

POLICY 12A

Title IX Student Sexual Harassment Policy

It is the policy of the District that no person in the District shall be excluded on the basis of sex from participation in, denied benefits of, or be subjected to discrimination under any education program or activity. This includes the following types of sexual harassment:

Quid Pro Quo Harassment: No employee may condition the provision of aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct.

Hostile Environment Harassment: No person may engage in unwelcome sexual conduct which a reasonable person would find to be so severe and objectively offensive so as to deny a person's equal access to the District's education program or activity. Sexual assault, domestic violence and stalking are considered hostile environment harassment.

For purposes of this policy, the District's education program or activity is defined as any location, event, or circumstance over which the District exhibits substantial control over both the alleged harasser and the context in which the harassment occurred.

The District will provide notice of this policy and the related grievance procedure on an annual basis and the policy and related procedure will be posted on the District website.

Reporting Sexual Harassment:

Any person believing they have been the victim of sexual harassment may report the harassment to the District's Title IX Coordinator. District employees who have knowledge of sexual harassment under this policy are required to report the harassment to the District's Title IX Coordinator promptly even if the person reporting is not the victim. The report may be made in person, by email, telephone or in writing.

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:

- Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Once the Title IX Coordinator has notice of the sexual harassment, the Coordinator must respond promptly to the report of harassment. The Title IX Coordinator will promptly reach out to the victim of the alleged harassment to discuss the formal complaint procedure, availability of supportive measures and to determine the victim's wishes regarding supportive measures. The Title IX Coordinator will treat both parties equitably and will offer supportive measures to both parties. Supportive measures include, but are not limited to non-disciplinary, non-punitive, individualized services such as counseling, course modification, schedule changes or increased monitoring or supervision. Supportive measures will be designed to restore or preserve equal access to education programs or activities without unreasonably burdening the other party. The Title IX Coordinator will also conduct an individualized safety and risk analysis to determine whether removal of the respondent is necessary to protect a student or another individual from an immediate threat to physical health and safety. If there is an immediate threat to physical health or safety, the respondent can be removed on an emergency basis. If the respondent is removed, the respondent must be given notice and opportunity to challenge the decision immediately after the removal. Removal for an employee is administrative leave. For purposes of this policy, the respondent is the individual who has been reported to be the perpetrator of the conduct that could be considered sexual harassment.

Formal Complaint:

A formal complaint may only be filed by the victim of the alleged harassment during the time that the victim is participating in or attempting to participate in the District's educational program. Once the victim is no longer participating in the District's educational program or attempting to participate, a complaint may no longer be filed. Parties other than the victim, with the exception of the District Title IX Coordinator, may not file a formal complaint on behalf of the victim. The Title IX Coordinator may file a formal sexual harassment complaint on behalf of the victim. A formal complaint must be written and signed on the District's Title IX Complaint form.

Once the formal complaint has been filed, the District will ensure that the parties are treated equitably during the grievance procedure, evidence will be evaluated objectively, and the Title IX Coordinator or investigator does not have a conflict of interest against a party. Further, the Title IX Coordinator and the investigator will presume that the respondent is not responsible for the alleged conduct and that the grievance procedure moves forward in a reasonably prompt manner. Both parties will be advised of the procedures and advised about the possible

disciplinary outcomes and remedies which may be implemented following a determination of responsibility.

Upon filing of a formal complaint, the Title IX Coordinator will provide both parties with a Notice of Formal Complaint. The Notice of Formal Complaint will include the following:

- a. Supportive measures available
- b. Appeals procedures
- c. Notice of allegations in sufficient detail to allow the respondent to prepare a response
- d. Informal resolution process, if any
- e. A statement that the respondent is presumed not responsible for the conduct and responsibility will be determined at the conclusion of the grievance process
- f. The parties' right to be represented by an attorney or other representative
- g. The right to review and inspect the evidence
- h. Notice of any provision of the Code of Conduct that prohibits making false statements or providing false information during the grievance process
- i. The right to be notified of any new allegations occurring during the grievance process.

The Notice will be provided to the parties prior to the initial interview and early enough to allow the respondent to prepare a response to the complaint.

In evaluating complaints, the District adopts an evidentiary standard of preponderance of the evidence. The Title IX Coordinator may dismiss a complaint if the complaint does not constitute sexual harassment as defined by this policy, if the Title IX Coordinator receives a request for the complaint to be withdrawn, the respondent's employment or enrollment ends, or circumstances exist which prevent the District from gathering evidence.

Once a formal complaint is received, an investigation is triggered. The Title IX Coordinator may, but is not required to, act as investigator as long as no conflict of interest against either party exists. Other investigators may be appointed as needed. In conducting the investigation, the District must:

- a. Bear the responsibility for gathering the evidence and meeting the burden of proof;
- b. Provide both parties an equal opportunity to present witnesses and evidence;
- c. Refrain from restricting either party's ability to discuss the allegations or gather and present evidence;
- d. Provide both parties the same opportunity to have a representative present during the interview and subsequent hearing, if any;
- e. Provide both parties written notice of date, time, participants, purpose and location of any investigative interview, hearing or other meetings with sufficient time for the party to prepare;
- f. Provide both parties and representatives, if any, equal opportunity to review all the evidence that is directly related to the allegations in the formal complaint, including evidence the District does not rely on and any exculpatory or inculpatory evidence from any source. This evidence is to be provided at least 10

days prior to completion of the investigatory report and the parties may submit a written response which will be considered prior to completion of the investigation report.

Once the investigation is complete, the investigator must prepare a written investigative report and provide the report to the parties and representatives, if any, for their review and written response. The complaint, evidence, investigation report and any written responses must then go to a Decision maker for a determination regarding responsibility of the respondent for the conduct alleged.

At least 10 days prior to any hearing or other determination of responsibility by the Decision maker, each party has the opportunity to submit to the Decision maker relevant questions to be asked of another party or witness. The Decision maker will provide the answers and the parties will be given a follow-up opportunity for questions.

The Decision maker must be a person who is neither the Title IX Coordinator nor the investigator. Once the Decision maker reviews all the documentation, the Decision maker must issue a written response within 10 days of the last submission of documentation. The written decision must address the allegations, procedural steps taken, finding of facts, application of the Code of Conduct to the facts and a statement of and rationale for each allegation including determination of responsibility, disciplinary sanctions and whether remedies to restore or preserve equal access to the educational program will be provided.

Appeal of Decision

If either party is unhappy with the final determination of the complaint for the following reasons, the party may appeal:

- a. A procedural irregularity existed that affected the outcome of the investigation and final determination;
- b. New evidence has been discovered which was not reasonably available at the time of the determination and which could affect the outcome;
- c. There was a conflict of interest on the part of the Title IX Coordinator, investigator or Decision maker.

The appeal must be filed with the Title IX Coordinator within 10 days of the final written determination. Upon receipt of the written request for appeal, the Title IX Coordinator will notify both parties of the appeal and given them each an equal opportunity to submit in writing a statement in support of or challenging the final determination. Within 10 days of submission of statements, the appeal will be reviewed by a member of the District administration who is not the Title IX Coordinator, investigator or Decision maker and who does not have a conflict of interest. Within 10 days after receipt of the submissions, a written decision will be issued to both parties on the appeal.

If a party is not satisfied with the outcome of the appeal, either party may seek further legal remedies. Specifically, the New York State Human Rights Law protects employees, students, and non-employees from sexual harassment. Complaints may be filed with the Division of Human Rights or in New York State Supreme Court. Further, the United States Equal

Employment Opportunity Commission enforces federal discrimination laws, including Title VII of the Federal Civil Rights Act. Contact information is provided below.

New York State Division of Human Rights
1 Fordham Plaza, Fourth Floor
Bronx, NY 10458
(888) 392-3644

United States Equal Employment Opportunity Commission (EEOC)
1-800-669-4000
www.eeoc.gov

U.S. Department of Education
Office of Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202
(800) 872-5327
www.ed.gov

All records regarding the formal complaint, investigation, remedies, sanctions and appeals must be maintained by the District for at least 7 years.

Any District employee is prohibited from engaging in retaliation against any person involved in the complaint, the grievance process, appeal or investigation.

First Reading:	September 16, 2020
Second Reading:	Waived
BOE Adoption:	September 16, 2020