

**TITLE IX SEXUAL HARASSMENT
GRIEVANCE PROCESS**

Policy Code: **1726/4036/7237**

1 The process provided in this policy is designed for those who believe that they have been
2 sexually harassed in violation of policy 1725/4035/7236, Title IX Sexual Harassment –
3 Prohibited Conduct and Reporting Process, and wish to file a formal complaint. School officials
4 shall follow the grievance process established in this policy when responding to all formal
5 complaints of sexual harassment.

6
7 The superintendent is responsible for notifying students and their parents or legal guardians,
8 employees, and applicants for employment of this policy and ensuring that each principal or site
9 supervisor provides a copy of this policy to these persons.

10
11 **A. DEFINITIONS**

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13 All definitions in policy 1725/4035/7236, Title IX Sexual Harassment – Prohibited
14 Conduct and Reporting Process, are incorporated by reference and have the same
15 meaning when used in this policy, including all references to “sexual harassment” in this
16 policy.

17
18 The following additional definitions apply in this policy.

19
20 1. Investigator

21
22 The investigator is the school official responsible for investigating and responding
23 to a formal complaint.

24
25 2. Decision-Maker

26
27 The decision-maker is the school official responsible for making a determination
28 regarding responsibility in response to an investigation of sexual harassment
29 triggered by a formal complaint.

30
31 3. Investigative Report

32
33 The investigative report is a written account of the findings of the investigation
34 conducted in response to a formal complaint.

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36 4. Remedies

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38 Remedies are individualized measures provided to a complainant designed to
39 restore or preserve the complainant’s equal access to the education program and
40 activities of the school system when a respondent is found responsible for sexual
41 harassment.

43 Remedial measures available to a complainant following a determination of
44 responsibility include counseling, mental health services referral, extensions of
45 deadlines or other course-related adjustments, modifications of work or class
46 schedules, escort services, mutual or one-way restrictions on contact between the
47 parties, changes in work locations, leaves of absence, increased security and
48 monitoring, and other measures determined by school officials to be necessary to
49 restore or preserve the complainant’s equal access to the education program and
50 activities, regardless of whether such measures impose a burden on the respondent
51 or are punitive or disciplinary in nature.

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53 5. Disciplinary Sanctions

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55 Disciplinary sanctions are consequences imposed on a respondent when the
56 respondent is found responsible for sexual harassment.

57
58 **B. FILING A FORMAL COMPLAINT TO INITIATE THE GRIEVANCE PROCESS**

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60 A formal complaint initiates the grievance process.

61
62 1. Individuals Who May File a Formal Complaint

63
64 a. Eligible Complainants

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66 Eligible individuals who believe that they have been sexually harassed in
67 violation of policy 1725/4035/7236, Title IX Sexual Harassment –
68 Prohibited Conduct and Reporting Process, may initiate the grievance
69 process for alleged sexual harassment by filing a formal written complaint
70 with the Title IX coordinator. To be eligible to file a formal written
71 complaint, the complainant must be participating in or attempting to
72 participate in the education program or activities of the school system at
73 the time of filing.

74
75 b. The Title IX Coordinator

76
77 If the complainant does not wish to file a formal complaint and the matter
78 has not been adequately resolved through the provision of supportive
79 measures, the Title IX coordinator may initiate the grievance process by
80 signing a formal complaint. In accordance with law, only the complainant
81 and the Title IX coordinator may initiate the grievance process; no other
82 individuals or school officials shall have authority to do so.

83
84 2. Time Period for Filing a Formal Complaint

85

86 There is no deadline for filing a complaint. A complaint should be filed as soon
87 as possible after the conduct occurs, preferably within 30 days after the
88 complainant becomes aware of the alleged sexual harassment, unless the conduct
89 forming the basis for the complaint is ongoing. School officials will initiate the
90 grievance process regardless of when the formal complaint is submitted, but
91 delays in reporting may significantly impair the ability of school officials to
92 investigate and respond to the allegations.

93
94 In addition, in some circumstances it may be necessary for the Title IX
95 coordinator to sign a formal complaint to initiate the grievance process in order to
96 meet the school system’s legal obligations when the coordinator is aware of
97 sexual harassment or alleged sexual harassment and the complainant has not yet
98 filed a formal complaint. The Title IX coordinator can do so at any time.
99

100 3. Contents of the Formal Complaint
101

102 The complaint should (1) contain the name and address of the complainant and
103 the student’s parent or guardian if the complainant is a minor student, (2) describe
104 the alleged sexual harassment, (3) request an investigation of the matter, and (4)
105 be signed by the complainant or otherwise indicate that the complainant is the
106 person filing the complaint.
107

108 4. How to File the Formal Complaint
109

110 The complaint may be filed with the Title IX coordinator in person, by mail, or by
111 email. Complaint forms may be obtained from the Title IX coordinator or on the
112 school system website.
113

114 5. School System’s Response to Receipt of the Formal Complaint
115

116 a. Upon receipt of a formal complaint of sexual harassment, the Title IX
117 coordinator shall engage in an interactive process with the complainant,
118 consider the provision of supportive measures in light of the complainant’s
119 wishes, provide supportive measures as appropriate, and otherwise fulfill
120 the requirements of Section D of policy 1725/4035/7236, Title IX Sexual
121 Harassment – Prohibited Conduct and Reporting Process, unless the Title
122 IX coordinator has already done so in response to an initial report of the
123 same allegation of sexual harassment.
124

125 b. School officials reserve the right to consolidate formal complaints against
126 more than one respondent, or by more than one complainant against one or
127 more respondents, or by one party against the other party, where the
128 allegations of sexual harassment arise out of the same facts or

129 circumstances. The Title IX coordinator shall advise the complainant if
130 the formal complaint will be consolidated with others.

131
132 c. The formal complaint initiates the grievance process as described below.

133
134 **C. GENERAL PRINCIPLES OF THE GRIEVANCE PROCESS FOR FORMAL COMPLAINTS**

135
136 To ensure a complete, thorough, and fair grievance process for formal complaints of
137 sexual harassment, school officials responsible for the investigation, adjudication, or
138 appeal of a formal complaint of sexual harassment shall comply with the following
139 requirements. Failure by any school official to comply with these requirements or other
140 standards or procedures established in this policy is cause for disciplinary action.

141
142 1. Equitable Treatment

143
144 Complainants and respondents must be treated equitably throughout the grievance
145 process. Relevant evidence collected in the investigation of a formal complaint
146 must be evaluated objectively. No individual designated as a Title IX
147 coordinator, investigator, decision-maker, or appeal decision-maker will have a
148 conflict of interest or bias for or against complainants or respondents generally or
149 an individual complainant or respondent. Credibility determinations will not be
150 based on a person's status as a complainant, respondent, or witness.

151
152 The complainant and respondent shall be provided an equal opportunity to have
153 others present during any grievance proceeding, including the opportunity to be
154 accompanied to any related meeting or proceeding by the advisor of their choice,
155 who may be an attorney. If a party elects to be represented by an attorney, the
156 party should notify school officials in advance so that an attorney for the school
157 system may also be present. Any restrictions on advisor participation in any
158 proceeding must be applied equally to both parties.

159
160 The complainant and respondent will both be provided a description of the range
161 of supportive measures available to them.

162
163 2. Adequate Training

164
165 The Title IX coordinator, and all persons serving as Title IX investigators,
166 decision-makers, or appeal decision-makers shall receive training on what
167 constitutes sexual harassment, the scope of the school system's education
168 program and activities, how to conduct an investigation and grievance process,
169 and how to serve impartially, including by avoiding prejudgment of the facts at
170 issue, conflicts of interest, and bias. Decision-makers will be trained on any
171 technology to be used at a live hearing and on issues of relevance of questions and

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172 evidence.

173
174 Materials used to train coordinators, investigators, decision-makers, and appeal
175 decision-makers will not rely on sex stereotypes and shall promote impartial
176 investigations and adjudications of sexual harassment. Copyright restrictions will
177 be taken into consideration in selecting training materials in order to comply with
178 the school system’s legal obligation to make all training materials available on the
179 school system’s website.

180
181 3. Presumption of Non-Responsibility/Innocence

182
183 At all times prior to a determination regarding responsibility by the decision-
184 maker, there will be a presumption that the respondent is not responsible for the
185 alleged conduct.

186
187 4. Burden of Proof and Production of Evidence

188
189 The burden of proof and the burden of gathering evidence sufficient to reach a
190 determination regarding responsibility will at all times rest on the school system
191 and not on the complainant or respondent. Formal rules of evidence shall not
192 apply in the grievance process.

193
194 5. Written Notice of Meetings and Other Proceedings

195
196 Parties whose participation is invited or expected at any hearing, investigative
197 interview, or other meeting will be provided written notice of the event’s date,
198 time, location, participants, and purpose with sufficient time for the party to
199 prepare to participate.

200
201 6. Confidentiality and Privacy

202
203 The school system will keep confidential the identity of any individual who has
204 made a report or formal complaint of sexual harassment, any complainant, any
205 respondent, and any witness, except as may be permitted by FERPA, as required
206 by law, or as necessary to carry out a Title IX proceeding. A violation of this
207 provision may constitute retaliation.

208
209 All meetings, hearings, or other proceeding conducted pursuant to this policy will
210 be private except to the extent that the parties are permitted to be accompanied by
211 others as provided in subsection C.1 above.

212
213 School officials shall not access, consider, disclose, or otherwise use a party’s
214 medical, mental health, or other records that are made or maintained by a

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215 professional or paraprofessional in connection with the provision of treatment to
216 the party without the party's voluntary written consent.

217
218 7. No Disclosure of Privileged Information

219
220 No person acting on behalf of the school system shall require, allow, rely upon, or
221 otherwise use questions or evidence that constitute, or seek disclosure of,
222 information protected under a legally recognized privilege, unless the person
223 holding such privilege has waived the privilege.

224
225 8. Timeliness of Process

226
227 School officials shall make a good faith effort to conduct a fair, impartial
228 grievance process in a timely manner designed to provide all parties with a
229 prompt and equitable resolution. It is expected that in most cases, the grievance
230 process will be concluded through the adjudication phase within 90 days after
231 filing the formal complaint. The board reserves the right to extend this time
232 frame or any deadline contained in this policy for good cause with written notice
233 to the parties of the delay and the reason for the delay. Good cause may include
234 but is not limited to the absence of the parties or witnesses, concurrent law
235 enforcement activity, or the need for language assistance or accommodation of
236 disabilities.

237
238 The Title IX coordinator or other responsible school official shall make
239 reasonable efforts to keep the complainant and respondent apprised of progress
240 being made during any period of delay.

241
242 **D. THE GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART I – INVESTIGATION**

243
244 1. Step 1 – Notice of Allegations

245
246 a. Upon the filing of a formal complaint, the Title IX coordinator shall,
247 within five school business days, provide the known parties written notice
248 of the allegations that includes:

249
250 i. notice of the allegations of sexual harassment in sufficient detail to
251 permit the parties to prepare a response before any initial
252 interview, including:

253
254 a) the identities of the parties involved, if known;

255
256 b) the conduct allegedly constituting sexual harassment; and
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- 258 c) the date and location of the alleged incident, if known;
259
260 ii. a copy of this policy to give notice of the school system's
261 grievance process, including the investigative and adjudication
262 procedures, and any informal resolution process available;
263
264 iii. notice that the parties may have an advisor of their choice and that
265 either party may inspect and review any evidence;
266
267 iv. notice of the provision in board policy 4340, School-Level
268 Investigations, that prohibits students and employees from
269 knowingly making false statements or knowingly submitting false
270 information during the grievance process; and
271
272 v. a statement that the respondent is presumed not responsible for the
273 alleged conduct and that a determination regarding responsibility
274 will be made at the conclusion of the grievance process.
275

- 276 b. If during the investigation, the investigator decides to investigate
277 allegations of sexual harassment not included in the initial notice provided
278 above, notice of the additional allegations will be provided to the parties.
279

280 2. Step 2 – Review Grounds for Dismissal of the Formal Complaint
281

282 The Title IX coordinator shall review the allegations and determine whether the
283 formal complaint must be dismissed without further investigation because the
284 conduct alleged in the formal complaint, even if assumed true, would not
285 constitute sexual harassment as defined in this policy, did not occur in the school
286 system's education program or activities, or did not occur against a person in the
287 United States. Such a dismissal does not preclude action under another provision
288 of the Code of Student Conduct, board policy, or expected standards of employee
289 behavior. The complaint will not be dismissed at this stage on the basis that the
290 allegations are frivolous, without merit, or otherwise unfounded.
291

292 Upon a dismissal, the Title IX coordinator must promptly send written notice of
293 the dismissal and reason(s) therefor simultaneously to the parties. The parties
294 have the right to appeal the decision as provided in Section F.
295

296 The Title IX coordinator shall refer the matter that was the subject of the
297 dismissed complaint to the principal for further action as warranted.
298

299 3. Step 3 – Initiating the Investigation
300

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- 301 If the complaint may proceed, the Title IX coordinator shall notify the appropriate
302 investigator, who shall investigate the formal complaint.
303
- 304 a. In order to provide a neutral and objective investigation, the investigator
305 shall not be a party to the complaint under investigation. The investigator
306 of a formal complaint is ordinarily determined as described below;
307 however, the Title IX coordinator, in consultation with the superintendent,
308 may determine that conflict of interest, bias, or other individual
309 circumstances warrant the assignment of a different investigator.
310
- 311 i. If the respondent is a student, the investigator is the principal or
312 designee of the school with jurisdiction over the incident.
313
- 314 ii. If the respondent is an employee or applicant for employment, the
315 investigator is the senior human resources official or designee.
316
- 317 iii. If the respondent is neither a student nor an employee/applicant for
318 employment, the principal of the school/site supervisor at which
319 the complainant is enrolled or employed shall be the investigator.
320
- 321 iv. Notwithstanding the above designations, (1) if the respondent is
322 the senior human resources official, the superintendent shall
323 investigate the complaint; (2) if the respondent is the
324 superintendent or a member of the board, the Title IX coordinator
325 shall immediately notify the board chair who shall direct the board
326 attorney to investigate, unless the board chair determines that
327 outside counsel should be engaged to investigate.
328
- 329 b. The investigator may request assistance from the Title IX coordinator to
330 conduct the investigation.
331
- 332 c. The Title IX coordinator and the investigator shall jointly assess the need
333 for supportive measures for either party, including assessing the
334 effectiveness of any supportive measures currently being provided to the
335 complainant, and, as necessary, will implement appropriate measures in a
336 timely manner and monitor the effectiveness of the measures during the
337 pendency of the investigation and prior to a final determination regarding
338 responsibility. Supportive measures provided to the complainant or
339 respondent will be maintained as confidential to the extent that
340 maintaining such confidentiality does not impair the ability to provide the
341 supportive measures.
342
- 343 d. The investigator shall explain the process of the investigation to the

344 complainant and respondent.

345

346

4. Step 4 – Conducting the Investigation

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The investigator is responsible for gathering evidence sufficient to reach a determination of whether the allegations in the formal complaint are true and whether the facts as determined by the investigator establish that sexual harassment as defined in this policy occurred. In so doing, the investigator shall impartially, promptly, and thoroughly investigate the complaint.

354

a. The investigator shall interview all individuals who may have relevant information, including (1) the complainant; (2) the respondent; (3) individuals identified as witnesses by the complainant or respondent; and (4) any other individuals who are thought possibly to have relevant information. Prior written notice shall be provided to a party whose participation is invited or expected for any investigative interview or meeting in accordance with subsection C.5 above. The investigator shall provide the complainant and respondent an equal opportunity to present fact and expert witnesses and other evidence tending to prove or disprove the allegations.

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b. The investigator shall ensure that the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the school system and not on the complainant or respondent.

366

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369

c. The investigator shall not restrict the ability of either party to gather and present relevant evidence or to discuss the allegations under investigation.

370

371

372

d. The formal complaint and the investigation will be kept confidential to the extent possible. Information may be shared only with individuals who need the information in order to investigate and address the complaint appropriately and those with a legal right to access the information. Any requests by the complainant or respondent for further confidentiality will be evaluated within the context of the legal responsibilities of the school system.

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The investigator may, with approval of the Title IX coordinator, dismiss the formal complaint or any allegations therein if at any time during the investigation or decision-making process: (1) the complainant notifies the Title IX coordinator in writing that he or she would like to withdraw the formal complaint or any allegations therein; (2) the respondent is no longer enrolled or employed by the school system; or (3) specific circumstances prevent school officials from gathering evidence sufficient to reach a determination as to the formal complaint

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387 or allegations therein. Upon dismissal, the Title IX coordinator shall promptly
388 send written notice of the dismissal and reason(s) therefor simultaneously to the
389 parties. The parties have the right to appeal the decision as provided in Section F.
390

391 The investigator may consider the matter that was the subject of the dismissed
392 complaint for action in accordance with board policy for violation of other
393 expected standards of student or employee behavior
394

395 5. Step 5 – Investigative Report and Opportunity to Review Evidence
396

397 a. The investigator shall prepare an investigative report that fairly
398 summarizes the relevant evidence.
399

400 b. Before completing the final report, the investigator shall send to each party
401 and the party’s advisor, if any, in hard copy or electronically, all the
402 evidence collected which is directly related to the allegations raised in the
403 formal complaint. The parties shall have 10 days to submit a written
404 response for the investigator’s consideration before the investigator
405 finalizes the investigative report.
406

407 c. Following the parties’ opportunity to respond to the written evidence, the
408 investigator shall finalize the written investigative report, including a
409 recommendation on the question of responsibility and any recommended
410 discipline sanction.
411

412 d. The investigator shall provide a copy of the report to each party and the
413 party’s advisor, if any, for their review and written response. The
414 investigator shall also notify the parties of the opportunity to submit
415 written questions to the other party and witnesses as provided in
416 subsection E.2 below. The parties shall have 10 days to provide a written
417 response to the investigative report, along with the party’s initial set of
418 written questions.
419

420 e. The investigator shall provide to the decision-maker a copy of the
421 investigative report, the relevant evidence, and the parties’ written
422 responses to the report and initial sets of written questions.
423

424 The investigator shall also provide a description of the procedural steps
425 taken, starting with the receipt of the formal complaint and continuing
426 through the preparation of the investigative report, and including any
427 notifications to the parties, interviews with parties and witnesses, site
428 visits, and methods used to gather other evidence.
429

430 **E. THE GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART II – ADJUDICATION**
431

432 The superintendent or designee (hereinafter “superintendent”) shall serve as the decision-
433 maker. In his or her role as decision-maker, the superintendent shall provide for the
434 exchange of questions between the parties and a decision on responsibility in a manner
435 consistent with state law and as provided below.
436

437 1. Step 1 – Student’s Opportunity to Request a Hearing
438

439 In cases where the respondent is a student, after the investigative report has been
440 sent to the parties, both parties shall have three school business days to request a
441 hearing. If either party requests a hearing, the long-term suspension hearing
442 procedures described in policy 4370, Student Discipline Hearing Procedures, shall
443 be followed, except that (1) both parties shall have the right to participate in the
444 hearing to the extent required by Title IX; (2) all the evidence sent to the parties
445 pursuant to subsection D.5.b above will be made available at the hearing to give
446 each party equal opportunity to refer to such evidence during the hearing; and (3)
447 prior to the hearing, both parties shall have a limited opportunity to submit and
448 respond to written questions and follow-up questions as provided below.
449

450 2. Step 2 – Exchange of Questions and Answers
451

452 Whether or not there will be a hearing and regardless of whether the respondent is
453 a student, after the parties are sent the investigative report, the superintendent
454 shall provide the parties an opportunity to submit written, relevant questions that
455 the party wants asked of any other party or witness, provide each party with the
456 answers, and allow for additional, limited follow-up questions from each party in
457 accordance with a reasonably prompt time frame established by the
458 superintendent. The parties shall submit their initial set of written questions at the
459 time they submit their response to the investigative report as described in
460 subsection D.5.d above.
461

462 a. Questions and evidence about the complainant’s sexual predisposition or
463 prior sexual behavior will be considered not relevant, unless such
464 questions and evidence about the complainant’s prior sexual behavior are
465 offered to prove that someone other than the respondent committed the
466 conduct alleged by the complainant, or if the questions and evidence
467 concern specific incidents of the complainant’s sexual behavior with
468 respect to the respondent and is offered to prove consent.
469

470 b. The superintendent must explain to the party proposing the questions any
471 decision to exclude questions as not relevant.
472

473 3. Step 3 – Decision on the Question Regarding Responsibility
474

475 Following the exchange of questions and/or hearing as described above, the
476 superintendent shall decide the question regarding responsibility, any disciplinary
477 action, and any other measures the superintendent deems appropriate. The
478 superintendent shall consider all the relevant evidence objectively, including
479 evidence in the investigative report, any testimony of witnesses at the hearing, if
480 one was held, and any additional information provided by the parties through the
481 exchange of questions and responses as provided in subsection E.2 above.
482

483 Based on an objective evaluation of the evidence, the superintendent shall
484 determine whether the preponderance of the evidence supports a finding that the
485 respondent is responsible for sexual harassment in violation of board policy, and
486 if so, what disciplinary sanction will be imposed. Remedies will be provided to
487 the complainant if the respondent is found responsible.
488

489 4. Step 4 – Written Determination Regarding Responsibility
490

491 The superintendent shall issue a written determination regarding responsibility
492 simultaneously to both parties that includes:
493

- 494 a. identification of the allegations potentially constituting sexual harassment
495 under board policy;
496
- 497 b. a description of the procedural steps taken from the receipt of the formal
498 complaint through the determination, including any notifications to the
499 parties, interviews with parties and witnesses, site visits, methods used to
500 gather other evidence, and hearings held;
501
- 502 c. findings of fact supporting the determination;
503
- 504 d. conclusions regarding the application of board policy and/or the Code of
505 Student Conduct or expected standards of employee behavior to the facts
506 including whether, the respondent engaged in prohibited sexual
507 harassment or other proscribed conduct;
508
- 509 e. a statement of, and rationale for, the result as to each allegation, including
510 a determination regarding responsibility, any disciplinary sanctions
511 imposed on the respondent (which may be a recommendation to the board
512 for discipline that is beyond the authority of the superintendent or other
513 decision-maker), and whether remedies designed to restore or preserve
514 equal access to the school system’s education program and activities will
515 be provided to the complainant;

- 516
517 f. the procedures and permissible bases for the complainant and respondent
518 to appeal; and
519
520 g. any other notices that are required to accompany the decision under state
521 law, such as when the superintendent imposes a long-term suspension or
522 recommends dismissal of an employee.
523

524 **F. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS: PART III – APPEAL**
525

526 The parties shall have the right to appeal to the board of education the determination
527 regarding responsibility, the outcome of any disciplinary proceeding, and any dismissal
528 of a formal complaint or any allegations therein. If a party appeals both the
529 determination regarding responsibility and the outcome of a disciplinary proceeding, both
530 matters will be heard by the board at the same time. If both parties appeal, the appeals
531 will be heard at the same time.
532

533 1. Deadline and Grounds for Appeal
534

535 Either party may appeal by submitting a request in writing to the superintendent
536 within three school business days of receiving the determination regarding
537 responsibility, unless the party is entitled to a longer appeal period under state law
538 or board policy. Any longer appeal period applicable to one party shall apply
539 equally to the other party. The grounds for appeal may be any of the following:
540

- 541 a. procedural irregularity that affected the outcome of the matter;
542
543 b. new evidence that was not reasonably available at the time the
544 determination regarding responsibility or dismissal was made, that could
545 affect the outcome of the matter;
546
547 c. the Title IX coordinator, investigator, or decision-maker had a conflict of
548 interest or bias for or against complainants or respondents generally or the
549 individual complainant or respondent that affected the outcome of the
550 matter;
551
552 d. the disciplinary sanction is inappropriate or unreasonable; or
553
554 e. any other basis provided by law or board policy governing appeals to the
555 board.
556

557 2. Notice of the Appeal
558

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559 In all appeals, the other party will be notified in writing when an appeal is filed
560 and be provided a copy of the appeal.

561
562 3. Appeal Procedures

563
564 a. The board will hear the appeal. Unless otherwise required by law, the
565 board may designate a panel of two or more board members to hear and
566 act on behalf of the board.

567
568 b. Appeal procedures will be implemented equally for both parties and will
569 follow the procedures in policy 2500, Hearings Before the Board,
570 modified as necessary to allow equal participation of the parties.

571
572 If the appeal includes an appeal of a disciplinary sanction, the procedures
573 in policy 4370, Student Discipline Hearing Procedures; policy 7940,
574 Classified Personnel: Suspension and Dismissal; or policy 7930,
575 Professional Employees: Demotion and Dismissal, shall also apply as
576 applicable.

577
578 c. After the notice of appeal is provided, both parties will be given 10 days to
579 submit a written statement in support of, or challenging, the outcome. If
580 the basis of the appeal is newly available evidence affecting the outcome,
581 the party shall submit such evidence or a summary of such evidence along
582 with the party's written statement.

583
584 d. The board will review the record and the written argument of the parties
585 submitted on appeal, determine whether additional information is needed
586 from any party, and take any other steps that the board determines to be
587 appropriate in order to respond to the appeal.

588
589 4. Decision on Appeal

590
591 a. After considering the record and written statements of the parties, the
592 board will determine whether the grounds for the appeal have been
593 substantiated.

594
595 b. If substantiated, the board will determine the appropriate response, which
596 may include a remand for a new investigation, a new decision, or both, or
597 such other action as the board determines is needed to correct the error in
598 the original proceedings.

599
600 c. The board will provide a written decision describing the results of the
601 appeal and rationale for the result within thirty days after receiving the

602 appeal unless the decision is delayed for good cause. The written decision
603 will be provided simultaneously to both parties.

604
605 5. When the Decision Becomes Final

606
607 If an appeal is timely filed, the determination regarding responsibility becomes
608 final at the conclusion of the appeal process. However, if the decision on appeal
609 is remand, the determination regarding responsibility does not become final until
610 that process, including any appeal of the proceedings on remand, is concluded. If
611 an appeal is not filed, the determination regarding responsibility becomes final
612 after the three-day appeal period.

613
614 The superintendent shall ensure that a copy of the final decision is provided to the
615 Title IX coordinator and shall confer with the Title IX coordinator regarding any
616 remedies to be provided to the complainant, as described in subsection G.4 below.

617
618 **G. DISCIPLINARY CONSEQUENCES, REMEDIES, AND OTHER RESPONSES FOR**
619 **SUBSTANTIATED SEXUAL HARASSMENT**

620
621 1. Disciplinary Consequences for Students

622
623 Disciplinary consequences for substantiated sexual harassment will be assigned in
624 accordance with the Code of Student Conduct. Based on the nature and severity
625 of the offense and the circumstances surrounding the incident, the student will be
626 subject to appropriate consequences and remedial actions ranging from positive
627 behavioral interventions up to, and including, expulsion. In addition, the conduct
628 also may be reported to law enforcement, as appropriate.

629
630 A student recommended for a long-term suspension or expulsion will have all
631 applicable rights accorded by board policy and state law. A student with
632 disabilities will have all rights accorded by law, including the right to a
633 manifestation hearing before the imposition of a suspension exceeding 10
634 cumulative days in a school year.

635
636 This policy will not be construed to allow school officials to punish student
637 expression or speech based on undifferentiated fear or apprehension of a
638 disturbance or out of a desire to avoid the discomfort and unpleasantness that may
639 accompany an unpopular viewpoint. However, false or malicious complaints of
640 sexual harassment and false statements made in bad faith in the course of any
641 grievance proceeding conducted pursuant to this policy are subject to disciplinary
642 action.

643

644 Nothing in this policy will preclude the school system from taking disciplinary
645 action against a student when the evidence does not establish sexual harassment
646 as defined in this policy but the conduct violates other board policy and/or the
647 Code of Student Conduct.

648
649 2. Disciplinary Consequences for Employees

650
651 Substantiated sexual harassment by employees is subject to discipline up to and
652 including dismissal. In addition, the conduct may also be reported to law
653 enforcement, as appropriate.

654
655 An employee recommended for suspension, demotion, or dismissal shall have all
656 applicable rights accorded by board policy and state law.

657
658 Nothing in this policy will preclude the school system from taking disciplinary
659 action against an employee when the evidence does not establish sexual
660 harassment as defined in this policy, but the conduct violates other board policy or
661 expected standards of employee behavior.

662
663 3. Consequences for Other Perpetrators

664
665 Volunteers and visitors who engage in sexual harassment will be directed to leave
666 school property and/or be reported to law enforcement, as appropriate, in
667 accordance with policy 5020, Visitors to the Schools. A third party under the
668 supervision and control of the school system will be subject to termination of
669 contracts/agreements, restricted from access to school property, and/or subject to
670 other consequences, as appropriate. Nothing in this policy will be construed to
671 confer on any third party a right to due process or other proceedings to which
672 student and employee respondents are entitled under this policy unless such right
673 exists under law.

674
675 4. Remedies

676
677 At the conclusion of the grievance process, the superintendent or other decision-
678 maker shall confer with the Title IX coordinator to determine the remedies to be
679 provided to the complainant when the respondent is found responsible for sexual
680 harassment. The Title IX coordinator shall consult with the complainant in
681 determining appropriate remedies.

682
683 The Title IX coordinator shall be responsible for the effective implementation of
684 the remedies to be provided to the complainant.

685
686 5. Consideration of Need for More Extensive Response

687
688 If the superintendent determines that a school-wide or system-wide response is
689 needed in order to respond to the sexual harassment in a way that is not clearly
690 unreasonable under the circumstances, the superintendent shall provide additional
691 staff training, harassment prevention programs, or such other measures as
692 determined appropriate to protect the safety of the educational environment and/or
693 to deter sexual harassment.
694

695 **H. INFORMAL RESOLUTION**

696
697 The board provides informal resolution processes to resolve some formal complaints of
698 sexual harassment without a full investigation and adjudication. Informal resolution is
699 not available unless a formal complaint is filed and will not be used to resolve formal
700 complaints alleging that an employee sexually harassed a student. Further, school
701 officials shall never condition an individual's enrollment, employment, or other rights on
702 an agreement to waive the individual's right to a formal investigation and adjudication of
703 a formal complaint.
704

705 The Title IX coordinator, or other school official in consultation with the Title IX
706 coordinator, may offer the parties an informal process to resolve a formal complaint at
707 any time prior to reaching a final determination regarding responsibility. Before using an
708 informal resolution process, school officials must ensure that both parties have given
709 voluntary, informed, written consent to attempt informal resolution. Accordingly, the
710 Title IX coordinator, investigator, or decision-maker shall:

- 711
- 712 1. provide the parties (including the parent of a minor) a written notice disclosing:
713
 - 714 a. the allegations;
 - 715
 - 716 b. the nature and requirements of the informal resolution process, including
717 that if the parties agree to a resolution of the matter, the agreement
718 precludes either party from resuming a formal complaint process arising
719 from the same allegations; and
 - 720
 - 721 c. any consequences that could result from participating in the informal
722 resolution process, including whether records will be maintained and
723 could be shared; and
 - 724
 - 725 2. obtain the parties' voluntary, written consent to the informal resolution process.
726

727 Any agreement reached by the parties through informal resolution may include measures
728 that are designed to restore or preserve the parties' equal access to the education program
729 and activities, including measures that may be punitive or disciplinary in nature.

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730
731 Any informal process should be completed within a reasonable period of time, not to
732 exceed 60 days from filing the complaint unless special circumstances necessitate more
733 time. At any time prior to agreeing to a resolution, any party has the right to withdraw
734 from the informal resolution process and resume the grievance process with respect to the
735 formal complaint.

736
737 **I. RETALIATION PROHIBITED**

738
739 Any act of retaliation or discrimination against any person for the purpose of interfering
740 with any right or privilege secured by Title IX or because the person has made a report or
741 filed a formal complaint or testified, assisted, or participated or refused to participate in
742 any investigation, proceeding, or hearing involving sexual harassment is prohibited. Any
743 person who is found to have engaged in retaliation will be subject to discipline, up to and
744 including dismissal. Acts of retaliation may also be subject to policy 1760/7280,
745 Prohibition Against Retaliation.

746
747 Complaints alleging retaliation are to be treated as claims of sex discrimination and may
748 be filed in accordance with policy 1720/4030/7235, Title IX Nondiscrimination on the
749 Basis of Sex.

750
751 **J. RECORDS**

752
753 The superintendent or designee shall maintain for a period of seven years records of the
754 following:

- 755
756 1. each sexual harassment investigation including:
- 757 a. any determination regarding responsibility;
 - 758 b. any audio or audiovisual recording or transcript from any live hearing;
 - 759 c. any disciplinary sanctions imposed on the respondent; and
 - 760 d. any remedies provided to the complainant designed to restore or preserve
761 equal access to the school system's education program and activities;
- 762
763
764 2. any appeal and the result therefrom;
- 765
766 3. any informal resolution and the result therefrom; and
- 767
768
769 4. in conjunction with the Title IX coordinator, all materials used to train Title IX
770 coordinators, investigators, decision-makers, and any person who facilitates an
771
772

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773 informal resolution process. These materials will be made publicly available on
774 the school system’s website.
775

776 Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g; Title IX of the
777 Education Amendments Act of 1972, 20 U.S.C. 1681 *et seq.*, 34 C.F.R. pt. 106; *Gebser v. Lago*
778 *Vista Independent School District*, 524 U.S. 274 (1998); *Davis v. Monroe County Board of*
779 *Education*, 526 U.S. 629 (1999); *Q&A on Campus Sexual Misconduct*, U.S. Department of
780 Education, Office for Civil Rights (2017), available at
781 <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>; *Dear Colleague Letter*
782 *(Title IX Coordinator)* and *Title IX Resource Guide*, U.S. Department of Education, Office for
783 Civil Rights (2015), both available at [https://www2.ed.gov/policy/rights/guid/ocr/title-ix-](https://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html)
784 [coordinators.html](https://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html); *Revised Sexual Harassment Guidance: Harassment of Students by School*
785 *Employees, Other Students, or Third Parties*, U.S. Department of Education, Office for Civil
786 Rights (2001), available at <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html>
787

788 Cross References: Title IX Nondiscrimination on the Basis of Sex (policy 1720/4030/7235),
789 Title IX Sexual Harassment – Prohibited Conduct and Reporting Process (policy
790 1725/4035/7236), Prohibition Against Retaliation (policy 1760/7280), Hearings Before the
791 Board (policy 2500), School-Level Investigations (policy 4340), Student Discipline Hearing
792 Procedures (policy 4370), Visitors to the Schools (policy 5020), Discrimination and Harassment
793 in the Workplace (policy 7232), Professional Employees: Demotion and Dismissal (policy
794 7930), Classified Personnel: Suspension and Dismissal (policy 7940)
795

796 Adopted: [DATE]