



AC-R3 - SEX-BASED HARASSMENT INVESTIGATION PROCEDURES

The District is committed to fostering and cultivating a safe, nondiscriminatory learning and working environment that is free from sex-based discrimination and harassment. It is a violation of District policy for any employee to harass students or for students to harass other students or employees 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. Further, the District does not discriminate on the basis of sex in its educational programs, activities, operations, and employment decisions consistent with Title IX of the Education Amendments of 1972 ("Title IX") and other applicable state and federal law.

Application of Policy

This policy is applicable to allegations of sex-based discrimination and harassment occurring in the District's education programs or activities on or after August 1, 2024. This includes locations, events, or circumstances over which the District exercises substantial control over both a respondent and the context in which the alleged conduct occurred or conduct subject to the District's disciplinary authority. It also includes conduct occurring outside of a District program or activity if the conduct contributes to a hostile environment within a District program or activity. The District's ability to take corrective action against third parties will be determined by the nature of the relationship of the third party to the District. Incidents outside the scope of this policy will be addressed as appropriate in accordance with applicable law and District policy.

Allegations of sexual harassment occurring prior to August 1, 2024 will be addressed consistent with the District's policy applicable at the time of the alleged incident. Incidents occurring between August 14, 2020 through July 31, 2024, shall be addressed consistent with Exhibit A, District Regulation AC-R2 – Sexual Harassment Investigation Procedures, adopted August 14, 2020.

Definitions

The applicable definitions in District Policy AC - Nondiscrimination/Equal Opportunity apply to this regulation, unless otherwise defined below:

- **"Complainant"** means an individual who is alleged to have been subjected to conduct that could constitute sex discrimination or sex-based harassment under Title IX.
- **"Respondent"** means an individual who has been reported to have violated the District's prohibition on sex discrimination.

- **“Investigator”** means the individual investigating the complaint or report. This may be a Title IX Coordinator, Deputy Title IX Coordinator, designated administrator, or a third-party.
- **“Decision maker”** means the individual who assesses the relevant evidence, including party and witness credibility, to decide if the District has met the burden of proof (preponderance of the evidence) showing the respondent to be responsible for the alleged sex-based harassment. The District’s decision maker may be a Title IX Coordinator, Deputy Title IX Coordinator, designated administrator, or a third-party.
- **“Title IX Coordinator”** means the employee(s) designated by the District to coordinate its efforts to comply with Title IX responsibilities. The District’s Title IX Coordinator is identified in District Policy AC – Nondiscrimination/Equal Opportunity.
- **“Deputy Title IX Coordinator”** means the employee(s) designated by the Title IX Coordinator at each school to support in the District’s compliance efforts to comply with Title IX responsibilities.
- **“Informal resolution facilitator”** means the individual who conducts an informal resolution process, if appropriate, between the complainant and respondent. The District’s Title IX Coordinator, investigator, and decision maker cannot serve as an informal resolution facilitator. The informal resolution facilitator must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- **“Designated administrator”** means an employee who may be an investigator, decision maker, informal resolution facilitator, Deputy Title IX Coordinator, Title IX Coordinator, appeal decision maker, or appropriate designee.
- **“Education program or activity”** means locations, events, or circumstances over which the district exercises substantial control, including disciplinary authority, over both the complainant and respondent and the context in which the sex-based discrimination occurs.
- **“Relevant”** means related to the allegations of harassment or discrimination under investigation as part of this policy. Questions are relevant when they seek evidence that may aid in showing whether the alleged harassment or discrimination occurred, and evidence is relevant when it may aid in determining whether the alleged harassment or discrimination occurred.
- **“Report”** means an allegation of harassment or discrimination that is submitted by a person who is not the subject of alleged sexual harassment. Reports should contain a detailed description of the alleged event(s) such as date(s), names of

persons involved, witnesses, what occurred, and location(s). A report may obligate the District to provide supportive measures as appropriate.

- **“Consent”** is defined by Colorado law. Consent for sexual activity means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship is not sufficient to constitute consent. Submission under the influence of fear shall not be sufficient to constitute consent. A determination regarding the existence of consent is made based on the totality of the circumstances. Any conduct of a sexual nature directed toward a student by a District employee shall be presumed to be unwelcome and nonconsensual and is strictly prohibited by District policy.
- **“Remedies”** means measures provided, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to the education program or activity after the District determines that sex discrimination occurred.
- **“Specific offenses”** as included in the definition of sex-based harassment, means:
 - Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - Dating violence meaning violence committed by a person: (A) who is or has been a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.
 - Domestic violence meaning felony or misdemeanor crimes committed by a person who: (A) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim; (B) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (C) shares a child in common with the victim; or (D) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
 - Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person’s safety or the safety of others; or (B) suffer substantial emotional distress.

Complaint and Reporting Process

Investigations into complaints alleging violations of Title IX will proceed as described below. The investigation will be adequate, reliable, and impartial. All parties will be treated equitably and will be provided equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. Throughout the investigation, the District will take reasonable steps to protect the privacy of the parties and witnesses during the investigation, provided this does not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures.

The District will make a good faith effort to complete the investigation and make any findings within sixty (60) calendar days after the complaint is received. Reasonable extensions of timeframes will be granted on a case-by-case basis in compliance with this regulation for good cause with written notice to the parties that includes the reason for the delay.

Making a complaint

Any student, employee, parent/guardian, or community member who believes they have been discriminated against or harassed is encouraged to promptly make a complaint. Complaints concerning the Title IX Coordinator may be submitted to the superintendent and complaints concerning the superintendent may be submitted to the Board of Education. Any student, parent/guardian or community member who witnesses or receives credible information about alleged discrimination or harassment is strongly encouraged to promptly submit a report. Employees who witness or receive credible information about alleged discrimination or harassment must submit a report.

Complaints or reports may be submitted to the District's Title IX Coordinator, the school's Deputy Title IX Coordinator, a District employee, or by the District's online reporting form, or in writing, in-person, by phone, or by email. Individuals requiring accommodations for purposes of making a complaint or report due to disability or other reasons should contact the Title IX Coordinator. If a complaint is given to a District employee, the employee must promptly forward all information regarding the complaint to the Title IX Coordinator or Deputy Title IX Coordinator.

Reports shall be submitted as soon as practical after the information is received. Complaints received more than 180 calendar days after the event giving rise to the complaint or from the date the complainant could reasonably become aware of such occurrence will not be accepted for investigation, except that extensions may be granted upon a determination by the Title IX Coordinator that the aggrieved individual was prevented from filing as a result of circumstances beyond the individual's control, or for other good cause.

Complaints and reports must be kept confidential to the extent practical except as provided by law. This expectation applies to the District and the parties involved.

Evaluation and Dismissal by Title IX Coordinator or Designated Administrator

The designated administrator and/or Title IX Coordinator shall conduct a preliminary evaluation of all complaints and reports to determine whether to proceed to an investigation under this regulation or to take other appropriate steps. If the alleged conduct is not part of the education program or activity, the complaint or report must be dismissed under these procedures. A complaint may also be dismissed for the following reasons:

- At the request of complainant;
- When the preliminary evaluation reveals that the complaint would not constitute sex discrimination or sex-based harassment as defined in this policy even if the allegations are proven true;
- The designated administrator or Title IX Coordinator is unable to identify a respondent, or the respondent is not participating in a district program or activity.

Written notice of a dismissal must be promptly submitted to the complainant, and to both the complainant and respondent if the respondent was given notice of the complaint. Dismissal of a complaint does not prevent the District from taking action to remedy the alleged conduct consistent with other applicable policies, including District Policy AC-R1 – Harassment and Discrimination Investigation Procedures for Students, District Policy AC-R2 – Harassment and Discrimination Investigation Procedures for Employees or Applicants for Employment, and District Policy JICDE – Bullying Prevention and Education or the Student Rights and Code of Conduct.

The District shall not use a student complaint of sex-based harassment or discrimination, whether verbal or in writing, or information revealed in any investigation nor disciplinary proceedings of the complaint, as the basis for, or a consideration in, investigating or exacting any disciplinary response for a school violation by the complaining student or complainant related to the alleged incident for any of the following:

- Engaging in reasonable self-defense against the respondent;
- Consensual sexual activity;
- Drug or alcohol use;
- Late arrival or truancy;
- Unauthorized access to facilities;
- Talking publicly about the alleged harassment or discrimination; or

- Expressing a trauma symptom.

However, nothing in this regulation prohibits a school or the District from disciplining a student who knowingly makes a false complaint of harassment or discrimination or disciplining a student when necessary to ensure the safety of any student or employee. A finding of no harassment or discrimination does not on its own constitute a false complaint.

Initial Discussion with the Parties

Following the initial evaluation, the Title IX Coordinator or designated administrator will begin the investigation in a reasonable and prompt manner, taking the following steps:

- *Initial discussion with reporting party, if any, and complainant:* a discussion will occur with the complainant to provide the relevant information, including complainant's options for formal or informal resolution. If the complainant does not want to proceed with the complaint, the Title IX Coordinator may elect to proceed with the investigation if the conduct presents an imminent and serious threat to someone's health or safety or prevents the District from ensuring equal access based on sex to its programs and activities.
- *Initial discussion with respondent:* a discussion will occur with the respondent, and, if this individual is a student, their parent/guardian to obtain a response to the complaint. As part of the initial discussion, the Title IX Coordinator will provide the respondent written notice as to the allegations against them and give the respondent a chance to respond to those allegations.
- *Notice of the allegations:* the complainant and respondent will be provided with notice of the allegations, which includes the following information:
 - Available supportive measures;
 - Copies of District Policy AC – Nondiscrimination/Equal Opportunity and this regulation;
 - Timeline for the investigation process and the District's legal obligations;
 - Information on the informal resolution process, if offered;
 - Sufficient information regarding identities to allow parties to respond;
 - Retaliation is prohibited;
 - Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or a description of the evidence; and
 - Additional notice will be provided if the District decides to investigate additional allegations.

Supportive Measures

The designated administrator must offer supportive measures and accommodations to a student alleged to be experiencing sex-based harassment or discrimination that are designed to protect the safety of all students and that preserve and restore equal

access to education for the student. The designated administrator shall not disclose information about any supportive measures to persons other than District employees necessary to implement the supportive measures and accommodations and the person to whom the supportive measures apply. The designated administrator shall not share one party's supportive measures with another party.

A finding of harassment or discrimination is not required prior to providing supportive measures. A designated administrator may modify or terminate supportive measures at any time, based on a change in circumstances involving the parties.

Informal Resolution Process

When the Title IX Coordinator deems it appropriate, an informal resolution process may be instituted with an impartial facilitator who is not the Title IX Coordinator, investigator, or decision maker. Informal resolution is not appropriate in all circumstances. The informal resolution process may only be used if both parties agree, and such agreement is voluntary, non-coerced, and documented in writing. Informal resolution is not available in cases where a District employee is alleged to have sexually harassed a student.

Prior to initiating an informal resolution process, both parties must be provided written notice explaining the allegations, the requirements of the informal resolution process, that either party has the right to withdraw from the informal resolution process, that an agreement at the conclusion of the informal resolution process would prevent the parties from initiating grievance procedures arising from the same allegations; 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; and what information the District will maintain and whether/how that information could be disclosed for use in the investigation, if informal resolution is not successful and the investigation resumes.

Generally, the informal resolution process should be completed within sixty (60) calendar days from the parties' agreement to the process, unless good cause is shown.

Formal Resolution Process

If informal resolution is inappropriate, unavailable, not completed within a reasonable amount of time, or unsuccessful, the complaint or report will be resolved through a formal investigation.

Collection of Evidence

Both parties will have an equal opportunity to be heard and to provide evidence obtained through the course of the investigation. The investigator shall interview the parties and any witnesses, review any available relevant evidence, and consider patterns of misconduct as relevant evidence. Collection of evidence may also include physical documentary evidence or evidence about the credibility of the parties involved.

Both parties shall have the same opportunity to have an advisor or other person present during any part of the investigative process. During interviews and meetings, the advisor

may not speak for the party and must limit their role to consulting with and advising the party. The District will establish and maintain procedures regarding the extent to which an advisor may participate in the proceedings. Any restrictions on advisor(s) must apply equally to both parties.

The investigator will determine the relevance of evidence, what evidence is impermissible, and what evidence will be included in the investigator's findings of fact. The following types of evidence, and questions seeking that evidence, are impermissible, regardless of whether they are relevant:

- Evidence protected under legal privilege;
- A party's or witness's records that are made or maintained by a recognized health professional in connection with the provision or treatment, unless voluntary, written consent for use in the formal resolution process is obtained;
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless offered to prove 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 investigator must not rely solely on a criminal investigation by a law enforcement agency. However, the investigator may delay the District's investigation for a reasonable amount of time, at the written request of law enforcement, to avoid jeopardizing a pending criminal investigation.

Report

The investigator will make a good faith effort to complete an investigation that is fair, impartial, and prompt and make any findings within sixty (60) calendar days after the complaint or report is made, without infringing upon the rights in federal and state law of the complainant and respondent. The investigator may extend the sixty-day deadline for up to an additional thirty (30) calendar days for good cause, with written approval from the Title IX Coordinator, and with prior written notice to the complainant and respondent of the delay and the reason for the delay or may extend the deadline at the request of a law enforcement agency.

The investigator will provide written updates about the status of an investigation or proceeding to the parties and the parties' parent/guardian, and to the Title IX Coordinator at each state of the investigation or proceeding, but at least every fifteen (15) work days.

Prior to determining whether the allegations amount to a policy violation, the investigator will provide the parties with a written summary and/or not otherwise impermissible evidence. This evidence and/or summary will be sent or otherwise available for the parties' viewing upon their request for a period of five (5) school days prior to a determination being made.

Determination

The determination will be made by the decision maker using the “preponderance of the evidence” evidentiary standard, meaning the decision maker will determine whether it is more likely than not that a policy violation occurred. The parties will receive concurrent notification of the outcome of the investigation and any findings.

Consequences or Disciplinary Action

If the decision maker concludes that District policy has been violated, appropriate consequences will be imposed, including warning, exclusion, progressive discipline, suspension, expulsion, transfer, remediation, education, training, or termination. Consequences to third parties include imposing conditions or a total ban upon the individual’s future presence on District property, cancellation of a contract, or other appropriate measures.

Appeal

If either party is not satisfied with the determination, the party may appeal to the Title IX Coordinator or official designee(s) within five (5) school days following the notification of the findings. If no appeal is filed, the findings will become final after five (5) school days. The grounds for an appeal are limited to the following bases:

- Procedural irregularity that affected the outcome of the matter;
- 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; or
- A conflict of interest or bias for or against a party or parties that affected the outcome of the matter.

Both parties will receive written notice of any appeal and both shall have the opportunity to submit written statements either in support of or challenging the written determination. The designated administrator shall have up to ten (10) school days to arrange for and hold a meeting with each party and provide a written decision to the parties.

The designated administrator may: (1) affirm the written determination; (2) overturn the written determination; or (3) send the report back to the investigator for additional investigation. The written decision to affirm or overturn the report is final. The decision shall be provided to both parties simultaneously.

Student Pregnancy and Related Conditions

Any employee that receives notice from a student, or person with a legal right to act on behalf of the student, that the student is pregnant or has a related condition, the employee must provide the Title IX Coordinator and Deputy Title IX Coordinator’s contact information and share that the Title IX Coordinator or Deputy Title IX

Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's education program or activity.

Engaging in Retaliation or Making a False Complaint or Report

It is a violation of this policy for any person to retaliate against a person who alleges sex-based harassment or who testifies, assists, or participates in an investigation, proceeding or hearing related to sex-based harassment allegations. A violation of this anti-retaliation provision may exist regardless of whether the underlying complaint or report of sex-based harassment is substantiated.

Allegations of retaliation are subject to the complaint, report, investigation, and enforcement procedures set forth in this policy or other applicable policy. Any person who knowingly makes a false complaint, or false report of sex-based harassment will be subject to disciplinary action in accordance with District policies. The outcome of an investigation, on its own, is insufficient to support a finding of a false complaint or report.

Recordkeeping

The Title IX Coordinator must be provided with all records of a sex-based harassment complaint or report. The District will retain the records for a minimum of seven (7) years. The record of a complaint or report includes any supportive measures or accommodations taken in response to a complaint, report, or the complaint or report of sex-based harassment and documentation of the basis for the action and response.

Notice and Training

To reduce sex-based 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 and students will receive periodic training related to recognizing and preventing sex-based harassment. District employees must receive additional periodic training related to handling reports of sex-based harassment. Title IX Coordinators, Deputy Title IX Coordinators, investigators, decision makers, informal resolution facilitators, and other persons involved in the resolution process or with authority to modify or terminate supportive measures must receive additional periodic training specific to their role relating to handling reports of sex-based harassment as required by the law. Training materials are available to the public on the District's website.

The Title IX Coordinator must monitor the District for barriers to reporting information that may constitute sex-based harassment under Title IX. Additionally, all employees must notify the Title IX Coordinator when the employee has information about conduct that may reasonably constitute sex discrimination or sex-based harassment under Title IX.

Outside Agencies

In addition to or as an alternative to filing a complaint pursuant to this regulation, a person may file a discrimination complaint with outside agencies as identified and listed in District Policy AC – Nondiscrimination/Equal Opportunity.

Adopted by Superintendent: August 14, 2020

Revised by Superintendent: August 22, 2024

CROSS REFERENCES:

AC – Nondiscrimination/Equal Opportunity

LEGAL REFERENCES:

20 U.S.C. 1681 (Title IX of the Education Amendments of 1972)

32 C.F.R. Part 106 (Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance)