|  |  |
| --- | --- |
| **Pulaski Community School District  Board of Education Policy** | **Policy Code: ACC**  **Date: September 9, 2020** |

**PREVENTION OF DISCRIMINATION ON THE BASIS OF SEX –**

**SEXUAL HARASSMENT**

The Pulaski Community School District prohibits sexual harassment as a type of discrimination on the basis of sex (including sexual orientation or gender identity), in its education programs or activities, consistent with Board Policy Code ACA. This complements Board ACB.

When the District has Actual Knowledge of Sexual Harassment in its education program or activity against a person in the United States, it shall promptly respond in a manner that is not deliberately indifferent. The procedures in this policy describe the District’s required response in the event a report or complaint of sexual harassment covered by this Policy and the applicable regulations implementing Title IX of the Education Amendments of 1972.

Any person subject to this policy who is found to have violated the policy’s prohibition on sexual harassment will be subject to disciplinary action determined appropriate under the circumstances with consideration of the full range of potential disciplinary action. The District may impose sanctions on third parties who engage in sexual harassment, including by way of order prohibiting presence on school grounds or attendance at school activities. Separate from discipline and/or sanctions imposed against those found to violate this policy, the District is also committed to providing ongoing supportive measures as reasonably necessary to restore or preserve access to the District’s education programs and activities both during an investigation as well as following the conclusion of any of the procedures provided in this policy.

**Limited Scope of Policy Application**

This policy and the grievance process described applies to sexual harassment that occurs within the District’s education programs or activities and that is committed by an employee, student, board member, third-party vendor or contractor, guest, parent, or any other person over whom the District exercises substantial control in the context within which the alleged sexual harassment occurs.

Sexual harassment and other forms of discrimination on the basis of sex that are not covered by the specific definitions applicable to this policy, are still prohibited by and complaints are addressed through other District policies and corresponding grievance procedures.

**Definitions**

The following terms have the definitions below for purposes of this policy.

**Sexual Harassment:  “**Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct (often called “*quid pro quo*” harassment), which may include verbal efforts in furtherance of such effort with due record for protected speech considerations;
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; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)A(v), or “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).  
   1. “Sexual assault” means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent due to the complainant’s age or temporary or permanent diminished mental or physical capability to knowingly consent.  Sexual assault includes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape.
   2. “Domestic violence” includes felony or misdemeanor crimes of violence committed by:   
      1. A current or former spouse or intimate partner of the victim;
      2. A person with whom the victim shares a child in common;
      3. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
      4. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime occurred; or
      5. 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 in which the crime occurred.
   3. “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.  The existence of such a relationship shall be determined based on consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
   4. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (1) fear for the person’s safety or the safety of others; or (2) suffer substantial emotional distress.

**Complainant: “**Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. The Title IX Coordinator does not become the complainant even if the coordinator files the formal complaint.

**Respondent:** “Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Actual Knowledge: “**Actual Knowledge” means receipt of information in any form that places the District on notice of sexual harassment or allegations of sexual harassment. The District has “actual knowledge” of sexual harassment if any employee has actual notice of such information, including any report of such information provided to a Title IX Coordinator or a person with authority to provide supportive measures or to engage in informal resolution processes. This standard is not met when the only District employee with actual knowledge is the Respondent. Knowledge-based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

**Formal Complaint:** “Formal Complaint” means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting an investigation.  A formal complaint must state allegations that establish that the Complainant is participating in or attempting to participate in the District’s education program or activity and must be signed by the Complainant or Coordinator, and may be received in hard copy or through electronic submission including via email or dedicated complaint submission portal.

**Supportive Measures:** “Supportive Measures” are 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.  Supportive measures are those designed to restore or preserve equal access to the District’s education program or activity without unreasonably burdening the other part(ies), 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 class schedules, school escort services, mutual restrictions of contact between the parties, leaves of absence, increased security and monitoring of certain areas of the school grounds, and other similar measures.

**Education Program or Activity:** “Education program or activity” includes all events and circumstances that take place on or off school grounds if the District exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs.

**Inculpatory Evidence:** “Inculpatory evidence” is evidence that tends to establish a Respondent’s responsibility for alleged Sexual Harassment.

**Exculpatory Evidence:** “Exculpatory evidence” is evidence that tends to clear or excuse a Respondent from allegations of Sexual Harassment.

**Title IX Coordinator(s)**

The Board designates and authorizes the following individual(s) to oversee and coordinate its efforts to comply with Title IX and its implementing regulations:

Nicole Borley Tom Krause

Director of Student Services Associate Principal

920-822-6022 920-822-6107

143 W. Green Bay Street 145 W Green Bay Street

Pulaski, WI 54162 Pulaski, WI 54162

[nlborley@pulaskischools.org](mailto:nlborley@pulaskischools.org) tmkrause@pulaskischools.org

The Title IX Coordinator shall report directly to the District Administrator.  Questions about this policy should be directed to the Title IX Coordinator.

The District Administrator shall prominently display the Title IX Coordinators(s’) contact information – including Name(s) and/or Title(s), Phone Number(s), Office Address(es), and Email Address(es) – and this policy on the District’s website and include the District’s nondiscrimination statement and location of this policy in each handbook or course catalog that the Board makes available to applicants for employment, students and prospective students, parents or legal guardians.

**Sexual Harassment Grievance Process**

The District’s response to allegations of sexual harassment will treat Complainants and Respondents equitably, including providing supportive measures to the Complainant and Respondent, as appropriate, throughout and after the process.

The Title IX Coordinator(s), along with any investigator(s), decision-maker(s), or any person(s) designated to facilitate an informal resolution process, shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Coordinator shall determine if potential bias or conflict exists and assign investigatory responsibilities accordingly.

If a determination of responsibility for sexual harassment is made against the Respondent, the District will provide remedies to the Complainant and impose sanctions against the Respondent.  The remedies will be designed to restore or preserve equal access to the District’s education program or activity.  Potential remedies include, but are not limited to, individualized services that constitute supportive measures.  Remedies may also be disciplinary or punitive in nature and may burden the Respondent.

*Report of Sexual Harassment*

Any person may file a written or oral report alleging sexual harassment or other forms of discrimination. Reports of discrimination on the basis of sex, including claims of sexual harassment in the District’s programs or activities shall be provided to a Title IX Coordinator, or if the allegation concerns a Coordinator, and another Coordinator is not available, reports may be made to the District Administrator. All District employees are expected to report information they obtain in any fashion that may constitute discrimination on the basis of sex.

Reports should include information regarding the alleged victim(s), perpetrator(s), other potential witness(es), the source of the information if from a third party, and describe in detail what occurred, including date(s), time(s), and location(s). Reports shall be made as soon as practicable upon receipt of the information, but in no event more than 2 work days. The making of a report does not satisfy an employee’s obligation to contact law enforcement or child protective services if the conduct and circumstances of the report also involve suspected child abuse or neglect requiring mandatory reporting **(See Policy JHG Suspected Child Abuse and Neglect).**

*Following Receipt of a Report*

When a report of discrimination on the basis of sex is made, the Title IX Coordinator shall determine if the allegations constitute claims of Sexual Harassment, or if the allegations involve other types of claims covered by other Board policies, and shall proceed accordingly.

***Supportive Measures:*** If the report alleges Sexual Harassment, the Coordinator shall promptly contact the Complainant (including the parent/guardian if the Complainant is under eighteen (18) years of age or under guardianship) 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 the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.  The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.  Any supportive measures provided to the Complainant or Respondent shall be maintained as confidential, to the extent that maintaining such confidentiality will not impair the ability of the District to provide the supportive measures.

***Emergency Removal:***  The Coordinator shall conduct an individualized safety and risk analysis to determine whether a student Respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment.  If the student Respondent poses such a threat, the Respondent may be removed from an aspect of the program or activity, or separated so as to address the safety concerns.

If the Respondent is a non-student employee, the District may place the Respondent on administrative leave during the pendency of the grievance process. Such leave will typically be paid leave unless circumstances justify unpaid leave in compliance with legal requirements.

Respondents who are neither students nor employees may be restricted from accessing District facilities to eliminate the safety concerns.

*Formal Complaint of Sexual Harassment*

The Complainant may at any time file a formal complaint with the Title IX Coordinator in person, by mail, or by electronic mail, or by any other method made available for this purpose. If a formal complaint involves allegations of sexual harassment by or involving a Title IX Coordinator and another Coordinator is not available, a formal complaint may be filed with the District Administrator who will designate a different staff member to serve as Coordinator for the complaint.

If the Complainant requests that a formal complaint not be filed, the Title IX Coordinator will generally respect that request unless the Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

The Title IX Coordinator will investigate the allegations in the formal complaint or will designate another person to serve as the investigator, provided that the investigator appointed has completed the training required. The investigator will undertake an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations will not be based on a person’s status as a Complainant, Respondent, or witness.

The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

*Timeline*

The District will seek to conclude the grievance process within ninety (90) calendar days of receipt of the formal complaint, followed by the appeal process which shall be processed in a timely manner.

If the Title IX Coordinator offers informal resolution processes, the informal resolution processes may not be used by the Complainant or Respondent to unduly delay the investigation and determination of responsibility.  The timeline, however, may be extended by mutual agreement of the Complainant and Respondent. In the event that the grievance process cannot be completed to the point of a determination of responsibility by the decision maker within the timeframe, due to the unavailability of necessary witness or information, or for other good cause, the Coordinator may notify the parties of an extension of the timeline for purposes of the Grievance Process, and in the absence of an agreement to extend the timelines, may issue a preliminary determination under the District’s student non-discrimination school board policy **Policy AC Nondiscrimination** implementing state law**.** The initial determination under Policy AC may be that there is insufficient evidence to conclude a violation and explain that the investigation process is ongoing, and explain the reasons for the inability to conclude within the requisite 90 days.

Upon receipt of a formal complaint, the Title IX Coordinator will provide written notice of the following to the parties who are known:

1. Notice of the Board’s grievance process, including any informal resolution processes;
2. Notice of the allegations of misconduct that potentially constitutes Sexual Harassment, including sufficient details known at the time and with 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 alleged conduct and the date and location of the alleged incident, if known. The written notice must:  
   1. include a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
   2. inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
   3. inform the parties of any provision in the Student Code of Conduct, policies, or handbooks that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If during the course of the investigation, the investigator becomes aware of allegations about the Complainant or Respondent that are not included in the original notice provided to the parties, the investigator will notify the Title IX Coordinator and the Title IX Coordinator will decide whether the allegations shall be included in the current investigation or handled in a separate process.

*Dismissal of a Formal Complaint*

A formal complaint shall be dismissed if at any point it is determined that the conduct:

1. would not constitute Sexual Harassment (as defined in this policy) even if proved;
2. did not occur in the District’s education program or activity; or
3. did not occur against a person in the United States.

If the Title IX Coordinator dismisses the formal complaint due to one of the preceding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of an applicable code of conduct, Board policy, and/or Employee or Student Handbook.

The Title IX Coordinator *may* dismiss a formal complaint, or any allegations therein, if at any time during the Process: 

1. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
2. the Respondent is no longer enrolled in or employed by the District; or
3. specific circumstances prevent the investigator from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The Title IX Coordinator must promptly send written notice of a dismissal and the reason(s) therefore simultaneously to the parties.

*Consolidation of Formal Complaints*

The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

**Informal Resolution Process**

Complainant may not be required to waive any right to an investigation and adjudication of a formal complaint of Sexual Harassment.  Similarly, no party may be required to participate in an informal resolution process.

The Title IX Coordinator may offer the Complainant and Respondent in any formal complaint where both parties are students the opportunity to engage in an informal resolution process.  If the parties mutually agree in writing to participate in the informal resolution process, the Title IX Coordinator shall designate a trained individual to facilitate an informal resolution process without conducting a full investigation and determination regarding responsibility.  The informal resolution process may be used at any time prior to the decision-maker(s) reaching a determination regarding responsibility.

The following information shall be included in a notice to the parties prior to engaging in an informal resolution process: 

1. the allegations;
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; and
3. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process.

**Investigation of a Formal Complaint of Sexual Harassment**

The Title IX Coordinator shall designate a person to serve as an investigator, which may be the Title IX Coordinator or different trained individual.

The investigator is not permitted to 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 party (or parent, if a minor) provides the District with voluntary, written consent to do so. The investigator may 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 in writing.

As part of the investigation, the parties have the right to: 

1. present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
2. have their advisor present during any grievance proceeding. The investigator may not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or grievance proceeding, but may limit the scope of the advisors’ participation, provided that any limits apply to both parties.

Neither party shall be restricted in their ability to discuss the allegations under investigation or to gather and present relevant evidence.

The District will provide to a party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of allinvestigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Both parties shall have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised 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 so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.

Prior to completion of the investigative report, the investigator 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, and the parties will have at least ten (10) calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report.

At the conclusion of the investigation, the investigator shall create an investigative report that fairly summarizes relevant evidence and send the report to each party and the party’s advisor, if any, for their review and written response.  The investigator will send the investigative report in an electronic format or a hard copy, at least ten (10) calendar days prior to the decision-maker(s) issuing a determination regarding responsibility.

**Determination of Responsibility**

The Title IX Coordinator shall appoint a decision-maker(s) to issue a determination of responsibility.  The decision-maker(s) cannot be the same person(s) as the Title IX Coordinator(s) or the investigator(s) and will generally be the District Administrator or building level principal who is not the principal of the building in which the Respondent attends or works.

After the investigator sends the investigative report to the parties and the decision-maker(s), and before the decision-maker(s) reaches a determination regarding responsibility, the decision-maker(s) will 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(s) must explain to the party proposing the question of any decision to exclude a question as 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.

The decision-maker(s) will issue a written determination regarding responsibility. To reach this determination, the decision-maker(s) must reach the conclusions based on a preponderance of the evidence standard, which means that decisions regarding disputed facts are resolved in favor of the determination that is more likely than not accurate based on the credible evidence provided.

The written determination will include the following content:

1. Identification of the allegations potentially constituting sexual harassment pursuant to this policy;
2. 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the applicable code of conduct or policy to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the decision-maker is recommending that the District impose on the Respondent(s) and whether remedies designed to restore or preserve equal access to the District’s education program or activity should be provided by the District to the Complainant(s); and
6. The procedures and permissible bases for the Complainant and Respondent to appeal.

If the decision-maker determines the student Respondent is responsible for violating this policy (i.e., engaging in Sexual Harassment), the decision-maker will recommend appropriate remedies, including disciplinary sanctions/consequences determined after considering the severity of the incident, previous disciplinary violations (if any), and any mitigating circumstances.  The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation and implement an appropriate remedy(ies). The discipline of a student Respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972, and their respective implementing regulations.

If the decision-maker(s) determines the employee Respondent is responsible for violating this policy (i.e., engaging in sexual harassment), the decision-maker(s) will recommend appropriate remedies, including disciplinary sanctions/consequences.  The Title IX Coordinator will notify the District Administrator of the recommended remedies, so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with applicable procedures (i.e. suspension, expulsion, employee discipline, termination), whether policy-based, statutory, or contractual.

If the decision-maker determines the third-party Respondent is responsible for violating this policy the decision-maker will recommend appropriate remedies, including the imposition of sanctions.  The Title IX Coordinator will notify the District Administrator (if not the decision-maker) of the recommended remedies, so appropriate action can be taken.

The Title IX Coordinator is responsible for coordinating the effective implementation of any remedies.

**Appeal**

Both parties have the right to file an appeal from a determination regarding responsibility or from the Title IX Coordinator’s dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter (e.g., material deviation from established procedures);
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, or decision-maker 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 Complainant may not appeal a decision based on disagreement with the disciplinary sanction/consequence that is imposed.

Any party wishing to appeal the decision-maker’s determination of responsibility, or the Title IX Coordinator’s dismissal of a formal complaint or any allegations therein, must submit a written notice of appeal to the Title IX Coordinator within two (2) business days after receipt of the decision-maker’s determination of responsibility or the Title IX Coordinator’s dismissal of a formal complaint or any allegations therein. The notice of appeal shall state the party’s intent to appeal the determination and shall specify the ground or grounds above upon which the appeal is based.

Upon receipt of a notice of appeal, the Title IX Coordinator shall first determine whether the notice of appeal is timely and if not inform the party filing the appeal that the deadline has passed and the determination is final. If the appeal is timely, the Coordinator shall do the following:

1. Inform the other party in writing that an appeal has been timely submitted and require that if that party too wishes to appeal a portion of the determination, that party may submit a notice to that effect within two (2) business days of receipt of notice that an appeal has been filed or will not be permitted to raise issues outside of the existing notice of appeal;
2. Notify both parties the appeal procedures which apply equally for both parties. The procedures shall include the opportunity to submit written arguments first by the party initiating the appeal specifying the reasons and for the other party to respond and shall include timelines required for the submission of materials by the parties so as to provide sufficient time while assuring timely completion of the appeal process.
3. Appoint a decision-maker or a panel of an odd number of participants to serve as the appeal decision-maker. The appeal decision-maker or panel may not include any person that has served any function in the grievance process up to the appeal (i.e. cannot be the coordinator, investigator, decision-maker, or any person involved in informal resolution processes). The decision-maker for the appeal shall not have a conflict of interest or bias for or against Complainant or Respondent generally or an individual Complainant or Respondent and shall receive the same training as required of other decision-makers.

The decision-maker for the appeal shall issue a written decision describing the result of the appeal and the rationale for the result.  The original decision-maker’s(s’) determination of responsibility will stand if the appealing party fails to show clear error and/or a compelling rationale for overturning or modifying the original determination.  The written decision will be provided to the Title IX Coordinator who will provide it simultaneously to both parties.  The written decision will be issued within 30 calendar days of when the parties’ last written statement is submitted.

No further review beyond the appeal is permitted.

**Retaliation**

Neither the Board nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations, or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.  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, its implementing regulations, or this policy, constitutes retaliation.  Retaliation against a person for making a report of sexual harassment, filing a formal complaint, or participating in an investigation is a serious violation of this policy that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Complaints alleging retaliation may be filed with the Title IX Coordinator, a District Compliance Officer, or the District Administrator and will be investigated pursuant to the District’s grievance procedures (not the grievance process described in this policy).

The exercise of rights protected under the First Amendment of the United States Constitution does not constitute retaliation prohibited under this policy.

No person is protected from adverse consequences for making materially false statements, acting in bad faith, or abusing the grievance process for malicious purposes.

**Confidentiality**

The District will maintain confidentiality to the extent permitted by law, but shall not impose confidentiality requirements that impair the Complainant’s and/or Respondent’s receipt of the information to which they are entitled with respect to the investigative record and determination of responsibility.

**Training**

The District’s Title IX Coordinator, along with any investigators, decision-makers, or persons designated to facilitate an informal resolution process, must receive training on:

1. the definition of sexual harassment (as that term is used in this policy);
2. the scope of the District’s education program or activity;
3. how to conduct an investigation and implement the grievance process
4. how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interests, and bias.

The District will make its training materials publicly available on its website and available in another form if a person is unable to access the District’s website.

**Recordkeeping**

Records shall be maintained consistent with the District’s records retention policy, but in no case for less than 7 years.  The record shall document the basis for conclusions reached to establish that response was not deliberately indifferent, and shall document measures implemented that were 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 the District will 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.

**Manner of Application**

The Title IX Coordinators are authorized to assure that this policy is implemented in a fashion that is consistent with Title IX implementing regulations. If at any point, this policy is in any part inconsistent with those regulations, the Title IX Coordinator shall comply with the regulations, and inform the District Administrator accordingly.   
  

Policy Adopted: September 9, 2020