

### 103. TITLE IX GRIEVANCE PROCEDURES

#### GRIEVANCE PROCEDURES FOR COMPLAINTS OF TITLE IX SEX-BASED DISCRIMINATION, INCLUDING AND SEX-BASED HARASSMENT { } AND OTHER FORMS OF DISCRIMINATION AND HARASSMENT

*~~[NOTE: SELECT THE FOLLOWING TWO OPTIONS IF THE DISTRICT MAINTAINS SEPARATE PROCESSES TO ADDRESS:~~*

*~~1. GRIEVANCE PROCEDURES FOR TITLE IX COMPLAINTS~~*

*~~2. COMPLAINTS ADDRESSING OTHER TYPES OF DISCRIMINATION OR HARASSMENT.~~*

~~{ } [x]~~ The Title IX sex-based discrimination and sex-based 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)

~~{ } [x]~~ All other reports or complaints of discrimination, harassment or retaliation will follow the Discrimination Complaint Procedures attached to Policy 103.

~~[NOTE: SELECT THE OPTION BELOW IF THE DISTRICT FOLLOWS THE SAME PROCESS FOR ALL REPORTS OF DISCRIMINATION/HARASSMENT AND TITLE IX SEX-BASED DISCRIMINATION AND HARASSMENT.]~~

~~{ } All reports or complaints of discrimination and harassment, including retaliation, whether the conduct falls under Title IX sex-based discrimination and harassment or not, will be handled in accordance with the Grievance Procedures prescribed in this attachment.~~

#### General Provisions

If the district has knowledge of conduct that reasonably may constitute Title IX sex-based discrimination or sex-based harassment

~~{ }, or other forms of discrimination or harassment,~~

in its education program or activity, it must respond promptly and effectively.

Persons of parental status Parents/Guardians have the right to act on behalf of the complainant Complainant, the respondent Respondent, or other student at any time.

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

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As long as there is no conflict of interest or bias, a decision-maker may be the same person as the Title IX Coordinator or investigator during 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 **Title IX sex discrimination, including sex-based harassment**, until a determination is made at the conclusion of the informal resolution process or grievance procedures.

### **Definitions**

**“Exculpatory evidence”** means evidence [that tends](#) to exonerate the accused or helps to establish their innocence.

**“Inculpatory evidence”** means evidence [that tends](#) to incriminate the accused or indicate their guilt.

**“Impermissible evidence” – the following types of evidence, and questions seeking to elicit such evidence, will not be accessed or considered ; will not be disclosed; and will not otherwise be used, regardless of relevance, except as listed below. Nothing in the policy shall prevent the district from having access to such evidence to determine whether one of these exception applies.**

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 [of Title IX sex discrimination](#) 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 [Title IX sex discrimination, including sex-based 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 [Title IX sex discrimination, including sex-based harassment, occurred](#).

#### **General Reporting and Initial Evaluation by Title IX Coordinator**

A report of Title IX [sex discrimination](#) or [sex-based](#) harassment

A [Report](#) may be made at any time, [whether](#) during [or](#) [outside of school](#) hours. **Oral Reports shall** be documented by the Title IX Coordinator or employee receiving the [Report](#) using the Discrimination/Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form, and these procedures **will** be implemented appropriately.

**A school employee who suspects or is notified that a student may have been subject to conduct that constitutes a violation of Board policy 103 shall immediately report the incident to the Title IX Coordinator.**

**If the Title IX Coordinator is the subject of a complaint, reports should be made directly to the Superintendent or designee.**

All [Reports](#) received by [an employee](#) **shall** be promptly directed to the Title IX Coordinator, in accordance with Board policy. The Title IX Coordinator **will** use the Discrimination/Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form to gather additional information from the reporter and/or other parties identified in the [Report](#).

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 **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 discrimination or sex-based** 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 immediate threat to the 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, as a result of this initial assessment, the Title IX Coordinator determines that none of the allegations fall within the scope of Title IX **sex discrimination, including sex-based** harassment,

If the result of the initial assessment is that the allegations may constitute Title **IX sex discrimination, including sex-based** harassment,

The Title IX Coordinator **will** contact the parents/guardians and provide them with information regarding the Report and **the grievance procedures for filing a Complaint.**

#### **Filing a Complaint**

Anyone may make a Report to be evaluated by the Title IX Coordinator to determine whether to proceed with a Complaint, as outlined above. In addition, certain individuals may file a Complaint by requesting that the district investigate and make a determination about alleged Title IX sex discrimination. The classes of individuals who can file a Complaint and under what circumstances are as follows:

A Complaint of sex-based harassment may be made by any of the following:

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A Complaint of sex-based harassment may be made by any of the following:  
**Complainant (i.e. a current or former student, employee, or other individual participating or attempting to participate in a district education program or activity who is alleged to have been subjected to conduct that could constitute Title IX sex discrimination in connection with the district's education program or activity);**

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

3. **The Title IX Coordinator, after conducting a fact-based assessment of a Report. In making this fact-specific determination, the Title IX Coordinator must In making this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the Complainant's desire not to proceed, the Complainant's reasonable safety concerns regarding the initiation of the Complaint, the risk that additional acts of Title IX sex discrimination would occur if a Complaint is not initiated, the severity and scope of the alleged Title IX sex discrimination, the age and relationship of the parties, the availability of evidence, and whether the district could end the alleged Title IX sex discrimination and prevent its recurrence without initiating a Complaint. The Title IX Coordinator may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this may consult with the school solicitor and other district officials in making this decision.**

-A Complaint of Title IX sex discrimination other than sex-based harassment may be made by any of the individuals listed above or any of the following individuals:

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

The Title IX Coordinator **shall** use the Discrimination/Harassment/Bullying/Hazing/Dating Violence/Retaliation Report Form attached to Policy 103/104 to properly document Reports and Complaints.

#### **District Actions**

**If a Complaint is made or initiated (and if the conduct as alleged could constitute Title IX sex discrimination), the Title IX Coordinator must coordinate the following district actions, as appropriate, throughout the grievance procedure**

*Supportive Measures -*

The district must offer and coordinate supportive measures, as defined under Title IX and its regulations and Board Policy 103, as appropriate. Supportive measures offered by the district may not be imposed for punitive or disciplinary purposes.

Examples of supportive measures that may be appropriate include, but are not limited to:

1. Counseling.
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 class, work, housing or extracurricular 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.

**For allegations of Title IX sex 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.**

The district may, as appropriate, modify or terminate supportive measures during the pendency or at the conclusion of the grievance procedures or informal resolution process. The Complainant or Respondent may appeal decisions regarding supportive measures. The Title IX Coordinator shall appoint an Appeal Decisionmaker who must be impartial and someone other than the individual who made the initial decision. The supportive measure Appeal Decisionmaker 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 any party is an identified student with a disability, or thought to be a student with a disability, the Title IX Coordinator shall consult with one or more members of the student's Individualized Education Program Team or 504 Team to determine whether additional steps must be taken as supportive measures for the party while the Title IX procedures are implemented.

#### *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)

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 any party, and address barriers being experienced by disadvantaged students such as English learners and homeless students, consistent with the requirements of federal and state laws and regulations and Board policy. (Pol. 103.1, 113,138,251)

#### *Emergency Removal -*

The district shall not impose discipline on a Respondent for Title IX sex discrimination unless there is a determination at the conclusion of the district's grievance procedures that the Respondent engaged in prohibited Title IX sex discrimination. However, the Title IX Coordinator, together with other appropriate administrators, may impose an emergency removal of the Respondent during the pendency of the grievance procedures if they determine, based on an individualized safety and risk analysis, that there is an **imminent and serious** threat to the **health** or safety of a **Complainant** or any **students, employees,** or other **persons** due to the allegations of Title IX sex **discrimination.**

Emergency removal may include removal of the Respondent from the district's education program or activity or transfer to an alternative setting, consistent with all rights under federal and state laws and regulations, and Board policy, including but not limited to the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. If the Respondent is an identified student with a disability, or thought to be disabled, the Title IX Coordinator **shall** contact the Director of Special Education to coordinate the required actions in accordance with Board policy.

The Title IX Coordinator shall ensure that Respondent is provided with notice and an opportunity **to challenge the emergency removal immediately following the removal**

. This notice and opportunity to challenge the emergency removal may take place at the building level informal hearing as defined at 22 Pa. Code §12.8(c), if such informal hearing is held.

If the emergency removal results in the Respondent being suspended, transferred to alternative education or referred for expulsion, the district shall provide the Respondent with the level of due process otherwise required to be afforded to students who are being suspended, transferred to an alternative placement and/or expelled under applicable Pennsylvania and federal law, including but not limited to, 22 Pa. Code §12.6 and §12.8 and the district's Student Handbook and Code of Conduct and applicable board policies, subject to the provisions of IDEA and Section 504. When the Respondent is referred for expulsion is necessary because continuation of educational services is not feasible during the pendency of the grievance procedures, the Board's written adjudication of expulsion **will** address the pending Title IX process and the impact of the outcome of the Title IX process on a student's emergency removal status and ultimate length of expulsion. (20 U.S.C. §1400 et seq.; 29 U.S.C. §794; 42 U.S.C. §12101 et seq.; 34 CFR §106.44; Pol. 103.1, 113.1, 113.2, 113.3, 233.)

*Administrative Leave -*

The district shall not impose discipline on a Respondent for Title IX sex discrimination unless there is a determination at the conclusion of the district's grievance procedures that the Respondent engaged in prohibited Title IX sex discrimination. However, the district may place an employee Respondent on paid administrative leave from employment



pending the outcome of the grievance procedure or as it otherwise deems appropriate.

*Required Reporting Under Other Policies -*

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In addition to implementing the Title IX grievance procedures, the Title IX Coordinator will ensure that reported conduct which meets the definition of other laws, regulations, or Board policies, is appropriately addressed in accordance with the applicable laws, regulations, and 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. **218,218.3, 236.1, 317.1, 805.1, 806, 824**)

#### Timeframes

The district has established reasonable and prompt timeframes as set forth in these grievance **procedures**, including timeframes for the **evaluation, investigation, determination, and** informal resolution processes 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.

### Dismissal of Complaints

Complaints may be dismissed at any time during the grievance procedures if:

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, could not reasonably constitute Title IX sex discrimination, even if presumed to be true,
3. After the district makes reasonable efforts to clarify the allegations with the Complainant, the district determines that the alleged conduct, even if presumed to be true, could not reasonably constitute Title IX sex discrimination.
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 the Code of Student Conduct and other Board policies or complaint processes.

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

1. Offer supportive measures, as appropriate, to the Complainant and Respondent.
2. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that conduct which may reasonably constitute Title IX sex discrimination 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 must be submitted to the Title IX Coordinator within

five (5) school days

after the date the determination is provided to the parties. **The** 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.

The district will notify the parties of the rationale for the result of the appeal within

twenty (20) school days.

### Consolidation of Complaints

The district may consolidate **Complaints** against more than one **Respondent**, or by more than one **Complainant** against one or more **Respondent/s**, or by one individual against another individual, where the allegations of **Title IX sex discrimination**

### Acting on a Complaint - Initiation of Grievance Procedures

**If a Complaint is made (and if the conduct, as alleged, could constitute Title IX sex discrimination), the Title IX Coordinator shall initiate the grievance procedures.**

The Title IX Coordinator **shall** promptly assign **an investigator, who may be the Title IX**  
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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 initiation of the grievance procedures,** the Title IX Coordinator **will** provide **written**  
**Upon initiation of the grievance procedures,** the Title IX  
Coordinator **will** provide **written** notice to all known **Complainants and**  
**Respondents,** and their parents/guardians **or other authorized legal representatives**  
, where 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 **information** known at the time **to allow the parties to respond to the allegations.** Sufficient **information** includes:
  - a. The **identities** of the parties involved, if known.
  - b. The conduct alleged **to constitute Title IX sex discrimination.**
  - 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 or an accurate description of such evidence, and that, if the district provides a**

description of such evidence, the parties are entitled to an equal opportunity to access such evidence, upon request.

If, in the course of an investigation, the district decides to investigate additional allegations of Title IX sex discrimination by the Respondent toward the Complainant, the district shall provide notice to all known parties of the additional allegations

### **Informal Resolution Process**

At any time after a Complaint has been filed, but prior to reaching a determination of responsibility at the conclusion of the grievance procedures, and 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 Title IX Coordinator has discretion to determine whether it is appropriate to offer an informal resolution process (and/or allow any proposed informal resolution) when it receives information about conduct that reasonably may constitute Title IX sex discrimination when a Complaint is made and may decline to offer resolution despite one or more of the parties' wishes. Circumstances when the Title IX Coordinator may decline to allow informal resolution include, but are not limited to, when the alleged conduct would present a future risk of harm to others, as determined by the Title IX Coordinator, in consultation with other appropriate administrators or legal counsel. **The informal resolution process cannot be offered or used to facilitate a resolution for any Complaint where the allegations state that an employee engaged in sex-based harassment of a student, or if the process would otherwise conflict with federal, state, or local law.**

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, restorative practices, acknowledgment of responsibility by a Respondent, apologies, a requirement to engage in specific services, 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 district 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  

{X} 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 and the district, the informal resolution facilitator shall prepare a written resolution agreement documenting the nature of the Complaint/Report and the proposed resolution of the matter, have the parties sign the written resolution agreement, and provide each party and the Title IX Coordinator with a copy within

{X} ten (10) school days.

When the informal resolution process is offered, and to the extent necessary, the Title IX Coordinator shall also take other appropriate prompt and effective steps to ensure that alleged Title IX sex discrimination does not continue or recur within the district's education programs or activities.

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

## GRIEVANCE PROCEDURES

### Investigation

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

The 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 or paraprofessional's capacity or assisting in that capacity and which are made and maintained in connection with providing treatment to the party. (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 investigator shall gather evidence sufficient to determine whether the alleged conduct contributed to the creation a sexually hostile environment within the**

district's education program or activity.

4. Inform all parties, parents/guardians, and witnesses of the requirements for confidentiality and the prohibition against retaliation for anyone's participation in the grievance procedures 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 each party 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.
6. During the investigation, the investigator shall question parties and witnesses to adequately assess 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 shall facilitate an opportunity for the decision-maker to conduct an interview to assess that party or witness' credibility. In considering evidence, the to assess that party or witness' credibility. 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 discrimination, including sex-based harassment,**

may be identified as part of the same incident or set of circumstances. The fact that there may be Title IX **sex discrimination, including sex-based harassment,**

involved does not preclude the district from addressing other identified violations of the Code of Student Conduct or Board policy provided that the district may not discipline a student or employee for the purpose of interfering with Title IX rights or because the student or employee participated in Title IX grievance procedures.

- . A decision whether and when to take such disciplinary action should be made in
- . A decision whether and when to take such disciplinary action should be made in
- . A decision whether and when to take such disciplinary action should be made in consultation with the school solicitor.

The investigation stage **will** be concluded within

{X} thirty (30) school days.

#### **Determination and District Action**

The Title IX Coordinator 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 decision-maker must determine whether the

[evidence](#) shows that the fact to be proven is more [likely true](#) 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, 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, 216, 324)**
- 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

[IX](#) 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

[x](#) twenty (20) school days.

#### **Disciplinary Action**

Following the determination and any applicable appeal, any disciplinary action specified in the determination or appeal decision **must be** consistent with the Code of Student Conduct, Board policies and administrative regulations, district procedures, applicable collective bargaining agreements, and state and federal laws and regulations, including specific requirements and provisions for students with disabilities. (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. For each Complaint, records documenting the informal resolution process or implementation of the grievance procedures, if applicable, and the resulting outcome (including but not limited to, records of disciplinary sanctions imposed on the Respondent; any remedies provided to the Complainant designed to restore or preserve equal access to the district's education program or activity; records documenting the actions the district took to ensure that sex discrimination does not continue or recur within the district's education program and activity).
2. For each Report the Title IX Coordinator receives of information about conduct that reasonably may constitute Title IX sex discrimination, records documenting the actions the district took to meet its obligations under Title IX, its regulations, and this policy.
- 2.
3. All materials used to **provide the required training.**