

1 **Browning Public Schools**

2
3 Policy #5090

4 Policy Name: *Complaint Procedure, Alleged Discrimination*

5 Regulation: -----

6
7 **Employee Obligations:** All employees of School District No. 9 have a responsibility to maintain a
8 positive working environment by reporting all incidents or rumors of sexual harassment or other
9 forms of discrimination, intimidation or retaliation involving themselves or others. Employees who
10 observe or hear about any incidents or rumors of sexual harassment or other forms of discrimination,
11 intimidation or retaliation are required to report the incidents or rumors to the Title IX Compliance
12 Officer or the superintendent. Employees who believe that they may have been the subject of sexual
13 harassment or intimidation or the subject of any other form of discrimination or retaliation prohibited
14 by Board Policy Nos. 5050 - 5070 should immediately contact their respective supervisors, the Title
15 IX Compliance Officer or the superintendent.

16
17 **Administrative Reporting Obligations:** All supervisors of the District are directed to report any
18 above-described incident immediately and directly to the Title IX Compliance Officer or the
19 superintendent. In the event the Title IX Compliance Officer is contacted, he or she will
20 immediately contact and relay the complaint to the superintendent. If the Title IX Compliance
21 Officer is the alleged violator, all reports will be directed to the superintendent who will then be in
22 charge of the investigation and vice versa.

23
24 **Informal Measures:** The District is committed to the prompt and effective resolution of all
25 complaints of sexual harassment, other forms of discrimination or retaliation of any kind. An
26 employee may voluntarily choose informal measures but will in all cases be entitled to utilize the
27 options and steps available to them through the more formal procedure outlined below. In the event
28 the employee does not view the harassment, discrimination or retaliation as severe and he or she
29 wishes to attempt to resolve the matter informally, some of the following informal measures may be
30 attempted:

- 31
- 32 • Informing the offending individual that his or her behavior is unwelcome, offensive or
 - 33 inappropriate. Confrontation by the employee is not required, however, and may be
 - 34 accomplished through written communication developed with the assistance of and
 - 35 delivered by the Title IX Compliance Officer or the superintendent or his or her designee.
 - 36 • Notify a supervisor, the Title IX Compliance Officer or the superintendent. Early
 - 37 reporting is crucial and absolutely necessary for the District to assist in addressing the
 - 38 unwanted behavior.
 - 39 • Keep notes, a journal or other records of dates, times, places and witnesses to offending
 - 40 conduct. Save all such notes and records in a safe place.
 - 41 • Request a copy of this policy from a supervisor, the Title IX Compliance Officer or the
 - 42 superintendent or his or her designee so that reporting procedures are clear.
- 43

44 **Formal Measures:** An employee may at any time choose to initiate a formal procedure to resolve a
45 complaint of sexual harassment, discrimination or retaliation. In no event will an employee's
46 attempt at informal resolution be used to delay or excuse the District's responsibility to promptly
47 investigate reports of sexual harassment, other forms of discrimination or retaliation, with or without
48 a formal complaint. All employees are encouraged and permitted to have a friend or advisor present
49 with them for moral support during any stage of the reporting and investigation process.

1 **STEP 1:** If an employee does not wish to pursue any informal measures to resolve his or her
2 complaint, or such measures are not successful, the employee should contact a supervisor, the Title
3 IX Compliance Officer or the superintendent and advise him or her of the employee's complaint. If
4 the initial report is made to a supervisor or the Title IX Compliance Officer, he or she will refer the
5 matter to the superintendent. The formal complaint should be made within thirty (30) days of the
6 events or incidents giving rise to the complaint. Again, early reporting is crucial and necessary for
7 the District to assist in addressing the unwanted behavior.

8
9 The Title IX Compliance Officer or the Superintendent or his/her designee will assist the employee
10 in drafting a written summary of the complaint that outlines the nature of the complaint and the
11 remedy sought by him or her. The Title IX Compliance Officer or the superintendent or his or her
12 designee will then proceed to investigate the complaint and may, in his/her discretion, secure the
13 services of a professional investigator to assist in conducting the investigation.

14
15 The Title IX Compliance Officer or the Superintendent or his/her designee will endeavor to have the
16 investigation completed within thirty (30) days after his/her receipt of the written summary. Upon
17 completion of the investigation, the Title IX Compliance Officer or the superintendent or his or her
18 designee will prepare a written report (which may be based in all or part on any report prepared by
19 an outside investigator) that includes the following:

- 20
21 ❖ a clear statement of the allegations of the complaint and the remedy sought by the
22 employee;
- 23
24 ❖ a statement of the facts as contended by each of the parties to the complaint;
- 25
26 ❖ a statement of the facts as determined by the superintendent, his/her designee or outside
investigator;
- 27
28 ❖ A list of all witnesses interviewed and documents reviewed during the investigation;
- 29
30 ❖ The Title IX Compliance Officer's or the superintendent's or his or her designee's
conclusion as to whether the allegations in the complaint are meritorious; and
- 31
32 ❖ If the conclusion is that the complaint is valid, a statement of the remedy to be
implemented.

33 The Title IX Compliance Officer or the superintendent or his or her designee will endeavor to have
34 the investigative report completed no later than ten (10) days after the completion of the
35 investigation. Upon completion of the report, the Title IX Compliance Officer or the superintendent
36 or his or her designee will promptly meet with the parties to the complaint and advise them of the
37 results of the investigation and of the remedy to be implemented.

38 **STEP 2:** If the employee or the subject of the complaint is dissatisfied with the investigation, report
39 or remedy, either party may seek to have the Board of Trustees review the Title IX Compliance
40 Officer's or the superintendent's or his or her designee's action. That procedure must be initiated by
41 a written request for review by the Board of Trustees. Upon receipt of the written request, the matter
42 will be placed on the agenda for consideration by the Board of Trustees at their next regularly
43 scheduled meeting.

1 After hearing from all affected parties, the Board of Trustees shall take action to either, affirm, reject
2 or modify the actions of the Title IX Compliance Officer or the superintendent or his or her designee.
3 The decision of the Board of Trustees will be final.
4

5 In the event that part or all of the remedy to be implemented involves a recommendation to the
6 Board of Trustees by the superintendent for the dismissal or suspension without pay of an employee,
7 the Board hearing conducted with respect to such recommendation will serve as the Step 2 Board
8 review under this procedure. Any decision reached by the Board of Trustees with respect to the
9 superintendent's recommendation under those circumstances may be appealed as may be provided
10 for by law.
11

12 **Confidentiality:** Any reports of sexual harassment, other form of discrimination or retaliation will
13 be kept in confidence to the maximum extent feasible. The District's obligation to investigate and
14 take corrective action may, however, ultimately require disclosure of the names of parties, witnesses
15 and allegations. The District will endeavor in all instances to keep the need for such disclosure to a
16 minimum. Pending the completion of any investigation, the Title IX Compliance Officer or the
17 superintendent or his or her designee is authorized to take any action necessary to protect the alleged
18 victim, or any other individuals assisting with or otherwise participating in the investigation.
19

20 **Documentation:** The District will maintain a record of all complaints of sexual harassment, other
21 forms of discrimination and retaliation in the office of the Title IX Compliance Officer or the
22 superintendent's office, or wherever he or she may otherwise designate. Such records will not be
23 placed in the permanent files of employees without their knowledge and the records will remain
24 confidential.
25

26 **Retaliation:** Retaliation against any employee reporting sexual harassment or any other form of
27 discrimination prohibited by law or policy, anyone assisting in reporting such a complaint or anyone
28 cooperating in the investigation of any such complaint is strictly prohibited. Such retaliation is a
29 violation of the law and may serve as the basis for a separate and independent complaint.
30

31 **Sanctions:** Consistent with the requirements of applicable laws and regulations, the superintendent
32 or his/her designee may take or recommend such action against any employee determined to have
33 engaged in sexual harassment or any other form of discrimination, or retaliation, as he or she deems
34 appropriate after the completion of the investigation. Such action may include disciplinary action up
35 to and including a recommendation by the superintendent for termination of employment.
36

37 **Other Complaint Measures:** Nothing in this complaint procedure prevents an employee from
38 pursuing his/her complaint of sexual harassment, other forms of discrimination of any kind or
39 retaliation through other appropriate avenues. At any time during this complaint process, an
40 employee may initiate a complaint with the Montana Human Rights Bureau or the U.S. Department
41 of Education's Office for Civil Rights. The address and telephone numbers for those agencies are as
42 follows:
43

44 Montana Human Rights Bureau
45 P.O. Box 1728
46 Helena, MT 59624-1728
47 (406) 444-2884
48
49
50

Office of Public Instruction
P.O. Box 202501
Helena, MT 59620-2501
(406) 444-4402

1 **Office for Civil Rights:** Federal Building
2 1244 Speer Blvd
3 Denver, CO 80204-36582
4 (303) 844-2991

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6 **False Accusations:** Charges of sexual harassment, any other form of discrimination or retaliation are
7 a serious matter and will be promptly responded to and investigated by the District. Employees
8 should not be afraid of making good faith reports of sexual harassment or other forms of
9 discrimination or retaliation, even if such reports might be erroneous. However, employees who
10 knowingly perpetrate false or fabricated accusations will be held responsible for their actions and
11 may be subject to disciplinary action as listed in SANCTIONS above.

12
13 **Contact Persons:** As outlined above, complaints of sexual harassment, any other form of
14 discrimination or retaliation should be directed to a supervisor, the Title IX Compliance Officer or
15 the superintendent. The names, office locations and telephone numbers for those individuals are as
16 follows:

17		
18	Emorie Davis Bird/Designe	Corrina Guardipee-Hall
19	Title IX Compliance Officer	Superintendent
20	Administration Building	Administration Building
21	129 First Avenue SE	129 First Avenue SE
22	Browning, MT 59417	Browning, MT 59417
23	(406) 338-2715 Ext. 4281	(406) 338-2715 Ext. 4208
24		
25		
26		

27 **Cross References:** #5050 Equal Employment Opportunity/Non-Discrimination
28 #5060 Discrimination, Sexual Harassment and Retaliation
29 #5070 Accommodating Individuals with Disabilities
30 Formerly Policy #5012

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32 **Legal References:** Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000(e), et seq.,
33 29 C.F.R. § 1604.11
34 Title IX of Education Amendments, 20 U.S.C. §§ 1681, et seq.
35 Montana Constitution, Art. X, § 1
36 § 49-2-101, MCA Human Rights Act
37 Harris v. Fork Lift Systems, 114 S. Ct. 367 (1993)

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39 **Policy History:**
40 Adopted on: 10/10/00
41 Revised on: 2/28/01, 3/4/14
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