



UNDERSTANDING TITLE IX FORMAL VS. INFORMAL INVESTIGATIONS

Sexual harassment is conduct based on sex that satisfies **one or more** of the following:

1. An employee conditioning an aid, benefit, or service of the school on an individual's participation in sexual conduct;
2. Unwelcome conduct that a reasonable person would consider severe, pervasive, and objectively offensive such that it effectively denies an individual equal access to a district program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking.

FORMAL COMPLAINT

Complainant: an individual who is alleged to be the victim of sexual harassment.

Respondent: an individual who is alleged to be the perpetrator of sexual harassment. A Respondent may not be disciplined for sexual harassment until the conclusion of this grievance process.

Formal Complaint: a document filed by a Complainant (or parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.



UNDER THE FORMAL PROCESS

Inform the Complainant and Respondent of the availability of supportive measures with or without the filing of a formal complaint.

Supportive measures may include counseling, change of schedules/classes, campus escort or monitoring support, restrictions on contact between the parties (stay away agreement), increased security and monitoring, or other similar measures.



INFORMAL COMPLAINT

Alleged Victim, who is claimed to be victim of sexual harassment, meets with Title IX Coordinator, who explains the Formal Complaint process.

After being explained the options, Alleged Victim elects informal route.

A person filing an "informal complaint" may report sexual harassment in writing and indicate they do not wish to engage in the formal process.

Parents will be notified as deemed appropriate.



SUPPORTIVE MEASURES

Inform the Alleged Victim of the availability of supportive measures with or without the filing of a formal complaint.

Supportive measures may include counseling, change of schedules/classes, campus escort or monitoring support, restrictions on contact between the parties (stay away agreement), increased security and monitoring, or other similar measures.



FORMAL COMPLAINT

NOTICE FOR FORMAL COMPLAINTS

Provide Notice to Parties: Simultaneous *notice must be provided to all known* Complainants and Respondents that includes:

- Allegations of sexual harassment, known at the time, with sufficient detail to prepare before any initial interview;
- Identities of the parties involved;
- Date, location of alleged incident(s);
- Statement that Respondent is presumed not responsible and that a determination will not be made until the conclusion of the grievance process
- Statement that the parties have the right to an advisor of their choosing, who can be a parent/guardian or another individual who may, but is not required to be, an attorney and who may inspect and review evidence; and
- Statement that the Code of Conduct prohibits knowingly making false statements.
- An offer of informal resolution.



VOLUNTARY RESOLUTION

At any time prior to deciding “responsibility” for sexual harassment, the District may facilitate an informal resolution process, such as mediation. This is a voluntary process. Any party may decline to participate. (The investigation may be abated for a short, defined period for the parties to engage in informal resolution. However, the informal resolution process cannot be used to delay an investigation.)

Informal Resolution cannot be used to resolve allegations that an employee sexually harassed a student.

Prior to a resolution, a party has the right to withdraw and resume the Formal Complaint grievance process.



INFORMAL COMPLAINT

VOLUNTARY INFORMAL RESOLUTION

If the Alleged Victim is interested in an informal resolution, the Title IX Administrator can facilitate a resolution at any time.



INVESTIGATION

Alleged Victim will be interviewed and asked what remedy is sought. Investigator will use judgment regarding whether to interview additional witnesses and interview accused, etc.



CONCLUSION

Based upon the investigation determination discipline may or may not result--discipline options being consistent with the District’s Student Code of Conduct. The Investigator may provide other appropriate remediation as deemed in the best interest of the district and the students. A student cannot be discipline for “sexual harassment” without following the Formal Complaint process; however, a student can be disciplined for other violations of the Code of Conduct.

FORMAL COMPLAINT

THE INVESTIGATION

1. The burden of proof (preponderance of the evidence) rests on the District and not on the parties.
2. The District cannot demand access to legally privileged information (e.g., healthcare-patient, attorney-client, priest-penitent).
3. Both parties must have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
4. The District cannot restrict a party's ability to discuss the allegations under investigation or to gather or present relevant evidence.
5. Both parties have the right to have a parent/guardian and/or advisor present during any part of the grievance process, including interviews.
6. Parties are entitled to written notice of the date, time, location, participants, and purpose of investigative interviews and other meetings in this grievance process, with sufficient time for the party to prepare to participate.
7. Parties have the right to inspect and review any evidence obtained as a part of the investigation that is directly related to the allegations raised in the Formal Complaint.
8. Prior to completion of the investigative report, the investigator must send an electronic or hard copy of all the relevant evidence gathered to the parties and the parties' advisors, if any. The parties must be provided at least 10 calendar days to submit a written response that the investigator must consider before completing the investigative report.
9. The investigative report must be sent to the parties at least 10 calendar days before the Decision Maker determines whether sexual harassment has occurred.
10. The Investigator sends investigative report to Decision Maker.



FORMAL COMPLAINT

DECISION MAKER

Decision/Determination of Responsibility:

A Decision Maker (who is not the Title IX Coordinator or the Investigator for that Formal Complaint) must issue a comprehensive written determination regarding responsibility (i.e., whether sexual harassment occurred) and the complete grievance process to date. The decision includes:

1. Identification of the allegations that constitute sexual harassment;
2. Description of the procedural steps taken since the receipt of the Formal Complaint through the decision, including notifications, interviews with the parties and witnesses, site visits, methods used to gather other evidence;
3. Findings of Fact;
4. Conclusions regarding the application of the District's Code of Conduct to the facts;
5. A statement of and the rationale for the results of each allegation, including a determination of responsibility;
6. Disciplinary sanctions, if any, imposed on the Respondent;
7. A statement whether remedies to the Complainant, if any, have been designed to restore or preserve equal access to the District's education program or activity; and
8. Information about the ability of the parties to appeal the decision.

The decision must be sent to the parties simultaneously.



APPEAL

Appeal: Either party may appeal on a form provided by the District within 10 calendar days of issuance of the decision. There are limited grounds for appeal set forth in the Board Policy.