

Administrative Procedure –Title IX Sexual Harassment Grievance Process

GAD/JP/KAB, Title IX Sexual Harassment Policy, Board policy
Complaint. See 34 C.F.R. Part 106. Use this response to a *Formal Title IX Sexual Harassment*
Education Amendments o to comply with Title IX of the

- a. This procedure and information about any available informal resolution process.
 - b. The allegations of sexual harassment potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment, and the date and location of the alleged incident, if known.
 - c. That the *Respondent* is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.
 - d. That all parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
 - e. That all parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Sexual Harassment Complaint (including evidence the District does not intend to rely on in determining responsibility, and inculpatory or exculpatory evidence) so that each party can meaningfully respond to the evidence before the investigation concludes.
 - f. That the
or knowingly submitting false information during the Grievance Process.
3. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice.
 4. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

When the *Complainant*

If the *Complainant* identity is unknown, such as where a third-party reports that a *Complainant* was victimized by sexual harassment but does not reveal the *Complainant* identity or where a *Complainant* reports anonymously, the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Title IX Sexual Harassment Complaint, even though the written notice provided in **Section B.1**, above, will not include the identity. 85 Fed. Reg. 30133. If the identity is later discovered, the Title IX Coordinator provides another written notice to the parties. *Id.* at f/n 594.

When the *Respondent*

If the *Respondent* identity is unknown, such as where a *Complainant* does not know the *Respondent* identity, the Grievance Process shall proceed because an investigation might reveal the *Respondent* identity. **Section B.1**, above, will not include the *Respondent* identity. If the *Respondent* identity is later discovered, the Title IX Coordinator provide another written notice to the parties. 85 Fed. Reg. 30138.

C. Consolidation of Formal Title IX Sexual Harassment Complaints

When multiple Formal Title IX Sexual Harassment Complaints contain allegations of sexual harassment arising out of the same facts or circumstances, the Title IX Coordinator may consolidate the complaints even if the complaints contain different *Respondents* and *Complainants* or allegations between parties. 34 C.F.R. §106.45(b)(4).

D. Dismissal of Formal Title IX Sexual Harassment Complaint

If the Title IX Coordinator or designee determines that conduct alleged in a Formal Title IX Sexual Harassment Complaint would not constitute Title IX sexual harassment even if proved, is not alleged to have occurred *Education Program or Activity*, or is not alleged to have occurred against a person in the United States, then the Title IX Coordinator or designee dismisses the Formal Title IX Sexual Harassment Complaint with regard to that conduct for purposes of Title IX Sexual Harassment only. Such a dismissal does not preclude action under another applicable District policy or procedure.

The Title IX Coordinator may dismiss a Formal Title IX Sexual Harassment Complaint or any allegations contained in it if any of the following occur:

1. The Complainant requests in writing to the Title IX Coordinator s to withdraw the Formal Title IX Sexual Harassment Complaint or any allegations contained in it;
2. The *Respondent* is no longer enrolled or employed by the District; or
3. Specific circumstances prevent the District from gathering enough evidence to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations in it.

Upon dismissal, the Title IX Coordinator promptly sends simultaneous written notice to the parties of the dismissal, reason(s) for the dismissal, and the right to appeal the dismissal. 34 C.F.R. §106.45(b)(3).

E. Informal Resolution of Formal Title IX Sexual Harassment Complaint

If a Formal Title IX Sexual Harassment Complaint has been filed by a Complainant or signed by the Title IX Coordinator or designee and no determination regarding responsibility has been reached

Actor	Action
Investigator or Title IX Coordinator	<p data-bbox="618 254 1471 321">During an investigation and throughout the Grievance Process (34 C.F.R. §106.45(b)(5)):</p> <ol data-bbox="618 331 1471 995" style="list-style-type: none"> <li data-bbox="618 331 1471 428">1. Ensures that the burden of proof and burden of gathering evidence rest on the District and not the parties involved. 34 C.F.R. §106.45(b)(5)(i). <li data-bbox="618 438 1471 535">2. Provides an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. 34 C.F.R. §106.45(b)(5)(ii). <li data-bbox="618 546 1471 642">3. Refrains from restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. 34 C.F.R. §106.45(b)(5)(iii). <li data-bbox="618 653 1471 919">4. Provides the parties the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice (who may, but is not required to, be an attorney). 34 C.F.R. §106.45(b)(5)(iv). However, the District can restrict the extent to which the advisor may participate in the proceedings if its restrictions apply equally to both parties. 34 C.F.R. §106.45(b)(5)(iv). <li data-bbox="618 930 1471 995">5. Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of

Actor	Action
	<ul style="list-style-type: none">a. The Formal Title IX Sexual Harassment Complaint;b. All evidence

	<p>Maker to ask another party or witness. <u>Id.</u> Informs the parties that any questions must be submitted to the Initial Decision-Maker within five (5) school business days.</p> <p>8. Upon receipt of answers to the additional questions, provides each party with copies of them and considers whether it is appropriate to allow any additional follow-up questions. <u>Id.</u></p> <p>Determination and Written Notice of Determination</p> <p>Basing all decisions on the <i>preponderance of evidence</i> standard, simultaneously issues to the parties a written determination regarding responsibility that (34 C.F.R. §106.45(b)(7)(ii)):</p> <ol style="list-style-type: none"> 1. Identifies the allegations potentially constituting Title IX sexual harassment; 2. Describes the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence; 3. Contains findings of fact supporting the determination; 4. Contains conclusions regarding the application of the District policies and procedures to the facts; 5. Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions for the District to impose on the <i>Respondent</i>, and whether remedies designed to <i>Education Program or Activity</i> will be provided by the District to the <i>Complainant</i>; and 6. Outlines the <i>Complainant</i> and <i>Respondent</i> to appeal.
Title IX Coordinator	Implements any remedies for the <i>Complainant</i> as ordered by the Initial Decision-Maker if no appeal is timely filed or after the resolution of any appeals. 34 C.F.R. §106.45(b)(7)(iv).

H. Appeals

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. 34 C.F.R. §106.45(b)(7)(iii).

Actor	Action
<i>Complainant</i> or <i>Respondent</i>	<p>Within 10 school business day after receiving either the Initial Decision- a notice of dismissal of Formal Title IX Sexual Harassment Complaint, makes a written request to Title IX Coordinator appealing the determination/dismissal based on:</p> <ol style="list-style-type: none"> 1. Procedural irregularity that affected the outcome.

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sanctions imposed on the *Respondent*, and any remedies provided to the *Complainant* designed to restore/preserve *Education Program or Activity*;

2. Any appeal and its result;
3. Any informal resolution and its result; and
4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.

See District 211 Board Policy GBL, *Personnel Records* addressing the identification, storage, and access to personnel records.

See District 211 Board Policy JO, *Student Records* addressing the confidentiality, safeguarding, access, and disposal of school student records.

The Title IX Coordinator will ensure that all materials required to be

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