



AC-R2 - SEXUAL HARASSMENT INVESTIGATION PROCEDURES

The District is committed to maintaining a learning environment that is free from sex-based discrimination, including sexual harassment. It is a violation of District Policy for any staff member to harass students or for students to harass other students through conduct or communications of a sexual nature, or to retaliate against anyone that reports sex-based discrimination or harassment or participates in a harassment investigation.

Definitions

For purposes of this Regulation, these terms have the following meanings:

- **"Complainant"** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- **"Decision-maker"** means an individual trained to assess the relevant evidence, including party and witness credibility, and decide if the District has met the burden of proof showing the respondent is responsible for the alleged sexual harassment. The decision maker may not be the Title IX Coordinator or the investigator.
- **"Education program or activity"** means locations, events, or circumstances over which the district exercises substantial control over both the complainant and respondent and the context in which the sexual harassment occurs.
- **"Formal complaint"** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.
- **"Investigator"** means an individual trained to objectively evaluate the credibility of parties and witnesses, synthesize all available evidence - including both inculpatory and exculpatory evidence - and take into account the unique and complex circumstances of each situation. The investigator may be the Title IX Coordinator, but cannot be the decision-maker.
- **"Respondent"** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **"Sexual Harassment"** means conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
 - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 - Sexual assault as defined in 20 U.S.C. 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. 12291(a)(10), domestic violence as defined in 34 U.S.C. 12291(a)(8), or stalking as defined in 34 U.S.C. 12291(a)(30).
- **"Supportive measures"** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include counseling, extensions of escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the school, and other similar measures.
 - **"Title IX Coordinator"** means the employee designated by the District to coordinate its efforts to comply with Title IX responsibilities. The District's Title IX Coordinator is:

Director of Student Services
1502 S. Timberline Road
Fort Collins, CO 80524
(970) 490-3033

Reporting Sex Discrimination, Including Sexual Harassment

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. Reports may be made in person, by mail, by telephone, by electronic mail, using the form on the District's website, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Reports of sexual harassment as defined in this Regulation will be addressed as described herein. Reports of other conduct that could constitute sex discrimination will be addressed as described in District Regulation AC-R1.

The Title IX Coordinator or designee must promptly contact the complainant to discuss the availability of supportive measures and explain to the complainant the process for filing a formal complaint. Supportive measures may be provided with or without the filing of a formal complaint.

Filing a Formal Complaint

A complainant, or a parent/guardian with the legal right to act on the complainant's behalf, may file a formal complaint. Complaints must be filed in writing and signed by

the complainant. Complaints may also be filed and signed by the Title IX Coordinator. Forms for this purpose are available on the District's website or at each school's office. Completed forms must be filed with the Title IX Coordinator. If a complaint form is given to a district employee, the district employee will promptly forward the complaint to the Title IX Coordinator. If the named respondent is the Title IX Coordinator, the complaint form may be filed with the executive director of human Resources. Complaints must be filed within 180 calendar days of the event giving rise to the complaint or from the date the complainant could reasonably become aware of such occurrence. The complainant will receive assistance as needed in filing a complaint.

Retaliation against the complainant, respondent, or any person who filed a complaint, participated or assisted in an investigation, is prohibited. Examples of prohibited retaliation would include attempts to intimidate, threaten, coerce, or discriminate against any individual who filed a complaint or participated in an investigation. Individuals found to have engaged in retaliatory behavior will be subject to disciplinary measures.

The District may remove a respondent from the District's education program or activity on an emergency basis only if the District determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of the sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following removal. Any emergency removal must be made in compliance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as applicable.

The District may place an employee respondent on administrative leave during the pendency of this process.

Dismissal of Formal Complaint

Once a formal complaint is received, the Title IX Coordinator or designee will first determine if the alleged conduct occurred in the District's education program or activity. If the alleged conduct is not part of the education program or activity, or did not occur in the United States, the formal complaint must be dismissed under this Regulation. A dismissal does not prohibit the complainant from pursuing other remedies under state or federal law or District policy, nor does it prohibit the District from addressing the allegations in any manner the District deems appropriate. If the complaint is dismissed, the District may follow the procedures in District Regulation AC-R1 to investigate the alleged conduct. The District may also offer supportive measures as appropriate.

The Title IX Coordinator or investigator may dismiss the formal complaint if the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations contained within the formal complaint; the respondent is no longer enrolled or employed by the District; or specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations contained within the formal complaint.

Upon mandatory or permissive dismissal, the District must send written notice of such dismissal and the reasons for dismissal simultaneously to the parties.

Investigation of Formal Complaint

If the Title IX Coordinator or designee determines the alleged conduct falls under this Regulation, the investigator will begin the investigation in a reasonably prompt manner. The Title IX Coordinator or designee will promptly contact the complainant to discuss available supportive measures.

At the initiation of the investigation, the investigator must provide written notice of the allegations to the parties involved and provide sufficient time to prepare a response before conducting any initial interviews.

The investigator must apply a presumption that the respondent is not responsible for the alleged conduct during the course of the investigation. No disciplinary sanctions or other actions that are not supportive measures may be imposed against the respondent until completion of the investigation and determination of responsibility. The investigator will protect the complainant from inappropriate questions and evidence about the complainant's prior sexual history.

The investigator must adhere to all timeframes. A temporary delay or limited extension of the timeframes during the investigation may be requested by either party or the investigator for good cause. If a timeframe is delayed or extended, the investigator will notify the complainant, respondent, and decision-maker.

The investigator will, as appropriate:

- Request the complainant to provide a written statement regarding the nature of the complaint;
- Request for respondent to provide a written statement;
- Request for witnesses identified during the course of the investigation to provide a written statement;
- Interview of the complainant, respondent, or witnesses. The investigator will provide an equal opportunity for the parties to present witnesses; and Collect and objectively evaluate documentation and all evidence or information deemed relevant to the investigation.

Prior to completion of the investigative report, the investigator must send to each party the evidence gathered as part of the investigation in an electronic format or a hard copy. The parties will have 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

After finalizing the report, the investigator will provide a copy to the complainant and respondent and will wait 10 days before providing the report to the decision-maker. The investigator's report must be advisory and must not bind the decision-maker to any particular course of action or remedial measure.

Decision

The decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness. The decision-maker must provide each party with the answers and allow for additional, limited follow-up questions from each party.

The decision-maker will apply the preponderance of the evidence standard when making a decision and must notify the complainant and respondent simultaneously in writing of the decision. The decision must include a written determination regarding responsibility, explain how and why the decision-maker reached the conclusions outlined in the report, and detail any recommended disciplinary measures to be taken in response to the conduct. The decision of the decision-maker in no way prejudices either the complainant or the respondent from seeking redress through state or federal agencies, as provided in law.

Appeal

The investigation is closed after the decision-maker issues a decision, unless either party appeals the decision within 10 days by making a written request to the decision-maker. The grounds for an appeal are limited to the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter; and
- c. 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 affected the outcome of the matter.

If a party files an appeal, the District will notify the other party in writing. The decision-maker for the appeal may not be the same decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.

Once an appeal has been filed, both parties will have 10 days to submit a written statement in support of, or challenging, the outcome. The decision-maker(s) for the appeal will issue a written decision describing the result of the appeal and the rationale for the result. The written decision shall be provided to both parties simultaneously.

Informal Resolution

If a formal complaint has been filed, at any time prior to reaching a decision, the parties may choose to participate in an informal resolution process, such as mediation. Both parties must voluntarily consent in writing to the informal resolution process. This informal resolution process will not be available to resolve allegations that an employee sexually harassed a student. The District will follow the process for informal resolution outlined in District Regulation AC-R1.

Notice and Training

To reduce unlawful discrimination and harassment and ensure a respectful school environment, the District shall provide notice of these procedures to all District schools and departments. The Regulation must be prominently posted on the District's website, referenced in the Student Rights & Code of Conduct and otherwise be made available to all students, staff, and members of the public through electronic or hard-copy distribution.

District employees will receive periodic training related to handling reports of sexual harassment. Training materials are available to the public on the District's website.

Adopted by Superintendent: August 14, 2020