

Series 3000: Operations, Finance, and Property

3100 General Operations

3115E Grievance Procedure and Remedies

A. Grievance Procedure

1. Generally

The District has adopted the following Grievance Procedure that provides for the prompt and equitable resolution of Unlawful Discrimination, including harassment and retaliation, Complaints, [excluding Title IX Sexual Harassment complaints](#). This Grievance Procedure will be used to investigate and resolve Complaints of Unlawful Discrimination, including harassment and retaliation, between and among students, employees, volunteers, contractors, and Board members.

The District will treat Complainants and Respondents equitably.

The District requires that any individual serving in a Key Role not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. ~~Individuals serving in a Key Role for a Title IX Sex Discrimination Complaint must meet the additional training requirements in Policy 3115H.~~

The District presumes that the Respondent is not responsible for the alleged Unlawful Discrimination until a determination is made at the conclusion of the Grievance Procedure.

2. ~~Grievance Procedure Stages and~~ Timeframes

The District ~~has established the following stages and, where applicable, timeframes for the Grievance Procedure:~~ anticipates that most investigations will be concluded within 60 days. Investigations that involve several parties or witnesses, or investigations that are more complex, may exceed 60 days.

i. ~~Evaluation~~

~~Upon receipt of a Complaint, the Coordinator will determine whether to proceed with an investigation or dismiss the Complaint consistent with Policy 3115F. For Title IX Sex Discrimination Complaints, this determination will occur within 5 days.~~

ii. ~~Investigation~~

~~If the Complaint proceeds to the Investigation phase, the Coordinator will appoint an Investigator to conduct the investigation and provide notice of the allegations. The Coordinator may serve as the Investigator. For Title IX Sex Discrimination Complaints, the notice of allegations will~~

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~~be provided within 5 days. For Title IX Sex Discrimination Complaints, the Investigator will endeavor to complete the investigation within 60 days.~~

~~iii. Evidence Access (Title IX Sex Discrimination Complaints Only)~~

~~For Title IX Sex Discrimination Complaints only, upon completion of the investigation phase, the Parties will have 5 days to access and respond to the evidence as further explained below.~~

~~iv. Decision~~

~~Upon completion of the investigation, the Decisionmaker will endeavor to promptly issue a decision as to whether Unlawful Discrimination occurred. For Title IX Sex Discrimination Complaints, the decision will be issued within 10 days.~~

~~Unless otherwise determined by the applicable Coordinator based on unique circumstances, the Investigator will also serve as the Decisionmaker.~~

~~v. Appeal Decision~~

~~If an appeal is permitted under Policy 3115F, that appeal must be submitted within 5 days from a Party's receipt of the determination.~~

~~At any point, the Coordinator, Investigator, Decisionmaker, or Appeals Officer may reasonably extend timelines on a case by case basis for good cause. If good cause exists, the Coordinator, Investigator, Decisionmaker, or Appeals Officer will notify each Party in writing within 5 days of the decision to extend the timelines. Such notice will include the reason and length of the extension. Good cause may include absence of a Party or witness; concurrent law enforcement activity; complexity of the underlying allegations; or the need for accommodations (e.g., language assistance or accommodation of disabilities).~~

~~2.3. Confidentiality~~

~~The District will take reasonable steps to protect the privacy of the Parties and witnesses during its Grievance Procedure. These steps will not restrict the ability of the Parties to obtain and present evidence, including consulting with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the Grievance Procedure. ~~The Parties may not engage in retaliation, including against witnesses.~~~~

~~3.4. Evidence Considerations~~

~~The Decisionmaker will objectively evaluate all relevant evidence, ~~that is Relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence.~~ Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. ~~For Title IX Sex~~~~

~~Discrimination Complaints, the Decisionmaker must attempt to independently question and evaluate the credibility of Parties and witnesses if credibility is in dispute and Relevant.~~

4.5. Complaint Consolidation

The District may consolidate Complaints when the allegations arise out of the same facts or circumstances.

5.6. Notice of Allegations

Upon receiving a Complaint, the applicable Coordinator will notify the Parties of the following:

- a. The Grievance Procedure and any informal resolution process;
- b. 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 Unlawful Discrimination, and the date(s) and location(s) of the alleged incident(s); and
- c. Retaliation is prohibited; ~~and~~
- d. ~~For Title IX Sex Discrimination Complaints, the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an accurate description of the evidence. If the District provides a description of the evidence, the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon request.~~

If, during an investigation, the District decides to investigate additional allegations of Unlawful Discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the District will notify the Parties of the additional allegations.

6.7. Investigation

The District will provide for ~~ensure an~~ adequate, reliable, and impartial Complaint investigation ~~of Complaints~~. The burden is on the District - not on the Parties - to conduct an investigation that gathers sufficient evidence to determine whether Unlawful Discrimination occurred.

The Parties will be provided an equal opportunity to present fact witnesses and other inculpatory and exculpatory relevant evidence ~~that is relevant and not otherwise impermissible. The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.~~

Throughout the investigation, the Investigator must ~~determine, determine~~ what, if any, facts remain in dispute. If dispositive facts are not reasonably in dispute (e.g., based on Party admissions, irrefutable evidence), further investigation is not required.

~~7. Title IX Sex Discrimination Specific Evidence Rules~~

~~a. Access to Evidence: For allegations of Title IX Sex Discrimination, the District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of Title IX Sex Discrimination and not otherwise impermissible, in the following manner:~~

- ~~i. The Investigator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the Investigator provides a description of the evidence, the Investigator will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;~~
- ~~ii. The Investigator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and~~
- ~~iii. The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the Grievance Procedure. Disclosure of such information and evidence for purposes of administrative proceedings or litigation related to the Title IX Sex Discrimination Complaint is authorized.~~

~~b. Impermissible Evidence: The following types of evidence, and questions seeking that evidence, are impermissible regardless of whether they are relevant:~~

- ~~i. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege is owed has voluntarily waived the privilege or confidentiality;~~
- ~~ii. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the District obtains that Party's or witness's voluntary, written consent for use in the Grievance Procedure; and~~
- ~~iii. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and~~

~~Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.~~

~~Impermissible evidence will not be accessed or considered, except by the District to determine whether one of the above exceptions applies. Impermissible evidence will not be disclosed or otherwise used in the investigation.~~

8. Determination

Following the investigation and evaluation ~~of all relevant of the and not otherwise impermissible~~ evidence, the Decisionmaker will:

~~a. Use the preponderance of the evidence standard to determine whether Unlawful Discrimination occurred. The Decisionmaker must evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded by a preponderance of the evidence that Unlawful Discrimination occurred, whatever the quantity of the evidence, the Decisionmaker will not determine that Unlawful Discrimination occurred.~~

a. Use the preponderance of the evidence standard to determine whether Unlawful Discrimination occurred.

b. Notify the Parties in writing of the determination whether Unlawful Discrimination occurred, including the rationale for such determination and the procedures and permissible bases for the Complainant and Respondent to appeal, if applicable.

~~c. Not discipline a Respondent for Unlawful Discrimination unless there is a determination at the conclusion of the Grievance Procedure that the Respondent engaged in unlawful discrimination.~~

d.c. Comply with this Grievance Procedure before imposing any disciplinary sanctions against a Respondent.

9. Remedies

If there is a determination that Unlawful Discrimination occurred, the applicable Coordinator will, as appropriate:

a. Coordinate the provision and implementation of remedies to a Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by Unlawful Discrimination;

b. Coordinate the imposition of any Disciplinary Sanctions against a Respondent. ~~For a Title IX Sex Discrimination Complaint, notify the Complainant of any such Disciplinary Sanctions;~~ and

- c. Take other appropriate prompt and effective steps to ensure that Unlawful Discrimination does not continue or recur within the District's education program or activity.

10. False Statements

A person who knowingly files a false Complaint or makes a materially false statement is subject to discipline, including discharge from employment or expulsion.

~~The District will not discipline a Party, witness, or others participating in a Title IX Sex Discrimination Complaint Grievance Procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.~~

Legal authority: 20 USC 1400 et seq., 1681 et seq.; 29 USC 206 et seq., 621 et seq., 701 et seq., 794, 2601 et seq., 6101 et seq.; 38 USC 4301 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 106.1, et seq.; MCL 37.1101 et seq., 37.2101 et seq.

Date adopted:

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