

Community Relations

**SUBJECT: SEX DISCRIMINATION AND SEXUAL HARASSMENT PROHIBITED BY
TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

As required by Title IX of the Education Amendments of 1972, the District does not discriminate on the basis of sex in its education programs and activities, admissions or when making employment decisions.

Scope and Application of Policy and Questions Related to Application

This policy is limited to addressing complaints of sex discrimination, including formal complaints of sexual harassment, as expressly defined by Title IX. This policy applies to any individual participating in or attempting to participate in the District's education programs or activities including students and employees.

If the allegations forming the basis of a formal complaint of sexual harassment, if proven, would constitute prohibited sexual harassment under Title IX, then the grievance process outlined in this policy will apply to the investigation and adjudication of the allegations. If the allegations would not constitute sexual harassment under Title IX or no formal complaint is filed, the District will follow other policies and protocols, as applicable, in addressing the concerns, such as:

#3420 -- Non-Discrimination and Anti-Harassment in the School District
#6121 -- Sexual Harassment in the Workplace
#7544 -- Dignity for All Students
The District's *Code of Conduct*

Inquiries about this policy or the application of Title IX may be directed to the District's Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

What Constitutes Sex Discrimination Including Sexual Harassment

Title IX prohibits various types of sex discrimination including, but not limited to: sexual harassment; the failure to provide equal athletic opportunity; sex-based discrimination in a District's science, technology, engineering, and math (STEM) courses and programs; and discrimination based on pregnancy.

Under Title IX, sexual harassment includes conduct on the basis of sex that satisfies one or more of the following:

- a) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
- b) 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 District's education program or activity;

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- c) 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;
- d) Dating violence, meaning violence committed by a person:
 - 1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - 2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - (a) The length of the relationship;
 - (b) The type of relationship;
 - (c) The frequency of interaction between the persons involved in the relationship;
- e) Domestic violence, meaning felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
- f) Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 1. Fear for his or her safety or the safety of others; or
 - 2. Suffer substantial emotional distress.

Title IX Coordinator(s)

The District has designated and authorized the following District employee(s) to serve as its Title IX Coordinator(s):

Primary: JoAnn Balazs
Secondary: Donald Feldmann

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Sweet Home Central School District
1901 Sweet Home Rd
Amherst, NY 14228
716-250-1417

The Title IX Coordinator(s), who must be referred to as such, will coordinate the District's efforts to comply with its responsibilities under Title IX. However, the responsibilities of the Title IX Coordinator(s) may be delegated to other personnel.

Where appropriate, the Title IX Coordinator(s) may seek the assistance of the District's Civil Rights Compliance Officer(s) (CRCO(s)) and/or Dignity Act Coordinator(s) (DAC(s)) in investigating, responding to, and remedying complaints of sex discrimination, including sexual harassment.

Reporting Allegations of Sex Discrimination and Formal Complaints of Sexual Harassment

Any person may report sex discrimination, including sexual harassment, regardless of whether or not he/she is the alleged victim. Reports may be made in person, by using the contact information for the Title IX Coordinator(s), or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. This report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

Reports of sex discrimination may also be made to any other District employee including a supervisor, building principal, or the District's CRCO(s). All reports of sex discrimination, including sexual harassment, will be forwarded to a District Title IX Coordinator. Reports may also be forwarded to other District employees, in accordance with applicable Board policies and/or the *Code of Conduct*, depending on the nature of the allegations.

All District employees who witness or receive an oral or written report of sex discrimination or sexual harassment must promptly inform a CRCO or a Title IX Coordinator. Failure to promptly inform a CRCO or a Title IX Coordinator of sex discrimination s/he witnessed or had reported to him/her may subject the employee to discipline up to and including termination.

Filing a Formal Complaint

An individual who is participating in or attempting to participate in the District's education programs or activities (or their parent or legal guardian) may file a formal complaint of sexual harassment.

Making a report of sexual harassment is not the same as filing a formal complaint of sexual harassment. A formal complaint is a document either filed by a complainant (or a parent or legal guardian who has a right to act on behalf of the complainant) or signed by the Title IX Coordinator, which alleges sexual harassment as defined in this policy against a respondent (i.e., alleged perpetrator of sexual harassment) and requests that the District investigate the allegations.

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The formal complaint form may be obtained from a District Title IX Coordinator or found on the District's website.

While the District must respond to all reports it receives of sexual harassment. The Title IX grievance process set forth in this policy, however, is only applicable if a formal complaint of sexual harassment, as defined by Title IX, is filed.

A complainant may file a formal complaint with the Title IX Coordinator in person or by mail, email, or other method made available by the District. The filing of a formal complaint initiates the formal complaint grievance process set forth in this policy.

The complainant (or the complainant's parent or legal guardian) must physically or digitally sign the formal complaint, or otherwise indicate that the complainant is the person filing the formal complaint. Where a parent or legal guardian signs the complaint, the parent or legal guardian does not become the complainant; rather the parent or legal guardian acts on behalf of the complainant. The Title IX Coordinator may sign the formal complaint, but his or her signature does not make him or her a complainant or a party to the complaint. If the formal complaint is signed by the Title IX Coordinator, the Title IX Coordinator is still obligated to comply with the grievance process outlined in this policy.

When a formal complaint is filed, the Title IX Coordinator must send a written notice of allegations to all parties, which includes the identities of all known parties.

If a Title IX Coordinator is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another Title IX Coordinator, if the District has designated another individual to serve in that capacity. If the District has not designated another Title IX Coordinator, the Superintendent will verify that another person with the appropriate training and qualifications is appointed to act as the Title IX Coordinator.

The District will not discriminate on the basis of sex in its treatment of a complainant or a respondent in responding to a formal complaint of sexual harassment.

Grievance Process for Complaints or Concerns of Sex Discrimination and Harassment Other Than Formal Complaints of Sexual Harassment as Defined under Title IX Regulations

The District has adopted procedures that provide for the prompt and equitable resolution of complaints or concerns of sex discrimination and harassment other than formal complaints of sexual harassment as defined under Title IX regulations. In addressing any such complaints or concerns, the District will adhere to applicable policies and protocols, such as Policy #3420 -- Non-Discrimination and Anti-Harassment in the School District, Policy #6121 -- Sexual Harassment in the Workplace, Policy #7544 -- Dignity for All Students, and the District's *Code of Conduct*, as applicable.

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The District will respond promptly in a manner that is not deliberately indifferent whenever it has actual knowledge of sexual harassment in an education program or activity of the District. "Actual knowledge" means notice of sexual harassment as defined under this policy or allegations of sexual harassment to a District Title IX Coordinator or any official of the District who has authority to institute corrective measures on behalf of the District, or to any District employee. Education program or activity includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sexual harassment occurs.

Upon actual knowledge of sexual harassment as defined in this policy, a Title IX Coordinator must promptly contact complainant to discuss the availability of supportive measures, consider complainant's wishes regarding such measures, inform complainant of the availability of such measures with or without the filing of a formal complaint, and explain to complainant the process for filing a formal complaint.

Grievance Process for Formal Complaints of Sexual Harassment as Defined under Title IX Regulations

The District will follow a grievance process that complies with law and regulation before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent.

The District will conduct the grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution. It is anticipated that, in most cases, the grievance process will be conducted within a reasonably prompt manner and follow the time frames established in this policy.

General Requirements for the Investigative and Grievance Process

During the investigation of a formal complaint and throughout the grievance process, the District will verify that:

- a) Complainants and respondents are treated equitably. This includes applying any provisions, rules, or practices incorporated into the District's grievance process, other than those required by law or regulation, equally to both parties.
- b) All relevant evidence is objectively evaluated, including both inculpatory and exculpatory evidence. Inculpatory evidence implicates or tends to implicate an individual in a crime or wrongdoing. Exculpatory evidence frees or tends to free an individual from blame or accusation.
- c) The Title IX Coordinator, investigator, decision-maker involved in the grievance process, or any person designated by the District to facilitate any informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

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- d) Respondents are presumed not to be responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- e) The grievance process, including any appeals or informal resolutions, is concluded within a reasonably prompt time frame and that the process is only temporarily delayed or extended for good cause. Good cause includes, but is not limited to, considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. Whenever the time frame is temporarily delayed or extended, written notice will be provided to all complainants and respondents of the delay or extension and the reasons for the action.
- f) The parties are made aware by copy of this policy or otherwise that the range of possible disciplinary sanctions and remedies that may be implemented by the District following any determination regarding responsibility are those set forth in the District's *Code of Conduct* and/or are in accordance with New York Education Law Section 3214.
- g) The **preponderance of the evidence standard** is used to determine responsibility in all formal complaints of sexual harassment as defined in this policy.
- h) The procedures and permissible bases for an appeal are known to all complainants and respondents by receiving a copy of this policy or otherwise.
- i) The range of supportive measures available are known to all parties by copy of this policy or otherwise. "Supportive measures" means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. These measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas, and other similar measures. The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.
- j) There is no requirement, allowance of, reliance on, or otherwise use of questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

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- k) The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the parties.
- l) The Title IX Coordinator, the investigator, any decision-maker, or any other person participating on behalf the District does not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for the grievance process. If the party is not an eligible student, as defined in FERPA as a student who has reached 18 years of age or is attending a post-secondary institution, the District will obtain the voluntary, written consent of a parent (as defined by FERPA regulations).
- m) The parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- n) Credibility determinations are not be based on a person's status as a complainant, respondent, or witness.
- o) The ability of either party to discuss the allegations under investigation or to gather and present relevant evidence is not restricted.
- p) The parties are provided with 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 be, but is not required to be, an attorney, and not limit the choice or presence of advisor for any complainant or respondent in any meeting or grievance proceeding. However, the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- q) Written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings is provided to any party whose participation is invited or expected with sufficient time for the party to prepare to participate.
- r) The parties are provided with equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely on in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

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- s) Any document sent to a minor or legally incompetent person is also sent to the party's parent or legal guardian.
- t) Any document sent to a party is also sent to the party's advisor, if known.
- u) Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.

After a Report of Sexual Harassment Has Been Made

After receiving a report of sexual harassment, the Title IX Coordinator will:

- a) Promptly contact the complainant to discuss and offer supportive measures;
- b) Inform the complainant both of the range of supportive measures available and that these measures are available regardless of whether a formal complaint is filed;
- c) Consider the complainant's wishes with respect to supportive measures; and
- d) Explain to the complainant the process for filing a formal complaint.

The Title IX Coordinator may also contact the respondent to discuss and/or impose supportive measures.

Emergency Removal and Administrative Leave

At any point after receiving a report or formal complaint of sexual harassment, the District may immediately remove a respondent from the District's education program or activity on an emergency basis, provided that the District:

- a) Undertakes an individualized safety and risk analysis;
- b) Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
- c) Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

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The District should coordinate its Title IX compliance efforts with special education staff when initiating an emergency removal of a student with a disability from an education program or activity, as the removal could constitute a change of placement under the IDEA or Section 504. Any removal must also comply with New York Education Law Section 3214 requirements.

The District may place a non-student/employee respondent on administrative leave with or without pay during the pendency of the grievance process in accordance with law and regulation and any applicable District policy, procedure, or collective bargaining agreement.

Written Notice of Allegations

Upon receipt of a formal complaint, the District will send all known parties written notice of:

- a) The District's grievance process (as set forth in this policy), including any informal resolution process; and
- b) The allegations of sexual harassment, which will:
 1. Provide sufficient details known at the time and 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 sexual harassment, and the date and location of the alleged incident, if known;
 2. State that the respondent is presumed not to be responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 3. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
 4. Inform the parties that they may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint; and
 5. Include notice of any provision in any applicable District policy, procedure, collective bargaining agreement, or other document, such as the District's *Code of Conduct*, that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about any complainant or respondent that were not included in the initial notice, the District will provide another notice of the additional allegations to the parties whose identities are known.

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A Title IX Coordinator will generally oversee the District's investigation of all formal complaints of sexual harassment, as defined by this policy. During the investigation of a formal complaint, the Title IX Coordinator or another District employee may serve as the District's investigator. The District may also outsource all or part of an investigation to an appropriate third party or parties, in accordance with legal requirements.

It is anticipated that most investigations will be completed within 30 to 60 days after receiving a formal complaint of sexual harassment as defined under this policy. This timeframe may vary, depending on factors, such as the number of witnesses and the evidence to be considered, but all investigations will be promptly completed.

During the investigation of a formal complaint, the investigator will:

- a) Collect, review, and preserve all evidence including, but not limited to, any relevant documents, videos, electronic communications, and phone records.
- b) Interview relevant persons.
- c) Create an investigative report that fairly summarizes relevant evidence. At least 10 days prior to a determination regarding responsibility, the investigative report will be sent to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response.
- d) Prior to completion of the investigative report, the District will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.
- e) Keep any written documentation and associated documents in a secure and confidential location.

Determination Regarding Responsibility

At least 10 days prior to a determination regarding responsibility, the investigative report will be sent to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response.

The District will designate an individual decision-maker or a panel of decision-makers to issue a written determination regarding responsibility. The decision-maker will not be the same individual as either the Title IX Coordinator or the investigator(s).

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Before reaching a determination regarding responsibility, the decision-maker(s) will afford each party the opportunity to:

- a) Submit written, relevant questions that a party wants asked of any party or witness within 5 days after the parties have received the investigative report;
- b) Generally provide each party with the answers given by any party or witness within 7 days of receiving the questions; and
- c) Allow for additional, limited follow-up questions and responses from each party to occur within 5 days after the parties have received responses to their initial questions.

Questions and evidence about a complainant's sexual predisposition or prior sexual behavior will not be considered, unless the questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) will explain to the party proposing the questions any decision to exclude a question as not relevant.

The decision-maker(s) will generally issue a written determination regarding responsibility to the Title IX Coordinator, the Superintendent, and all parties simultaneously within 10 days after all follow-up questions have been responded to.

To reach this determination, the decision-maker(s) will use the preponderance of the evidence standard, which is the standard of evidence that will be applied in all formal complaints of sexual harassment. This standard is understood to mean that the party with the burden of persuasion must prove that a proposition is more probably true than false meaning a probability of truth greater than 50 percent.

The written notice of the determination regarding responsibility will include:

- a) Identification of the allegations potentially constituting sexual harassment;
- b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
- c) Findings of fact supporting the determination;
- d) Conclusions regarding the application of any applicable District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct* to the facts;

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- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District is imposing on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the complainant; and
- f) The District's procedures and permissible bases for the complainant and respondent to appeal.

Finality of Determination Regarding Responsibility

The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination 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.

Where a determination regarding responsibility for sexual harassment has been made against the respondent, remedies will be provided to a complainant and disciplinary sanctions may be imposed on a respondent. Remedies will be designed to restore or preserve equal access to the District's education program or activity. Remedies and disciplinary sanctions will be implemented in accordance with applicable laws and regulations, as well as any District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

The Title IX Coordinator is responsible for the effective implementation of any remedies and/or disciplinary sanctions. The Title IX Coordinator will work with other individuals as necessary to effectively implement remedies and/or disciplinary sanctions.

Appeals

Either party may file an appeal from a determination regarding responsibility or from the District's dismissal of a formal complaint or any of its allegations. Appeals must be submitted in writing to the Title IX Coordinator within 20 days of the written notice of the determination regarding responsibility or dismissal of the formal complaint or any of its allegations.

An appeal may only be based upon one or more of the following bases:

- a) Procedural irregularity that affected the outcome of the matter;
- b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- c) The Title IX Coordinator, investigator, or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

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The bases on which a party is seeking an appeal must be specifically stated in the party's written appeal.

Upon receipt of an appeal, the District will:

- a) Notify the other party in writing that an appeal has been filed and implement appeal procedures equally for both parties;
- b) Verify that any decision-maker for the appeal:
 1. Is not the same person as any decision-maker that reached the initial determination regarding responsibility or dismissal, investigator, or Title IX Coordinator;
 2. Does not have any conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
- c) Give all parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. Parties will have to submit these written statements within 10 days after the parties have been notified of the appeal;
- d) Issue a written decision describing the result of the appeal and the rationale for the result; and
- e) Generally provide the written decision simultaneously to the parties within 20 days after receiving the parties written statements in support of, or challenging, the outcome.

Dismissal of a Formal Complaint

The District must dismiss a formal complaint under Title IX if the conduct alleged:

- a) Would not constitute sexual harassment under the Title IX regulations even if proven;
- b) Did not occur in the District's education program or activity; or
- c) Did not occur against a person in the United States.

Further, the District may dismiss a formal complaint or any of its allegations under Title IX, if at any time during the investigation:

- a) A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any of its allegations;
- b) The respondent is no longer enrolled in or employed by the District; or

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- c) Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or any of its allegations.

Upon a dismissal of a formal complaint, the District must promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the parties.

The dismissal of a formal complaint under Title IX does not preclude investigation and/or related follow-up or corrective or remedial action under another related District policy, procedure, collective bargaining agreement, or other document such as the District's *Code of Conduct*.

Informal Resolutions

Before reaching a determination regarding responsibility, but only after a formal complaint is filed, the District may in its discretion offer and facilitate the use of an informal resolution process, such as mediation, that does not involve a full investigation and adjudication of the formal complaint.

Informal resolutions will generally be completed within 30 days, absent extraordinary circumstances.

The District will not require that parties participate in an informal resolution process. The District will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Further, the District will not require the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

If the District offers and facilitates the use of an informal resolution process, it will:

- a) Provide written notice to all known parties which details:
 - 1. The allegations in the formal complaint;
 - 2. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint;
 - 3. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
- b) Obtain the parties' voluntary, written consent to the informal resolution process.

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The District prohibits retaliation against any individual for the purpose of interfering with his or her Title IX rights or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation or proceeding under Title IX. Intimidation, threats, coercion, or discrimination, including charges against an individual for *Code of Conduct* violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by title IX or this part, constitutes prohibited retaliation.

Charging an individual with a *Code of Conduct* violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited under paragraph (a) of this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination set forth in this policy. If a Title IX Coordinator is unavailable, including due to a conflict of interest or other disqualifying reason, the report will be directed to another Title IX Coordinator, if the District has designated another individual to serve in that capacity. If the District has not designated another Title IX Coordinator, the Superintendent will verify that another person with the appropriate training and qualifications is appointed to act as the Title IX Coordinator. All complaints alleging retaliation will be handled in a manner consistent with the District's policies.

Confidentiality

Except where disclosure may be permitted or is required by law, regulation and/or this policy, the District will keep confidential the identity of any individual who has made a report or complaint of sex discrimination; individual who has made a report or filed a formal complaint of sexual harassment; complainant; individual who has been reported to be the perpetrator of sex discrimination; respondent; and witness.

Training

The District will verify that:

- a) All Title IX Coordinators, investigators, decision-makers, or persons who facilitate an informal resolution process receive training on:
 1. The definition of sexual harassment as defined in Title IX;
 2. The scope of the District's education program or activity;

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3. How to conduct an investigation and grievance process including appeals and informal resolution processes, as applicable; and
 4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- b) All decision-makers receive training on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant.
 - c) All investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
 - d) All District employees receive training on mandatory reporting obligations and any other responsibilities that they may have relative to Title IX.

Materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment. Training materials will be made publicly available on the District's website.

Notification

The District will notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District of this policy.

Further, the District will prominently publish this policy and the contact information for the Title IX Coordinator(s) on its website and in other publications, including in each handbook or catalog that it makes available to the individuals and parties referenced above.

Additional Documentation Requirements

In each instance, the District must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If the District does not provide a complainant with supportive measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

(Continued)

Community Relations

**SUBJECT: SEX DISCRIMINATION AND SEXUAL HARASSMENT PROHIBITED BY
TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (Cont'd.)****Recordkeeping**

For a period of seven years, the District will retain the following:

- a) Records of each sexual harassment investigation including any:
 1. Determination regarding responsibility;
 2. Disciplinary sanctions imposed on the respondent; and
 3. Remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity.
- b) Any appeal and its result.
- c) Any informal resolution and its result.
- d) All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
- e) Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment or if no supportive measures were taken documentation regarding the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- f) Document regarding the District's basis for its conclusion that its response was not deliberately indifferent.
- g) Documentation that the District has taken measures designed to restore or preserve equal access to the District's education program or activity.

20 USC § 1092(f)(6)(A)(v)
20 USC § 1681, et. seq.
34 USC § 12291(a)(8, 10, and 30)
34 CFR Part 106
Education Law § 13
8 NYCRR § 100.2(kk)

NOTE: Refer also to Policies #3420 -- Non-Discrimination and Anti-Harassment in the School District
#6121 -- Sexual Harassment in the Workplace
#7544 -- Dignity for All Students
District *Code of Conduct*

Adopted: 8/17/21