

Administrative Procedure – Formal Title IX Sexual Harrasment Complaint Grievance  
Process

This procedure implements the District's ~~investigation and response grievance~~ process ~~for to~~ a Formal Title IX Sexual Harassment Complaint after a decision to pursue one has been made using ~~administrative procedure 2.265-AP1, Title IX Response~~. See 34 C.F.R. Part 106. Use this procedure to comply with 34 C.F.R. §106.45, Grievance ~~process procedures~~ for formal complaints of sexual discrimination/harassment. Use ~~exhibit Exhibit 2.265-E1, Title IX Glossary of Terms, and administrative procedure 2.265-AP3, Title IX Coordinator~~, in conjunction with this procedure. **Consult the Board Attorney as needed throughout the grievance process.**

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

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A. Overview of ~~Title IX Complaint~~34 C.F.R. §106.45 Grievance Process

The District's ~~treats Complainants and Respondents engaging in the Formal~~ Title IX Sexual Harassment Complaint Grievance Process (Grievance Process) equitably and adheres to the following guidelines:

- ~~1. Treat Parties Equitably. The District shall treat Complainants and Respondents equitably. 34 C.F.R. §106.45(b)(1).~~
- ~~2. No Conflict of Interest or Bias. The District shall require that any person designated as a Title IX Coordinator, Investigator, or Decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. 34 C.F.R. §106.45(b)(2).~~
- ~~3.1. Presumption of Non-Responsibility. The Respondent is presumed not responsible for the alleged Title IX Sex Discrimination until a determination is made at the conclusion of the Grievance Process. 34 C.F.R. §106.45(b)(13)(iv).~~

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- ~~2. Grievance Process Required Before Imposing Sanctions. The District complies shall ~~comply~~ with this Grievance Process before imposing any disciplinary sanctions ~~or other actions against a Respondent~~ against a Respondent for Title IX Sex Discrimination. 34 C.F.R. §106.45(b)(1)(i), (h)(4)~~
- ~~4. —~~
3. Supportive Measures. The District may provide counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures to Complainants and/or Respondents. 34 C.F.R. §106.45(b)(1)(ix). See 2.265-E1, *Title IX Glossary of Terms*, for the definition of *supportive measures*.
- ~~5. — shall offer and coordinate supportive measures, as appropriate, for a Complainant upon being notified of conduct that reasonably may constitute Title IX Sex Discrimination and for a Respondent if the District has initiated the Grievance Process or has offered the Respondent an informal resolution process. 34 C.F.R. §§106.44(f)(1)(ii), 106.44(g), 106.45(l)(1). See administrative procedure 2.265-AP1, *Title IX Response*, for more on supportive measures. See Exhibit 2.265-E1, *Title IX Glossary of Terms*, for the definition of *supportive measures*.~~
4. Evidence Considered. All relevant evidence – including both inculpatory and exculpatory evidence – is objectively evaluated. Credibility determinations are not based on a person’s status as a Complainant, Respondent, or witness. The District does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, e.g., attorney-client privilege, doctor-patient privilege, or spousal privilege, unless the person holding such privilege has waived the privilege. 34 C.F.R. §106.45(b)(1)(ii) and (x).
5. Standard of Proof. All determinations are based upon the preponderance of the evidence standard. 34 C.F.R. §106.45(B)(1)(vii).
6. Right to Appeal. Each party may appeal any determination or dismissal as described in **Section H. Appeals**, below. §106.45(b)(1)(viii); 34 C.F.R. §106.45(b)(8)(i).
- ~~6.7. Timelineframe. This Grievance Process shall be concluded within 90 school business days after receipt of a Formal Title IX Sexual Harassment Complaint. As used in this Grievance Process, *school business days* means days on which the District’s main office is open. ~~On a case-by-case basis~~ For good cause, this Grievance Process may be temporarily delayed or extended for ~~good cause only~~ a limited time only if the Complainant and the Respondent, ~~as appropriate~~, are provided written notice of the delay/extension and the reasons for it. Good cause may include: ~~but is not limited to:~~ the ~~unavailability~~ absence of a party, a party’s advisor, or a witness; ~~of a party or a witness~~; concurrent law enforcement ~~activity~~; ~~or other agency activity~~; or the need for language assistance or accommodation of disabilities. 34 C.F.R. §106.45(b)(14)(v).~~
- ~~7. Privacy Protection. The District shall take reasonable steps to protect the privacy of a Complainant and a Respondent and witnesses during the Grievance Process. These steps shall not restrict the ability of a Complainant or a Respondent to obtain and~~

~~present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the Grievance Process. 34 C.F.R. §106.45(b)(5).~~

~~8. Evidence Considered. The District shall objectively evaluate all relevant evidence—including both inculpatory and exculpatory evidence—that is not otherwise impermissible. Credibility determinations are not based on a person’s status as a Complainant, Respondent, or witness. The District shall exclude (not disclose or otherwise use) impermissible evidence and questions seeking that evidence, regardless of whether the evidence is relevant. The District may access or consider impermissible evidence solely to determine whether an exception that would allow its consideration exists. 34 C.F.R. §106.45(b)(6), (7). See Exhibit 2.265-E1, *Title IX Glossary of Terms*, for the definition of *impermissible evidence*.~~

~~9. Standard of Proof. All determinations are based upon the preponderance of the evidence standard. 34 C.F.R. §106.45(h)(1). See Exhibit 2.265-E1, *Title IX Glossary of Terms*, for the definition of *preponderance of the evidence*.~~

~~10. Right to Appeal. Each party may appeal any determination or dismissal as described in **Section H. Appeals**, below. 34 C.F.R. §§106.45(d)(3), (i).~~

~~8. Remedies and Disciplinary Sanctions and Remedies. Following a determination of responsibility that Title IX Sex Discrimination occurred, the District must provide implement recommended, as appropriate, remedies to a Complainant and other persons the District identifies as having had their equal access to the District’s education program or activity limited or denied by Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3). Additionally, the District may implement, as appropriate, disciplinary sanctions on a Respondent, up to and including: discharge for an employee-Respondent-employee; expulsion for a student-Respondentstudent; and termination of any existing contracts and/or prohibition from District property and activities for a third-party Respondent. 34 C.F.R. §106.45(b)(1)(vi).~~

~~Where a determination of responsibility for sexual harassment is made against a Respondent, remedies designed to restore or preserve equal access to the District’s education program or activities are provided to a Complainant. Remedies may include the same individualized services described in Supportive Measures, above. Unlike Supportive Measures, however, remedies may be disciplinary or punitive, and they may burden the Respondent. 34 C.F.R. §106.45(b)(1)(i). The District may implement remedies up to and including the recommended disciplinary sanctions described above. 34 C.F.R. §106.45(b)(1)(vi).~~

~~11. The District may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex Discrimination. 34 C.F.R. §106.45(h)(3), (l)(2). See Exhibit 2.265-E1, *Title IX Glossary of Terms*, for the definitions of *remedies* and *disciplinary sanctions*.~~

9. Training Requirements. The District ensures certain training requirements are met. At a minimum, any individual designated by the District as a Title IX Coordinator, investigator, decision-maker (including the Initial Decision-Maker and Appellate Decision-Maker), or any person designated by the District to facilitate an informal resolution process will:

- a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent; and
- b. Receive training on the definition of sexual harassment, the scope of the District's education program or activity, how to conduct an investigation and Grievance Process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias).

Any individual designated by the District as an investigator receives training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. Any individual designated by the District as a decision-maker receives training on issues of relevance of questions and evidence, including training about when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant to the allegations. 34 C.F.R. §106.45(b)(1)(iii).

at the time of hiring or change of position that alters an employee's Title IX duties and annually thereafter. 34 C.F.R. §106.8(d). See administrative procedures 2.265-AP1, *Title IX Response*, and 2.265-AP3, *Title IX Coordinator*, for details on training requirements.

#### **B. Evaluation of Title IX Complaint**

When a Complaint is filed, the Title IX Coordinator shall, within 10 school business days, evaluate whether to investigate or dismiss the Complaint. 34 C.F.R. §106.45(b)(4). In evaluating the Complaint, the Title IX Coordinator shall analyze the allegations to determine whether the conduct as alleged could constitute Title IX Sex Discrimination and whether any of the bases for dismissal apply as set forth in **Section E. Dismissal**, below.

Where the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, this Grievance Process shall be initiated. Where the Title IX Coordinator reasonably determines that the conduct as alleged does not constitute Title IX Sex Discrimination, the Title IX Coordinator shall dismiss the Complaint, or allegation(s) therein, as set forth in **Section E. Dismissal**, below.

#### **C.B. Notice of Allegations**

Upon signing a Formal Title IX Sexual Harassment Complaint or receiving a Formal Title IX Sexual Harassment Complaint filed by a Complainant initiating this Grievance Process, the Title IX Coordinator:

1. Provides written notice to all known parties with the following information (34 C.F.R. §106.45(c)(1)):
  - a. This procedure 2.265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*, including any available informal resolution process.
  - b. The allegations of Title IX ~~Sexual harassment~~ Discrimination: ~~potentially constituting Title IX sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.~~ Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX sexual harassment, and the date and location of the alleged incident, if known.

~~This includes sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute Title IX Sex Discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the District.~~

- ~~c. That the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Grievance Process.~~
  - ~~b. Retaliation is prohibited. See Exhibit 2.265-E1, Title IX Glossary of Terms, for the definition of retaliation.~~
  - ~~d. That all parties may have an advisor of their choice, who may be, but is not required to be, an attorney.~~
  - ~~c. The parties have an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of the evidence. If the District opts to provide a description of the evidence, the parties have an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.~~
  - ~~e. That all parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Title IX Sexual Harassment Complaint (including evidence the District does not intend to rely on in determining responsibility, and inculpatory or exculpatory evidence) so that each party can meaningfully respond to the evidence before the investigation concludes.~~
  - ~~f. That the District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.~~
  - ~~d. The District's behavior policies prohibit knowingly making false statements or knowingly submitting false information during the Grievance Process.~~
2. Provides a second written notice to all known parties if, during the investigation, the District decides to investigate allegations not included in the first written notice. ~~34 C.F.R. §106.45(c)(2).~~
  3. Decides whether to personally conduct the investigation or appoint a qualified investigator. If the Title IX Coordinator appoints a qualified investigator, provides written notice of the appointment to the Investigator.

#### When the Complainant's Identity Is Unknown

If the Complainant's identity is unknown, e.g., where a ~~n-anonymous person or~~ third-party reports ~~that a Complainant was victimized by sexual harassment but does not reveal the Complainant's identity, or a Complainant reports anonymously,~~ the Grievance Process may proceed if the Title IX Coordinator determines it is necessary to sign a Formal Title IX Sexual Harassment Complaint, even though the written notice provided in **Section B.1**, above, will not include the Complainant's identity. 85 Fed. Reg. 30133. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties. *Id.* at f/n 594 ~~conduct that reasonably may constitute Title IX Sex Discrimination, the Grievance Process may~~

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~~proceed if the Title IX Coordinator determines it is necessary to initiate a Complaint, even though the written notice provided in **Section C.1**, above, will not include the Complainant's identity. If the Complainant's identity is later discovered, the Title IX Coordinator provides another written notice to the parties.~~

When the Respondent's Identity is Unknown

If the Respondent's identity is unknown, e.g., where a Complainant does not know the Respondent's identity, the Grievance Process shall proceed because an investigation might reveal the Respondent's identity, even though the written notice provided in **Section BC.1**, above, will not include the Respondent's identity. If the Respondent's identity is later discovered, the Title IX Coordinator provides another written notice to the parties. 85 Fed. Reg. 30138.

**D.C. Consolidation of Title IX Complaints**

When the allegations of Title IX Sex Discrimination arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Formal Title IX Sexual Harassment Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party. 34 C.F.R. §106.45**(be)(4)**.

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

After an investigation, if the Title IX Coordinator determines that the conduct alleged would not constitute Title IX sexual harassment even if proved, did not occur in the District's education program or activity, or did not occur against a person in the United States, then the Title IX Coordinator dismisses the Formal Title IX Sexual Harassment Complaint with regard to that conduct for purposes of Title IX sexual harassment only. Such a dismissal does not preclude action under another applicable District policy or procedure.

At any time during the investigation, the Title IX Coordinator may dismiss the Formal Title IX Sexual Harassment Complaint, or any allegations contained in it, if any of the following occur:

~~At any time, the Title IX Coordinator may dismiss a Complaint made under this Grievance Process, or any allegations contained in it, for any of the following reasons (34 C.F.R. §106.45(d)(1)):~~

- ~~1. The Complainant notifies the Title IX Coordinator in writing that he or she wants to withdraw the Formal Title IX Sexual Harassment Complaint or any allegations contained in it;~~
- ~~1. The District is unable to identify the Respondent after taking reasonable steps to do so.~~
2. The Respondent is no longer enrolled in or employed by the District; or,
3. Specific circumstances prevent the District from gathering enough evidence to reach a determination as to the Formal Title IX Sexual Harassment Complaint or allegations in it.
- ~~3. The Complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator~~

~~determines any remaining allegations in the Complaint would not constitute Title IX Sex Discrimination even if proven.~~

- ~~4. The District determines the alleged conduct, even if proven, would not constitute Title IX Sex Discrimination. Prior to dismissing the Complaint under this paragraph, the District must make reasonable efforts to clarify the allegations with the Complainant.~~

~~Upon dismissal, the Title IX Coordinator must promptly sends simultaneous written notice to the parties of the dismissal, reason(s) for the dismissal, and the right to appeal the dismissal. 34 C.F.R. §106.45(b)(3). notify the Complainant in writing of the basis for the dismissal and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. If the dismissal occurs after the Respondent has been notified of the allegations, the Title IX Coordinator shall simultaneously notify the Respondent in writing of the dismissal, its basis, and the right to appeal the dismissal on the bases as described in **Section H. Appeals**, below. 34 C.F.R. §106.45(d)(2), (3).~~

~~Upon dismissal, the Title IX Coordinator also must (34 C.F.R. §106.45(d)(4)):~~

- ~~1. Offer supportive measures to the Complainant, as appropriate;~~
- ~~2. Offer supportive measures to the Respondent, as appropriate, if the dismissal was pursuant to **Section E.3** or **Section E.4**, above, and the Respondent has been notified of the allegations;~~
- ~~3. Take other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.~~

~~See Administrative Procedure 2.265-AP1, *Title IX Response*, for more on supportive measures. See Exhibit 2.265-E1, *Title IX Glossary of Terms*, for the definition of *supportive measures*.~~

#### **F.E. Informal Resolution of Formal Title IX Sexual Harassment Complaint**

~~At any time prior to determining if sex discrimination regarding responsibility occurred under this Grievance Process, the District may facilitate informal resolution of a Formal Title IX Sexual Harassment Complaint, such as mediation, that does not involve a full investigation and adjudication, provided that the District (34 C.F.R. §106.45(b)(9)): may offer to the Complainant and Respondent an informal resolution process. The District is prohibited from offering an informal resolution process when the Complaint includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with federal, State, or local law.~~

~~The District has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute Title IX Sex Discrimination or when a Complaint is made, and may decline to offer informal resolution despite one or more of the parties' wishes. Such circumstances may include, but are not limited to, when the District determines the alleged conduct would present a future risk of harm to others. 34 C.F.R. §§106.44(k), 106.45(k)(1).~~

~~To offer an informal resolution process, the District must:~~

- ~~1. Provides the parties written notice explaining (34 C.F.R. §106.44(k)(3)): disclosing:~~

- a. The allegations;
  - b. Informal resolution process requirements, including the circumstances where parties are precluded from resuming a Formal Title IX Sexual Harassment Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Grievance Process for the Formal Title IX Sexual Harassment Complaint; and ;
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
  - e. ~~That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the Grievance Process;~~
  - d. ~~That if the parties agree to a resolution at the conclusion of the informal resolution process, the parties' agreement precludes the parties from initiating or resuming the Grievance Process arising from the same allegations;~~
  - e. ~~The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding; and~~
  - f. ~~The information that will be maintained and whether and how the information could be disclosed for use in the Grievance Process if the Grievance Process is initiated or resumed.~~
2. Obtain the parties' voluntary, written consent to the informal resolution process. The District cannot require a waiver by the parties of the right to an investigation and determination of a complaint under the Grievance Process as a condition of enrollment or continuing enrollment in the District or employment or continuing employment in the District, or exercise of any other right. 34 C.F.R. §106.44(k)(2).
  3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student. Assign a facilitator for the informal resolution process who is not the Investigator or Decisionmaker in the Grievance Process. 34 C.F.R. §106.44(k)(4).
  2. ~~Require the Title IX Coordinator, to the extent necessary, to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity. 34 C.F.R. §106.44(k)(1).~~

Potential Terms for Informal Resolution Agreement

The following are potential terms that an informal resolution agreement may include, but are not limited to (34 C.F.R. §106.44(k)(5)):

1. ~~Restrictions on contact; and~~
2. ~~Restrictions on the Respondent's participation in one or more of the District's programs or activities or attendance at specific events, including restrictions the District could~~



~~have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the Grievance Process that Title IX Sex Discrimination occurred.~~

**G.F. Investigation of Formal and Determination of Title IX Sexual Harassment Complaint**

~~The Investigator/Decisionmaker follows these steps when investigating the allegations in a Complaint. The Investigator/Decisionmaker shall make all reasonable efforts to complete the investigation and issue a written determination regarding whether Title IX Sex Discrimination occurred under Title IX within 30 school business days. This timeframe can be extended for good cause as provided in Section A.6, above.~~

~~If the allegations are against the Superintendent or against a Board Member, an independent Investigator/Decisionmaker (e.g., an attorney or retired school administrator) shall be appointed. The Investigator or Title IX Coordinator follows these steps when investigating the allegations in a Formal Title IX Sexual Harassment Complaint.~~

Actor	Action
Investigator/ Decisionmaker	<p><b><u>Investigation</u></b>  <del>During an investigation and throughout the Grievance Process, provides an adequate, reliable, and impartial investigation by (34 C.F.R. §106.45(b)(5)(f)):</del></p> <ol style="list-style-type: none"> <li><del>1. Ensures that ing the burden of gathering proof and burden of gathering sufficient evidence rest on the District and not the parties involved. 34 C.F.R. §106.45(b)(5)(i).to determine whether Title IX Sex Discrimination occurred is on the District and not the parties. 34 C.F.R. §106.45(f)(1).</del></li> <li><del>2. Providesing an equal opportunity for the parties to present fact witnesses and other inculpatory including fact and expert witnesses, and other inculpatory and exculpatory evidence. 34 C.F.R. §106.45(b)(5)(ii).and exculpatory evidence that is relevant and not otherwise impermissible. 34 C.F.R. §106.45(f)(2).</del></li> <li><del>3. Refrains from restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. 34 C.F.R. §106.45(b)(5)(iii).</del></li> <li><del>3. Reviewing all evidence gathered through the investigation and determining what evidence is relevant and what evidence is impermissible regardless of relevance. 34 C.F.R. §106.45(f)(3).</del></li> <li><del>4. Provides the parties the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice (who may, but is not required to, be an attorney). 34 C.F.R. §106.45(b)(5)(iv).</del></li> <li><del>4. Providing the parties an equal opportunity to access the evidence that is relevant to the allegation(s) and not otherwise impermissible, or an</del></li> </ol>

	<p><del>accurate description of this evidence. If a description of the evidence is provided, the parties must be provided an equal opportunity to access the relevant and not otherwise impermissible evidence upon request. 34 C.F.R. §106.45(f)(4)(i).</del></p> <p>5. <del>Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings, with sufficient time for the party to prepare to participate. 34 C.F.R. §106.45(b)(5)(v).</del></p> <p>6. <del>Provides the parties an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence). 34 C.F.R. §106.45(b)(5)(vi).</del></p> <p>7. <del>Prior to the completion of the investigative report, sends 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 provides each party with 10 school business days to submit a written response. Id.</del></p> <p>8. <del>Upon receipt of a party's written response to the evidence, reviews the response and sends a copy to the other party in an electronic format or a hard copy.</del></p> <p><del>Prepares an investigative report summarizing all relevant evidence. 34 C.F.R. §106.45(b)(5)(vii).</del></p> <p><del>Sends to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response. Id.</del></p> <p><b>Note:</b> <del>This step must occur at least 10 school business days before the Initial Decision-Maker's determination regarding responsibility. Id.</del></p> <p><del>At the conclusion of the investigation, sends to the Initial Decision-Maker in an electronic format or hard copy:</del></p> <ol style="list-style-type: none"><li><del>1. The Formal Title IX Sexual Harassment Complaint;</del></li><li><del>2. All evidence gathered during the investigation that is directly related to the Formal Title IX Sexual Harassment Complaint's allegations (including evidence the District does not intend to rely on in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence); and</del></li><li><del>3. The investigative report.</del></li></ol> <p>5. <del>Providing the parties a reasonable opportunity to respond to the evidence or to the accurate description of the evidence. 34 C.F.R. §106.45(f)(4)(ii).</del></p>
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	<p><del>6. Taking reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Process. 34 C.F.R. §106.45(f)(4)(iii).</del></p> <p><b><u>Determination and Written Notice of Determination</u></b></p> <p><del>Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, does the following (34 C.F.R. §106.45(h)(1), (2)):</del></p> <p><del>1. Bases all decisions on the preponderance of evidence standard.</del></p> <p><del>2.1. ___ Notifies the parties in writing of the determination regarding whether Title IX Sex Discrimination occurred, including the rationale for such determination and permissible bases for the Complainant and the Respondent to appeal as described in <b>Section H. Appeals</b>, below.</del></p>
<p>Title IX Coordinator or Designee</p>	<p><del>If there is a determination that Title IX Sex Discrimination occurred (34 C.F.R. §106.45(h)(3)):</del></p> <p><del>1. Coordinates the provision and implementation of remedies for the Complainant and other persons identified as having had their equal access to the District's education program or activity limited or denied by Title IX Sex Discrimination.</del></p> <p><del>2. Coordinates the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions. The District may not impose discipline on a Respondent for Title IX Sex Discrimination unless there is a determination at the conclusion of the Grievance Process that the Respondent engaged in prohibited Title IX Sex Discrimination.</del></p> <p><del>Takes other appropriate prompt and effective steps to ensure that Title IX Sex Discrimination does not continue or recur within the District's education program or activity.</del></p>

**G. Determination Regarding Responsibility; Remedies**

<p><u>Initial Decision-Maker</u></p>	<p><u>The Superintendent or designee acts as the Initial Decision-Maker for all Formal Title IX Sexual Harassment Complaints, unless it involves allegations against the Superintendent or designee or against a Board Member. In such cases, an outside consultant, e.g., an attorney or retired school administrator, acts as the Initial Decision-Maker.</u></p> <p><b><u>Reviews Investigative Report and Corresponding Materials; Opportunity for Parties to Submit Questions</u></b></p> <p><u>Reviews all materials received from the Investigator.</u></p> <p><u>Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, written, relevant questions that a party wants asked of any party or witness. 34 C.F.R. §106.45(b)(6)(ii). In the written notice, informs the parties that:</u></p>
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	<p><u>1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless they: are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Id.</u></p> <p><u>2. Any questions must be submitted to the Initial Decision-Maker within five (5) school business days.</u></p> <p><u>Reviews any questions received from each party for submission to any party or witness.</u></p> <p><u>Determines which questions to forward to any party or witness for answers. If any proposed questions are excluded as not relevant, provides the proposing party with a written explanation of the decision to exclude a question as not relevant. Id.</u></p> <p><u>Forwards relevant questions to any party or witness with instructions to submit answers to the Initial Decision-Maker within five (5) school business days.</u></p> <p><u>Upon receipt of answers to questions, provides each party with copies of them. Id.</u></p> <p><u>Provides the parties with written notice of the opportunity to submit, through the Initial Decision-Maker, additional, limited follow-up written, questions that a party wants asked of any party or witness. Id. Informs the parties that any questions must be submitted to the Initial Decision-Maker within five (5) school business days.</u></p> <p><u>Upon receipt of answers to the additional questions, provides each party with copies of them. Id.</u></p> <p><b><u>Determination and Written Notice of Determination</u></b></p> <p><u>Basing all decisions on the <i>preponderance of evidence</i> standard, simultaneously issues to the parties a written determination regarding responsibility that (34 C.F.R. §106.45(b)(7)(ii)):</u></p> <ol style="list-style-type: none"><li><u>1. Identifies the allegations potentially constituting Title IX sexual harassment;</u></li><li><u>2. Describes the procedural steps taken from the receipt of the Formal Title IX Sexual Harassment Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;</u></li><li><u>3. Contains findings of fact supporting the determination;</u></li><li><u>4. Contains conclusions regarding the application of the District's policies and procedures to the facts;</u></li><li><u>5. Contains a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions for the District to impose on the Respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided by the District to the Complainant; and</u></li></ol>
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	<u>6. Outlines the District's procedures and permissible bases for the Complainant and Respondent to appeal.</u>
<u>Title IX Coordinator</u>	<u>Implements any remedies for the Complainant as ordered by the Initial Decision-Maker. 34 C.F.R. §106.45(b)(7)(iv).</u>

**H. Appeals**

The determination regarding responsibility becomes final either on the date that the Appellate Decision-Maker provides the parties with the written decision of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely. 34 C.F.R. §106.45(b)(7)(iii). ~~whether Title IX Sex Discrimination occurred becomes final either on the date on which an appeal would no longer be considered timely if an appeal is not filed, or the date that the Appeal Decisionmaker provides the parties with the written decision of the result of the appeal if an appeal is filed. 34 C.F.R. §106.45(b)(4).~~

Complainant or Respondent	<p>Within <del>five (105)</del> school business days after receiving either <u>the Initial Decision-Maker's written determination regarding responsibility or the notice of dismissal of Formal Title IX Sexual Harassment Complaint, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on: (1) notice of the determination of whether Title IX Sex Discrimination occurred, or (2) notice of dismissal of a Complaint, or allegations therein, makes a written request to the Title IX Coordinator appealing the determination/dismissal based on (34 C.F.R. §§106.45(d)(3), 106.46(i)(1)):</u></p> <ol style="list-style-type: none"> <li>1. Procedural irregularity that would change the outcome.</li> <li>2. New evidence now available that would change the outcome but that was not reasonably available at the time of the determination.</li> <li><u>3. The Title IX Coordinator, <del>or Investigator,</del> or Initial-Decision-maker-Maker had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome. 34 C.F.R. §106.45(b)(8)(i).</u></li> </ol> <p><u><b>Note:</b> The District may offer appeals on additional bases, so long as they are offered equally to both parties. 34 C.F.R. §106.45(b)(8)(ii). Consult the board attorney before offering additional appeal bases, as they may overlap with or impact related proceedings that occur separately from this Grievance Process, e.g., a student expulsion hearing or teacher dismissal hearing to impose recommended disciplinary sanctions as a result of this Grievance Process.</u></p>
Title IX Coordinator or Designee	<p>Upon receiving an appeal from one party <del>(34 C.F.R. §106.45(d)(3), (i)):</del></p> <ol style="list-style-type: none"> <li>1. Notifies the <del>parties other party</del> in writing that an appeal has been filed, <del>including notice of the allegations if notice consistent with Section C. Notice of Allegations, above, was not previously provided to the Respondent.</del></li> </ol>

	<p>2. Provides both parties five (5) school business days to submit a written statement and/or new evidence in support of, or challenging, the outcome <del>to the Title IX Coordinator.</del></p> <p>3. Promptly forwards all materials relative to the appeal to the <del>Appeal Appellate Decision-maker</del> <b>Maker.</b></p> <p><del>Ensures that the Appeal Decisionmaker is not the same person as the Investigator/Decisionmaker or the Title IX Coordinator. 34 C.F.R. §106.45(d)(3)(iii).</del></p> <p><b><u>Note:</u></b> <del>The District must ensure that the Appellate Decision-Maker is not the same person as the Initial Decision-Maker, the Investigator, or the Title IX Coordinator. 34 C.F.R. §106.45(b)(8)(iii)(B). The Board may, but is not required to, hear and decide the appeal; it is a suggestion that aligns with the appeal provisions in Board Policy 2:260, Uniform Grievance Procedure, and with Ill. State Board of Education sex equity regulations requiring districts to “provide for final appeal of grievance decisions made at the system level to the system’s governing board.” 23 Ill. Admin. Code §200.40(c)(1). If the Board acts as the Appellate Decision-Maker, the Board must receive the training in Section A.9, above.</del></p> <p><b><u>Note:</u></b> <del>Some school attorneys recommend that the appeal not go to the Board, so that the Board’s objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. Districts should discuss their options with their board attorney.</del> <del>Note: The Board may, but is not required to, hear and decide the appeal; it is a suggestion that aligns with the appeal provisions in policy 2:260, Uniform Grievance Procedure, and with Ill. State Board of Education sex equity regulations requiring districts to “provide for final appeal of grievance decisions made at the system level to the system’s governing board.” 23 Ill. Admin. Code §200.40(c)(1). If the Board acts as the Appeal Decisionmaker, the Board must receive the training in Section A.12, above. Some school attorneys recommend that the appeal not go to the Board, so that the Board’s objectivity is not called into question if it needs to conduct a hearing related to recommended disciplinary sanctions resulting from the Grievance Process. Consult the board attorney regarding these options.</del></p>
<p>Appeal Decisionmaker</p>	<p>Within 30 school business days, affirms, reverses, or amends the written determination regarding <del>whether Title IX Sex Discrimination occurred or the notice of dismissal.</del> <u>regarding responsibility or the notice of dismissal.</u></p> <p>Within five (5) school business days after its decision, <u>simultaneously issues a written decision to both parties that describes the result of the appeal and the rationale for the result.</u> <del>34 C.F.R. §106.45(b)(8)(iii)(E), (F). notifies the parties in writing of the result of the appeal and the rationale for the result. 34 C.F.R. §106.45(d)(3)(vi).</del></p>

**H. Recordkeeping**

Actor	Action
Title IX Coordinator <del>or</del> Designee	<p><u>Creates and maintains, for a period of at least seven (7) years, records of (34 C.F.R. §106.45(b)(10)(i)):</u></p> <ol style="list-style-type: none"> <li><u>1. The sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore/preserve equal access to the District's education program or activity;</u></li> <li><u>2. Any appeal and its result;</u></li> <li><u>3. Any informal resolution and its result; and</u></li> <li><u>4. All materials used to train the Title IX Coordinator, investigators, decision-makers, and any person who facilitates an informal resolution.</u></li> </ol> <p><u>See 5.150, <i>Personnel Records</i>, and Administrative Procedure 5.150-AP1, <i>Personnel Records</i>, addressing the identification, storage, and access to personnel records.</u></p> <p><u>See Board Policy 7.340, <i>Student Records</i>, along with Administrative Procedures 7.340-AP1, <i>School Student Records</i>, and 7.340-AP2, <i>Storage and Destruction of School Student Records</i>, addressing the District's legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.</u></p> <p><u>See the Recordkeeping subhead in Administrative Procedure 2.265-AP1, <i>Title IX Response</i>.</u></p>