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## **Administrative Procedure Title IX Sexual Harassment Grievance Process**

This procedure implements the District’s Title IX Sexual Harassment Policy, Board policy 2:265, with respect to the District’s response to a *Formal Title IX Sexual Harassment Complaint*. See 34 C.F.R. Part 106. Use this “Grievance Process” to comply with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) as applied to sexual harassment reports and complaints. See 34 C.F.R. §106.45. Italicized terms in this procedure are defined in Board policy 2:265.

This procedure contains a **Table of Contents** and lettered **Sections**.

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### Sections

#### **A. Overview of 34 C.F.R. §106.45 Grievance Process**

The District treats *Complainants* and *Respondents* engaging in the Formal Title IX Sexual Harassment Complaint Grievance Process (Grievance Process) equitably and adheres to the following guidelines in addition to those set forth in Board policy 2:265:

1. Presumption of Non-Responsibility. The *Respondent* is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(1)(iv).
2. Grievance Process Required Before Imposing Sanctions. The District complies with this Grievance Process before imposing any disciplinary sanctions or other actions against a *Respondent*. 34 C.F.R. §106.45(b)(1)(i).
3. Supportive Measures.<sup>1</sup> The District may provide 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<sup>2</sup> locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to *Complainants* and/or *Respondents*. 34 C.F.R. §106.45(b)(1)(ix).
4. Evidence Considered. All relevant evidence – including both inculpatory and exculpatory evidence – is objectively evaluated. Credibility determinations are not based on a person’s status as a *Complainant*, *Respondent*, or witness. The District does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, e.g., attorney-client privilege, doctor-patient

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The footnotes should be removed before the material is used.

<sup>1</sup> Customize this list to reflect locally available.0sa000099(o)11(r)-3( )11(ev)9 612 792blob:zathW\*n0.000018243 0 612 792 reW\*/P

privilege, or spousal privilege, unless the person holding such privilege has waived the privilege. 34 C.F.R. §106.45(b)(1)(ii) and (x).

5. Standard of Proof. All determinations are based upon the *preponderance of evidence* standard. 34 C.F.R. §106.45(b)(1)(vii).
6. Right to Appeal. Each party may appeal any determination described in Section II Appeals, below. 34 C.F.R. §106.45(b)(1)(viii); 34 C.F.R. §106.45(b)(8)(i).
7. Timeline. Thi)(ii)

# appeal any

1. Ensures that the *Complainant*, at the time of filing the complaint, was participating in or attempting to participate in an *Education Program or Activity* of the District. If not, the *Complainant* will be notified that Title IX does not apply to the complaint. The matter will be evaluated

When multiple Formal Title IX Sexual Harassment Complaints contain allegations of sexual harassment arising out of the same facts or circumstances, the Title IX Coordinator may consolidate the complaints even if the complaints contain different *Respondents* and *Complainants* or allegations between parties. 34 C.F.R. §106.45(b)(4).

**D. Dismissal of Formal Title IX Sexual Harassment Complaint**

If the Title IX Coordinator or designee determines that conduct alleged



<b>Actor</b>	<b>Action</b>
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appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. 34 C.F.R. §106.45(b)(7)(iii).

<b>Actor</b>	<b>Action</b>
<i>Complainant or Respondent</i>	Within



that the responses was not deliberately indifferent, that it has taken measures designed to restore or preserve equal access to the recipient's *Education Program or Activity* and, if the District does not provide a *Complainant* with *Supportive Measures*, the reasons why such a response was not clearly unreasonable in light of the known circumstances. (34 C.F.R. §106.45(b)(10)(ii). This includes (34 C.F.R. §106.45(b)(10)(i):

1. The sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the *Respondent*, and any remedies provided to the *Complainant* designed to restore/preserve equal access to the District's *Education Program or Activity*;
2. Any appeal and its result;
3. Any informal resolution and its result; and
4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.

See 5:150, *Personnel Records*, and 5:150-AP, *Personnel Records*, addressing the identification, storage, and access to personnel records.

See 7:340, *Student Records*, along with 7:340-AP1, *School Student Records*, and 7:340-AP2, *Storage and Destruction of School Student Records*, addressing the District's legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.

The Title IX Coordinator will ensure that all materials required to be updated in policies and procedures and posted on the District's website by the Title IX regulations are addressed. This includes:

1. Posting all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process on the District's website.