

1 **Browning Public Schools**

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3 **Policy #5012**

4 **Policy Name:** *Sexual Harassment, Sexual Intimidation and Retaliation in the Workplace*

5 **Regulation:** -----  
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7 **The District does not discriminate on the basis of sex in any education program or activity that it**  
8 **operates. The District is required by Title IX of the Education Amendments of 1972 and the**  
9 **regulations promulgated through the U.S. Department of Education not to discriminate in such a**  
10 **manner. Inquiries about the application of Title IX to the District may be referred to the District’s**  
11 **Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or**  
12 **both.**

13  
14 **The Board designates the following individual to serve as the District’s Title IX Coordinator:**

15  
16 **Title:**  
17 **Office address:**  
18 **Email:**  
19 **Phone number:**  
20

21 **Any person may report sex discrimination, including sexual harassment, at any time, including**  
22 **during non-business hours. Such a report may be made using the attached form, in person, by mail,**  
23 **by telephone or by electronic mail, using the contact information listed for the Title IX Coordinator,**  
24 **or by any other means that results in the Title IX Coordinator receiving the person’s verbal or**  
25 **written report.**

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27 **For purposes of this policy and the grievance process, “sexual harassment” means conduct on the**  
28 **basis of sex that satisfies one or more of the following:**

- 29  
30 **1. A District employee conditioning the provision of an aid, benefit, or service of the District**  
31 **on an individual’s participation in unwelcome sexual conduct;**  
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33 **2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and**  
34 **objectively offensive that it effectively denies a person equal access to the District’s**  
35 **education program or activity; or**  
36  
37 **3. “Sexual assault” as defined in 20 USC 1092(f)(6)(A)(v), “dating violence” as defined in 34**  
38 **USC 12291(a) (10), “domestic violence” as defined in 34 USC 12291(a)(8) or “stalking” as**  
39 **defined in 34 USC 12291(a)(30).**  
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41 **When the harassment or discrimination on the basis of sex does not meet the definition of sexual**  
42 **harassment, the Title IX Coordinator shall direct the individual to the applicable sex discrimination**  
43 **process for investigation.**

44  
45 **An individual is not required to submit a report of sexual harassment involving the Title IX**  
46 **coordinator. In the event the Title IX Coordinator is responsible for or a witness to the alleged**  
47 **harassment, the individual may report the allegations to the building principal or superintendent or**  
48 **other unbiased school official.**

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50 **Retaliation Prohibited**  
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1 The District prohibits intimidation, threats, coercion or discrimination against any individual for the  
2 purpose of interfering with any right or privilege secured by Title IX or this policy, or because the  
3 individual has made a report or complaint, testified, assisted, or participated or  
4 refused to participate in any manner in an investigation proceeding or hearing, if applicable.  
5 Intimidation, threats, coercion, or discrimination, including charges against an individual for code of  
6 conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the  
7 same facts or circumstances as a report or complaint of sex discrimination, or a report or formal  
8 complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by  
9 Title IX or this part, constitutes retaliation.

### 10 Confidentiality

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13 The District must keep confidential the identity of any individual who has made a report or  
14 complaint of sex discrimination, including any individual who has made a report or filed a formal  
15 complaint of sexual harassment, any individual who has been alleged to be the victim or perpetrator  
16 of conduct that could constitute sexual harassment, and any witness, except as may be permitted by  
17 Family Educational Rights and Privacy Act (FERPA) or as required by law, or to carry out the  
18 purposes of the Title IX regulations, including the conduct of any investigation, hearing or judicial  
19 proceeding arising thereunder.

### 20 Notice Requirements

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23 The District provides notice to applicants for admission and employment, students, parents or legal  
24 guardians of elementary and secondary school students, employees and the union(s) with the name or  
25 title, office address, email address and telephone number of the Title IX Coordinator and notice of  
26 the District grievance procedures and process, including how to report or file a complaint of sex  
27 discrimination, how to file a formal complaint of sexual harassment and how the District will  
28 respond. The District also posts the Title IX Coordinator's contact information and Title IX policies  
29 and procedures in a prominent location on the District website and in all handbooks made available  
30 by the District.

### 31 Training Requirements

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34 The District ensures that Title IX Coordinators, investigators, decision-makers, and any person who  
35 facilitates an informal resolution process, receives training on the definition of sexual harassment, the  
36 scope of the District's education program or activity, how to conduct an investigation and grievance  
37 process including hearings, appeals and informal resolution processes, when applicable, and how to  
38 serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest and  
39 bias. The District also ensures that decision-makers and investigators receive training on issues of  
40 relevance of questions and evidence, including when questions and evidence about the complainant's  
41 sexual predisposition or prior sexual behavior are not relevant as set forth in the formal procedures  
42 that follow, and training on any technology to be used at a live hearing, if applicable. Investigators  
43 also receive training on issues of relevance to create an investigative report that fairly summarizes  
44 relevant evidence. All materials used to train individuals who receive training under this section  
45 must not rely on sex stereotypes and must promote impartial investigations and adjudications of  
46 formal complaints of sexual harassment and are made publicly available on the District's website.

### 47 Conflict of Interest and Bias

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50 The District ensures that Title IX Coordinators, investigators, decision-makers, and any person who  
51 facilitates an informal resolution process do not have a conflict of interest or bias for or against  
52 complainants or respondents generally or an individual complainant or respondent.

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2 **Determination of Responsibility**

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4 **The individual who has been reported to be the perpetrator of conduct that could constitute sexual**  
5 **harassment is presumed not responsible for alleged conduct. A determination regarding**  
6 **responsibility will be made by the decision-maker at the conclusion of the investigation in accordance**  
7 **with the process outlined in Policy 5012P. No disciplinary sanctions will be imposed unless and until**  
8 **a final determination of responsibility is reached.**

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10 **Cross Reference: Policy 5010 - Equal Employment and Non-Discrimination**  
11 **Policy 5012P – Sexual Harassment Procedures**

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14 **Legal References: Art. X, Sec. 1, Montana Constitution – Educational goals and duties**  
15 **§§ 49-3-101, et seq., MCA Montana Human Rights Act**  
16 **Civil Rights Act, Title VI; 42 USC 2000d et seq.**  
17 **Civil Rights Act, Title VII; 42 USC 2000e et seq.**  
18 **Education Amendments of 1972, Title IX; 20 USC 1681 et seq.**  
19 **34 CFR Part 106 Nondiscrimination on the basis of sex in**  
20 **education programs or activities receiving**  
21 **Federal financial assistance**  
22 **10.55.701(1)(f), ARM Board of Trustees**  
23 **10.55.719, ARM Student Protection Procedures**  
24 **10.55.801(1)(a), ARM School Climate**

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27 **Policy History:**

28 Adopted on: 10/10/00,  
29 Revised on: 2/13/01, 5/30/07, 1/11/11  
30 **Reviewed on: New Policy 2/23/22**

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32 ~~The District will do everything in its power to provide employees a work environment free of unwelcome~~  
33 ~~sexual advances, requests for sexual favors, and other verbal or physical conduct or communications~~  
34 ~~constituting sexual harassment, as defined and otherwise prohibited by state and federal law.~~

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36 ~~The District prohibits its employees from making sexual advances or requesting sexual favors or engaging~~  
37 ~~in any conduct of a sexual nature when:~~

- 38  
39 ~~1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's~~  
40 ~~employment;~~  
41 ~~2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions~~  
42 ~~affecting such individual; or~~  
43 ~~3. Such conduct has the purpose or effect of substantially interfering with the individual's work~~  
44 ~~performance or creating an intimidating, hostile or offensive working environment.~~

45  
46 ~~Sexual harassment prohibited by this policy includes verbal or physical conduct. The terms "intimidating,"~~  
47 ~~"hostile," or "offensive" include but are not limited to conduct that has the effect of humiliation,~~  
48 ~~embarrassment, or discomfort. The District will evaluate sexual harassment in light of all circumstances.~~

49  
50 ~~A violation of this policy may result in disciplinary action, up to and including discharge. Any person who~~  
51 ~~knowingly makes false accusation regarding sexual harassment will likewise be subject to disciplinary~~  
52 ~~action, up to and including discharge.~~

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~~The District also prohibits retaliation against any employee because he or she has made a report of alleged sexual harassment, or against any employee who has testified, assisted or participated in the investigation of a report. Retaliation is itself a violation of state and federal laws prohibiting discrimination and any individual who is determined to have engaged in prohibited retaliation will be subject to discipline.~~

~~It is the policy of this District to provide regular in-service education and training to its employees about sexual harassment and intimidation, as defined and otherwise prohibited by state and federal law.~~

~~Employees who believe they may have been sexually harassed or intimidated should contact the Title IX Coordinator, who will assist them in filing a complaint. An individual with a complaint alleging a violation of this policy shall follow the Uniform Complaint Procedure.~~

~~**Cross References:** — 1700 Uniform Complaint Procedure~~

~~**Legal References:** — Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq., 29 C.F.R. § 1604.11  
Title IX of the Education Amendments, 20 U.S.C. §§ 1681, et seq.  
Montana Constitution, Art. X, § 1 – Educational goals and duties  
§ 49-2-101, MCA Human Rights Act  
Harris v. Fork Lift Systems, 114 S. Ct. 367 (1993)~~

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