

## TITLE IX SEXUAL HARASSMENT – PROHIBITED CONDUCT AND REPORTING PROCESS

Policy Code: 1725/4035/7236

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1 The board acknowledges the dignity and worth of all students and employees and strives to  
2 create a safe, orderly, caring, and inviting school environment to facilitate student learning and  
3 achievement. As provided in policy 1720/4030/7235, Title IX Nondiscrimination on the Basis of  
4 Sex, the board will not tolerate sexual harassment in the education program and activities of the  
5 school system. The board takes seriously all reports and formal complaints of sexual  
6 harassment.

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8 This Title IX sexual harassment policy specifically prohibits sexual harassment as that term is  
9 defined under Title IX. It provides a process for students, employees, and others to report such  
10 sexual harassment for response by school officials. All incidents of conduct that could constitute  
11 sexual harassment under this policy are to be reported and treated in accordance with this policy,  
12 whether or not the incidents may also constitute violations of other board policies or standards of  
13 conduct.

14  
15 Individuals who believe they have been subjected to sexual harassment prohibited by this policy  
16 or who have witnessed or have reliable information that another person has been subjected to  
17 sexual harassment prohibited by this policy should use the process provided in Section C of this  
18 policy to report such violations.

19  
20 The board also provides a grievance process for those who believe they have been victims of  
21 sexual harassment that is designed to achieve prompt and equitable resolution of formal  
22 complaints of sexual harassment through a formal investigation and adjudication of the  
23 allegations in the complaint or through informal resolution processes. The grievance process is  
24 provided in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. Affected  
25 individuals are encouraged to report sexual harassment in accordance with the process provided  
26 in Section C of this policy before filing a formal complaint to initiate the grievance process.

### 27 28 **A. PROHIBITED BEHAVIOR**

29  
30 Students, school system employees, volunteers, and visitors are expected to behave in a  
31 civil and respectful manner. The board expressly prohibits sexual harassment by  
32 students, employees, board members, volunteers, or visitors. “Visitors” includes parents  
33 and other family members and individuals from the community, as well as vendors,  
34 contractors, and other persons doing business with or performing services for the school  
35 system.

36  
37 Sexual harassment prohibited under Title IX and by this policy is conduct *on the basis of*  
38 *sex* occurring in a school system education program or activity that satisfies one or more  
39 of the following:

- 40  
41 1. an employee of the school system conditioning the provision of an aid, benefit, or  
42 service of the school system on an individual’s participation in unwelcome sexual  
43 conduct;

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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2. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school system’s education program or activities. This determination requires consideration of all the facts and circumstances, including, but not limited to, the ages and disability statuses of the harasser and the victim and the number of individuals involved and their authority;
  3. sexual assault including rape, statutory rape, fondling, and incest;
  4. dating violence;
  5. domestic violence; or
  6. stalking.

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Sexual assault, dating violence, domestic violence, and stalking will be defined in accordance with applicable law and the definitions will be incorporated into an administrative regulation developed by the superintendent.

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Conduct that satisfies this standard is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser and the context in which the harassment occurred.

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All references to “sexual harassment” in this policy mean sexual harassment that meets this definition.

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Examples of conduct on the basis of sex that would be considered sexual harassment if the conduct satisfies the criteria above include, but are not limited to: unwelcome sexual advances; requests for sexual favors; and other verbal or physical conduct of a sexual nature, such as deliberate, unwelcome touching that has sexual connotations or is of a sexual nature; suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats; pressure for sexual activity; continued or repeated offensive sexual flirtations, advances, or propositions; continued or repeated verbal remarks about an individual’s body; sexually degrading words used toward an individual or to describe an individual; sexual assault; sexual violence; the display of sexually suggestive drawings, objects, pictures, or written materials; posting sexually suggestive pictures of a person without the person’s consent; and forwarding pornographic material depicting a classmate or other member of the school community. Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping but not involving conduct of a sexual nature may also constitute sexual harassment.

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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88 Conduct that is determined not to meet the definition above may violate other board  
89 policies or established standards of conduct and will be treated accordingly. For  
90 example, conduct that does not meet the definition of Title IX sexual harassment above  
91 may nevertheless violate other board policies, including:

- 92
- 93 • policy 4329/7311, Bullying and Harassing Behavior Prohibited, prohibiting all  
94 forms of bullying and harassing conduct, including when it consists of unwelcome  
95 conduct of a sexual nature;
  - 96
  - 97 • policy 7232, Discrimination and Harassment in the Workplace, prohibiting  
98 harassment in the workplace; or
  - 99
  - 100 • policy 4040/7310, Staff-Student Relations, prohibiting romantic or sexual  
101 relationships between employees and students.

102  
103 Nothing in this policy is intended to limit discipline for violation of other board policies  
104 when appropriate and consistent with law.

105  
106 **B. DEFINITIONS**

107  
108 The following additional definitions apply in this policy.

109  
110 1. Report

111  
112 A report is an oral or written notification that an individual is an alleged or  
113 suspected perpetrator or victim of sexual harassment.

114  
115 Making a report initiates the interactive process with the complainant described in  
116 Section D.1, below. No disciplinary action will be taken against a respondent for  
117 sexual harassment based on a report alone.

118  
119 2. Formal Complaint

120  
121 A formal complaint is a document signed and filed with the Title IX coordinator  
122 by a complainant or signed by the Title IX coordinator alleging sexual harassment  
123 against a respondent and requesting that school officials investigate the  
124 allegation(s). Filing a formal complaint initiates the grievance process set forth in  
125 policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process.

126  
127 At the time of filing a formal complaint, a complainant must be participating in or  
128 attempting to participate in the education program or activities of the school  
129 system.

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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131 3. Complainant  
132  
133 The complainant is the individual(s) who is alleged to be the victim of conduct  
134 that could constitute sexual harassment.  
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- 136 4. Respondent  
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138 The respondent is the individual(s) who has been reported to be the perpetrator of  
139 conduct that could constitute sexual harassment.  
140
- 141 5. Grievance Process  
142  
143 Grievance process means the process for investigating and reaching a final  
144 determination of responsibility for a formal complaint of sexual harassment. The  
145 sexual harassment grievance process is set out in policy 1726/4036/7237.  
146
- 147 6. Title IX Coordinator  
148  
149 The Title IX coordinator is a school official who is designated to coordinate the  
150 school system’s response to sexual harassment and allegations of sexual  
151 harassment. Contact information for the Title IX coordinator is posted on the  
152 school system’s website and listed in policy 1720/4030/7235, Title IX  
153 Nondiscrimination on the Basis of Sex.  
154
- 155 7. Supportive Measures  
156  
157 Supportive measures are non-disciplinary, non-punitive individualized services  
158 offered as appropriate, as reasonably available, and without fee or charge to the  
159 complainant or the respondent before or after the filing of a formal complaint or  
160 where no formal complaint has been filed. Such measures are designed to restore  
161 or preserve equal access to the school system’s education program and activities  
162 without unreasonably burdening the other party, including measures designed to  
163 protect the safety of all parties or the school system’s educational environment, or  
164 deter sexual harassment.  
165  
166 Supportive measures available to the parties include, but are not limited to,  
167 counseling, mental health services referral, extensions of deadlines or other  
168 course-related adjustments, modifications of work or class schedules, escort  
169 services, mutual restrictions on contact between the parties, changes in work  
170 locations, leaves of absence, increased security and monitoring, and other similar  
171 measures determined by school officials to be necessary to protect the safety or  
172 educational or employment activities of a party.

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code:* 1725/4035/7236

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- 173  
174 8. Days  
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176 Days are calendar days unless specified otherwise.  
177  
178 9. Student(s)  
179  
180 “Student(s)” means the student and/or the student’s parent or legal guardian  
181 unless the context clearly indicates otherwise. When the complainant or  
182 respondent is a student, references to those terms also include the student’s parent  
183 or legal guardian unless the context clearly indicates otherwise.  
184  
185 10. Actual Knowledge  
186  
187 “Actual knowledge” means a school employee has notice of sexual harassment or  
188 allegations of sexual harassment.  
189

190 **C. REPORTING SEXUAL HARASSMENT**

- 191  
192 1. Student Reports  
193  
194 Any student who believes he or she is a victim of sexual harassment occurring in  
195 the school system’s education programs or activities is encouraged to report the  
196 matter to the student’s principal or to the Title IX coordinator. Reports may also  
197 be made to a teacher, counselor, assistant principal, teacher assistant, or any other  
198 school employee. Middle and high school students may also report sexual  
199 harassment through the anonymous tip line, but school officials may be limited in  
200 their ability to respond if the report does not identify the complainant.  
201  
202 2. Mandatory Reporting by School Employees and Board Members  
203  
204 Any employee or member of the board of education who has actual knowledge of  
205 sexual harassment or allegations of sexual harassment occurring in the education  
206 program or any activity of the school system must report that information  
207 immediately to the Title IX coordinator.  
208  
209 Any of the following confers “actual knowledge” and must be reported  
210 immediately:  
211  
212 a. a report of sexual harassment from a student or other person;  
213  
214 b. the employee or board member witnesses conduct that is or reasonably  
215 could be sexual harassment; or

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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217 c. the employee or board member discovers evidence of sexual harassment,  
218 such as sexualized graffiti on school property, or otherwise has reliable  
219 information or reason to believe that a student, employee, or other  
220 individual may have been sexually harassed in violation of this policy,  
221 even if no one has reported the sexual harassment.  
222

223 Employees who observe an incident of harassment are expected to intervene to  
224 stop the conduct in situations in which they have supervisory control over the  
225 perpetrator, and it is safe to do so. An employee with actual knowledge of  
226 possible sexual harassment in violation of this policy who does not promptly  
227 report the conduct and/or take proper action as required by this subsection, or who  
228 knowingly provides false information about the incident, will be subject to  
229 disciplinary action, up to and including dismissal.  
230

231 Any doubt about whether particular conduct is possible sexual harassment must  
232 be resolved in favor of reporting the conduct.  
233

234 The mandatory reporting required by this section is in addition to required  
235 reporting under policies 4040/7310, Student-Staff Relations, and 4240/7312,  
236 Child Abuse and Related Threats to Child Safety, where the conduct at issue  
237 requires a report under either of those policies.  
238

239 3. Reporting by Others  
240

241 All other members of the school community are strongly encouraged to report any  
242 act that may constitute an incident of sexual harassment in violation of this policy  
243 to the school principal, the Title IX coordinator, or the superintendent.  
244

245 4. Content of the Report  
246

247 To the extent possible, reports should be sufficient to put school officials on  
248 notice of conduct that could constitute sexual harassment. Employees making  
249 mandatory reports should provide as much detail about the alleged sexual  
250 harassment as is known, unless such disclosure would violate law or standards of  
251 professional ethics. Reports, other than mandatory reports by employees, may be  
252 made anonymously, but anonymous reports may limit the school system's ability  
253 to respond fully if the alleged victim is not identified.  
254

255 5. Time Period for Making a Report  
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257 Reports by students and third parties can be made at any time. During non-  
258 business hours, reports can be made by using the contact information for the Title

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

259 IX coordinator provided on the school system’s website and in policy  
260 1720/4030/7235, Title IX Nondiscrimination on the Basis of Sex. A report should  
261 be made as soon as possible after disclosure or discovery of the facts giving rise  
262 to the report. Delays in reporting may impair the ability of school officials to  
263 investigate and respond to any subsequent formal complaint.

264  
265 School employees and board members with actual knowledge of sexual  
266 harassment must report that information immediately, as provided in subsection  
267 C.2 above.

268  
269 **D. SCHOOL OFFICIALS’ RESPONSE TO ACTUAL KNOWLEDGE OF SEXUAL HARASSMENT**  
270

271 As required to meet the school system’s obligations under Title IX, school officials shall  
272 respond promptly and impartially to actual knowledge of alleged sexual harassment in a  
273 manner that is not deliberately indifferent. A response that is not deliberately indifferent  
274 is one that is not clearly unreasonable in light of the known circumstances and includes,  
275 at a minimum, the provision of supportive measures to the complainant, as described in  
276 this section.

277  
278 Consistent with this duty, school officials shall respond to all reports of conduct that  
279 could constitute sexual harassment in accordance with this section. However, a report  
280 alleging conduct that is not sexual harassment as defined in this policy is not subject to  
281 this policy but may be referred to appropriate school officials as a possible violation of  
282 other board policies.

283  
284 1. Title IX Coordinator Initiates Interactive Process with Complainant  
285

286 Upon receiving a report of alleged sexual harassment, the Title IX coordinator  
287 shall promptly contact the complainant and the complainant’s parent or guardian  
288 confidentially. This contact must occur within three days, excluding weekends,  
289 absent extenuating circumstances. The Title IX coordinator shall also notify the  
290 principal of the report and, if an employee is the complainant or respondent, the  
291 senior human resources official or designee.

292  
293 When contacting the complainant and parent or guardian, the Title IX coordinator  
294 shall do all of the following during the contact and shall document the same:

- 295  
296 a. offer supportive measures;  
297  
298 b. consider the complainant’s wishes with respect to supportive measures;  
299  
300 c. explain that supportive measures are available with or without the filing of  
301 a formal complaint; and

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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- d. explain the process for filing a formal complaint with the Title IX coordinator and the response required of the school system when a complaint is filed, including all the following:
    - i. that a formal complaint will initiate the grievance process described in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process;
    - ii. that a formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail;
    - iii. the major steps in the grievance process, including (1) a notice of the allegations that will be provided to the respondent that includes identification of the complainant and the allegations made; (2) an investigation of the allegations of sexual harassment in which both parties will have opportunity to have an advisor, present witnesses, review evidence, pose written questions of the other party, and receive a copy of the investigative report; (3) a decision on responsibility in which a decision-maker objectively evaluates all relevant evidence and determines whether the respondent engaged in the alleged sexual harassment in violation of this policy; and (4) the opportunity for either party to appeal the decision;
    - iv. the approximate time frame for concluding the grievance process;
    - v. that school officials will treat both parties equitably by (1) providing remedies to the complainant if the respondent is found responsible, and (2) by not imposing disciplinary sanctions on the respondent without first following the grievance process set forth in policy 1726/4036/7237;
    - vi. the circumstances under which a formal complaint might be consolidated with other formal complaints or dismissed; and
    - vii. that the Title IX coordinator may have an obligation to initiate the grievance process in the absence of a formal complaint filed by the complainant and the time frame in which that decision will be made.
  - 2. Title IX Coordinator Arranges Implementation of Supportive Measures  
After considering the complainant’s wishes, the Title IX coordinator shall arrange



**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

---

345 the effective implementation of appropriate supportive measures unless, in the  
346 exercise of good judgment, the Title IX coordinator determines that supportive  
347 measures should not be provided. If supportive measures are not provided to the  
348 complainant, the Title IX coordinator shall document why supportive measures  
349 were not provided and why not providing supportive measures is not deliberately  
350 indifferent to known sexual harassment.

351  
352 If the complainant is a student with a disability, the Title IX coordinator may need  
353 to consult with appropriate school personnel to determine whether adjustments to  
354 the student’s IEP or Section 504 plan are needed to implement any supportive  
355 measures to be provided and/or whether the student’s plan necessitates any  
356 adjustment to the proposed supportive measures.

357  
358 3. Title IX Coordinator Determines Whether to Sign a Formal Complaint

359  
360 If the complainant declined to file a formal complaint within the designated time  
361 period following the interactive process described above, the Title IX coordinator  
362 shall determine on a case-by-case basis whether to sign, i.e., file, a formal  
363 complaint to initiate the grievance process.

364  
365 The Title IX coordinator should file a formal complaint (1) if the respondent is a  
366 school employee and the complainant is a student; and (2) in other cases where, in  
367 the exercise of good judgment and in consultation with the school attorney as  
368 appropriate, the coordinator determines that a grievance process is necessary to  
369 comply with the obligation not to be deliberately indifferent to known allegations  
370 of sexual harassment. Credibility or merit of the complaint shall not be  
371 considered in making the determination.

372  
373 A decision by the Title IX coordinator to sign a formal complaint is not to be  
374 construed as supportive of the complainant or in opposition to the respondent or  
375 as an indication of whether the allegations are credible or have merit, or whether  
376 there is evidence sufficient to determine responsibility. Signing a formal  
377 complaint does not make the Title IX coordinator a complainant or party to the  
378 complaint nor relieve the Title IX coordinator from any responsibilities under this  
379 policy.

380  
381 The Title IX coordinator shall document the decision of whether to sign a  
382 complaint and the reasons for that decision.

383  
384 4. Presumption of Non-responsibility of Respondent and Bar on Disciplinary  
385 Sanctions without Due Process

386  
387 The respondent identified in any report alleging sexual harassment under this

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

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388 policy will be presumed not responsible for the alleged conduct until the  
389 respondent’s responsibility is conclusively established through the grievance  
390 process outlined in policy 1726/4036/7237, Title IX Sexual Harassment  
391 Grievance Process.

392  
393 No disciplinary sanction or other action that is not a supportive measure,  
394 including but not limited to (1) short or long-term suspension, expulsion, or  
395 transfer to an alternative school or program for student-respondents and (2)  
396 suspension, demotion, or dismissal for employee-respondents, may be imposed  
397 for a violation of this policy unless the respondent agrees to a specific disciplinary  
398 sanction or action in an informal resolution or has been determined to be  
399 responsible for the sexual harassment at the conclusion of a grievance process that  
400 complies with the process in policy 1726/4036/7237. An employee-respondent,  
401 however, may be placed on administrative leave during the pendency of the  
402 grievance process if consistent with applicable state and federal laws.

403  
404 Notwithstanding the limitation just described, respondents are subject to  
405 emergency removal as described in the next paragraph.

406  
407 5. Emergency Removal of Respondent from School or Employment

408  
409 Any respondent is subject to removal from the school system’s education program  
410 and activities, or any part of the program or activities, on an emergency basis if a  
411 school-based threat assessment team conducts an individualized safety and risk  
412 analysis and determines that removal is justified because the person poses an  
413 immediate health or safety threat to any person arising from the allegations of  
414 sexual harassment. A removal under this subsection includes a transfer of a  
415 student to an alternative education program consistent with policy 3470/4305,  
416 Alternative Learning Programs/Schools. A schedule change, and/or removing a  
417 student from an extracurricular activity is also considered a removal under this  
418 subsection where such action would not otherwise constitute a supportive  
419 measure.

420  
421 The emergency removal may take place regardless of whether a formal complaint  
422 has been filed. However, any such removal must be consistent with federal and  
423 state law, including any applicable law protecting the rights of individuals with  
424 disabilities. The respondent shall receive notice of the removal and an  
425 opportunity to challenge the decision in an informal hearing with the  
426 superintendent or designee immediately following the removal.

427  
428 An employee may be placed on administrative leave with or without pay during  
429 the pendency of the grievance process set out in policy 1726/4036/7237, Title IX

**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

*Policy Code: 1725/4035/7236*

430 Sexual Harassment Grievance Process, if consistent with state law and in  
431 accordance with any applicable requirements of state law.

432  
433 The superintendent or designee shall document all emergency removal decisions  
434 under this subsection, including the immediate threat to health or safety that  
435 justified the removal.

436  
437 6. Supportive Measures

438  
439 Supportive measures will be available to both the complainant and respondent  
440 before or after the filing of a formal complaint or where no formal complaint has  
441 been filed. Supportive measures will remain confidential to the extent that  
442 maintaining such confidentiality does not impair the ability to provide the  
443 supportive measures. The Title IX coordinator is responsible for coordinating the  
444 effective implementation of supportive measures.

445  
446 **E. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS**

447  
448 The grievance process for formal complaints of sexual harassment under this policy is set  
449 out in policy 1726/4036/7237, Title IX Sexual Harassment Grievance Process. The  
450 policy also provides an informal resolution process for complainants who seek an  
451 alternate means of resolution to their complaint.

452  
453 As described in subsection D.3 above, the Title IX coordinator may also initiate the  
454 grievance process, as needed.

455  
456 **F. RECORDS**

457  
458 The Title IX coordinator shall create and maintain for a period of seven years records of  
459 all reports and formal complaints of sexual harassment. For each report or formal  
460 complaint, the coordinator shall document the following:

- 461
- 462 1. any actions, including any supportive measures, taken in response to the report or  
463 formal complaint;
  - 464 2. that school officials have taken measures that are designed to restore or preserve  
465 equal access to the school system’s education program and activities;
  - 466 3. why school officials believe their response to the report or complaint was not  
467 deliberately indifferent; and
  - 468 4. if supportive measures were not provided to the complainant, why that was not  
469 clearly unreasonable in light of the known circumstances.
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**TITLE IX SEXUAL HARASSMENT – PROHIBITED  
CONDUCT AND REPORTING PROCESS**

Policy Code: **1725/4035/7236**

---

473  
474 In conjunction with the superintendent, the Title IX coordinator shall also maintain for seven  
475 years all materials used to train the Title IX coordinator, investigators, decision-makers, and any  
476 person who facilitates an informal resolution process. These materials will be made publicly  
477 available on the school system’s website.  
478

479 Legal References: Title IX of the Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*,  
480 34 C.F.R. pt. 106; *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998); G.S.  
481 115C-335.5; *Davis v. Monroe County Board of Education*, 526 U.S. 629 (1999); *Q&A on*  
482 *Campus Sexual Misconduct*, U.S. Department of Education, Office for Civil Rights (2017),  
483 available at <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>; *Dear*  
484 *Colleague Letter (Title IX Coordinator)* and *Title IX Resource Guide*, U.S. Department of  
485 Education, Office for Civil Rights (2015), both available at  
486 <https://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html>; *Revised Sexual*  
487 *Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third*  
488 *Parties*, U.S. Department of Education, Office for Civil Rights (2001), available at  
489 <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>  
490

491 Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235),  
492 Title IX Sexual Harassment Grievance Process (policy 1726/4036/7237), Alternative Learning  
493 Programs/Schools (policy 3470/4305), Staff-Student Relations (policy 4040/7310), Child Abuse  
494 and Related Threats to Child Safety (policy 4240/7312), Bullying and Harassing Behavior  
495 Prohibited (policy 4329/7311), Discrimination and Harassment in the Workplace (policy 7232)  
496

497 Adopted: [DATE]