

Series 3000: Operation, Finance, and Property

3100 General Operations

3118 Title IX Sexual Harassment

Consistent with Policy 3115, the District prohibits unlawful sex discrimination, including harassment and retaliation, in any of its education programs or activities in accordance with Title IX of the Education Amendments of 1972 and corresponding implementing regulations.

This Policy addresses allegations of Title IX sexual harassment that occurred on or after August 14, 2020. Allegations of discrimination, harassment, or retaliation not covered by this Policy should be addressed under the District's applicable non-discrimination or anti-harassment policies. Allegations alleging both Title IX sexual harassment and other forms of unlawful discrimination and harassment (e.g., race, age, disability) that cannot be reasonably separated into two distinct complaints should be investigated under this Policy. Investigating other forms of discrimination, including harassment and retaliation, through this Policy will fulfill the District's investigation requirements under Policies 4104 or 5202, but nothing in this paragraph limits the District's right to determine at any time that a non-Title IX allegation should be addressed under Policies 4104 or 5202 or any other applicable Policy.

The Board directs the Superintendent or designee to designate one or more employees who meet the training requirements in Section M of this Policy to serve as the District's Title IX Coordinator(s). The Title IX Coordinator will designate an Investigator, Decision-Maker, and Appeals Officer, if applicable, for each Formal Complaint made under this Policy. If a Formal Complaint is made under this Policy against the Title IX Coordinator, the Board President will designate the persons who will serve as the Investigator, Decision-Maker, and Appeals Officer and will work with District administrators to ensure that all other requirements of this Policy are met.

The Investigator, Decision-Maker, Appeals Officer, and any person designated to facilitate an informal resolution process cannot be the same person on a specific matter, and the persons designated to serve in those roles may or may not be District employees. Any person serving as the Investigator, Decision-Maker, Appeals Officer, or person designated to facilitate an informal resolution process must meet the training requirements in Section M of this Policy.

Inquiries about Title IX's application to a particular situation may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

A. Definitions

For purposes of this Policy, the below terms are defined as follows:

1. "Sexual Harassment" means conduct on the basis of sex that satisfies one or more of the following:

- a. A District employee conditioning the provision of a District aid, benefit, or service on a person's participation in unwelcome sexual conduct;
 - b. Unwelcome conduct that a reasonable person would determine 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
 - c. Sexual assault, dating violence, domestic violence, or stalking, as defined by the Violence Against Women Act, 34 USC § 12291 et. seq., and the uniform crime reporting system of the Federal Bureau of Investigation, 20 USC 1092(f)(6)(A)(v).
 - i. "Sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - ii. "Dating violence" means violence committed by a person who is or has been in a romantic or intimate relationship with the Complainant. The existence of such a relationship is based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
 - iii. "Domestic violence" means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Complainant, person with whom the Complainant shares a child, person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Michigan; or any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Michigan.
 - iv. "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.
- 2. "Actual Knowledge" means notice of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator or any District employee. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only District employee with actual knowledge is the Respondent.
 - 3. "Appeals Officer" is the person designated by the District to handle appeals of a dismissal or determination of responsibility for matters investigated under this Policy. The Appeals Officer may not be the same person as the Investigator, Title IX Coordinator, Decision-Maker, or person designated to facilitate an informal resolution process on a specific matter.

4. "Complainant" is a person who is alleged to be the victim of conduct that could constitute Title IX sexual harassment.
5. "Consent" means a voluntary agreement to engage in sexual activity by a person legally capable of consenting. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent. Sexual conduct or relationships between District employees, volunteers, or contractors and students, regardless of age or consent, are prohibited.
6. "Day," unless otherwise indicated, means a day that the District's central office is open for business.
7. "Decision-Maker" is the person designated by the District to review the investigation report and provide a written determination of responsibility that provides the evidentiary basis for the Decision-Maker's conclusions. The Decision-Maker may not be the same person as the Investigator, Title IX Coordinator, Appeals Officer, or person designated to facilitate an informal resolution process on a specific matter.
8. "Education Program or Activity" means any location, event, or circumstance over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred.
9. "Formal Complaint" means a written document or electronic submission signed and filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the sexual harassment allegation.
10. "Grievance Process" is the process by which the District handles Formal Complaints.
11. "Investigator" is the person designated by the District to investigate a Title IX Formal Complaint. The Investigator cannot be the same person as the Decision-Maker, Appeals Officer, or person designated to facilitate an informal resolution process on a specific matter. The Title IX Coordinator may serve as the Investigator on a particular investigation, unless the Title IX Coordinator signed the Formal Complaint.
12. "Report" means an account of alleged Title IX sexual harassment made by any person (regardless of whether the reporting party is the alleged victim).
13. "Respondent" is a person who has been reported to be the perpetrator of conduct that could constitute Title IX sexual harassment.

14. "Supportive Measures" are non-disciplinary, non-punitive, individualized services offered and implemented by the Title IX Coordinator as appropriate, as reasonably available, and at no-cost to the Complainant and the Respondent before or after the filing of a Formal Complaint or when no Formal Complaint has been filed. Supportive measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.
15. "Title IX Coordinator" is the person(s) designated by the District to coordinate the District's Title IX compliance. The Title IX Coordinator may not be the same person as the Appeals Officer or Decision-Maker on a specific matter. A person not serving as a Title IX Coordinator in a particular matter is not disqualified from serving in another role in that matter. The Title IX Coordinator may also serve as the Investigator or person designated to facilitate an informal resolution process on a particular investigation, unless the Title IX Coordinator signed the Formal Complaint.

B. Posting Requirement

The Title IX Coordinator's contact information (name or title, office address, electronic mail address, and telephone number), along with the District's Title IX nondiscrimination statement, must be prominently posted on the District's website and in any catalogs or handbooks provided to applicants for admission or employment, students, parents/guardians, and unions or professional organizations with a collective bargaining or professional agreement with the District.

The District will provide notice of this Policy to all applicants, students, parents/guardians, employees, and unions or professional organizations with a collective bargaining or professional agreement with the District by prominently posting this Policy on its website and referencing this Policy in its handbooks, which will include the Title IX Coordinator's name or title, office address, electronic mail address, and telephone number.

C. Designation of Title IX Coordinator

The District designates the following person(s) as the Title IX Coordinator(s):

Mario Martinez
Director of Human Resources
4406 N. Okemos Rd.
Okemos, MI 48864
(517) 706-5006
mario.martinez@okemosk12.net

Stacy Bailey, Assistant Superintendent -
Curriculum & Instruction
4406 N. Okemos Rd.
Okemos, MI 48864
(517) 706-5007
stacy.bailey@okemosk12.net

John Hood, Superintendent
4406 N. Okemos Rd.
Okemos, MI 48864
(517) 706-5009
john.hood@okemosk12.net

D. Reporting Title IX Sexual Harassment:

A person may make a report of sexual harassment or retaliation at any time. Reports may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that result in the Title IX Coordinator receiving the person's verbal or written report.

Any District employee who receives a report of sexual harassment or has actual knowledge of sexual harassment must convey that information to the Title IX Coordinator by the end of the next day.

Any other person who witnesses an act of sexual harassment is encouraged to report it to a District employee and may do so anonymously. No person will be retaliated against based on any report of suspected sexual harassment or retaliation.

E. General Response to Sexual Harassment

1. District's Obligation to Respond without Deliberate Indifference

Upon actual knowledge of Title IX sexual harassment, the Title IX Coordinator must respond promptly in a manner that is not deliberately indifferent. The District will be deemed to be deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

If the Title IX Coordinator receives a report of sexual harassment and the Complainant does not file a Formal Complaint, the Title IX Coordinator must evaluate the information and determine whether to sign and file a Formal Complaint. If the Title IX Coordinator determines not to sign and file a Formal Complaint, the Title IX Coordinator must address the allegations in a manner that is not deliberately indifferent.

2. Response to Report of Title IX Sexual Harassment

Upon receipt of a report of sexual harassment, the Title IX Coordinator must promptly contact the Complainant 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.

3. Formal Complaint Filed

Upon the receipt of a Formal Complaint, the District must follow the Grievance Process in Section F of this Policy. A Formal Complaint may be submitted using the Title IX Sexual Harassment Formal Complaint Form.

4. Equitable Treatment

The District will treat the Complainant and Respondent equitably throughout the Grievance Process, which may include offering supportive measures as described in Subsection E(6) of this Policy.

5. Documentation and Recordkeeping

The Title IX Coordinator will document all sexual harassment reports and all incidents of sexual harassment that the Title IX Coordinator receives or personally observes.

The District will retain this documentation in accordance with applicable record retention requirements in Section N of this Policy.

6. Supportive Measures

After receiving a report of Title IX sexual harassment, the Title IX Coordinator must promptly contact the Complainant to discuss the availability of supportive measures, with or without the filing of a Formal Complaint. If the District does not provide a Complainant with supportive measures, then the Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The District may provide, as appropriate, non-disciplinary, non-punitive individualized services to the Complainant or Respondent before or after the filing of a Formal Complaint or when no Formal Complaint has been filed.

Supportive measures should be designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party.

Supportive measures are offered without charge to all parties and are designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

Supportive measures may include, but are not limited to:

- a. District-provided counseling;
- b. Course-related adjustments, such as deadline extensions;
- c. Modifications to class or work schedules;

- d. Provision of an escort to ensure that the Complainant and Respondent can safely attend classes and school activities; and
- e. No-contact orders.

All supportive measures must be kept confidential, to the extent that maintaining such confidentiality would not impair the District's ability to provide the supportive measures.

7. Respondent Removal

a. Emergency Removal (Student)

The District may only remove a student Respondent from a District program or activity if, following an individualized safety and risk analysis, the District determines that there is an immediate threat to the physical health or safety of any student or other person arising from the sexual harassment allegations. The District must provide the Respondent with notice and an opportunity to immediately challenge the removal decision. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

b. Administrative Leave (Employee)

The District may place an employee Respondent on non-disciplinary administrative leave during the pendency of the Grievance Process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

8. Law Enforcement

In appropriate circumstances, a District employee will notify law enforcement or Child Protective Services, consistent with Policies 4202, 5201, and 5701.

The District will attempt to comply with all law enforcement requests for cooperation with related law enforcement activity. In some circumstances, compliance with law enforcement requests may require the District to briefly suspend or delay its investigation. If an investigation is delayed, the District will notify the parties in writing of the delay and the reasons for the delay.

If the District's investigation is suspended or delayed, supportive measures will continue during the suspension or delay. If the law enforcement agency does not notify the District within 10 days that the District's investigation may resume, the District will notify the law enforcement agency that the District intends to promptly resume its investigation.

F. Grievance Process

1. Generally

The Grievance Process begins when a Formal Complaint is filed or when the Title IX Coordinator signs a Formal Complaint and concludes the date the parties receive the Appeals Officer's written decision or the date on which an appeal is no longer timely. The District will endeavor to complete the Grievance Process within 90-120 days, absent extenuating circumstances or delays as described below. The District will treat both the Complainant and the Respondent equitably throughout the Grievance Process.

Neither the Title IX Coordinator, the Decision-Maker, the Investigator, Appeals Officer, nor any person designated to facilitate an informal resolution process will have a conflict of interest or bias for or against Complainants or Respondents generally or for or against an individual Complainant or Respondent.

The Grievance Process requires an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

Throughout the Grievance Process, there is a presumption that the Respondent is not responsible for the alleged conduct unless, in the determination of responsibility, the Decision-Maker finds the Respondent responsible for the alleged conduct.

At any point, the Title IX Coordinator, Investigator, Decision-Maker, or Appeals Officer may temporarily delay the Grievance Process or permit a limited extension of time frames for good cause. Good cause may include absence of a party, party's advisor, or witness; concurrent law enforcement activity; or the need for accommodations (e.g., language assistance or accommodation of disabilities). If there is a delay or extension, the parties will receive written notice of the delay or extension and the reasons for the action.

Any disciplinary action resulting from the Grievance Process will be issued in accordance with District Policy, as applicable, and any applicable codes of conduct, handbooks, collective bargaining agreements, and individual employee contracts.

After the investigation portion of the Grievance Process has concluded, the Decision-Maker will endeavor to issue a determination of responsibility within 30 days, absent extenuating circumstances.

2. Notice of Allegations

Upon receipt of a Formal Complaint, the District must provide written notice to the parties who are known at the time that includes:

- a. A copy of this Policy, which includes the District's Grievance Process, and any informal resolution process;

- b. The sexual harassment allegations, including sufficient details known at the time and with sufficient time so that parties may prepare a response before the initial interview. Sufficient details include parties involved in the incident, if known; the alleged conduct constituting sexual harassment; and the date and time of the alleged incident;
- c. A statement that the Respondent is presumed not responsible for the alleged conduct;
- d. A statement that a determination of responsibility is made at the Grievance Process's conclusion;
- e. A statement that the parties may have an advisor of their choice, who may be an attorney, although any attorney or advisor who is not a District employee will be at the party's own cost;
- f. A statement that the parties will be provided an opportunity to inspect and review any evidence before the investigation report is finalized; and
- g. If the Complainant or Respondent is a student, and the District's Student Code of Conduct addresses false statements by students during the disciplinary process, a citation to that portion of the Code of Conduct. If the Code of Conduct does not address false statements by students, the notice is not required to include any reference.

If, during the course of an investigation, the Investigator decides to investigate allegations that are not included in this notice, the District will provide notice of the additional allegations to the Complainant and Respondent.

3. Informal Resolution

During the Grievance Process, *after* a Formal Complaint has been filed but before a determination of responsibility has been made, the District may offer to facilitate an informal resolution process, or either party may request the informal resolution process. A Formal Complaint must be filed to initiate the informal resolution process.

Informal resolution does not require a full investigation and may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice. The Title IX Coordinator will determine the informal resolution process that will be used, including the person who will facilitate that process.

Informal resolution is not available for a Formal Complaint alleging that an employee sexually harassed a student.

A party is not required to participate in an informal resolution process.

When offering informal resolution, the Title IX Coordinator must (1) provide both parties written notice of their rights in an informal resolution; and (2)

obtain written, voluntary consent from both parties to enter into the informal resolution process. The written notice must contain the:

- a. Allegations;
 - b. Informal resolution requirements, including the circumstances under which the informal resolution precludes the parties from resuming a Formal Complaint arising from the same allegations;
 - c. Right to withdraw from informal resolution and resume the Grievance Process at any time prior to agreeing to a resolution; and
 - d. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared
4. Investigation

The District has the burden of proof and the burden to gather evidence sufficient to reach a determination of responsibility.

a. Investigation Process

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 in writing.

The District may not access, consider, disclose, or otherwise use a party's medical records, including mental health records, which are made and maintained by a healthcare provider in connection with the party's treatment unless the District obtains that party's voluntary, written consent to do so for the Grievance Process.

The Investigator must provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence. The Investigator cannot restrict parties from discussing the allegations under investigation, nor can the Investigator restrict parties from gathering or presenting relevant evidence.

Parties may be accompanied by an advisor of their choice, including an attorney, in any meeting or Grievance Process proceeding. If a party chooses an advisor who is not a District employee, the District is not responsible for any associated costs. The Superintendent or designee may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties (e.g., abusive, disruptive behavior or language will not be tolerated; advisor will not interrupt the investigator to ask questions of witnesses).

The Investigator must provide the date, time, location, participants, and purpose of all hearings (if any), investigative interviews, and meetings, to a party whose participation is invited or expected. Written notice must be provided a sufficient time in advance so that a party may prepare to participate.

As described in Section L of this Policy, retaliation against a person for making a complaint or participating in an investigation is prohibited.

The Investigator must ensure that the Complainant and Respondent have an equal opportunity to inspect and review any evidence obtained as part of the investigation so that each party has the opportunity to meaningfully respond to the evidence before the investigation's conclusion. This evidence includes (1) evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and (2) inculpatory or exculpatory evidence obtained from any source.

Before the investigation's completion, the Investigator must 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 must have at least 10 calendar days to submit a written response to the Investigator. The party's response must be considered by the Investigator before completing the final investigation report.

b. Investigation Report

The Investigator must create an investigation report that fairly summarizes relevant evidence and submit the investigation report to the Decision-Maker.

At least 10 calendar days before a determination of responsibility is issued, the Investigator must send the investigation report to each party for review and written response. Written responses to the investigation report must be submitted directly to the Decision-Maker.

The Investigator will endeavor to complete the investigation and finalize the report within 60 days.

5. Determination of Responsibility

The Decision-Maker cannot be the same person as the Title IX Coordinator, Investigator, Appeals Officer, or person designated to facilitate an informal resolution process.

Before the Decision-Maker reaches a determination of responsibility, and after the Investigator has sent the investigation report to the parties, the Decision-Maker must:

- a. Afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness; and
- b. Provide each party with the answers, and allow for additional, limited follow-up questions from each party.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless offered to prove that someone other than the Respondent committed the alleged misconduct, or 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.

If the Decision-Maker decides to exclude questions from either party as not relevant, the Decision-Maker must explain the decision to the party proposing the questions.

The Decision-Maker must issue a written determination of responsibility based on a preponderance of the evidence standard (i.e., more likely than not) simultaneously to both parties. The written determination of responsibility must include:

- a. Identification of the sexual harassment allegations;
- b. Description of the procedural steps taken from the receipt of the Formal Complaint through the determination of responsibility, including any:
 - i. Notification to the parties;
 - ii. Party and witness interviews;
 - iii. Site visits;
 - iv. Methods used to collect evidence; and
 - v. Hearings held.
- c. Factual findings that support the determination;
- d. Conclusions about the application of any relevant code of conduct, policy, law, or rule to the facts;
- e. A statement of, and rationale for, the result as to each allegation, including:
 - i. A determination of responsibility;
 - ii. Any disciplinary action taken against the Respondent (consistent with Policies 4309, 4407, 4506, 4606, or 5206, as applicable, and any applicable codes of conduct, handbooks, collective bargaining agreements, or individual employee contracts); and

- iii. Whether remedies designed to restore and preserve equal access to the District's education program or activity will be provided to the Complainant.

- f. Appeal rights

2. Appeals

Notice of the determination of responsibility or dismissal decision must include notice of the parties' appeal rights.

Both parties may appeal a determination of responsibility or the decision to dismiss a Formal Complaint in whole or in part for the following reasons only:

- a. A procedural irregularity that affected the outcome.
- b. New evidence that was not reasonably available at the time the determination of responsibility or dismissal decision was made that could affect the outcome.
- c. The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against the Complainant or Respondent, generally or individually, that affected the outcome.

An appeal must be filed with the Title IX Coordinator within 5 calendar days of the date of the determination of responsibility or dismissal decision.

Upon receipt of an appeal, the Title IX Coordinator will assign an Appeals Officer who will provide both parties written notice of the appeal and an equal opportunity to submit a written statement in support of, or challenging, the determination or dismissal decision.

The Appeals Officer must provide a written decision describing the result of the appeal and the rationale for the result to both parties simultaneously. The Appeals Officer will endeavor to decide an appeal within 30 days.

The Appeals Officer cannot be the same person who acts as the Title IX Coordinator, Investigator, Decision-Maker, or person designated to facilitate an informal resolution process on the same matter. The Appeals Officer also cannot have a conflict of interest or bias against Complainants and Respondents generally or individually.

The determination of responsibility is final upon the date the parties receive the Appeals Officer's written decision or on the date on which an appeal is no longer timely.

B. Dismissal

1. Mandatory Dismissals

The Title IX Coordinator must dismiss a Formal Complaint if:

- a. The Formal Complaint's allegations, even if proven, would not constitute sexual harassment as defined in this Policy;
- b. The Formal Complaint's allegations did not occur in the District's programs or activities; or
- c. The Formal Complaint's allegations did not occur in the United States.

2. Discretionary Dismissals

The Title IX Coordinator may dismiss a Formal Complaint if:

- a. The Complainant notifies the Title IX Coordinator in writing that the Complainant wishes to withdraw the Formal Complaint in whole or in part;
- b. The Respondent's enrollment or employment ends; or
- c. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination (e.g., several years have passed between alleged misconduct and Formal Complaint filing, Complainant refuses or ceases to cooperate with Grievance Process).

The Title IX Coordinator will promptly and simultaneously notify both parties when a Formal Complaint is dismissed. The notice must include the reasons for mandatory or discretionary dismissal and the right to appeal. Appeal rights are discussed above in Subsection F(6) of this Policy.

Dismissal of a Formal Complaint under this Policy does not excuse or preclude the District from investigating alleged violations of other policy, rule, or law, or from issuing appropriate discipline based on the results of the investigation.

C. Consolidation of Complaints

The Title IX Coordinator or Investigator may consolidate Formal Complaints where the allegations arise out of the same facts or circumstances. Where a Grievance Process involves more than one Complainant or more than one Respondent, references in this Policy to the singular "party," "Complainant," or "Respondent" include the plural, as applicable.

D. Remedies and Disciplinary Sanctions

The District will take appropriate and effective measures to promptly remedy the effects of sexual harassment. The Title IX Coordinator is responsible for the effective implementation of any remedies.

Appropriate remedies will be based on the circumstances and may include, but are not limited to:

- 1. Providing an escort to ensure that the Complainant and Respondent can safely attend classes and school activities;

2. Offering the parties school-based counseling services, as necessary;
3. Providing the parties with academic support services, such as tutoring, as necessary;
4. Rearranging course or work schedules, to the extent practicable, to minimize contact between the Complainant and Respondent;
5. Moving the Complainant's or the Respondent's locker or work space;
6. Issuing a "no contact" directive between the Complainant and Respondent;
7. Providing counseling memoranda with directives or recommendations;

These remedies may also be available to any other student or person who is or was affected by the sexual harassment.

The District will impose disciplinary sanctions consistent with District Policy, as applicable, and any applicable codes of conduct, handbooks, collective bargaining agreements, or individual employee contracts. Discipline may range from warning or reprimand to termination of employment, or student suspension or expulsion.

After a determination of responsibility, the Title IX Coordinator should consider whether broader remedies are required, which may include, but are not limited to:

1. Assemblies reminding students and staff of their obligations under this Policy and applicable handbooks;
2. Additional staff training;
3. A climate survey; or
4. Letters to students, staff, and parents/guardians reminding persons of their obligations under this Policy and applicable handbooks.

If the Complainant or Respondent is a student with a disability, the District will convene an IEP or Section 504 Team meeting to determine if additional or different programs, services, accommodations, or supports are required to ensure that the Complainant or Respondent continues to receive a free appropriate public education. Any disciplinary action taken against a Respondent who is a student with a disability must be made in accordance with Policy 5206B and the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act.

B. False Statements

Any person who knowingly makes a materially false statement in bad faith in a Title IX investigation will be subject to discipline, up to and including discharge or permanent expulsion. A dismissal or determination that the Respondent did not

violate this Policy is not sufficient, on its own, to conclude that a person made a materially false statement in bad faith.

C. Confidentiality

The District will keep confidential the identity of a person who reports sexual harassment or files a Formal Complaint, including parties and witnesses, except as permitted or required by law or to carry out any provision of this Policy, applicable regulations, or laws.

D. Retaliation

Retaliation (e.g., intimidation, threats, coercion) for the purpose of interfering with a person's rights under Title IX is prohibited. This prohibition applies to retaliation against any person who makes a report, files a Formal Complaint, or participates in, or refuses to participate in a Title IX proceeding. Complaints alleging retaliation may be pursued in accordance with District Policy.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by this Section.

When processing a report or Formal Complaint of sexual harassment, pursuing discipline for other conduct arising out of the same facts or circumstances constitutes retaliation if done for the purpose of interfering with that person's rights under Title IX.

Any person who engages in retaliation will be disciplined in accordance with District Policy, as applicable, and any applicable codes of conduct, handbooks, collective bargaining agreements, and individual employee contracts.

E. Training

All District employees must be trained on how to identify and report sexual harassment.

Any person designated as a Title IX Coordinator, Investigator, Decision-Maker, Appeals Officer, or any person who facilitates an informal resolution process must be trained on the following:

1. The definition of sexual harassment;
2. The scope of the District's education programs or activities;
3. How to conduct an investigation and the District's grievance process, including, as applicable, hearings, appeals, and informal resolution processes; and
4. How to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Investigators must receive training on how to prepare an investigation report as outlined in Subsection F(4)(b) above, including, but not limited to, issues of relevance.

Decision-Makers and Appeals Officers must receive training on issues of evidence and questioning, including, but not limited to, when questions about a Complainant's prior sexual history or disposition are not relevant.

Any materials used to train District employees who act as Title IX Coordinators, Investigators, Decision-Makers, Appeals Officers, or who facilitate an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints. These training materials must be posted on the District's website.

F. Record Keeping

The District will maintain records related to reports of alleged Title IX sexual harassment for a minimum of seven years. This retention requirement applies to investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken, such as supportive measures.

The District will also retain any materials used to train Title IX Coordinators, Investigators, Decision-Makers, Appeals Officers, and any person designated to facilitate an informal resolution process.

G. Office for Civil Rights

Any person who believes that he or she was the victim of sexual harassment may file a complaint with the Office for Civil Rights (OCR) at any time:

U.S. Department of Education Office for Civil Rights
1350 Euclid Avenue, Suite 325
Cleveland, Ohio 44115
Phone: (216) 522-4970
E-mail: OCR.Cleveland@ed.gov

An OCR complaint may be filed before, during, or after filing a Formal Complaint with the District. A person may forego filing a Formal Complaint with the District and instead file a complaint directly with OCR. The District recommends that a person who has been subjected to sexual harassment also file a Formal Complaint with the District to ensure that the District is able to take steps to prevent any further harassment and to discipline the alleged perpetrator, if necessary. OCR does not serve as an appellate body for District decisions under this Policy. An investigation by OCR will occur separately from any District investigation.

Legal authority: Education Amendments Act of 1972, 20 USC §§1681 - 1688; 34 CFR Part 106

Date adopted:

Date revised:

Series 3000: Operations, Finance, and Property

3300 Facilities, Real, and Personal Property

3303 Gifts and Donations

The Board recognizes and appreciates the generosity and support it receives in the form of gifts, donations, and voluntary contributions ("Donations") from individuals, companies, parent/guardian support groups, the community, and other donors.

The District requests that substantial Donations be accompanied by Form 3303-F Gifts and Donations. All Donations made for a particular purpose must be accompanied by Form 3303-F.

A. Accepting Donations

1. Donations must be lawful and support an educational purpose.
2. Donations accepted by the District will become public funds or public property unless an exception is provided under applicable law.
3. The Board authorizes the Superintendent or designee to accept Donations of personal property on behalf of the Board with an estimated fair market value under the bid limit established annually on October 1 by MDE. The Board retains authority, in its discretion, to accept Donations of personal property with a fair market value exceeding the current MDE bid limit amount referenced above.
4. The Board must approve all Donations of real property, regardless of value.
5. Donations accepted by the District will be used for any specific purpose identified by the donor provided the purpose is lawful and consistent with the District's interests and objectives. A donor may identify the specific purpose of the Donation and any other lawful conditions using the District 3303-F.
6. Except as required by law, the District does not have an obligation to replace a Donation that is lost, destroyed, or becomes obsolete.

B. Soliciting Donations

1. The District may solicit donations in accordance with law, which may include pursuing an exemption from registration under the Charitable Organizations and Solicitations Act.
2. Any individual wishing to solicit donations on behalf of the District must obtain prior written approval from the Superintendent or designee before representing any affiliation with the District. Unless otherwise agreed by the Superintendent or designee, the individual will be responsible for all costs and liability related to the solicitation and all received donations will become the District's property.

C. Scholarships are governed by Policy 3207.

D. A donor is solely responsible for any tax consequences related to a Donation.

Legal authority: MCL 123.905; MCL 400.271, et seq.

Date adopted:

Date revised:

Series 3000: Operations, Finance, and Property

3400 School Safety and Security

3403 *Reporting Accidents*

If a student suffers a serious physical injury while at school or while participating in a school-sponsored activity, District personnel, if aware of the injury, will promptly report the injury to the building principal or designee. If the student is a minor, the building principal or designee will promptly notify the student's parent(s)/legal guardian(s). In addition to contacting appropriate emergency medical resources, District personnel will complete an accident report. See Policy 5702.

Date adopted:

Date revised:

Series 3000: Operations, Finance, and Property

3400 School Safety and Security

3404 Communicable Diseases

A person with a communicable disease will be restricted only to the extent necessary to prevent the transmission of the disease, protect the person's health and privacy rights, and protect the health and safety of others.

The Michigan Department of Health and Human Services maintains a list of reportable diseases and infections, including those capable of being transmitted to a person. The District will work cooperatively with the local health department to identify, report, and contain diseases and infections in accordance with applicable laws and local health department policies and guidance.

- A. District personnel will immediately notify the Superintendent or designee when they reasonably suspect the presence of a listed communicable disease.
- B. When it is reasonably suspected that a person has a communicable disease (except for AIDS or HIV infection), the Superintendent or designee may exclude the person for a period sufficient to obtain a determination by a physician or local health officer as to the presence of a communicable disease.
- C. A person excluded under subsection B may return to school and school-related activities when a physician or local health officer determines that the person does not represent a risk to others.
- D. The Superintendent or designee will report to the local health department within 24 hours after suspecting either of the following:
 - 1. The occurrence of a serious communicable disease listed by the Michigan Department of Health and Human Services (except for AIDS or HIV infection); or
 - 2. The unusual occurrence, outbreak, or epidemic of any disease, infection, or condition within the District.
- E. Reports, records, data, and other information associated with AIDS or HIV may be subject to heightened confidentiality requirements in accordance with MCL 333.5131.

Legal authority: MCL 333.5111, 333.5131; Mich Admin Code R 325.171-173, 325.175

Date adopted:

Date revised:

Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501 Freedom of Information Act

The District is a “public body,” as defined in Section 2 of the Michigan Freedom of Information Act (FOIA). It is the District’s policy to comply with FOIA.

The Superintendent is the District’s FOIA Coordinator but may designate another person to accept, process, approve, and deny FOIA requests. The Superintendent will establish written procedures and guidelines, a written public summary of the procedures and guidelines, and a detailed itemization of fees form in compliance with FOIA. The procedures and guidelines will not provide for fee appeals to the Board.

Legal authority: MCL 15.231 et seq.

Date adopted:

Date revised:

Series 3000: Operations, Finance, and Property

3500 FOIA Requests and Record Retention

3501-AG Michigan Freedom of Information Act Procedures and Guidelines

The Michigan Freedom of Information Act (FOIA) provides for public access to certain public records, permits the charging of prescribed fees and deposits, and provides remedies and penalties for non-compliance. A person has a right to inspect, copy, or receive copies of certain requested public records. Some public records are permitted or required not to be disclosed. The District is a public body that must comply with FOIA. The District has established the following Procedures and Guidelines to implement FOIA. For purposes of these Procedures and Guidelines, terms have the same meaning as defined in FOIA. A complete copy of FOIA is available on the Michigan Legislature's website at www.legislature.mi.gov.

These Procedures and Guidelines (which include a Public Summary and a Fee Itemization Form) are available on the District's website at: www.okemosk12.net. This link or a physical copy of these Procedures and Guidelines will be included in each of the District's FOIA responses. Paper copies of these Procedures and Guidelines are available upon request by a visitor at the District's Central Administration Offices, located at 4406 N Okemos Rd, Okemos, MI 48864.

A. Written Public Summary

1. How to Submit Written Requests

A written request to inspect, copy, or review a public record should be submitted to the District's FOIA Coordinator.

FOIA requests can be sent via U.S. Mail to: Okemos FOIA Coordinator, 4406 N Okemos Rd, Okemos, MI 48864

FOIA requests sent via email should be sent to: comms@okemosk12.net

A request must describe the public record in sufficient detail to enable the District to find the requested record. A sample Request Form is appended to these Procedures and Guidelines as Attachment A.

A request must include the requester's (1) complete name (first and last name), (2) mailing address, and (3) either phone number or email address. A request made by an organization must include the contact information of its agent or representative. Any mailing address provided must be in a format that complies with United States Postal Service addressing standards. This information is not required for a request by an individual who qualifies as indigent under FOIA (i.e., by submitting an affidavit that describes the individual's indigence).

A person may subscribe to future issuances of public records created, issued, or disseminated by the District *on a regular basis*, such as notices of board

meetings. A subscription is valid for up to 6 months and may be renewed by the subscriber.

In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, electronically mailed, or otherwise electronically provided. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided *by the requester* and, to safeguard the District's information technology infrastructure, will not do so.

A person may request a certified copy of a public record.

2. Explanation of Written Responses

The District will respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the written request, unless otherwise agreed to in writing by the requester. FOIA defines the date of receipt by the District differently depending upon how the request was delivered to the District (e.g., hand-delivery, U.S. Mail, email, facsimile).

The District will respond to a request by doing one of the following: (a) granting the request; (b) issuing a written notice denying the request; (c) granting the request in part and issuing a written notice denying the request in part; or (d) issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.

If a requester asks for information that is available on the District's website, the District will notify the requester in its response where to find the records on its website. Paper copies of public records available on the District's website will be made available upon request, but a fee may be charged as explained in Section B.4 and on the detailed Fee Itemization Form.

The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which a requester may inspect records to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.

If a request is denied in whole or in part, the District will include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample Certificate of Non-Existence of Public Record is appended as Attachment B. If

a public record or information is separated and exempt from disclosure (redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

3. Deposit Requirements

Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed \$50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of the allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The time frame estimate is not binding on the District but will be made in good faith, and the District will strive to be reasonably accurate.

If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

If a requester fails to pay the good-faith deposit within 48 days after the date of the deposit notice and if the requester has not appealed the deposit amount, the request will be considered abandoned and the District will no longer be required to fulfill the request.

4. Fee Calculations

The FOIA permits the District to charge 6 fee components: (a) labor costs of searching for, locating, and examining public records; (b) labor costs of separating or deleting (redacting) exempt information from non-exempt information; (c) labor costs to duplicate or publish requested public records; (d) actual costs of paper copies (not to exceed 10 cents per sheet for standard 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper); (e) actual costs of non-paper physical media (e.g., flash drive, CD), if requested and if the District has the technological capability to comply; and (f) actual costs of postal delivery. For more detailed information about the District's fee calculations, including fee reductions for untimely responses, see Section B.4. of these Procedures and Guidelines and Attachment C, Fee Itemization Form. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.

- a. Fee Waivers. A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the District determines that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.
- b. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first \$20 of the fee:
 - i. If an individual who is entitled to information under the FOIA:
 - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and
 - that individual has not previously received discounted copies of public records from the District twice during the same calendar year.
 - ii. If a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request that meets all of the following requirements:
 - is made directly on behalf of the organization or its clients;
 - is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Mental Health Code, 1974 PA 258, MCL 330.1931; and
 - is accompanied by documentation of its designation by the state, if requested by the District.

5. Avenues for Challenge and Appeal

- a. Challenge to Record Denial. If the District fails to respond to a FOIA request or makes a final determination to deny all or a portion of a request, the requester may submit an appeal to the Board or may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.a. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for appealing a record denial.

- b. Challenge to Fee. If the District requires a fee that the requester believes exceeds the amount permitted under FOIA or the District's publicly available procedures and guidelines, the requester may commence an action in the circuit court for the county in which the public record or the District's office is located. See Section B.5.b. of these Procedures and Guidelines for a more detailed explanation of the procedures and timelines for a fee appeal.

B. Procedures and Guidelines

1. Requests

- a. All "persons," except those persons incarcerated in state or local correctional facilities, are entitled to submit a FOIA request to the District. A "person" is defined for purposes of the FOIA to mean "an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity." A request made by a "person," other than an individual (e.g., a corporation, firm, governmental entity) must include the requester's complete name (first and last name), mailing address, and either the phone number or email address of the "person's" agent who is an individual. Any mailing address provided must comply with United States Postal Service addressing standards.
- b. A FOIA request is a written request to inspect, copy, or receive copies of a public record. A request must describe the public record in sufficient detail to enable the District to find the requested record. The District suggests that requesters use the sample Request Form appended as Attachment A.
- c. FOIA requests must be in writing. If, however, a person makes an oral request for information that is available on the District's website and if the employee to whom the request is directed knows that the information is available on the District's website, that employee must inform the requester that the information is available on the District's website.
- d. The District's FOIA Coordinator is responsible to process requests to inspect, copy, or receive copies of public records. FOIA requests should be sent to the District's FOIA Coordinator.
 - i. FOIA requests can be sent via U.S. Mail to: Okemos FOIA Coordinator, 4406 N Okemos Rd, Okemos, MI 48864
 - ii. FOIA requests sent via email should be sent to: comms@okemosk12.net

If an employee of the District receives a written request to inspect, copy, or receive copies of a public record, the employee should promptly forward the request to the District's FOIA Coordinator. A requester is not required to use the District's sample Request Form or to include the word "FOIA" in the request. Therefore, all written requests to inspect, copy, or receive

copies of records should be promptly forwarded to the FOIA Coordinator for review.

- e. The FOIA Coordinator will keep a copy of all written requests for public records received by the District on file for a period of at least 1 year.
- f. A person may subscribe to future issuances of public records created, issued, or disseminated on a regular basis, such as notices or agendas of board meetings. In all other respects, if the requested public record does not exist as of the date requested, the District has no obligation under the FOIA to create the requested record or to provide a copy if created on a later date. A subscription is valid for up to 6 months and may be renewed by the subscriber.
- g. The FOIA Coordinator will, upon written request, furnish a certified copy of a public record to the requester.

2. Responses

- a. Unless otherwise agreed to in writing by the person making the request, the District must respond to a written request under FOIA within 5 business days (excluding weekends and legal holidays) after the District receives the request by doing one of the following:
 - i. granting the request;
 - ii. sending written notice denying the request;
 - iii. granting the request in part and issuing a written notice denying the request in part; or
 - iv. issuing a notice extending for not more than 10 business days the period during which the District will respond to the request. The District will not issue more than 1 notice of extension for a particular request.
- b. If a request is denied in whole or in part, the District must include in the written notice of denial an explanation of the basis for the denial and, if applicable, a certificate that the public record does not exist under the name given by the requester or by another name reasonably known to the District. A sample Certificate of Non-Existence of Public Record is appended as Attachment B.
 - i. Exemptions to disclosure are set forth in Section 13 of the FOIA, MCL 15.243, which is available on the Michigan Legislature's website at www.legislature.mi.gov.
 - ii. If a public record or information is separated and exempt from disclosure (redacted), the District will describe generally the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

- c. The date for responding to a FOIA request depends upon the manner in which the request was delivered. A request sent by mail or delivered by hand is received for purposes of FOIA on the day it arrives at the District. A request sent by email, fax, or other electronic means is received for purposes of FOIA 1 business day after the date on which it was electronically transmitted. If a request is sent by email and is diverted to the District spam or junk mail folder, the request is not received until 1 day after the date it is discovered in the spam or junk mail folder. The FOIA Coordinator will include in the District's records both the time that a written request was delivered to its spam or junk-mail folder and the time that the District first became aware of that request. The District will review the FOIA Coordinator's spam or junk mail folder at least once every 30 days.
- d. If a request is fully granted, the District will provide copies of, or an opportunity to inspect, all the public records that were requested upon payment of the appropriate fee (if any). No pages will be left out, and nothing will be redacted.
- e. The District will provide reasonable facilities for a requester to inspect non-exempt public records. The facilities will be available during the District's normal business hours. The FOIA Coordinator will establish rules regulating the manner in which records may be inspected to protect the District's records from loss, alteration, mutilation, or destruction or to prevent undue interference with the District's normal operations.
- f. The FOIA identifies numerous specific exemptions to disclosure. If a request includes information that is exempt from disclosure, the District will provide a written response and list the reason(s) why the record(s) or portions of records will not be disclosed. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
- g. If a request is partially denied, it means that some records or parts of records will be disclosed, and that some records or parts of records will not be disclosed. The District will provide copies of, or an opportunity to inspect, the non-exempt records, but exempt information (which may consist of entire documents, pages, or information on a page) may be withheld or redacted. The District will include in the written notice of denial-in-part an explanation of the basis for the denial-in-part and, if applicable, a certificate that one or more of the public records does not exist under the name given by the requester or by another name reasonably known to the District. The District will include a link to, or a copy of, these Procedures and Guidelines (including the Public Summary and Attachments) with each denial.
- h. Failure of the District to respond to a FOIA request within the prescribed timelines constitutes denial of the request. The fee the District is permitted to charge will be reduced by 5% per day, up to a 50% reduction, if the

failure to timely respond was willful or intentional or if the request included language described in FOIA as readily conveying a FOIA request. (See Section B.4., Fees).

- i. The FOIA does not require the District to create any records or to make compilations, summaries, or reports of existing records. If a request seeks records that do not exist, the District will certify that no records responsive to the request exist under the name or description provided in the request or another name known to the District. (See sample Certificate of Non-Existence of Public Record appended as Attachment B).
- j. If a request asks for information that is available on the District's website, the District will notify the requester in its response where the records may be found. If a requester seeks paper copies of information available on the website, the District may charge the fees noted below and on the Fee Itemization Form, except that there will be no charge for separating exempt from non-exempt material.
- k. In lieu of paper copies, the requester may stipulate that the District provide non-exempt public records on non-paper physical media, by electronic mail, or other electronic means. The District is not required to produce non-exempt public records on non-paper physical media if the District lacks the technological capability necessary to provide the requested records on the particular non-paper physical media stipulated in the particular instance. The District is not required to use non-paper physical media provided by the requester and, to safeguard the District's information technology infrastructure, will not do so.

3. Deposit Requirements

- a. Where the District estimates that the fee authorized under the FOIA and these Procedures and Guidelines for responding to a request will exceed \$50, the District may require a good-faith deposit from the requester before processing the request. A good-faith deposit will not exceed half of the total estimated fee and will include a detailed itemization of estimated fee amounts. The FOIA Coordinator will provide the requester with a detailed itemization of allowable fees estimated to be incurred by the District to process the request as well as notice of the date by which the deposit must be received, which is 48 days after the notice is sent by any means of transmission. The District will include with its request for a good-faith deposit a best efforts estimate of the time frame within which the District will provide the requested public records. The timeframe estimate is not binding on the District, but the estimate will be made in good faith and the District will strive to be reasonably accurate.
- b. If a requester fails to pay the good-faith deposit within 48 days of the date of notice and if the requester has not filed an appeal of the deposit

amount, the request will be considered abandoned by the requester and the District is no longer required to fulfill the request.

- c. If a requester previously requested public records from the District and if the District made the requested public records available on a timely basis but was not paid in full the total estimated fee for that previous request, the District may, to the extent permitted by the FOIA, require a deposit of up to 100% of the estimated fee for the subsequent request(s).

4. Fees

- a. A fee will not be charged for the cost to search, examine, review, and delete/separate/redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the District. In determining whether such costs are "unreasonably high," the District will consider, on a case-by-case basis, the estimated costs given the volume and complexity of the request relative to the usual or typical costs incurred by the District in responding to FOIA requests.
- b. Fees are calculated using the Fee Itemization Form appended to these Guidelines and Procedures as Attachment C. The District charges the following fees:
 - i. Labor costs incurred for searching for, locating, and examining public records. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of searching for, locating, and examining the public records. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of searching for, locating, and examining particular records may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to search for, locate, or examine the requested record. All charges will be noted on the Fee Itemization Form.
 - ii. Labor costs for separating and deleting exempt information from non-exempt information. Labor costs are calculated in 15-minute increments (rounded down) and will not exceed the hourly rate of the lowest-paid employee capable of separating and deleting material that is exempt from disclosure from information that is non-exempt from disclosure. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form. The hourly rate of the lowest-paid employee capable of separating and deleting exempt information from non-exempt information may vary depending upon the nature of the records sought and the corresponding qualifications or authorizations required to separate and redact exempt information from non-exempt information.

If the District FOIA Coordinator determines on a case-by-case basis that no employee of the District is capable of separating and deleting exempt from non-exempt material, the District may engage a contracted services provider and charge labor costs. Such labor costs will be calculated in 15-minute increments (rounded down), and the hourly rate will not exceed 6 times the state minimum wage. All charges will be noted on the Fee Itemization Form.

- iii. Costs for non-paper physical media. A requester may stipulate that records be produced on non-paper physical media (e.g., a flash drive or CD). If the District has the technological capability to comply with the request for production on non-paper physical media, the District may charge the actual and most reasonably economical cost of the requested non-paper physical media, and the cost of non-paper physical media will be included on the Fee Itemization Form.
- iv. Actual cost of duplication for paper records. The District will charge the actual cost of duplication (not to exceed 10 cents per sheet) for 8-1/2 by 11-inch sheets of paper or 8-1/2 by 14-inch sheets of paper. The actual cost of duplication will be charged for non-standard-sized sheets of paper and may exceed 10 cents per sheet. The District will utilize the most economical means available for making copies of public records, including using double-sided printing, if cost saving and available.
- v. Actual labor costs for duplication or publication. The District's charges for duplication or publication will not exceed the hourly rate of the lowest-paid employee capable of duplicating or publishing the records. The hourly rate of the lowest-paid employee capable of duplicating or publishing records may vary depending on the nature of the records sought. Duplication or publication fees are calculated in 15-minute increments (rounded down). All charges will be noted on the Fee Itemization Form.
- vi. Postal delivery charges. The District may charge the costs of the least expensive form of postal delivery. If a requester asks for expedited mailing and if the District agrees to provide expedited mailing, the actual cost of the expedited mailing may be charged and must be included on the Fee Itemization Form.
- vii. Fringe benefits. The District may add to the labor charges described above the actual cost of the public employee's fringe benefits, up to 50% of the labor costs. Fringe benefits must be noted on the Fee Itemization Form.
- viii. Overtime wages. No overtime will be charged unless requested by the requester, approved by the District, and included on the Fee Itemization Form.

- c. Each of the fee components described above must be specifically listed on the Fee Itemization Form. A completed copy of the Fee Itemization Form will be included with the response to the request. A copy of the Fee Itemization Form is appended to these Procedures and Guidelines as Attachment C.
- d. Fee reductions. If the FOIA Coordinator does not respond to a written request within the time frames required by FOIA, the District will reduce the charges for labor costs otherwise permitted under FOIA and these Procedure and Guidelines by 5% for each day the District exceeds the time permitted for a response to the request, up to a maximum 50% reduction, if either of the following applies:
 - i. The late response was willful and intentional.
 - ii. The written request included language that conveyed a request for information within the first 250 words of the body of a letter, facsimile, electronic mail, or electronic mail attachment or specifically included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy," or a recognizable misspelling of such, or appropriate legal code reference for the FOIA, on the front of an envelope or in the subject line of an electronic mail, letter, or facsimile cover page.

If a fee reduction is required, the District will fully note the fee reduction on the detailed Fee Itemization Form (Attachment C).

- e. Payment. The FOIA Coordinator will require that payment be made in full for the allowable fees before the requested records are made available.
- f. Fee waivers. A search for a public record may be conducted, or copies of public records may be furnished, without charge or at a reduced charge if the District determines, in its discretion, that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.
- g. Discounts. Under the following circumstances, a public record search will be made by the District and a copy of a non-exempt public record will be furnished without charge for the first \$20 of the fee:
 - i. if an individual who is entitled to information under the FOIA:
 - submits an affidavit stating that the individual is receiving specific public assistance or is unable to pay the fee because of indigence and stating that the individual is not making the request in conjunction with outside parties in exchange for payment or other remuneration; and

- that individual has not previously received discounted copies of public records from the District twice during the same calendar year.
- ii. if a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, submits a request that meets all of the following requirements:
 - is made directly on behalf of the organization or its clients;
 - is made for a reason wholly consistent with the mission and provisions of those laws under Mental Health Code Section 431, 1974 PA 258, MCL 330.1931; and
 - is accompanied by documentation of its designation by the state, if requested by the District.

5. Appeals

A requester may appeal any denial of records or any fee charged for public records.

a. Challenge to Record Denial.

- i. If the District denies a request for records, the requester may either:
 - A) appeal to the District's Board; or
 - B) commence an action in the circuit court in Ingham County within 180 days of the denial.
- ii. If the requester appeals to the Board, the appeal must specifically state the word "appeal" and state the reason(s) that the denial should be reversed. The following rules apply to record denial appeals to the governing board:
 - A) An appeal is not "received" until the first regularly scheduled board meeting after the appeal is submitted.
 - B) Within 10 business days after receiving the appeal, the Board will do one of the following:
 - reverse the denial;
 - issue written notice upholding the denial;
 - reverse the denial in part and issue written notice upholding the denial, in part; or

- issue written notice extending the time for response by not more than 10 business days.
- C) If the Board fails to respond in a timely manner to the written appeal or upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requester may seek judicial review by commencing a civil action in circuit court.
- iii. A requester is not required to submit an appeal to the Board before commencing a civil action in circuit court to challenge a disclosure denial. If a circuit court determines that the requested record is not exempt from disclosure, the court will order the District to cease withholding or to produce all or a portion of the public record determined to have been wrongfully withheld. If the court determines that a disclosure denial was arbitrary and capricious, willful and intentional, or made in bad faith, the court will order that the District pay a civil fine to the state and punitive damages to the requester. If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced in the circuit court, the court will also require the District to pay the requester's reasonable attorneys' fees, costs, and disbursements. If the requester or the District prevails in part, the court may, in its discretion, award the District all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
- b. Challenge to fee. If the District requires a fee (defined to include a deposit) that the requester believes exceeds the amount permitted under the FOIA or these publicly available Procedures and Guidelines, the requester may, within 45 days after receiving notice of the required fee, commence an action in the circuit court for the county in which the public record or the District's office is located.
 - i. If a court determines that the fee exceeds the amount permitted under the FOIA or these Procedures and Guidelines, the court will reduce the fee to the permissible amount (if any).
 - ii. If the requester prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
 - iii. If the court determines that the District arbitrarily and capriciously violated FOIA by charging an excessive fee, or by acting in bad faith, the court will order that the District pay a civil fine to the state and punitive damages to the requester.

6. Questions

Any questions about these Procedures and Guidelines should be directed to the District's FOIA Coordinator.

7. Attachments

- a. Sample FOIA Request Form
- b. Sample Certificate of Non-Existence of Public Record
- c. Standard Form for Detailed Itemization of Fee Amounts

Adoption Date:

Revised Date:

Attachment A
Sample FOIA Request Form

[Date]

FOIA Coordinator

[Insert District Address]

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., I am writing [to inspect / to copy / to obtain copies of] the following public records:

[Insert description of records sought]

Optional: Please provide a copy of the requested public records on [Insert description of desired non-paper physical medium, such as CD or flash drive].

Optional: Please waive or reduce the fee to search for or furnish copies of the requested public records on grounds that a waiver or reduction of the fee is in the public interest because searching for or furnishing copies of the public records can be considered as primarily benefiting the general public.

Optional: Please furnish the requested records without charge for the first \$20 of the fee because (A) I am receiving public assistance [Insert specific description] or I am unable to pay the fee because of indigence; (B) I am not making this request in conjunction with outside parties in exchange for payment or other remuneration; and (C) I have not previously received discounted copies of public records from the [Public Body] twice during this same calendar year.

Optional: Please furnish the requested records without charge for the first \$20 of the fee because (A) this request is made directly on behalf of a nonprofit corporation formally designated by the State of Michigan to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, and the Protection and Advocacy for Individuals with Mental Illness Act, Public Law 99-319, or their successors, or on behalf of its clients; (B) this request is made for a reason wholly consistent with the mission and provisions of those laws under Mental Health Code Section 931, MCL 330.1931; and (C) this request is accompanied by documentation of designation by the State of Michigan.

Optional: I am writing to request, pursuant to the Michigan Freedom of Information Act, MCL 15.231 et seq., to subscribe for up to six months to the following future issuances of public records created, issued, or disseminated by [Public Body] on a regular basis: [Insert specific description].

Please contact me if you have any questions.

Sincerely,

[Requester Name]

[Requester Address]

[Requester Email]

[Requester Phone Number]

Attachment B
Certificate of Non-Existence of Public Record

To be sent on District letterhead.

[Date]

[Requester's Name]

[Requester's Address]

Re: Freedom of Information Act Request Dated [], 20[]

Dear [Mr./Ms.]:

[Insert District Name] is in receipt of your letter dated [], 20[], regarding a request under the Michigan Freedom of Information Act ("FOIA"). Your letter was received on [Insert statutory receipt date]. You requested [Insert description of records sought].

I hereby certify, pursuant to Section 5(5)(b) of FOIA, that your FOIA request is denied because, to the best of my knowledge, information, and belief, no public records exist as of [Insert statutory receipt date], under the name(s) set forth in your request as detailed below, nor under another name reasonably known to the District. MCL 15.235(5)(b).

**Right to Appeal Disclosure Denial
and Recover Attorneys' Fees and Costs**

If a public body makes a final determination to deny all or a portion of a FOIA request, the requester may do one of the following at his or her option:

- (1) Submit to the "head of the public body" (the Governing Board) a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the disclosure denial; or
- (2) Commence an action in the circuit court to compel the public body's disclosure of the public records.

If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under section 10 of the FOIA, the court will award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award will be assessed against the public body liable for damages that kept or maintained the public record as part of its public function.

If the circuit court determines in an action commenced under section 10 of the FOIA that the District arbitrarily and capriciously violated the FOIA by refusal or delay in disclosing or providing copies of a public record, or that the District willfully and intentionally failed to comply with FOIA or otherwise acted in bad faith, the court will award, in addition to any actual or compensatory damages, punitive damages as prescribed in FOIA to the person seeking the right to inspect or receive a copy of a public record. The damages will not be assessed against an individual but will be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

A full explanation of your right to seek either appeal or judicial review is set forth in Section 10 of the FOIA, MCL 15.240.

A copy of the District's FOIA Procedures and Guidelines is available on the District's website at www.okemosk12.net.

Very truly yours,

[Insert Name]

FOIA Coordinator

[Insert District Name]

Attachment C
Standard Form for Detailed Itemization of Fee Amounts

Okemos Public Schools
FOIA Fee Itemization Form

Requester's Name: _____ Date Request: _____ on _____

☐ Hand-Delivered ☐ U.S. Mail ☐ Email ☐ Fax

Date Received¹: _____ Estimated Fee: _____ -or- Actual Fee: _____

If estimated fee is over \$50, the District shall charge a good faith deposit of 50% of the estimated fee. Failure to pay the deposit within 48 calendar days of the District's notice constitutes abandonment, and the District is no longer required to fulfill the request.

Request diverted to spam/junk Mail²? ☐ Yes ☐ No If yes, please fill in delivery/discovery times:

Date/time delivered _____ Date/time discovered _____

Record available on website but copy nonetheless requested ☐ Yes ☐ No

Estimated date FOIA response will be available: _____

Labor Costs³

Not charged unless failure to charge would result in unnecessarily high costs to the District.

Searching/Locating/Examining Records

_____ x 1. _____ = _____ / 4 = _____ x _____ = _____

¹ A FOIA request is received on the date that it is hand-delivered, or that U.S. Mail is delivered, to the District. A FOIA request is treated as received on the next business day if sent via fax, email, or other electronic transmission; provided, however, the special rules apply to an email re-directed to a SPAM or trash account. (See n. 2)

² If a written request is sent by electronic mail and delivered to the public body's spam or junk-mail folder, the request is not received until 1 day after the public body first becomes aware of the written request. The public body shall note in its records both the time a written request is delivered to its spam or junk-mail folder and the time the public body first becomes aware of that request.

³ A fee shall not be charged to search, locate, examine, review, or delete/separate/redact exempt from non-exempt information unless failure to charge would result in unnecessarily high costs to the District.

Hourly wage⁴ x Fringe Benefit⁵ % = Hourly cost / 4 = 15 minute cost⁶ x # of Increments
Total

____ / 4 = ____ x ____ =
Overtime wage (if any)⁷ / 4 = 15 minute cost x # of Increments **Total**

Separating and Deleting Exempt from Non-Exempt Information/Records

Employee

____ x
1. ____ = ____ / 4 = ____ x ____ =
Hourly wage⁸ x Fringe Benefit % = Hourly cost / 4 = 15 minute cost x # of Increments
Total

____ / 4 = ____ x ____ =
Overtime wage (if any) / 4 = 15 minute cost x # of Increments **Total**

Contracted Labor (if any)

Name of person or firm engaged under
contract _____

____ / 4
= ____ x ____ =
Hourly wage / 4 = 15 minute cost x # of increments **Total**

Duplicating or Publishing Records⁹

____ x
1. ____ = ____ / 4 = ____ x ____ =
Hourly wage x Fringe Benefit % = Hourly cost / 4 = 15 minute cost x # of Increments =
Total

____ / 4 = ____ x ____ =

⁴ The hourly rate shall not be more than the hourly wage of the lowest-paid staff member capable of performing the labor in the particular instance.

⁵ The District will add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits. 100% of fringe benefit costs will be added to the applicable labor charge if a requester stipulates that records available on the District website nonetheless are requested to be provided in a paper format or in a specific form of electronic media. Under no circumstances shall the District charge more than the actual cost of fringe benefits.

⁶ In general, labor costs shall be estimated and charged in increments of 15 minutes, with all partial time increments rounded down. (See n. 9 for exception.) Divide the resulting hourly wage(s) by 4 to determine the charge per 15-minute increment.

⁷ Overtime rates shall not be included in the calculation of labor costs unless overtime is specifically requested by the requester and agreed upon by the District.

⁸ If more than one employee is completing any task, use additional cost itemization forms to separately note each employee's hourly wage, fringe benefits, and time.

⁹ Labor costs for duplicating or publishing records may be estimated and charged in time increments of the District's choosing, with all partial time increments rounded down. The District has determined to charge labor costs for duplicating or publishing records in 15-minute increments.

Total

Labor

Copying Costs for Paper Copies¹⁰

Letter (8 1/2" x 11")¹¹ Cost per page \$0. _____ x # of _____ sheets _____ = Total _____

Legal (8 1/2" x 14") Cost per page \$0. _____ x # of _____ sheets _____ = Total _____

Size _____ Cost per page \$0. _____ x # of _____ sheets _____ = Total _____

Size _____ Cost per page \$0. _____ x # of _____ sheets _____ = Total _____

**Subtotal
Costs** **Paper**

Postal Delivery Charges

Overnight or Special Request ☐ Yes
☐ No

\$ _____

Cost of Packaging

\$ _____

Postage Cost

\$ _____

Cost of Delivery Confirmation

\$ _____

Special Shipping Cost

\$ _____

Insurance Cost

\$ _____

**Subtotal
Costs** **Postage**

Non-Paper Physical Media

USB Flash Drives \$ _____ each x # of _____ drives _____ = Total _____

Computer Discs \$ _____ each x # of _____ discs _____ = Total _____

Other Digital Media _____ \$ _____ each x # of _____ = Total _____

¹⁰ The District shall utilize the most economical means available for making copies, including using double-sided printing.

¹¹ The fee shall not exceed 10 cents per sheet of paper (one-sided or two-sided) for copies made on 8 1/2 x 11-inch sheets of paper or 8 1/2 x 14-inch sheets of paper.

Other or Special Request ☐ Yes
☐ No

Subtotal
Costs

Non-Paper

\$

Total Costs

Discounts

Qualified for Discount ☐ Yes ☐ No If yes, subtract \$20. (\$)

☐ Indigence (maximum of 2 discounts per calendar year)

☐ State Designated Non-Profit (e.g., MPAS) (unlimited number of discounts)

Qualified for Waiver or Reduction as primary and benefiting the general public?

☐ Yes ☐ No If yes, insert amount of waiver or reduction (\$)

Reduction for untimely response by District? ☐ Yes ☐ No If yes:

of days
late _____ x 5 = _____ % reduction of Labor Costs (Maximum 50%)

_____ % = Total Labor Cost Reduction

Subtotal Labor
Costs _____ x _____ (\$ _____)

Good faith deposit requested? ☐ Yes ☐ No

If yes, Deposit Date deposit
Amount \$ _____ requested:

Date deposit Amount of Deposit
received: _____ (\$ _____)

Total Discounts _____
(\$ _____)

Totals

Total Costs \$ _____

Total Discounts (\$ _____)

Total Due \$ _____

Date
Delivered: _____ Date
Paid: _____

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4102 Anti-Harassment, Including Sexual Harassment

A. Policy Statement

Employees will have the opportunity to work in an atmosphere free from unlawful harassment, including sex-based harassment, as defined by state, federal, and local laws. The District prohibits quid pro quo and hostile work environment harassment.

The District will promptly and thoroughly investigate complaints pursuant to Policy 4104 alleging unlawful harassment and take appropriate action, including discipline, against any person found to have violated this Policy. Investigation determinations will be based on a preponderance of the evidence.

Unlawful harassment is strictly prohibited. This Policy applies to employee conduct perpetrated against other employees, parents/guardians, officers, Board members, agents, contractors, volunteers, and members of the public. Although Title VII sexual harassment falls within this Policy, Title IX sexual harassment does not. For the District's Policy on Title IX sexual harassment, see Policy 3118. Allegations that an employee engaged in unlawful discrimination, harassment, or retaliation against a student will be investigated under Policy 5202.

This Policy applies to unlawful conduct related to work in any way, regardless of location.

B. Unlawful Employment Harassment Definition

Except with regard to Title IX sexual harassment, the following definitions apply:

1. "Quid pro quo" harassment occurs when a supervisor requires sex, sexual favors, or sexual contact from an employee or job candidate as a condition of employment and where:
 - a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, to obtain or maintain employment; or
 - b. submission to or rejection of that conduct or communication is used as a factor in a decision affecting a person's employment.
2. "Hostile work environment" harassment is unwelcome verbal, visual/written, or physical conduct towards an employee because of the employee's race, color, national origin, ethnicity, religion, sex (including pregnancy), height, weight, marital status, gender identity or expression, age, sexual orientation, disability, genetic information, veteran status, military service, or any other protected class and that has:

- a. the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- b. the purpose or effect of unreasonably interfering with an employee's work; or
- c. an adverse impact on a person's employment opportunities.

Hostile work environment harassment is unlawful where it is based on an employee's protected class and the offensive conduct becomes a condition of continued employment or the conduct is sufficiently severe or pervasive to create a work environment that a reasonable person under the totality of circumstances would consider intimidating, hostile, or offensive.

3. Examples of conduct that may constitute unlawful sexual harassment include:

- a. Verbal: Unwelcome comments, including: the use of derogatory, sexually suggestive, or vulgar language; the use of sexual innuendo; unwelcome advances or repeated requests for dates or sexual favors; threats based on or motivated by a person's sex; demanding or pressuring another person to submit to sexual requests or advances to attain academic or professional achievement; threatening another person's academic or professional reputation if that person does not submit to sexual requests or advances; or any other similar behavior.
- b. Visual/Written: Subjecting another person to sexually suggestive, pornographic, or obscene images, text, or cartoons, including by electronic mail, text message, letter, or any other medium; the use of obscene gestures toward or around another person; leering at another person; or any other similar behavior.
- c. Physical: Unwanted kissing, touching, patting, hugging, pinching, or any other unwanted physical contact; impeding another person's normal movements; stalking, assault, or battery based on the victim's sex; any other physical interference with another person based on that person's sex; or any other similar behavior.

C. Unlawful Retaliation

Unlawful retaliation against a complainant, witness, or other investigation participant is prohibited. Any person who unlawfully retaliates is subject to discipline, including discharge. A person who knowingly files a materially false complaint or makes a materially false statement is subject to discipline, including discharge.

D. Reporting Requirements

Board members, administrators, and supervisors must promptly report incidents of unlawful harassment and retaliation. This duty to report applies to unlawful

harassment and retaliation that the Board member, administrator, or supervisor observes or about which he/she receives information.

Board members, administrators, or supervisors who receive a complaint alleging a violation of this Policy must promptly report the complaint, in writing, to the Employment Compliance Officer(s).

A failure to comply with reporting requirements may result in discipline, including discharge.

Legal authority: 20 USC 1681 et seq.; 29 USC 621 et seq.; 42 USC 1983, 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1604.1 et seq., 1635; 34 CFR 106.8, 106.9; MCL 37.1101 et seq., 37.2101 et seq.; MCL 380.1300a

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4103 Whistleblowers' Protection

An employee shall report, on their own behalf or on behalf of another employee, a violation or a suspected violation of a federal, state, or local law, regulation, or rule to the employee's supervisor or the Employment Compliance Officer(s). Reports must be made in good faith. An employee who makes or is about to make a report in good faith and in compliance with this Policy will not be discharged, subject to adverse employment action, or subject to other discrimination or retaliation because the employee was about to make or made a report.

If the employee's supervisor is the subject of the violation or suspected violation, the employee must report to the Employment Compliance Officer(s) or the Superintendent. If the Employment Compliance Officer(s) or the Superintendent is the subject of the violation or suspected violation, the employee must report to the President. If the President is the subject of the violation or suspected violation, the employee must report to the Vice President.

A report must be promptly submitted in writing pursuant to Policy 4101. The investigation of the alleged violation will be performed by an impartial investigator. The investigation may be referred to a third party investigator.

Legal authority: MCL 15.361 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4104 Employment Complaint Procedure

This employment complaint procedure is designed to facilitate: (1) prompt notification of alleged unlawful discrimination, including unlawful Title VII sexual harassment, and retaliation; (2) a prompt and thorough investigation of good faith allegations; and (3) the implementation of appropriate corrective action, if necessary, to eliminate verified, unlawful discrimination and retaliation from the workplace.

A. Initiating a Complaint

1. A Board member, employee, or employment applicant who believes they have been the subject of unlawful discrimination, including unlawful harassment, or retaliation must timely file a complaint, preferably within 10 business days of the alleged or suspected violation or when the reporter obtained knowledge of the alleged or suspected violation, with:

DIRECTOR OF HUMAN RESOURCES
4406 N OKEMOS RD, OKEMOS MI 48864
517-706-5006
HR@OKEMOSK12.NET

Director of Diversity Equity & Inclusion
4406 N OKEMOS RD, OKEMOS MI 48864
517-706-5011

Title IX sexual harassment complaints, including dual Title VII and Title IX harassment complaints that cannot be bifurcated, must be processed under Policy 3118.

2. A complaint against the Employment Compliance Officer(s) must be made to the Superintendent or President. A complaint against the Superintendent must be made to the President. A complaint against the President must be made to the Vice President.
3. A complaint of discrimination, including unlawful harassment, or retaliation, may be made verbally or in writing. The complaint will be memorialized on Form 4104-F.

B. Investigation Procedures

1. A written or verbal report (including an anonymous report) of discrimination, including unlawful harassment, or retaliation will be investigated promptly and thoroughly.

2. An impartial investigator will investigate the complaint and, if appropriate, notify law enforcement. A third-party investigator may be appointed to investigate the complaint. The investigator(s) should consult with legal counsel in appropriate cases.
3. The investigator(s) will determine the relevant and appropriate witnesses to be interviewed based on the allegations, Board policy, and the law, and use reasonable efforts to do so. In most cases, the Complainant(s) and the Respondent(s) will be interviewed. The investigator(s) should remind interviewees to maintain confidentiality to the extent permitted by law.
4. Complaints, evidence, witness statements, investigation notes, and findings will be maintained in a confidential manner and protected from disclosure to the extent permitted by law.
5. The preponderance of the evidence (i.e., more likely than not) standard of proof will be used to determine whether discrimination, including unlawful harassment, or retaliation occurred.
6. The investigator(s) may create an investigation report of factual conclusions and findings.
7. The outcome of the investigation will be reported to the Complainant(s) and the Respondent(s).

C. Remedies

The District will take prompt and appropriate remedial action to address substantiated instances of discrimination, including unlawful harassment, or retaliation. Remediation may include restorative practices, training, counseling, discipline, transfer, demotion, discharge, or other action as deemed appropriate.

D. False Complaint or False Statement

A person who knowingly files a false complaint or makes a materially false statement is subject to discipline, including discharge.

E. Unlawful Retaliation

Retaliation against an investigation participant is prohibited. Any person who unlawfully retaliates is subject to discipline, including discharge.

F. Appeal Process

A Complainant or Respondent who objects to the investigation process or findings must file a written appeal with the Superintendent within 10 business days after receiving the investigation outcome. The written appeal must cite specific objections to the investigation process or findings. If the Superintendent is the Respondent or Complainant, an appeal must be filed with the President. If

the President is the Respondent or Complainant, an appeal must be filed with the Vice President.

An appeal will be forwarded to the Board or designee for consideration and action. The Board or designee, in consultation with legal counsel, will take appropriate action, generally within 30 calendar days after receipt of the appeal. A Board officer will then notify the parties in writing of the appeal decision.

G. Reports to State or Federal Administrative Agencies

Any person who believes that he/she was the victim of discrimination, including unlawful harassment, or retaliation may file a complaint with the Michigan Department of Civil Rights (MDCR) or the Equal Employment Opportunity Commission (EEOC) at any time:

Michigan Department of Civil Rights Capitol Tower Building
110 W. Michigan Avenue, Suite 800
Lansing, MI 48933
Phone: 517-335-3165
Fax: 517-241-0546
TTY: 517-241-1965
Email: MDCR-INFO@michigan.gov

Equal Employment Opportunity Commission Patrick V. McNamara Building
477 Michigan Avenue - Room 865
Detroit, MI 48226
Phone: 800-669-4000
Fax: 313-226-4610
TTY: 800-669-6820
Email: info@eeoc.gov

An agency complaint may be filed before, during, or after a complaint is filed with the District, or a person may forego filing a complaint with the District and rely solely on the MDCR or EEOC. The District recommends that a person who has been subjected to discrimination, including unlawful harassment, or retaliation, also file a complaint with the District to ensure that the District can take steps to prevent further discrimination, including unlawful harassment, or retaliation and to discipline the Respondent, if appropriate. The MDCR and EEOC do not serve as an appellate body for District decisions. An investigation by the MDCR or EEOC will occur separately from any District investigation.

Legal authority: U.S. CONST. amend. XIV; 20 USC 1681 et seq.; 29 USC 701 et seq.; 42 USC 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.; 29 CFR 1630; 34 CFR 104, 106.8, 106.9, 110; MCL 15.261 et seq.; MCL 37.1101 et seq., 37.2101 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4105 Workplace Accommodations for Employees and Applicants with Disabilities

The District complies with the Americans with Disabilities Act, Section 504, the Michigan Person with Disabilities Civil Rights Act, and other federal, state, and local laws that prohibit discrimination in employment against qualified persons with disabilities. The District does not unlawfully discriminate against otherwise qualified employees or applicants for employment with a physical or mental impairment that substantially limits one or more major life activities, those regarded as having a disability, or those with a record of a disability.

An applicant or employee with a disability, like all other applicants and employees, must meet the District's requirements for the job, including education, training, employment experience, skills, or licenses/certifications. An applicant or employee with a disability must be able to perform the job's essential functions with or without reasonable accommodation(s). After an applicant has been given a conditional job offer, the District may ask disability-related questions about the applicant's ability to perform the essential functions of the position with or without reasonable accommodation.

An employee who requires a reasonable accommodation to perform essential job functions must promptly inform the employee's supervisor or the Superintendent or designee. An applicant who requires a reasonable accommodation to perform essential job functions must promptly inform the Superintendent or designee after receiving a conditional offer of employment. A reasonable accommodation is defined as a change in the work environment or in the methods of performing work to enable an otherwise qualified applicant or employee to perform the essential job functions of a position and to enjoy equal employment opportunities.

Upon receipt of an accommodation request, the District will begin the interactive process with the employee or applicant to consider reasonable accommodation options consistent with the ADA, Section 504, and the MPDCRA.

Reasonable accommodation requests that do not pose a direct threat to health or safety or cause undue hardship, as defined by law, will be considered for qualified applicants or employees with a physical or mental impairment that substantially limits one or more major life activities.

After considering the relevant medical information, essential job functions, and the applicant's or employee's requested accommodations, the District will, as appropriate, implement reasonable accommodations that do not pose a direct threat to health or safety or cause an undue hardship. The District is not obligated to adopt the applicant's or employee's specific accommodation request.

The District may engage or re-engage in the interactive process, as necessary.

The District may require a medical statement supporting the requested accommodation. The District may also require an employee to undergo an independent medical examination, limited to the accommodation request, at the District's expense. Medical information will be kept confidential.

Reasonable accommodation of a disability with a limited duration may be provided.

An applicant or employee who believes he/she has been discriminated against under this Policy must promptly file a complaint using the Employment Complaint Procedure in Policy 4104.

A qualified applicant or employee with a disability who needs a reasonable accommodation to attend or participate in a public Board meeting may request an accommodation under Policy 2501.

Legal authority: 29 USC 701 et seq.; 42 USC 12101 et seq.; 29 CFR 1630; 34 CFR 104; MCL 37.1101 et seq., 37.2101 et seq.

Date adopted:

Date revised:

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4107 Military Leave

The District complies with the Uniformed Services Employment and Reemployment Rights Act (USERRA), Michigan's Military Leaves Reemployment Protection Act (MLRPA), and Michigan's Public Employees Entering Armed Forces Act (MPEEAFA). The term "military service" as used in this Policy includes the "uniformed services" as defined in the USERRA, "service" as defined in the MLRPA, and "military duty" as defined in the MPEEAFA.

Military service also includes service and training in the Army, Navy, Marine Corps, Air Force, Coast Guard, applicable reserve forces, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service, and other categories of persons designated by the U.S. President in times of war.

In qualifying circumstances, eligible full- and part-time employees may take leave related to military service and are entitled to reemployment and other rights during and at the conclusion of military leave. Military leave is unpaid, but employees may use accrued applicable paid leave for all or a portion of their military leave in accordance with a collective bargaining agreement or individual employment contract.

A. Employee Notice and Eligibility

1. Advance notice of military service is required, unless that service prevents advance notice or notice is otherwise unreasonable or impossible.
2. Employees are eligible for military leave when called to provide military service, whether voluntary or involuntary.
3. Military leave may be taken for the purpose of active duty, active duty training, inactive duty training, full-time National Guard duty, examinations to determine fitness for duty, funeral honors duty, duty related to the National Disaster Medical System, or any other activity authorized by law.

B. Reemployment Rights

1. Employees returning from military leave are entitled to prompt reemployment pursuant to conditions in the law.
2. Employees may be disqualified from reemployment when: (a) discharged dishonorably or for bad conduct; (b) separation from military service is considered "other than honorable" by the applicable military branch; (c) dismissal occurs via court martial or by order of the U.S. President; or (d) the employee is dropped from the military service rolls because of an unauthorized absence from military service or imprisonment.

3. The District may deny reemployment after military leave if the District's circumstances have changed to make reemployment impossible or unreasonable.

C. Reemployment Positions

An employee's reemployment position upon returning from military leave depends on the length of the employee's military service, advancement if the employee had remained continuously employed, the employee's qualifications, and other factors described in the law.

D. Pay and Rights Upon Reemployment

1. Upon reemployment, an employee receives seniority and other rights and benefits determined by seniority that the employee had attained on the date that military leave began, plus the additional seniority and rights and benefits that the employee would have attained if the employee had remained continuously employed. An employee is entitled to any other rights and benefits not determined by seniority as are generally provided by the District to other employees having similar seniority, status, and pay when taking a non-military leave.
2. Upon reemployment, an employee's eligibility calculation for leave under the FMLA will assume that the employee worked for the District during the period of military leave.
3. Upon reemployment, an employee may not be discharged except for a reason constituting just cause for a period of up to 1 year after reemployment from military leave depending on the length and type of military service.

E. Benefits

1. If an employee commencing military leave has coverage under a District-provided group health benefit plan, the employee may (at the employee's expense) elect to continue coverage for the employee, the employee's spouse, and/or the employee's dependents, subject to conditions in the law.
2. If an employee's health insurance coverage is terminated consistent with the law, upon reemployment, the employee (and the employee's spouse and dependents) is immediately eligible for reinstatement of health insurance coverage.

F. Notice and Complaints

1. Notice of employee rights under the USERRA will be posted in an appropriate location.
2. The District will not retaliate or take adverse action against an employee based on the employee's exercise of rights under the law.

3. An employee must immediately contact the Employment Compliance Officer(s) if the employee believes the District has violated the law or this Policy. The District will investigate the complaint pursuant to Policy 4104.

Legal authority: 38 USC 4301 et seq.; MCL 32.271 et seq.; MCL 35.351 et seq.

Date adopted:

Date revised:

Series 5000: Students, Curriculum, and Academic Matters

5400 Curriculum, Instruction, and Parent/Guardian Involvement

5416 *Homebound and Hospitalized Instruction*

The District will provide an enrolled student with instruction in the student's home, hospital, or licensed treatment facility if both of the following requirements are met:

- A. the student's parent/guardian submits a homebound/hospitalized instruction form which includes verification by a legally authorized healthcare provider of a medical condition that requires the student to be hospitalized or confined to the home during regular school hours for a period longer than 5 consecutive school days. A student who is able to attend school for part of the day is not eligible for homebound instruction; and
- B. the student is physically able to participate in instruction while hospitalized or confined to the home.

Homebound instruction is not intended to replicate the classroom experience. For most students, the District will provide a minimum of 2 45-minute sessions per week with a certificated teacher. For students with disabilities under the Individuals with Disabilities Education Act (IDEA), the District will provide a minimum of 2 nonconsecutive hours per week with a certificated teacher. Homebound instruction may be supplemented with a variety of in-person and distance learning services, as determined appropriate by the Superintendent or relevant educational team.

For students with disabilities under IDEA, the District will consider whether the student's homebound instruction constitutes a change in placement and whether an IEP Team meeting should be convened.

The District will provide homebound and hospitalized instruction consistent with state law and MDE guidance.

Legal authority: MCL 388.1709; Mich Admin Code R 340.2(11), 340.2(12), 340.1746;
Providing Homebound and Hospitalized Educational Services for Michigan Public School Pupils, as amended; Michigan Pupil Accounting Manual

Date Adopted:

Date Revised:

Series 5000: Students, Curriculum, and Academic Matters

5700 Student Health and Safety

5702 Student Illness and Injury

- A. Parents/guardians are expected to report student absences due to illness or injury to the building principal or designee. Students and parents/guardians should communicate with school staff to minimize the impact of illness or injury-related absences on the student's educational progress. Students who will be absent for an extended period of time may be eligible for homebound or hospitalized services in accordance with Policy 5416.
- B. School employees who suspect that a student's absences may be disability-related must immediately refer the student for an evaluation under Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act.
- C. When the building principal or designee determines that a student is too ill or injured to remain at school, school staff will contact the student's parent/guardian or other designated responsible adult to pick up the student from school. If the student requires immediate medical attention, the District will first attempt to contact a parent/guardian or other designated responsible adult when reasonably possible. If contact cannot be made, the building principal or designee will take any reasonable action necessary on the student's behalf, consistent with state law.

Students showing symptoms of a communicable disease may be sent home. The District may require a statement from a licensed physician or local health official before allowing the student to return to school. The District must report the occurrence or suspected occurrence of any disease, condition, or infection identified in the Michigan Department of Health and Human Services Communicable Disease Rules to the local health department within 24 hours.

- D. Parents/guardians must submit an emergency information form for each of their students. The form must list the contact information for each parent/guardian and designated responsible adult, any necessary emergency instructions, and any known medical conditions.

Date adopted:

Date revised: