



# RIVER VALLEY SCHOOL DISTRICT

660 West Daley Street

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Spring Green, Wisconsin 53588

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Phone: 608-588-2551

411.5

511.3

## **Nondiscrimination on the Basis of Sex (Title IX) in Education Programs or Activities and Related Grievance Process**

*This policy applies to conduct occurring after August 1, 2024. Complaints alleging sexual harassment occurring before August 1, 2024, are governed by policies 411.3 and 511.2.*

This policy and grievance process applies to discrimination on the basis of sex, including sex-based harassment, which occurred on or after August 1, 2024. For discrimination on the basis of sex occurring before August 1, 2024, refer to District Policies 411.3 and 511.2.

The River Valley School District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. Contact information for the Title IX Coordinator is provided below.

### **DEFINITIONS**

**Complainant** means:

1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or
2. A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

**Complaint** means an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

**Days** means business days (i.e., days on which the District office is open for normal business).

**Education program or activity** means all the District's operations including, but not limited to, in-person and online/remote educational instruction, employment, extracurricular activities, athletics, performances, and community engagement and outreach programs. The term applies to all activity that occurs on school grounds or on other property owned or occupied by the District. It also includes events and circumstances that take place off school property/grounds but over which the District asserts disciplinary authority.

**Parental status** means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

1. A biological parent;

2. An adoptive parent;
3. A foster parent;
4. A stepparent;
5. A legal custodian or guardian;
6. In loco parentis with respect to such a person; or
7. Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

**Party** means a complainant or respondent.

**Pregnancy or related conditions** means:

1. Pregnancy, childbirth, termination of pregnancy, or lactation;
2. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
3. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination 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 discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after a District determines that sex discrimination occurred.

**Respondent** means a person who is alleged to have violated the District's prohibition on sex discrimination.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation under the Title IX regulations.

**Sex-based harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. **Quid pro quo harassment.** An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person'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 the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - 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 parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - d. The location of the conduct and the context in which the conduct occurred; and

- e. Other sex-based harassment in the District's education program or activity; or

### **3. Specific offenses.**

- a. 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;
- b. Dating violence meaning violence committed by a person:
  - (i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (ii) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - 1) The length of the relationship;
    - 2) The type of relationship; and
    - 3) The frequency of interaction between the persons involved in the relationship;
- c. Domestic violence meaning felony or misdemeanor crimes committed by a person
  - (i) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the District, or a person similarly situated to a spouse of the victim;
  - (ii) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - (iii) Shares a child in common with the victim; or
  - (iv) 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
- d. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - (i) Fear for the person's safety or the safety of others; or
  - (ii) Suffer substantial emotional distress.

**Student** means a person who has gained admission to the District's program(s) or activit(ies).

**Student with a disability** means a student who is identified as having a disability under Section 504 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).

**Supportive measures** mean individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

1. Restore or preserve that party's access to the District's education program or activity, including measures that are designed to protect the safety of the parties or the educational environment; or
2. Provide support during the District's grievance process or during the informal resolution process.

### **PARENTAL, FAMILY, OR MARITAL STATUS**

The District will not adopt or apply any policy, practice, or procedure concerning a student's current, potential, or past parental, family, or marital status that treats such student differently on the basis of sex.

### **PREGNANCY OR RELATED CONDITIONS**

#### **Students**

The District prohibits discrimination in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions.

The Board will permit a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of the District's education program or activity provided the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions. The District will not require a student who

is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in the District's class, program, or extracurricular activity unless:

1. The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
2. The District requires such certification of all students participating in the class, program, or extracurricular activity; and
3. The information obtained is not used as a basis for discrimination prohibited by Title IX or this Policy.

When a District employee is informed of a student's pregnancy or related conditions by the student or a person who has a legal right to act on behalf of the student, the employee shall promptly provide that person with the Title IX Coordinator's contact information and inform that person that the 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, unless the employee reasonably believes the Title IX Coordinator has already been notified.

Once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions, the Title IX Coordinator shall promptly take the following specific actions to effectively prevent sex discrimination and ensure equal access to the District's education program or activity:

1. Inform the student and, if applicable, the person who notified the Title IX Coordinator of the District's obligations to:
  - a. prohibit sex discrimination under this policy, including sex-based harassment;
  - b. provide the student with the option of reasonable modifications to the District's policies, practices, or procedures because of pregnancy or related conditions;
  - c. allow access, on a voluntary basis, to any separate and comparable portion of the District's education program or activity;
  - d. allow a voluntary leave of absence;
  - e. provide lactation space; and
  - f. maintain grievance procedures that provide for the prompt and equitable resolution of complaints of sex discrimination, including sex-based harassment.
- g. Provide the student with voluntary reasonable modifications to the District's policies, practices, or procedures
- h. because of pregnancy or related conditions.
2. Allow the student to take a voluntary leave of absence from the District's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a District maintains a leave policy for students that allows a greater period of time than the medically necessary period, the District shall permit the student to take leave under that policy instead if the student so chooses. When the student returns to the District's education program or activity, the student will be reinstated to the academic status and, as practicable, to the extracurricular status that the student held when the leave began.
3. Provide lactation space, which must be a space other than a bathroom, which is clean, shielded from view, free from intrusion from others, and may be used by a student for expressing breast milk or breastfeeding as needed.

## **Employees**

The District will not adopt or implement any policy, practice, or procedure, or take any employment action, on the basis of sex:

1. Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
2. That is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

The District also will not make a pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is a "Miss or Mrs."

Similarly, the District will treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration, and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

If an employee has insufficient leave or accrued employment time to qualify for leave under the District's leave policy, the District will treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

The District will provide reasonable break time for an employee to express breast milk or breastfeed as needed and will provide the employee with access to a lactation space, which must be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and may be used by an employee for expressing breast milk or breastfeeding as needed.

#### **TITLE IX COORDINATOR**

The following individual is designated as the Title IX Coordinator and is authorized by the District to oversee the District's compliance with Title IX and this Policy: Business Manager, 660 W. Daley, Street, Spring Green, WI 53588, 608-588-2551, and Pupil Services Director, 660 Varsity Blvd., Spring Green, WI 53588, 608-588-2554.

The Title IX Coordinator may delegate specific duties to one or more designees. The Title IX Coordinator shall report to the Superintendent, except when the Superintendent is a party to the complaint. In such circumstances, the Title IX Coordinator shall report to the School Board President. The School Board President and/or Title Coordinator may consult with the legal counsel.

The Title IX Coordinator shall monitor the District's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX, and take steps reasonably calculated to address such barriers.

#### **NONDISCRIMINATION NOTICE**

The District shall provide the following notice of nondiscrimination to students; parents, guardians, or other authorized legal representatives of elementary and secondary school students; employees; and applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements with the District:

*The District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.*

*Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.*

*The District's Title IX Coordinator is:*

*Business Manager, 660 W. Daley, Street, Spring Green, WI 53588, 608-588-2551, and Pupil Services Director, 660 Varsity Blvd., Spring Green, WI 53588, 608-588-2554.*

*The District's grievance process for the resolution of complaints of sex discrimination is included in Policy 411.5 / 511.3 Nondiscrimination on the Basis of Sex (Title IX) in Education Programs or Activities and*

*Related Grievance Process.*

*The grievance policy includes information on how to report conduct that may constitute sexual harassment or file a complaint of sex discrimination under Title IX.*

The District shall prominently include all elements of its notice of nondiscrimination, including the contact information for the Title IX Coordinator, on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to the persons listed above, or which are otherwise used in connection with the recruitment of students or employees. Alternatively, the District may – due to the format or size of a publication – include a statement in such publication that the District prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the Title IX Coordinator(s) and provide the location of the District's notice of nondiscrimination on its website.

### **GENERAL RESPONSIBILITY TO REPORT AND RESPOND TO REPORTS OF SUSPECTED SEX DISCRIMINATION**

All students and employees share responsibility for avoiding, discouraging, and reporting sex discrimination.

Any member of the school community may provide information to the Title IX Coordinator(s) concerning conduct that reasonably may constitute sex discrimination under Title IX. Such information may be submitted in person, by mail, by telephone, or by electronic mail, using the Title IX Coordinator's(s') published contact information, or by any other means (oral or written) that results in the Title IX Coordinator receiving the information. Information may be provided at any time (including during non-work hours).

All District employees are required to provide the Title IX Coordinator(s) with notification of conduct that reasonably may constitute sex discrimination under Title IX. When a District employee notifies the Title IX Coordinator of suspected sex discrimination, the employee is required to report all known details about the alleged sex discrimination including: (1) the name of the alleged respondent; (2) the person who experienced the alleged sex discrimination (i.e., the complainant); (3) other persons involved in the alleged sex discrimination; and (4) any other relevant facts, such as date, time, and location. Failure to provide such notification may result in discipline, up to and including suspension or termination of employment.

Upon receiving a notification of suspected sex discrimination, the Title IX Coordinator will provide the appropriate notice to the complainant, discuss supportive measures with the complainant, and explain the grievance procedures. The Title IX Coordinator will also inform the complainant that the Title IX Coordinator is available to assist the complainant in filing a complaint if that is what the complainant wants to do. The Title IX Coordinator will further explain to the complainant that Federal law includes protections against retaliation and that the District will not only take steps to prevent retaliation, but also take strong responsive action if it occurs.

### **SUPPORTIVE MEASURES**

The District will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the District's education program or activity or provide support during the Title IX grievance process or informal resolution process. Supportive measures may vary depending on what the District deems to be reasonably available. These measures may include but are not limited to counseling; extensions of deadlines and other course-related adjustments; increased supervision or security; restrictions on contact applied to one or more parties; leaves of absence; changes in class, program, or activity, regardless of

whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the District's educational environment, or to provide support during the District's grievance process or informal resolution process. A District must not impose such measures for punitive or disciplinary reasons.

The District may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures or informal resolution process, or they may be continued beyond that point.

### **GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX DISCRIMINATION**

The following grievance procedures provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the District's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX.

#### **General Requirements**

Throughout the grievance process, the District will treat complainants and respondents equitably. The respondent is presumed not to be responsible for the alleged sex discrimination until a determination is made at the conclusion of the grievance process.

Any Title IX Coordinator, investigator, or decisionmaker involved in the grievance process shall not have a conflict of interest, a bias for or against complainants or respondents generally, or a bias for or against an individual complainant or respondent.

The Title IX Coordinator may also serve as an investigator and/or decisionmaker. If the Title IX Coordinator does not serve as the investigator and/or decisionmaker, the Title IX Coordinator will appoint one or more properly trained administrators to serve in those roles. In consultation with and with approval from the Superintendent (or Board President, if the Superintendent is a party to the complaint), the Title IX Coordinator may appoint a third party to serve as the investigator and/or decisionmaker.

The District will take reasonable steps to protect the privacy of the parties and witnesses during the grievance process. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, representative, or advisors; or otherwise prepare for or participate in the grievance procedures. Retaliation against an individual for filing a complaint or cooperating with an investigation is strictly prohibited and may result in disciplinary sanctions under this Policy. Complaints alleging retaliation may be filed according to the grievance procedures in this Policy.

The Title IX Coordinator or appointed decisionmaker will objectively evaluate all evidence that is relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence are impermissible (i.e., will not be disclosed and will not be considered or used, except to determine whether one of the exceptions listed below applies), regardless of whether they are relevant:

1. Evidence that is protected under a privilege recognized by Federal or State law, 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 its grievance procedures; and
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.

### **Timelines**

Generally, the District will adhere to the following timelines for the major stages of the grievance process:

1. Evaluation – The Title IX Coordinator will determine whether to dismiss a complaint or investigate it within 10 days of receiving the complaint.
2. Investigation – The investigator will generally complete the investigation within 30 days of the Title IX Coordinator's decision to investigate the complaint. Once the Title IX Coordinator or investigator provides the parties with access to the evidence or description of the evidence, the parties will have 5 days to respond to the evidence.
3. Determination – After the parties submit their response or the 5-day timeline for doing so expires, the appointed decisionmaker will have 10 days to consider the relevant (and not impermissible) evidence and issue a determination as to whether sex discrimination occurred.
4. Appeal – Either party may appeal the decisionmaker's determination, in writing, within 5 days of receiving the determination. Appeals of dismissal of the complaint must be filed within 5 days of receiving notice of dismissal. Whether the respondent will be notified of the dismissal and the right to appeal will depend on whether the dismissal occurs before or after the respondent receives notice of the allegations.

The above timelines may be extended for good cause, with approval from the Title IX Coordinator and written notice to both parties. The notice to the parties will include the reason for the delay. Thereafter, the Title IX Coordinator will keep the parties informed on a regular basis.

Whether there is good cause for an extension is determined at the discretion of the Title IX Coordinator. An ongoing criminal investigation involving the conduct that is the subject of the complaint may be good cause to extend the above timelines. While the District will not wait for the conclusion of a criminal investigation or criminal proceeding to begin its own Title IX investigation, it may temporarily delay the investigation while the police are gathering evidence and actively investigating.

### **Complaints**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged discrimination under Title IX:

1. A "complainant," as defined in this Policy, above;
2. A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
3. The District's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of Title IX.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

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



The District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances.

The Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant. If the complaint involves conduct that occurred off school property, the Title IX Coordinator may need to gather additional information to determine whether the alleged conduct occurred within the District's education program or activity.

### **Complaints initiated by Title IX Coordinator**

After making a fact-specific determination that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person(s), or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint. The Title IX Coordinator shall consider, at a minimum, the following factors when making the above-specified determination:

1. The complainant's request not to proceed with initiation of a complaint;
2. The complainant's reasonable safety concerns regarding the initiation of a complaint;
3. The risk that additional acts of sex discrimination would occur if a complaint were not initiated;
4. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
5. The age and relationship of the parties, including whether the respondent is a District employee;
6. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
8. Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its Title IX grievance procedures.

If the Title IX Coordinator decides to initiate a complaint, the Title IX Coordinator shall notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures. Even when the Title IX Coordinator initiates the complaint, the Title IX Coordinator is not a complainant; the complainant remains the individual who is alleged to be the victim of conduct that could constitute sex discrimination.

Upon receipt of a complaint, the Grievance Procedures will be initiated.

### **Notice of Allegations**

Upon initiation of the District's Title IX grievance procedures, the Title IX Coordinator will notify the parties of the following:

1. The District's Title IX grievance procedures and any informal resolution process;
2. Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
3. A statement that retaliation is prohibited; and
4. A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence. If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations of sex discrimination that are materially beyond the scope of the initial written notice, the Title Coordinator will provide a supplemental notice to the parties.

## **Dismissal of Complaint**

The Title IX Coordinator may dismiss a complaint of sex discrimination if:

1. The District is unable to identify the respondent after taking reasonable steps to do so;
2. The respondent is not participating in the District's education program or activity and is not employed by the District;
3. The complainant voluntarily withdraws any or all of the 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 conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator 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, then the Title IX Coordinator will simultaneously notify the respondent.

## **Appeal of Dismissal**

The Title IX Coordinator will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also notify the respondent that the dismissal may be appealed.

Dismissals may be appealed on the following bases:

1. Procedural irregularity that would change the outcome;
2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
3. The Title IX Coordinator, investigator, or decisionmaker 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.

If the dismissal is appealed, the Title IX Coordinator will:

1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
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 result of the appeal and the rationale for the result.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

1. Offer supportive measures to the complainant as appropriate
2. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
3. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

## **Investigation**

The District will provide for adequate, reliable, and impartial investigation of complaints. The burden is on the District, not on the parties, to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The parties will be provided with an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible.

The District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible in the following manner:

1. The District will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence;
2. The District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
3. The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

### **Interviews and Questioning the Parties and Witnesses**

As part of the investigation, the investigator is encouraged to include in the investigator's notes or file the investigator's opinion about each party's or witness' credibility, to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.

If the investigator and decisionmaker are two separate individuals, the decisionmaker will have the opportunity to question the parties and witnesses to adequately assess a party's or witness' credibility, to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. If the investigator and decisionmaker are the same person, then the decisionmaker will have already had the opportunity to question the parties and witnesses during the investigation.

### **Determination Whether Sex Discrimination Occurred**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the District will:

1. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the preponderance of evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred;
2. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal;
3. Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
4. If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
  - a. Coordinate the provision and implementation of remedies to a complainant and other people identified as having had equal access to the District's education program or activity limited or denied by sex discrimination;
  - b. Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
  - c. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity

5. Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
6. Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### **Appeal of Determination**

If either party agrees with the decisionmaker's determination, the party may file an appeal, in writing, within 5 days of receiving the written determination.

A party may appeal the determination only on the following bases:

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

The complainant may not challenge the ultimate disciplinary sanction/consequence imposed. No new evidence may be submitted during the appeal process.

If a party appeals the determination, the Title IX Coordinator will:

1. Notify the parties of the appeal;
2. Implement appeal procedures equally for the parties;
3. Appoint an appeal decisionmaker, who shall not be the same person as the Title IX Coordinator, investigator, or decisionmaker;
4. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the determination;
5. Provide the appeal decisionmaker with relevant and not otherwise impermissible evidence, any responses submitted to the investigator related to the evidence, and the decisionmaker's written determination; and
6. Notify the parties, in writing, of the result of the appeal and the appeal decisionmaker's rationale.

If a party files an appeal, the appeal decisionmaker will establish a timeline for each party to submit a statement in support of their position that they want the appeal decisionmaker to consider in making a decision. Once the appeal decisionmaker receives the statements or the timeline for submitting such statements expires, the appeal decisionmaker will have 10 days to issue a decision. The decision will be issued in writing and sent to the parties and Title IX Coordinator.

### **INFORMAL RESOLUTION**

In lieu of resolving a complaint through the District's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The District shall not offer informal resolution to resolve a complaint that includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

Before initiating the process, the District must provide notice to the parties that explains:

1. The allegations;
2. The requirements of the informal resolution process;
3. That prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and initiate or resume the District's grievance procedures;
4. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;

5. 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
6. What information the District will maintain and whether and how the District may disclose such information for use in grievance procedures, if the grievance procedures are initiated or resumed.

The person who facilitates the informal resolution process shall not be the same person who serves as the investigator, decisionmaker, or appeal decisionmaker with respect to this particular complaint. Any person designated to facilitate an informal resolution process must not have a conflict of interest or a bias for or against complainants or respondents generally or for or against an individual complainant or respondent.

Potential terms that may be included in an informal resolution agreement include, but are not limited to:

1. Restrictions on contact; and
2. Restrictions on the respondent's participation in one or more of the District's programs or activities, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the grievance process that sex discrimination occurred.

Even if the parties reach an informal resolution agreement, the Title IX Coordinator must, to the extent necessary, also take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.

### **EMERGENCY REMOVAL & ADMINISTRATIVE LEAVE**

The District may remove a respondent from the District's education program or activity on an emergency basis during the grievance process or informal resolution process, if the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. The District's authority to remove a respondent on an emergency basis does not modify any rights the respondent may have under Section 504 of the Rehabilitation Act of 1973 (Section 504) or the Individuals with Disabilities Education Act (IDEA).

The District may place an employee respondent on administrative leave during the grievance process.

### **DISCIPLINARY SANCTIONS AND REMEDIES**

Following a determination that sex-based harassment occurred, the District will take prompt and effective steps to end the sex discrimination, prevent its recurrence, and remedy its effects. The District may impose disciplinary sanctions as follows:

1. Student Sanctions – Full range of discipline, including suspension or expulsion, as set forth in Student Code of Conduct, District Policy, and state and federal laws, as applicable.
2. Employee Sanctions - Full range of discipline, including nonrenewal or termination, as set forth in Employee Handbook, District Policy, and state and federal laws, as applicable.
- 3.

### **STUDENTS WITH DISABILITIES**

If a party to a complaint is a student with a disability, the Title IX Coordinator must consult with one or more members of the IEP Team or Section 504 Team throughout the grievance process, including before any emergency removal of the student and when determining appropriate supportive measures and remedies. The District will comply with the requirements of the IDEA and Section 504 in implementing this Policy, including the requirement that a manifestation determination review be conducted within 10 days of a decision to change the placement of a student with a disability because of a violation of a code of student conduct. *See* 34 CFR § 300.530.

### **TRAINING**

The following individuals will receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. The trainings shall not rely on sex stereotypes.

1. **All employees** – All District employees must be trained on:
  - a. The District’s obligation to address sex discrimination in its education program or activity;
  - b. The scope of conduct that constitutes sex discrimination under Title IX;
  - c. All applicable notification and information requirements under Title IX, including:
    - (i) When a student or a person with the legal right to act on behalf of the student informs any employee of the student’s pregnancy or related conditions, the employee’s responsibility to provide the person with the Title IX Coordinator’s contact information and inform the person that the 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; and
    - (ii) The employee’s responsibility to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.
2. **Investigators, decisionmakers, and other persons who are responsible for implementing the grievance procedures or who have the authority to modify or terminate supportive measures** – In addition to the training for all employees, these individuals must be trained on the following topics to the extent related to their responsibilities, including:
  - a. The District’s obligations under § 106.44, including the obligation to respond promptly and effectively when the District has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity;
  - b. The District’s grievance procedures;
  - c. How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
  - d. The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.
3. **Facilitators of informal resolution** – In addition to the training for all employees, all facilitators of informal resolution must be trained on the rules and practices associated with the District’s informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.
4. **Title IX Coordinator and designees** – In addition to the training for all employees, the Title IX Coordinator and designees must be trained on their specific responsibilities under Title IX, the District’s recordkeeping system, the recordkeeping requirements under Title IX, and any other training necessary to coordinate the District’s compliance with Title IX.

### **RECORDKEEPING REQUIREMENTS**

The District must maintain for a period of at least 7 years:

1. For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures and the resulting outcome;
2. For each notification the Title IX Coordinator receives of information about conduct that may reasonably constitute sex discrimination under Title IX, records documenting the actions the District took to meet its obligations under Title IX; and
3. All training materials must also be made available to members of the public upon request.

CROSS REFERENCE:      411.3 Title IX: Sexual Harassment Policy for Students and Other Applicable  
   Individuals  
   511.2 Title IX: Sexual Harassment Policy for Employees

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