

Title IX Sexual Harassment Grievance Process

The District is committed to maintaining a learning environment that is free from sex-based discrimination, including sexual harassment. It is a violation of policy for any staff member to harass students or for students to harass other students through conduct or communications of a sexual nature, or to retaliate against anyone that reports sexual harassment or participates in a harassment investigation. The District is committed to addressing all sexual harassment or allegation of sexual harassment that fall under Title IX in the manner prescribed by Title IX.

Definitions

For purposes of this regulation, these terms have the following meanings:

- **“Advisor of choice”** means a person the complainant or respondent selects to be present during any grievance proceeding, including related meetings or proceedings.
- **“Complainant”** means an individual who is alleged to be the target of conduct that could constitute Title IX sexual harassment.
- **“Decision Maker”** means an individual(s) who assess the relevant evidence, including party and witness credibility, to decide if the District has met the burden of proof showing the respondent to be responsible for the alleged sexual harassment. The decision maker may not be the Title IX Coordinator or the investigator. The District’s decision maker is Dr. Thomas Tucker, Superintendent, or his designee.
- **“Education Program or Activity”** means locations, events, or circumstances over which the District exercises substantial control over both the complainant and respondent and the context in which the sexual harassment occurs.
- **“Formal complaint”** means a document alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment that is either (1) filed and signed by a complainant or the complainant’s parent or guardian with the legal authority to act on behalf of the complainant or (2) signed by the Title IX Coordinator.
- **“Investigator”** means an individual trained to objectively evaluate the credibility of parties and witnesses, synthesize all available evidence - including both inculpatory and exculpatory evidence - and take into account the unique and complex circumstances of each situation. The investigator may be the Title IX Coordinator but cannot be the decision maker.
- **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute sex-based discrimination or sexual harassment.
- **“Supportive Measures”** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed.
- **“Title IX Coordinator”** means the employee designated by a recipient to coordinate its efforts to comply with Title IX responsibilities. The District's Title IX Coordinator is Mr. Ted

Knight, Assistant Superintendent; 620 Wilcox Street, Castle Rock, CO 80104; 303-387-0067; etknight@dcsdk12.org.

Title IX Sexual Harassment Prohibited

Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
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 District's education program or activity;
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Response to Reports

The District will promptly respond to all allegations of sexual harassment that occur in a District school's education program or activity against a person in the United States.

All reports and written reports of sexual harassment from students, District employees, and third parties, will be forwarded immediately to the District's Title IX Coordinator. Upon receipt, the Title IX Coordinator will contact the alleged victim of sexual harassment within three (3) business days to discuss the availability of supportive measures and explain the process for filing a formal complaint.

a. Supportive Measures

Supportive measures will be offered to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party. Supportive measures may include, but are not limited to:

1. counseling;
2. extensions of deadlines or other course-related adjustments;
3. modifications of work or class schedules;
4. excused absences;
5. individualized supervision during passing periods or other unstructured times or activities;
6. mutual restrictions on contact between the parties; and
7. increased security and monitoring of certain areas of the campus, and other similar measures.

Any supportive measures provided to the complainant or respondent will remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures.

b. Emergency Removal

Student respondents may be removed from the District's education program or activity on an emergency basis if the Title IX coordinator determines, after an individualized assessment, that the respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. The District will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

c. Administrative Leave

A non-student employee may be placed on administrative leave during the pendency of a grievance process.

Formal Complaint

A formal complaint is a document filed and signed by the complainant or parent/guardian with the legal right to act on the complainant's behalf, requesting that the school investigate sexual harassment allegations. Formal complaint forms are available on the District's website at www.dcsdk12.org and can be found in Superintendent File AC-E-1. Completed forms must be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

If the complainant chooses not to file a formal complaint, the District may still initiate a grievance process if the Title IX Coordinator signs the formal complaint after considering the complainant's wishes and evaluating whether an investigation is clearly unreasonable in light of the specific circumstances.

The District may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.

Complaints must be filed within 180 days of the event giving rise to the complaint or from the date the complainant could reasonably become aware of such occurrence.

Written Notice

Within three (3) business days, if possible, of receiving a formal complaint, the District will provide written notice to the parties. The written notice will:

1. notify the parties of the school's grievance process;
2. explain that there is an opportunity to engage in an informal resolution process;
3. describe with sufficient detail the identities of the parties involved, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident;
4. state that the respondent is not presumed responsible at the outset and can only be found responsible after a final decision is made;
5. state that the parties may select an advisor of choice;

6. state that the parties can request to inspect and review certain evidence; and
7. include information regarding the code of conduct, if it exists, that prohibits knowingly making false statements during the grievance process.

The parties will have three [3] business days from the day the notice is sent to prepare for an initial interview.

Dismissal of Formal Complaints

a. Mandatory Dismissal

The District will dismiss a formal complaint for Title IX purposes if the allegations do not meet the definition of sexual harassment under Title IX; did not occur in the District's education program or activity; or did not occur against a person in the United States. If the formal complaint is dismissed for Title IX purposes, the District may continue to address the incidents identified in the reported complaint outside the Title IX Grievance Process, as described in Board File: JBC and Superintendent File: AC-R-1.

b. Discretionary Dismissal

The District may, in its discretion, dismiss a complaint if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations; the respondent is no longer enrolled or employed by the school; or specific circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegations.

b. Appeal of Dismissal

Upon dismissal of a formal complaint, the Title IX Coordinator will send written notice to the parties within three (3) business days, stating the reasons for the dismissal. Both parties have a right to appeal this decision in accordance with the procedures specified below.

A dismissal does not prohibit the complainant from pursuing other remedies under state or federal law or Board policy, nor does it prohibit the District from offering supportive measures or from addressing the allegations in any manner the District deems appropriate.

Investigation Procedure

After the formal complaint is filed, the Title IX Coordinator or the individual designated by the Title IX Coordinator who will serve as the impartial investigator, will begin investigating the allegations in the formal complaint, which will include obtaining and evaluating available evidence. The Title IX Coordinator or investigator will communicate individually with both the complainant and the respondent and may contact other witnesses.

1. The complainant and respondent will be kept apprised of the investigation's status and anticipated timeframes.
2. The District will provide written notice to a party whose participation is expected of the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare.

3. The District will provide an equal opportunity for parties to present witnesses and other inculpatory and exculpatory evidence.
4. The District will not limit the choice or presence of either parties' advisor during any grievance proceeding, including related meetings or proceedings in any meeting or grievance proceeding. Restrictions regarding the extent to which the advisor may participate in the proceedings may be imposed, as long as the restrictions apply equally to both parties.
5. The investigator will 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 a grievance process.
6. The District will send each party and the party's advisor, if any, the evidence directly related to the allegations in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. The parties will receive this information in an electronic format or a hard copy. The parties will have ten (10) business days to submit a written response, which the investigator will consider prior to completing the investigative report.
7. The investigator will create an investigative report fairly summarizing relevant evidence.
8. Ten (10) business days prior to the determination regarding responsibility, the District will send the investigative report to each party and the party's advisor, if any, in an electronic format or a hard copy for their review and written response.

Temporary Delay or Limited Extension for Good Cause

A temporary delay or a limited extension of the time frames contained within this Grievance Process may be made for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include 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 accommodations of disabilities.

Reaching a Determination

After the District sends the investigative report to each party and the party's advisor, if any, each party will have three (3) business days to submit written, relevant questions to any party or witness. The responding party has three (3) business days to respond. The party receiving an answer will then have [3] business days to submit limited follow-up questions.

The decision maker may exclude questions that are improper or not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such 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. If the decision maker excludes a question, they will explain the decision to do so to the party proposing the question.

The decision maker will determine by a preponderance of the evidence whether a party is responsible for the conduct alleged in the formal complaint. The decision maker will issue a written determination within thirty (30) calendar days after reviewing the investigative report. The District will provide a written determination to both parties. The written determination will include whether the respondent is responsible, explain how and why the decision maker reached the conclusions outlined in the report, and detail any disciplinary measures taken in response to the conduct.

The decision of the decision maker in no way prejudices either the complainant or the respondent from seeking redress through state or federal agencies, as provided in law.

Appeal

Either party will have an opportunity to appeal the decision maker's determination regarding responsibility or the District's dismissal of a formal complaint or any allegations therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. 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; and
3. The Title IX Coordinator, investigator(s), 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.

The District will notify the other party in writing when an appeal is filed. Each party will have ten (10) calendar days to submit a written statement in support of, or challenging the outcome.

The decision maker for the appeal may not be the same person as the decision maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.

Informal Resolution

The District may offer an informal resolution process only after a formal complaint is filed. An informal resolution process, such as mediation, will not involve a full investigation and adjudication. The informal resolution process will commence only if the District receive both parties' voluntary, written consent to the informal resolution process.

The District will not offer or facilitate an informal resolution process to resolve allegation that an employee sexually harassed a student.

Before proceeding with an information resolution process, the District will provide written notice to both parties. The notice will contain the allegations and the requirements of the informal resolution process, including [insert circumstances that the District will prohibit 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, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Retaliation Prohibited

The District prohibits retaliation. It is a violation of District policy to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.

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, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Adopted by Superintendent: August 11, 2020