-based discrimination, including sex-based harassment*** – The following individuals may request that the district investigate and make a determination about the alleged discrimination under Title IX:

1. **A complainant**, which means:

- a. A district student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
- b. A person other than a district student or employee who is alleged to have been subjected to conduct that could constitute sex-based discrimination under Title IX at a time when that individual was participating or attempting to participate in a district education program or activity.

2. A parent/guardian or other authorized legal representative with the legal right to act on behalf of a student complainant; or

3. The Title IX Coordinator, after conducting a fact-based assessment in accordance with law.

***Sex-Based Harassment*** - Individuals themselves who are alleged to have been subjected to the sex-based harassment, those who have a legal right to act on behalf of such individual, or the Title IX Coordinator may initiate the complaint.

***Title IX Sex-Based Discrimination Other Than Sex-Based Harassment*** – In addition to the individuals listed above, the following individuals have a right to make a complaint:

1. Any district student or employee; or
2. Any person other than a student or employee who was participating or attempting to participate in a district education program or activity at the time of the alleged sex discrimination.

### **District Actions**

The measures identified below may be enforced by the district at any time, as deemed necessary, including during the reporting, complaint or grievance procedures steps.

#### ***Supportive Measures -***

The district must offer and coordinate supportive measures, as appropriate. Supportive measures offered by the district may not be imposed for punitive or disciplinary purposes.

For allegations of sex-based discrimination other than sex-based harassment or retaliation, the district's provision of supportive measures does not require the district, its employee or any other



person authorized by the district to provide an aid, benefit or service to alter the alleged discriminatory conduct for the purposes of providing a supportive measure.

*For example, if a teacher makes a complaint of alleged sex-based discrimination based on classroom assignments because they believe the assignments have been made to give individuals of the opposite sex an advantage, the district is not required to provide a supportive measure that grants the complainant their requested classroom unless a determination is made at the conclusion of the grievance procedures that discrimination has occurred and remedies are needed to address the discrimination. Other supportive measures may be provided during the grievance procedures. However, if a teacher makes a complaint of alleged sex-based harassment based on conduct of the teacher in the neighboring classroom, the district may need to change the complainant's classroom assignment to a requested classroom in a different location as a supportive measure, in order to halt the conduct during the process of the grievance procedures.*

The district may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or informal resolution process. The complainant or respondent may seek an appeal of decisions regarding supportive measures from an appropriate and impartial employee other than the employee who made the initial decision. The employee considering the appeal must have authority to modify or reverse the decision regarding supportive measures, and determine whether the decision to provide, deny, modify or terminate the supportive measure is inconsistent with the definition of supportive measures.

The district will provide a party with the opportunity to seek modification or termination of supportive measures applicable to them if circumstances materially change.

When a party is an identified student with a disability, or thought to be a student with a disability, the Title IX Coordinator will notify the Director of Special Education and coordinate to determine whether additional steps must be taken as supportive measures for the party while the Title IX procedures are implemented. (Pol. 113, 113.1, 113.2, 113.3)

#### *Confidentiality –*

Confidentiality regarding the supportive measures offered and the identity of the following individuals will be maintained, except as necessary to provide the supportive measure or restore or preserve a party's access to a district education program or activity, or as permitted by law or regulations: (20 U.S.C. Sec. 1232g; 34 CFR Parts 99, 106; Pol. 113.4, 216, 324)

1. Individuals making a report or complaint.
2. Complainant(s).
3. Respondent(s).
4. Witnesses.

#### *Reasonable Accommodations –*

Throughout the grievance procedures, the district will make reasonable accommodations for identified physical and intellectual impairments that constitute disabilities for all parties, as well as reasonable accommodations for pregnancy, childbirth or pregnancy-related medical conditions, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 104, 113, 906)

#### *Employee Disciplinary Procedures When Reports Allege Title IX Sex-Based Discrimination or Harassment -*

When reports allege Title IX sex-based discrimination or harassment, disciplinary sanctions may not be imposed until the completion of the grievance procedures. The district will presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance procedures.

#### *Administrative Leave -*

When an employee, based on an individualized safety and risk analysis, poses an imminent and serious threat to the health or safety of any student or other individual, the employee may be removed on an emergency basis. The employee will be provided with notice and provided an opportunity to challenge the emergency removal immediately following the removal.

An accused, nonstudent district employee may be placed on administrative leave during the pendency of the grievance procedures, consistent with all rights under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, and in accordance with state law and regulations, Board policy and an applicable collective bargaining agreement or individual contract.

#### *Required Reporting Under Other Policies -*

In addition to implementing the grievance procedures, the Title IX Coordinator will ensure that reported conduct which meets the definition of other laws, regulations or Board policies is also appropriately addressed in accordance with the applicable laws, regulations or Board policies, including but not limited to, incidents under the school safety and security provisions of the PA School Code, reports of educator misconduct, threats or reports of suspected child abuse. (Pol. 317, 317.1, 805.1, 806, 824)

#### Timeframes

Reasonably prompt timeframes will be established for the conclusion of the grievance procedures, including timeframes for the evaluation, investigation, determination and informal resolution process and timeframes for filing and resolving appeals.

The established timeframes may be adjusted to allow for a limited extension of time for good cause. Written notice of the delay or extension and the reason for such action will be provided to the complainant and the respondent, and documented with the records of the complaint. Good

cause may include, but is not limited to, considerations such as:

1. The absence of a party or a witness.
2. Request from law enforcement or child welfare agency.
3. Need for language assistance or accommodation of disabilities, including pregnancy, childbirth or pregnancy-related medical conditions.

#### Dismissal of Complaints

Complaints may be dismissed, if at any time during the investigation or determination:

1. The district is unable to identify the respondent after taking reasonable steps to do so.
2. A complainant provides voluntary written notification of withdrawal of any or all allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the district determines that, without the complainant's withdrawn allegations, the alleged conduct that remains in the complaint, if any, would not constitute sex-based discrimination, even if proven.
3. After the district makes reasonable efforts to clarify the allegations with the complainant, the district determines that the alleged conduct, even if proven, would not constitute sex-based discrimination or harassment.
4. The respondent is not participating in a district education program or activity or employed by the district.

Upon dismissal, the district will promptly notify the complainant, in writing, of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, the district will also promptly notify the respondent, in writing, of the dismissal and the basis for the dismissal, either following notification to the complainant or simultaneously.

Written notification will state whether the allegations will continue to be addressed pursuant to other Board policies, the Code of Student Conduct or complaint processes.

When a complaint is dismissed, the district will, at a minimum:

1. Offer supportive measures to the complainant and respondent, as appropriate.
2. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that the conduct does not continue or recur within the district's education program or activity.

*Appeals of Dismissal -*

The district will notify the complainant and respondent, if the respondent has already been notified of the allegations, that the dismissal may be appealed on the following bases:

1. Procedural irregularity that would change the outcome of the matter.
2. New evidence that would change the outcome and that was not reasonably available when the dismissal decision was made.
3. The Title IX Coordinator, investigator or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Written notice of a party's appeal of the dismissal must be submitted to the Title IX Coordinator within five (5) school days after the date the notice of dismissal is provided. Notice of appeal must include a brief statement describing the basis for the appeal.

If the dismissal is appealed, the district will:

1. Notify the parties of any appeal, including notice of the allegation, if notice was not previously provided to the respondent;
2. Implement the appeal procedures equally for the parties;
3. Ensure that the decision-maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decision-maker for the appeal has been appropriately trained;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the appeal and the rationale for the result, within twenty (20) school days.

#### Consolidation of Complaints

The district may consolidate complaints against more than one (1) respondent, or by more than one (1) complainant against one or more respondents, or by one (1) individual against another individual, where the allegations of sex-based discrimination or harassment arise out of the same facts or circumstances.

#### Complaint

The district is required to initiate the grievance procedures in this document when a complainant files a complaint based on Title IX sex-based discrimination or harassment.

The Title IX Coordinator is also authorized to initiate this process despite a complainant's wishes when actions limited to supportive measures are not a sufficient response to alleged behavior, or when the grievance procedures are necessary to investigate and address the situation adequately. For example, if disciplinary action would be warranted if allegations are true, if the respondent is a supervisor, or if further investigation is needed to assess the extent of the behavior and impact on others, it may be clearly unreasonable not to initiate grievance procedures. Only the Title IX Coordinator is authorized to initiate the grievance procedures despite a complainant's wishes, but the Title IX Coordinator may consult with the school solicitor and other district officials in making this decision. The Title IX Coordinator's assessment of whether to initiate the grievance procedures despite the complainant's wishes must be fact-specific and address the considerations outlined in the Discrimination/Harassment/Retaliation Report Form.

The complainant or the Title IX Coordinator will use the designated section of the Discrimination/Harassment/Retaliation Report Form to file or sign a complaint.

The Title IX Coordinator will assess whether the investigation should be conducted by the building principal, another district employee, the Title IX Coordinator or an attorney and will promptly assign the investigation to that individual. The individual assigned to investigate the complaint must not be an employee supervised by the respondent or the complainant.

The Title IX Coordinator, investigator, decision-maker or any individual designated to facilitate the informal resolution process, each must have completed the required training for such roles as designated in Board policy and will not have a conflict of interest or bias for or against an individual complainant or respondent, or for or against complainants or respondents in general.

The respondent will be presumed not responsible for the alleged conduct until a determination regarding responsibility has been made at the conclusion of the grievance procedures.

#### *Notice Requirements -*

Upon receipt of a complaint, or when the Title IX Coordinator signs a complaint to initiate the grievance procedures, the Title IX Coordinator will provide written notice to all known parties, and the parents/guardians or other authorized legal representatives of known parties, if applicable, providing the following information:

1. Notice of the district's grievance procedures and any informal resolution process that may be available.
2. Notice of the allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:
  - a. The identity of the parties involved, if known.
  - b. The conduct allegedly constituting sex-based discrimination or harassment.

- c. The date and location of the alleged incident(s), if known.
3. A statement that retaliation is prohibited.
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence, upon request.
5. A statement that a determination regarding responsibility will be made at the conclusion of the grievance procedures and, until that time, the respondent is presumed not responsible for the alleged conduct.
6. Notice that Board policy and the district's Code of Student Conduct prohibit knowingly making false statements or knowingly submitting false information to school officials in connection with reports of misconduct or discrimination complaints.

The district will not discipline a party, witness or other individual participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on a determination of whether sex-based discrimination or harassment occurred.

7. Notice to all known parties of any additional allegations that the district decides to investigate during the course of the investigation.

#### Informal Resolution Process

At any time after a complaint has been filed, but prior to reaching a determination of responsibility, if the Title IX Coordinator believes the circumstances are appropriate, the Title IX Coordinator may offer the parties the opportunity to participate in an informal resolution process, which does not involve a full investigation and adjudication of the complaint.

The district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints. Similarly, a district may not require or pressure the parties to participate in an informal resolution process.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to, mediation, facilitated discussions between the parties, acknowledgment of responsibility by a respondent, apologies, a requirement to engage in specific services such as an Employee Assistance Program or supportive measures.

The facilitator for the informal resolution process must not be the same person as the investigator or the decision-maker in the grievance procedures, must have received the required training in accordance with Board policy and must not have a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent.



When offering an informal resolution process, the Title IX Coordinator will:

1. Provide the parties a written notice disclosing the following:
  - a. The allegations.
  - b. The requirements of the informal resolution process, including that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance procedures.
  - c. That the parties' agreement to a resolution at the conclusion of the informal resolution process precludes the parties from initiating or resuming grievance procedures arising from the same allegations.
  - d. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties. Other terms of an informal resolution agreement may include restrictions on contact and restrictions on the respondent's participation in one or more of the district's programs or activities or attendance at specific events, including restrictions the district could have imposed as remedies or disciplinary sanctions had the district determined at the end of the grievance procedures the alleged conduct occurred.
  - e. Any consequences resulting from participating in the informal resolution process, including the records and information that will be maintained and whether and how such records and information could be shared.
2. Obtain the parties' voluntary, written consent to the informal resolution process. As part of the consent process, all parties will be informed of the rights being waived by agreeing to the informal resolution process, and will acknowledge such agreement in writing.
3. The informal resolution process will be conducted within twenty (20) school days of the parties' signed agreement for the informal resolution process.

If the matter is resolved to the satisfaction of the parties, the district employee facilitating the informal resolution process will document the nature of the complaint and the proposed resolution of the matter, have both parties sign the documentation and receive a copy, and forward it to the Title IX Coordinator. Within ten (10) school days after the complaint is resolved in this manner, the Title IX Coordinator will contact the complainant to determine if the resolution was effective and to monitor the agreed upon remedies. The Title IX Coordinator will document the informal resolution process, responses from all parties, and an explanation of why the district's response was not deliberately indifferent to the reported complaint of sex-based discrimination or harassment.

\*If the Informal Resolution Process results in the final resolution of the complaint, the following steps are not required.

## **GRIEVANCE PROCEDURES**

### **Investigation**

The district must provide an adequate, reliable and impartial investigation of complaints.

The designated investigator, if other than the Title IX Coordinator, will work with the Title IX Coordinator to assess the scope of the investigation, who needs to be interviewed and what records or evidence may be relevant to the investigation, and to document the evidence throughout each stage of the investigation.

When investigating a complaint, the investigator will:

1. Bear the burden of proof and gather evidence and conduct interviews sufficient to reach a determination. During the process of gathering evidence, unless the district obtains the voluntary, written consent of the party, or the party's parent/guardian or other authorized legal representative when legally required, the district cannot access, consider, disclose or otherwise use a party's records which are protected by legal privilege, such as those records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with providing treatment to the party. (For students - Pol. 113.4, 207, 209, 216; Safe2Say Something Procedures)
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.
3. Objectively evaluate all evidence gathered through the investigation, including inculpatory and exculpatory evidence, and determine what evidence is relevant and what evidence is impermissible regardless of relevance. When the initial complaint involves allegations relating to conduct which took place away from school property, school-sponsored activities or school conveyances, the investigation may include inquiries related to these allegations to determine whether they resulted in continuing effects such as sex-based discrimination or harassment in school settings.
4. Inform all parties and witnesses of the requirements for confidentiality and prohibition against retaliation for anyone's participation in the investigation process, and that conduct believed to be retaliatory should be reported to the Title IX Coordinator.
5. Provide each party with an equal opportunity to access the evidence that is relevant to the allegations and not otherwise impermissible, in the following manner:
  - a. Provide each party with an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the

district provides a description of the evidence, the district must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;

- b. The district must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence; and
- c. The district must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint are authorized.

During the investigation, the parties and witnesses will be questioned to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more of the allegations. Where the investigator has interviewed a party or witness and the investigator is also serving as the decision-maker, credibility evaluation is inherent in the process of conducting the interview. In situations where credibility determinations are required from a decision-maker who did not interview a party or witness, the Title IX Coordinator will facilitate an opportunity for the decision-maker to conduct an interview as part of the decision-maker's process of engaging with the evidence resulting from the investigation. In considering evidence, the decision-maker will ensure credibility determinations are not based on an individual's status as a complainant, respondent or witness.

If at any point the investigation expands to include additional allegations that were not included in the initial notice of allegations, the investigator will alert the Title IX Coordinator. The Title IX Coordinator will provide written notice of the new allegations to the known parties.

If the investigation reveals that the conduct being investigated may involve a violation of criminal law, the investigator will promptly notify the Title IX Coordinator, who will promptly inform law enforcement authorities about the allegations and make any additional required reports, in accordance with law, regulations and Board policy. (Pol. 218, 317.1, 805.1, 806)

The obligation to conduct this investigation will not be negated by the fact that a criminal or child protective services investigation of the allegations is pending or has been concluded. The investigator should coordinate with any other ongoing investigations of the allegations, including agreeing to request for a delay in fulfilling the district's investigative responsibilities during the fact-finding portion of a criminal or child protective services investigation. Such delays will not extend beyond the time necessary to prevent interference with or disruption of the criminal or child protective services investigation and the reason for such delay will be documented by the investigator.

In the course of an investigation, it is possible that conduct other than, or in addition to, Title IX **sex-based discrimination or** harassment may be identified as part of the same incident or set of circumstances. The fact that there may be Title IX **sex-based discrimination or** harassment involved does not preclude the district from addressing other identified violations of Board

policy or the Code of Student Conduct. If such other conduct is being investigated and addressed together **as part of the grievance procedures**, disciplinary action normally should not be imposed until the completion of the **grievance procedures**; however, an employee may be placed on administrative leave in accordance with the provisions of this **document and Board policy**. A decision whether and when to take disciplinary action should be made in consultation with the school solicitor.

The investigation stage **will** be concluded within thirty (30) school days.

### **Determination and District Action**

The district will designate a decision-maker, who may be the same person as the Title IX Coordinator or investigator. The decision-maker must be free from any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and must have received training in accordance with Board policy.

Following the investigation and evaluation of all relevant and not otherwise impermissible evidence, the decision-maker must issue a determination for the alleged conduct. To reach this determination, the decision-maker will apply the preponderance of the evidence standard, meaning that the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party, or which shows that the fact to be proven is more probable than not. This standard requires the decision-maker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decision-maker is not persuaded under the preponderance of the evidence standard that the alleged conduct occurred, whatever the quantity of the evidence is, the decision-maker must not determine that the alleged conduct occurred.

The district will provide written notification to the parties of the determination as to whether the alleged conduct occurred, including the rationale for the determination and the procedures and permissible bases for the appeal, if applicable.

If there is a determination that the alleged conduct occurred, as appropriate, the Title IX Coordinator is required to:

1. Coordinate the provision and implementation of remedies to a complainant and other persons the district identifies as having had equal access to the district's education program or activity limited or denied by such conduct.
2. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any disciplinary sanctions, in accordance with applicable law, regulations and Board policy. (Pol. 113.1, 218, 317, 317.1)
3. Take other appropriate prompt and effective steps to ensure that the conduct does not continue or recur within the district's education program or activity.

## **Appeal Process**

The district must offer both parties the right to appeal a determination of responsibility or any allegation in the complaint.

The appeal may be based on the following:

1. Procedural irregularity that would change the outcome of the matter.
2. New evidence that is not otherwise impermissible that would change the outcome and that was not reasonably available when the decision was made.
3. The Title IX Coordinator, investigator or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Written notice of a party's appeal must be submitted to the Title IX Coordinator within five (5) school days after the date the determination is provided to the parties. Notice of appeal must include a brief statement describing the basis for the appeal.

If the determination is appealed, the district will:

1. Notify the parties of any appeal.
2. Implement the appeal procedures equally for the parties;
3. Ensure that the decision-maker for the appeal did not take part in the investigation of the allegations of the complaint;
4. Ensure that the decision-maker for the appeal has been appropriately trained; and
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome.

The decision-maker for the appeal will review the investigation and may also conduct or designate another person to conduct a reasonable supplemental investigation to assess the sufficiency and propriety of the prior investigation.

The district will notify the parties of the rationale for the result of the appeal within twenty (20) school days.

## **Disciplinary Action**

Following the issuance of the determination and any applicable appeal, any disciplinary action specified in the determination or appeal decision must be consistent with Board policies and administrative regulations, the Code of Student Conduct, district procedures, applicable

collective bargaining agreements, and state and federal laws and regulations. (Pol. 113.1, 113.2, 218, 233, 317, 317.1)

The district will not discipline a party, witness or other individual participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on a determination of whether sex-based discrimination or harassment occurred.

#### Recordkeeping

The district must maintain the following records for a minimum of seven (7) years after conclusion of procedures and implementation of disciplinary sanctions and/or remedies, or in the case of a complainant or respondent who is a minor, until the expiration of the longest statute of limitations for filing a civil suit applicable to any allegation:

1. Each notification the Title IX Coordinator receives of information about conduct that may reasonably constitute sex-based discrimination or harassment, including required notifications.
2. Each investigation, including any determination and disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity.
3. Any appeal and the result.
4. Any informal resolution and the result.
5. All materials used to provide the required training.
6. Records of any district actions, including any supportive measures, taken in response to a report or complaint. In each instance, the district will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity. If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.