



Bentonville Schools

TITLE IX GRIEVANCE PROCEDURES

I. AUTHORITY

The District adopts the following grievance procedure as part of its ongoing Title IX compliance efforts. These grievance procedures incorporate the following District Policies by reference:

- 3.19 - Licensed Personnel Employment
- 3.26 - Licensed Personnel Sexual Harassment
- 4.11 - Equal Educational Opportunity
- 4.19 - Prohibited Conduct
- 4.29 - Student Sexual Harassment
- 6.14 - Classified Employment
- 6.21 - Classified Personnel Sexual Harassment

II. NONDISCRIMINATION STATEMENT

The District does not discriminate on the basis of race, ethnicity, color, national origin, ancestry, religion, sex, gender, gender identity or expression, sexual orientation, disability, or age in its programs and activities, and provides equal access to the Boy Scouts and other designated youth groups.

III. TITLE IX COORDINATOR

Inquiries regarding issues related to Title IX shall be directed to the District Title IX Coordinator, Trish Wood, Director of Equity & Compliance, who may be reached at

500 Tiger Blvd, Bentonville, AR 72712 (479) 254-5000

pwood@bentonvillek12.org

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, S.W.

Washington, D.C. 20202-1100

(800) 421-3481 -Customer Service Hotline (202)453-6012 -Facsimile

(877) 521-2172 -TDD

Email: OCR@ed.gov

Web: <http://www.ed.gov/ocr>

Any person may report sex discrimination, including sexual harassment, to the Title IX Coordinator in person or by using the mailing address, telephone number, or email address provided above. A report may be made at any time, including during non-business hours, and may be on the individual's own behalf or on behalf of another individual who is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. The Title IX Coordinator is responsible for implementation of any remedies and supportive measures as set forth herein.

IV. STANDARD OF PROOF AND NO PRESUMPTION OF RESPONSIBILITY

All investigations of sexual harassment under the above District Policies and this grievance procedure will employ the preponderance of evidence standard of proof. The same preponderance of evidence standard of proof will apply to all formal complaints of sexual harassment, including formal complaints against students and employees, including faculty.

A preponderance of evidence means the greater weight of the evidence, or whether the allegation is more likely true than not true. Investigators and decision-makers will consider whether a preponderance of evidence exists by considering all of the evidence and deciding what evidence is more believable.

A preponderance of evidence is not necessarily established by the greater number of witnesses testifying to any fact or state of facts. It is evidence which, when weighed with that opposed to it, has more convincing force and is more probably true and accurate. If the evidence appears to be equally balanced, or if the investigator or decision-maker cannot say upon which side the evidence weighs heavier, the allegation will be deemed as having not been proven.

A presumption exists that a respondent is not responsible for the alleged conduct until a determination regarding

responsibility is made at the conclusion of the grievance process and the respondent is deemed responsible by a preponderance of the evidence.

The District shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege or 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 the parent, legal guardian, or other responsible adult of that party's voluntary, written consent or that party's voluntary, written consent if the party is over the age of eighteen (18) to do so for the purposes of the grievance process.

V. EQUITABLE TREATMENT OF COMPLAINANTS AND RESPONDENTS

Throughout the Title IX process, complainants and respondents shall be treated equitably, including by following the policies set forth herein:

- The District shall offer supportive measures to the complainant and respondent as appropriate and as reasonably available;
- The grievance process set forth herein shall be completed before the imposition of any disciplinary sanctions or other actions against the respondent that are not supportive measures;
- Where a determination of responsibility for sexual harassment is made against a respondent, the District will provide remedies to a complainant that are designed to restore or preserve equal access to the District's education program or activity, which may include individualized supportive measures;
- Through its policies and this grievance procedure, the District will require an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence;
- Credibility determinations shall not be based on a person's status as a complainant, respondent, or witness; and
- No individual designated by the District as a Title IX Coordinator, investigator, decision maker, or any person who facilitates an informal resolution process shall have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

VI. TRAINING

Individuals selected by the District as Title IX Coordinators, investigators, decision-makers, or any person who facilitates an informal resolution process shall receive training on:

- The definition of sexual harassment;
- The scope of the district's education program or activity;
- How to conduct an investigation and the grievance process, including appeals;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- Issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and
- Issues of relevance to create an investigative report that fairly summarizes relevant evidence.

VII. NOTICE OF COMPLAINTS OF SEXUAL HARASSMENT/RETALIATION

Notice or complaints of sexual harassment and/or retaliation may be made using either of the following options:

1. Filing a formal complaint with the Title IX Coordinator. A complaint may be made at any time (including during non-school hours) by using the contact information set forth in Section III above. A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation of the allegation of sexual harassment.
2. Making an information report with the Title IX Coordinator. A report may be made at any time (including during non-school hours) by using the contact information set forth in Section III above. Reporting a case of sexual harassment or retaliation carries no obligation to file a formal complaint. The District respects requests from complainants to dismiss complaints unless there is a compelling threat to health and/or safety, criminal activity, child abuse, or the respondent is an employee of the District.

VIII. SUPPORTIVE MEASURES

Supportive measures are individualized services that are offered to a complainant or respondent designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party. Supportive measures must be non-disciplinary and non-punitive in nature, offered before or after the filing of a formal complaint or where no formal complaint has been filed, and offered to either party as appropriate, as reasonably available, and without fee or charge. Examples of supportive measures include, without limitation, the following:

- Measures designed to protect the safety of all parties or the District's educational environment;
- Measures designed to deter sexual harassment;
- Counseling;
- Referral to community-based service providers;
- Extensions of deadlines or other course-related adjustments and academic supports;
- Modifications of work or class schedules;
- Campus escort services;
- Transportation accommodations;
- Mutual restrictions on contact between the parties;
- Changes in work or class locations;
- Leaves of absence;
- Increased security and monitoring of certain areas of the campus;
- Other safety planning; and
- Any other actions deemed appropriate by the Title IX Coordinator.

IX. TIMELINES FOR GRIEVANCE PROCESS

There is no time limit on providing notice/complaints to the Title IX Coordinator. However, if the respondent is no longer subject to the jurisdiction of the District (the employee is no longer employed by the District or the student is no longer a student of the District) or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

When the notice or complaint is affected by significant time delay, the Title IX Coordinator will apply the policy and procedures in place at the time of the alleged misconduct.

All allegations, whether by informal notice or formal complaint, shall be acted upon promptly. Complaints may require thirty (30) to sixty (60) school days to resolve. There may be exceptions and extenuating circumstances that may cause a resolution to exceed the 30-60-day requirement, but the District will avoid all undue delays within its control.

When the general timeframes for resolution listed above will be delayed, the Title IX Coordinator will provide written notice to the parties, including a description of the cause of the delay and an estimate of the additional time that will be needed as a result of the delay. Reasons for delay may include, without limitation:

- The absence of a party, a party's advisor, or a witness;
- Concurrent law enforcement activity;
- Unavailability of documents or exhibits that are relevant to the complaint/investigation; or

The need to arrange for language assistance or accommodations for individuals with disabilities.

X. MANDATED REPORTING

All District employees, whether certified or classified, share in the responsibility of preventing and responding to discrimination, harassment, and retaliation. All employees who personally observe conduct that could constitute discrimination, harassment, or retaliation, or who are notified about an allegation of discrimination, harassment or retaliation, or about conduct or events reasonably suggesting that such conduct has occurred, are required to immediately report the conduct to the Title IX Coordinator.

Additionally, employees who observe discrimination, harassment, or retaliation are expected to intervene to stop the conduct in situations in which they have supervisory control and it is safe to do so. Failure of an employee to report an incident of sexual harassment of which they become aware may subject the employee to disciplinary action.

Employees who, themselves, are targets of sexual harassment are not required to report their own experience. However, they are encouraged to do so.

XI. WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want the District to pursue a formal complaint, the complainant may make such a request to the Title IX Coordinator, who will evaluate the request in light of the District's duty to ensure the safety of the school environment and comply with state or federal law.

The Title IX Coordinator has the ultimate discretion over whether the District proceeds with an investigation when the complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate this

grievance process upon completion of an appropriate violence risk assessment.

XII. FALSE ALLEGATIONS AND EVIDENCE

Deliberately false and/or malicious accusations under these procedures constitute a serious offense and could result in appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation may be subject to discipline.

XIII. RANGE OF POSSIBLE DISCIPLINARY SANCTIONS FOR EMPLOYEES

Sexual harassment constitutes a violation of District Policy. The range of possible disciplinary sanctions and remedies that may be implemented by the District following any determination of responsibility by an employee include, without limitation:

- Verbal/written warning or reprimand;
- Performance improvement plan;
- Enhanced supervision, observation, or review;
- Required counseling;
- Required training or education;
- Probation;
- Removal from oversight or supervisory responsibilities;
- Transfer;
- Demotion;
- Reassignment;
- Assignment to a new supervisor;
- Administrative leave;
- Suspension (paid or unpaid, if approved by the School Board);
- Nonrenewal of employment contract (if approved by School Board);
- Termination (if approved by School Board);
- Referral of the employee to law enforcement, the Arkansas Department of Human Services, and/or
- Professional Licensure Standards Board; and
- Other sanctions as deemed appropriate by the District.

XIV. RANGE OF POSSIBLE DISCIPLINARY SANCTIONS FOR STUDENTS

Sexual harassment constitutes a violation of District Policy and the District's student handbooks. The range of possible disciplinary sanctions and remedies that may be implemented by the District following any determination of responsibility by a student include, without limitation:

- Warning;
- Mandatory training;
- Required counseling;
- Parental conference;
- Required completion of a substance abuse treatment program;
- Exclusion from participating in extracurricular activities or other school/district programs or activities;
- Saturday school;
- Assignment to alternative learning environment (if approved by placement team);
- In-school suspension;
- Out-of-school suspension;
- Expulsion (if approved by School Board);
- Referral of the student to law enforcement or the Arkansas Department of Human Services; or
- Other sanctions as deemed appropriate by the District.

XV. EMERGENCY REMOVAL AND PAID LEAVE

A. Emergency Removal

Nothing in this procedure precludes the District from removing a respondent from District property or District-sanctioned activities, if after an individualized safety and risk analysis, the District determines that an immediate threat to the physical health or safety of a student or other individual arising from the allegations of sexual harassment justifies removal. If emergency removal is undertaken pursuant to this section, the District must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

B. Administrative Leave

Nothing in this procedure precludes the District from placing an employee respondent on administrative leave during the pendency of the grievance process set forth herein.

XVI. GRIEVANCE RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF DISTRICT'S POLICIES ON SEXUAL HARASSMENT

A. Overview

The provisions set forth herein apply to all students, employees, parents, and visitors when such persons are on District property or attending District-sponsored activities or events. The District will follow the procedures set forth below in response to any formal notice or complaint of violation of the District's sexual harassment policies that is received by the Title IX Coordinator or any other employee or before the imposition of any disciplinary action against a respondent.

When a party is a student under the age of eighteen (18), all written notifications provided pursuant to this procedure will be directed to the student's parent(s) or guardian(s).

If a dismissal occurs under these procedures or the allegations fall outside of the jurisdiction of the District, as determined by the Title IX Coordinator, the applicable procedures under other District policies or student handbooks will be used to resolve the notice or complaint.

The procedures below may be used to address collateral misconduct arising from the investigation of, or occurring in conjunction with, reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the District's policies on sexual harassment will be addressed through other applicable board policies or student handbooks.

B. Response to Complaints or Notices

Upon receiving a complaint or notice, the Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without filing a formal complaint, and explain to the complainant the process for filing a formal complaint.

Upon receiving a complaint or notice, the Title IX Coordinator will initiate at least one of three responses:

1. Offer and/or implement supportive measures only because the complainant does not want to file a formal complaint;
2. An informal resolution; and/or
3. A formal grievance process including an investigation and a determination of whether the District's sexual harassment policies were violated.

The District uses the formal grievance process described herein to determine whether sexual harassment policies have been violated. If so, the District will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to sexual discrimination, harassment or retaliation, their potential recurrence, or their effects.

C. Dismissal of Complaint

1. **Mandatory Dismissal.** The District must dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the decision-maker, it is determined that:
 - a. The conduct alleged in the formal complaint would not constitute sexual harassment, even if proved;
 - b. The conduct did not occur in an educational program or activity controlled by the District;
 - c. The conduct did not occur against a person in the United States; or
 - d. At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the District. In this circumstance, a complainant remains entitled to supportive measures.
2. **Discretionary Dismissal.** The District may dismiss a formal complaint or any allegations therein if, at any time during the investigation or meeting with the decision-maker:
 - a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint in whole or in part;
 - b. The respondent is no longer enrolled in or employed by the District; or
 - c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the District will promptly send written notice of the dismissal and the rationale for doing so

simultaneously to the parties.

A dismissal decision is appealable by any party under the appeal procedures set forth below. A decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A complainant who decides to withdraw a complaint may later request to reinstate or refile the complaint.

D. Right to an Advisor

The parties may each have an advisor of their choice present with them for all meetings, interviews, and hearings that are part of the grievance process, if they so choose. The advisor may be, but is not required to be, an attorney. For students, this advisor can be someone in addition to their parent/guardian who may also be present with them for all meetings, interviews, and hearings within the grievance process.

Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the decision-maker(s).

E. Notice of Investigation and Allegations

Upon commencement of the formal grievance process, the Title IX Coordinator will provide written notice to all parties. The notice will include:

- A copy of the District's grievance process as set forth herein;
- A meaningful summary of all of allegations;
- The identity of the involved parties (if known);
- The precise misconduct being alleged;
- The date and location of the alleged incident(s) (if known);
- The specific District policies/handbook provisions implicated;
- A description of the applicable procedures;
- A statement of the potential sanctions/responsive actions that could result;
- A statement that the District presumes the respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination by a preponderance of the evidence;
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period;
- A statement about the District's policy on retaliation;
- Information on the ability of each party to have an advisor of their choosing, who may be an attorney, but need not be an attorney;
- A statement informing the parties that the District policies and procedures prohibit anyone from knowingly making false statements, including knowingly submitting false information during the resolution process; and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of any allegations. If, in the course of an investigation, the District decides to investigate allegations that are not included in the Notice, the District shall provide notice of the additional allegations to all parties.

Notice will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address(es) of the parties as indicated in official District records or emailed to the parties' District-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

F. Investigation

Once the written notice has been served on the parties, the District shall complete an investigation of the allegations. All investigations shall be impartial, prompt, and fair. All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and witnesses, and to fully review and respond to all evidence on the record.

While each investigator will plan his/her own investigation, an investigation shall include the following:

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rests on the District and not the parties;
- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present

- relevant evidence;
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney;
 - Provide parties written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
 - Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
 - At the conclusion of the investigation but prior to completion of the investigative report, the District must 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, and the parties must have at least ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination; and
 - Prior to the conclusion of the investigation, provide the parties and their respective advisors (when advisors are identified) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the District does not intend to rely in reaching a determination, for a ten (10) school day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days.

G. Resolution Timeline

The District will make a good-faith effort to complete the grievance process within thirty to sixty (30-60) school days. This timeframe can be extended as necessary by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

H. Investigative Report

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence. At least ten (10) days prior to a determination regarding responsibility, the investigator shall send the investigative report to each party and the party's advisor, if any. The parties may, but are not required to, provide a written response to the investigative report.

I. Appointment of Investigators

Once the Title IX Coordinator decides to begin a formal investigation, the Title IX Coordinator will appoint an investigator or team of investigators to conduct the investigation, usually within five (5) school days of determining that an investigation should proceed.

J. Ensuring Impartiality

Any individual materially involved in the administration of the grievance process including the Title IX Coordinator, investigator(s), decision-maker(s), and appellate authorities may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific complainant or respondent.

The Title IX Coordinator will ensure impartiality by determining, prior to any investigation, that there are no actual or apparent conflicts of interest or disqualifying biases on the part of the assigned investigator(s). The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be assessed and remedied if necessary. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Superintendent of Schools.

The formal grievance process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the respondent engaged in a policy violation and evidence that supports that the respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a complainant, respondent, or witness.

The District presumes that the respondent is not responsible for the reported misconduct unless and until a final determination is made, by a preponderance of the evidence, that the respondent violated applicable policies.

K. Investigation Timeline

Investigations are completed promptly, normally within thirty (30) to sixty (60) school days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. The District will make a good faith effort to complete investigations as promptly as possible and will communicate regularly with the parties to update them on the progress and timing of the investigation.

L. Evidentiary Considerations in the Investigation

The investigation shall not consider questions and evidence about the complainant's sexual predisposition or prior sexual behavior, 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, 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 investigation shall not consider or use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

M. Referral to a Decision-Maker

If the complaint is not resolved through informal resolution, and after the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter to a decision-maker to make a determination regarding responsibility.

The decision-maker cannot make a determination regarding responsibility prior to ten (10) school days from the conclusion of the investigation, when the final investigation report is transmitted to the parties and the decision-maker, unless all parties and the decision-maker agree to an expedited timeline.

N. Decision-Maker Designation

The District will designate a single decision-maker, at the discretion of the Title IX Coordinator, and inform the parties/advisors of such designation in writing. The decision-maker will not have had any previous involvement with the investigation. Those who have served as an investigator in an investigation may not serve as a decision-maker in the same investigation. Those who are serving as advisors for any party may not serve as decision-makers in the same matter. The Title IX Coordinator may not serve as a decision-maker in the matter.

O. Exchange of Questions

After the investigator sends the investigative report to the parties, the decision-maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness; provide each party with the answers; and allow for additional, limited follow-up questions from each party.

The decision-maker will facilitate the exchange of written questions between the parties and direct any written questions to any witnesses before a final determination is made. The decision-maker will invite each party to submit proposed written questions for other parties/witnesses. Upon receipt of the proposed questions, the decision-maker will review the proposed questions and determine which questions will be permitted, disallowed, or rephrased. The decision-maker will limit or disallow questions on the basis that they are irrelevant, repetitive, or abusive. The decision-maker has full authority to decide all issues related to questioning and determinations of relevance. The decision maker may ask a party to explain why, from the party's perspective, a question is or is not relevant. The decision-maker must explain any decision to exclude a question as not relevant, or to reframe the question for relevance purposes.

The decision-maker, after any necessary consultation with the parties, investigator(s) and/or Title IX Coordinator, will provide the parties and witnesses with the relevant written questions to be answered and allow for a period of time whereby the parties and witnesses are to submit written responses to the questions and any appropriate follow-up questions or comments by the parties. The exchange of questions and responses by the parties and witnesses will be concluded within a ten (10) school day period.

P. Notice of Outcome

Following the exchange of written questions and responses, if any, the decision-maker shall prepare a written Notice of Outcome. The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official district records; or emailed to the parties' district-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will

be presumptively delivered.

The Notice of Outcome shall:

- Identify the specific policy or policies reported to have been violated;
- Identify the allegations potentially constituting sexual harassment;
- Describe the procedural steps taken by the District from the receipt of the notice/complaint to the final determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held;
- Provide conclusions regarding the application of the recipient's code of conduct to the facts;
- Specify the findings of fact that support the determination;
- Include a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- Set forth any disciplinary sanctions imposed on the respondent and any remedies provided to the complainant; and
- Include the relevant procedures and permissible bases for any available appeal options.

Q. Sanctions

Factors considered when determining a sanction/responsive action may include, without limitation:

- The nature, severity of, and circumstances surrounding the violation(s);
- The respondent's disciplinary history;
- Previous allegations or allegations involving similar conduct by the respondent;
- The need for sanctions/responsive actions to bring an end to the sexual harassment and/or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment and/or retaliation;
- The need to remedy the effects of the sexual harassment and/or retaliation on the complainant and the District community;
- The impact on the parties; and
- Any other information deemed relevant by the decision-maker.

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities. Under Arkansas law, some sanctions (suspension, nonrenewal or termination of an employee or expulsion of a student) may require further proceedings before the District's Board.

R. Appeals

An appeal may be taken from a determination regarding responsibility or from the District's dismissal of a formal complaint. Any party may file a request for appeal ("Request for Appeal") in writing to the Title IX Coordinator within thirty (30) school days of the delivery of the Notice of Outcome or the District's dismissal of a formal complaint.

The Title IX Coordinator will select an impartial decision-maker, who has not been involved in the process previously, as an appellate authority, to consider the appeal. The Title IX Coordinator will ensure the appellate authority does not have a conflict of interest or bias as set for in Section XVI.J., above.

Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome of the matter;
- 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;
- The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against the complainant or respondent generally, or the specific complainant or respondent, that affected the outcome of the matter; or
- Any other grounds offered by the District equally to both parties.

If the grounds in the Request for Appeal do not meet the grounds for appeal as set forth in these procedures, the appellate authority will deny the appeal. The parties and their advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds for appeal as set forth in these procedures, then the appellate authority will notify the other party or parties and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker(s) in writing that an appeal has been filed.

The other party or parties and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given thirty (30) school days to submit a written response to the Request for Appeal. Responses should raise respondent's grounds for appeal, if any. All responses will be forwarded by the appellate authority to all parties for review and comment.

Neither party may submit any new requests for appeal after this time period. The appellate authority will collect any additional information needed and all documentation regarding the approved grounds for appeal and the subsequent responses. The appellate authority will render a decision on the appeals in no more than twenty-one (21) school days, barring unusual circumstances. The appellate authority will, when necessary, also employ the preponderance of evidence standard.

The appellate authority shall issue a written decision (the "Notice of Appeal Outcome"). The Notice of Appeal Outcome shall describe the result of the appeal and the rationale for the result. The Notice of Appeal Outcome will be sent to all parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' district-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

XVII. FINALITY

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.

Any sanctions imposed by the decision-maker take effect when the determination becomes final. Supportive measures may remain in effect during an appeal process, subject to the same supportive measure procedures above.

XVIII. INFORMAL RESOLUTION PROCESS

At any time prior to reaching a determination regarding responsibility, either party may request an informal resolution process that does not involve a full investigation and adjudication. 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.

An informal resolution process shall not be provided unless:

- The District provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process, notice that informal resolution precludes the parties from resuming a formal complaint arising from the same allegations once a resolution is reached, and any consequences resulting from participating in the informal resolution process; and
- The District obtains all parties' voluntary, written consent to the informal resolution process.

The informal resolution process shall not be used to resolve allegations that an employee sexually harassed a student. The District may not require any party to submit to the informal resolution process or waive the right to an investigation and adjudication of formal complaints as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

XIX. RECORDKEEPING

The District shall maintain the following records for a period of at least seven (7) years:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the respondent;
- Any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an Informal Resolution process. The District will make these training materials publicly available on the District's website; and
- Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;

- b. Any measures designed to restore or preserve equal access to the District's education program or activity; and
- c. If no supportive measures were provided to the complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The District will also maintain any and all records in accordance with state and federal laws.

XX. DISABILITIES ACCOMMODATIONS

The District is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the District's grievance process. Anyone needing such accommodations or support should contact the Title IX Coordinator.

XI. REVISION OF THIS POLICY AND PROCEDURES

These procedures supersede any previous procedures addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated as necessary by the Title IX Coordinator. These procedures are based upon, and do not supersede, current District policies related to sexual harassment. The District reserves the right to make changes to these procedures as necessary.

During the resolution process, the Title IX Coordinator may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the school/district website, with the appropriate effective date identified) upon determining that changes to law or regulation require procedural alterations not reflected in these procedures.

If government laws or regulations change -or court decisions alter -the requirements in a way that impacts this document, this document will be construed to comply with the most recent governmental laws, regulations, or judicial holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

Date Adopted: 10/16/2020

Date Last Revised: 10/16/2020