

TITLE IX GRIEVANCE PROCEDURE

Any person may report sex discrimination, including sexual harassment, to the Title IX Coordinator. A report may be made whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. A report may be made in person, by mail, by telephone, by electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed below for the Title IX Coordinator.

Jenny Berens
Title IX Coordinator
102 East Main
712-487-3181
jberens@treynorcardinals.org

The District, through its Title IX Coordinator, will respond promptly, reasonably, and equitably to all reports of sex discrimination, including sexual harassment, occurring in its educational programs or activities and against a person in the United States.

For purposes of this procedure, "complainant" is defined as an individual who is alleged to be the victim of conduct that could constitute sexual harassment, and the term "respondent" is defined as an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

For purposes of this procedure, "sexual harassment" means conduct on the basis of sex that involves:

- A District employee conditioning District aid, benefits, or services on an individual's participation in unwelcome sexual conduct;
- 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 recipient's education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking as defined by the statutes cited in 34 C.F.R. § 106.30.

For purposes of this procedure, "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.

In response to any report of sex discrimination, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures. Supportive measures are available with or without filing a formal complaint. The Title IX Coordinator will also consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

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II. SUPPORTIVE MEASURES

The range of supportive measures available to complainants and respondents 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 or housing locations,
- leaves of absence,
- increased security and monitoring of certain areas of the campus,
- and other similar measures as deemed appropriate by the Title IX Coordinator after considering the wishes of complainant and the facts and circumstances of the complaint.

The District will 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.

III. SANCTIONS

Disciplinary sanctions cannot be imposed against a respondent unless a formal complaint is filed, and the grievance procedure described below is completed. Possible disciplinary sanctions that may be implemented following a determination of responsibility include but are not limited to any of the student disciplinary measures described in this Policy Handbook, up to and including expulsion.

IV. GRIEVANCE PROCESS FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT

Title IX Grievance Process Generally

The District will apply this Title IX Grievance process whenever a formal complaint of sexual harassment is filed with the Title IX Coordinator. A “formal complaint of sexual harassment” is any document filed by a person alleging to be victim of conduct that could constitute sexual harassment (“complainant”) or signed by the Title IX Coordinator. It does not need to be filed in paper form. It also does not need to be signed by the complainant, but it must indicate that the complainant is the person filing the complaint.

The grievance process is designed to restore or preserve a complainant’s and respondent’s equal access to the District’s education programs and activities. Remedies may include supportive measures for the complainant as well as disciplinary sanctions against the respondent.

In investigating and resolving formal complaints under this grievance process, the District will observe the following requirements:

- The District shall evaluate all relevant evidence—including both inculpatory and exculpatory evidence. The District will not judge a person’s credibility based on their status as a complainant, respondent, or witness. Furthermore, the district will not require, allow, rely upon, or otherwise 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.

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- The Title IX Coordinator and any person designated as an investigator, initial decision-maker, appellate decision-maker, or informal resolution facilitator will promote an impartial investigation and adjudication, will not have a conflict of interest with any party to the complaint, and will not hold a bias for or against any party to the complaint. They will not rely on sex stereotypes in performing their duties under this procedure. These persons shall also be appropriately trained regarding this grievance procedure, necessary technology, and applicable laws and regulations.
- The respondent to a formal complaint of sexual harassment is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The standard of proof for determining responsibility will be a preponderance of the evidence. This standard shall apply whether the respondent is a student or an employee.
- The District has prescribed procedural deadlines throughout the grievance process in order to ensure the reasonably prompt resolution of a complaint, including reasonably prompt resolution of any appeal and any informal resolution procedures. However, the District may permit a temporary delay of the grievance process or the limited extension of these deadlines for good cause. 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 accommodation of disabilities. A written request for a delay or extension of such deadlines may be submitted to the Title IX Coordinator by either party prior to the lapse of the applicable deadline. Whether to grant an extension of time is a discretionary decision of the Title IX Coordinator and is not a basis for appeal.

Notice of Allegations

Within five (5) days after receiving of a formal complaint, the District will provide a written Notice of Allegations to the parties who are known. In addition to other information required by law, the Notice of Allegations will include a description of this grievance process, including any informal resolution process; the names of the parties involved in the incident; a statement of the conduct allegedly constituting sexual harassment; and the date and location of the alleged incident, if known.

Administrative Dismissal

The District will dismiss a formal complaint if, at any time following the receipt of a formal complaint, the District determines that:

- the conduct alleged would not constitute “sexual harassment” as defined by this policy even if proved,
- the conduct alleged did not occur in the district’s educational program or activity,
- the conduct alleged did not occur against a person in the United States,
- the complainant notifies Title IX Coordinator in writing of desire to withdraw formal complaint,
- the respondent is no longer enrolled or employed by the District, or
- specific circumstances prevent the District from gathering evidence sufficient to reach a determination.

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The District will promptly notify the parties of an administrative dismissal and the reason for the dismissal.

Informal Resolution

Some formal complaints may be resolved through an informal resolution process. If the parties agree to participate in an informal resolution process, the Title IX Coordinator work with parties to reach a mutually agreeable resolution without completing the full Title IX grievance procedure. The informal resolution process is voluntary process and may be attempted at any stage of this procedure prior to the issuance of a determination of responsibility. A party shall not be punished or disadvantaged in any way for declining to participate in an informal resolution process.

The manner of the informal resolution process will be determined on a case-by-case basis by the Title IX Coordinator, who will consider the suggestions of the parties. The informal resolution process may include but is not limited to a conference with the Title IX coordinator or a mediation facilitated by a trained third-party. Before an informal resolution process is commenced, the Title IX Coordinator will provide a written notice disclosing the manner of the informal resolution process, the effects of the process on the formal grievance procedure, and the rights of the parties to withdraw from the informal resolution process. The parties must then consent to the informal resolution process in writing.

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. Informal resolution is NOT available for formal complaints alleging an employee sexually harassed a student. Additionally, the District cannot facilitate an informal resolution between a complainant and respondent unless a formal complaint has been filed.

Investigation of the Complaint

It is the District's duty to gather evidence sufficient to make a determination of responsibility with respect to each of the allegations described in the Notice of Allegations. The Title IX Coordinator or an impartial individual designated by the Title IX Coordinator will perform the investigation, which may include interviewing the parties and other witnesses; obtaining documents, data, or other materials; and reviewing any other evidence related to the allegations of the formal complaint. The investigator will not access or consider a party's medical or mental health records without written consent from the party or the party's parent, as required by law. The parties will be allowed an equal opportunity to provide additional evidence to the investigator or refer the investigator to additional witnesses.

The District shall not prohibit the parties from discussing the allegations of the formal complaint or gathering and presenting additional evidence to the investigator. Furthermore, either party is entitled to the presence of an advisor—who may or may not be an attorney—during any investigative interview or other grievance proceeding for which the party's attendance is invited or required. The party and their advisor will be provided written notice of the date, time, and location of any such proceeding and reasonable time to prepare to participate. However, the District may, at its discretion, limit equally for both parties the extent of the advisor's participation.

Unless additional time for a full and fair investigation is deemed necessary by the Title IX Coordinator, the investigator, or granted to a party upon a showing of good cause, the District will strive to complete its investigation within sixty (60) days after receiving of a formal complaint. At the conclusion of the investigation, the District will provide both parties and any advisors a copy of all evidence gathered by

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the District that is directly related to the allegations in the formal complaint for inspection and review. The evidence may be provided to the parties in electronic or paper form. Both parties will be allowed ten (10) days to submit a written response to the evidence gathered. After considering any written responses, the investigator will provide the parties and their advisors with a written Investigative Report that fairly summarizes the relevant evidence.

The parties will be allowed an additional ten (10) days to submit a written response to the Investigative Report prior to any determination of responsibility. The District will also allow each party an 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. Questions about a complainant's sexual predisposition or prior sexual behavior are not allowed unless such questions are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Determination of Responsibility

The Title IX Coordinator will designate a decision-maker to review the Investigative Report as well as any written responses, questions, and answers submitted with regard to the Investigative Report. The decision-maker must be a different person than the Title IX Coordinator and the investigator. The Title IX Coordinator shall designate an individual who has received appropriate training as the decision-maker for all Title IX grievances.

The decision-maker will issue a reasonably prompt written determination of responsibility regarding the allegations listed in the Notice of Allegations, which will include all information required by law. This determination will be based on the Investigative Report and any responses, questions, and answers submitted. The written determination will be provided simultaneously to both parties. The Title IX Coordinator will be responsible for effective implementation of any remedies imposed by the decision-maker.

Appeals

Either party may appeal a determination regarding responsibility or the administrative dismissal of a formal complaint by filing a written request for appeal with the Title IX Coordinator within five (5) days after receiving notice of the determination or dismissal. The request must state the basis for the appeal, which must be one of the following grounds:

- 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, or decision-maker had a conflict of interest or bias that affected the outcome of the matter.

An appeal that is not based on one of the foregoing grounds will be administratively dismissed. Likewise, an untimely appeal will be administratively dismissed unless there is good cause for the filing delay. Whether good cause exists is in the discretion of the Title IX Coordinator.

The Title IX Coordinator will notify the other party in writing that an appeal has been filed and will designate an appellate decision-maker to decide the appeal who must not be the complaint investigator, the Title IX Coordinator, or the same person who reached the determination regarding responsibility or

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dismissal below. The Title IX Coordinator shall designate an individual who has received appropriate training as the appellate decision-maker for all Title IX grievances.

Both parties will be allowed ten (10) days following the notice of appeal to submit a written statement to the appellate decision-maker supporting or opposing the outcome below. The appellate decision-maker will consider these statements as well as the Investigative Report and any questions, and answers submitted to the initial decision-maker. The appellate decision-maker will then issue a written decision describing the result of the appeal and the rationale in a reasonably prompt manner. The decision will be provided to the parties simultaneously.

V. RECORDKEEPING AND CONFIDENTIALITY

For a period of seven (7) years, the District will retain the records of each sexual harassment investigation, including any written initial or appellate determination; any documentation regarding any disciplinary sanctions or remedies imposed; and any informal resolution and the result thereof. The District will also retain all materials used to train the District personnel involved in administering this grievance procedure. The District will also retain for a period of seven (7) years records of any actions, including supportive measures, taken in response to a report of sexual harassment that is not filed as a formal complaint.

The District will keep confidential the identity of any individual who has made a report or complaint of sexual harassment, any individual who has been reported for sexual harassment, any respondent, and any witness, except as necessary to carry out this grievance procedure and to satisfy the District's duties under the Family Educational Rights and Privacy Act (FERPA) or any other applicable law.

VI. RETALIATION

Intimidating, threatening, coercing, discriminating, or otherwise retaliating against any individual because they have made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing under this policy is prohibited.

Legal Reference: 34 C.F.R. Part 106 (2020).

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