

SEXUAL HARASSMENT/TITLE IX GRIEVANCE PROCEDURES

The Board does not discriminate on the basis of sex (including sexual orientation or gender identity) in its education program or activities and is required by Title IX and its regulations not to discriminate in such a manner. The prohibition on discrimination extends to admission and employment. The prohibition on sex discrimination includes sexual harassment.

1. Definitions

- a. Sexual harassment - conduct on the basis of sex that satisfies one or more of the following:
 - i) A school employee conditioning the provision of an aid, benefit, or service of District on an individual's participation in unwelcome sexual conduct (*i.e., quid pro quo*); or
 - ii) Unwelcome determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 - iii) Sexual assault (as defined in the Clery Act, 20 U.S.C. 1092(f)), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act.
- b. Complainant - an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- c. Respondent - an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- d. Formal complaint - a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education programs or activities of the District.
- e. Education program or activity – locations, events, or circumstances over which the District has exercised substantial control over both the Respondent and the context in which the sexual harassment occurs.
- f. Actual Knowledge – notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any employee of the District.

2. Duty to Respond

The District will promptly respond when an allegation of sexual harassment occurs in an education program or activity. Education programs and activities include locations, events, or circumstances over which the District exercises substantial control over both the respondent and the context in which the sexual harassment occurs.

3. Supportive Measures

"Supportive measures" are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to an alleged victim or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. The purpose of supportive measures is 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 to deter sexual harassment.

The District shall offer supportive measures to a complainant. The Title IX Coordinator shall 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. The District shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide supportive measures.

Supportive measures may include:

- a. Counseling;
- b. Extensions of deadlines or other course-related adjustments;
- c. Modifications of work schedules;
- d. Campus escort services;
- e. Mutual restrictions on contact between the parties;
- f. Changes in work locations;
- g. Leaves of absence;
- h. Increased security and monitoring of certain areas of campus; or
- i. Other similar measures.

4. Reports of Sexual Harassment

- a. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), 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 results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Upon receipt by the Title IX Coordinator of a report or formal complaint of alleged conduct prohibited by this Policy, the Title IX Coordinator must promptly contact the complainant. The Title IX Coordinator will (1) discuss the availability of supportive measures and consider the complainant's wishes with respect to supportive measures; and

(2) 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.

If the complainant does not respond or declines to file a formal complaint, the Title IX Coordinator must consider the complainant's wishes, District safety, and the District's obligation to maintain an environment free from harassment and discrimination, and determine whether to initiate a formal complaint. The District's response must be reasonable in light of the known circumstances. If the report alleges conduct by a staff member against a student, the Title IX Coordinator shall complete a formal complaint and initiate an investigation.

- b. All school district employees are required to report sexual harassment he or she becomes aware of, as soon as practicable. Failure to report may result in disciplinary action, up to and including termination of employment.

5. Complaint Procedure

- a. Upon receipt of a report or complaint of sexual harassment, the Title IX Coordinator will initiate these grievance procedures in order to provide for the prompt and equitable resolution of student and employee complaints alleging sexual harassment. When the District has actual knowledge of sexual harassment in an education program or activity, it must respond promptly in a manner that is not deliberately indifferent. The District is deliberately indifferent if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
- b. A formal complaint may be filed by a Complainant, his or her parent/guardian, or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation of sexual harassment. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the formal complaint. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. The complaint must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the formal complaint.
- c. The District's designated and authorized Title IX Coordinator is:

Assistant Superintendent
1100 Broad Ave. Findlay, Ohio 45840
419-425-8202

kristamiller@findlaycityschools.org

The designated/authorized Title IX Coordinator and his/her contact information shall be made known to all applicants for admission and employment, students, parents or legal guardians of students, employees, and all of the District's employee unions. Further, the District shall prominently display on its website the contact information for the Title IX Coordinator.

- d. If the Title IX Coordinator is the person alleged to have engaged in sexual harassment, the complaint shall be sent directly to the Superintendent, who shall act as the Title IX Coordinator.
 - e. The District will treat a person as a complainant any time it has notice that the person is alleged to be the victim of conduct that could constitute sexual harassment (regardless of whether the person themselves reported, or a third party reported the sexual harassment), and irrespective of whether the complainant ever chooses to file a formal complaint.
 - f. Throughout the grievance process, the District objectively evaluates all relevant evidence—including both inculpatory and exculpatory evidence—and provides credibility determinations not based on a person’s status as a complainant, respondent, or witness. The grievance process includes a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. The grievance process 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, unless the person holding such privilege waived the privilege.
6. Investigation
- a. Upon the filing of a complaint, the Title IX Coordinator shall initiate an investigation of the allegations as set forth in the formal complaint. The Title IX Coordinator may designate another individual to investigate or assist in the investigation of the allegations. If another individual is designated to investigate, both parties shall be notified of the identity of the investigator.
 - b. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not on the parties.
 - c. The Title IX Coordinator or investigator shall send a copy of this Policy and written notice to both parties of the allegations set forth in the complaint upon receipt of a formal complaint. The notice must include sufficient details known at the time, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known. The notice must include a statement 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; that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and notice of any provision in District's Code of Conduct or Board policies that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. If in the course of the investigation, the District decides to investigate allegations about the complainant or respondent that are not included in this notice, the District must provide notice of the additional allegations to the parties whose identities are known.
 - d. The District may consolidate formal complaints as to allegations of 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 where the allegations of sexual harassment arise out of the same facts or circumstances.

- e. The investigator will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- f. The investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- g. The investigator will provide the same opportunities to all parties to have others present during any grievance proceeding, including the opportunity to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the Complainant or Respondent in any meeting or proceeding. The District may restrict the extent of the advisor's participation in the proceedings, as long as the restrictions apply equally to both parties.
- h. The investigator will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- i. The investigator will not require, allow, rely upon, or otherwise use questions or evidence that constitutes, or seeks disclosure of, information placed under a legally recognized privilege, unless the person holding such privilege has waived the privilege. Throughout the investigation and grievance process, the District shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, which are made and maintained in connection with the provision of treatment to the party, unless the District receives the party's (or the party's parent/guardian if not 18) voluntary, written consent to do so for a grievance process.
- j. The investigator will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- k. Prior to completion of the investigative report, the District 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 10 calendar days to submit a written response, which the investigator will consider prior to completion of the investigative report. All such evidence must be subject to the parties' inspection and review and be available at any hearing.
- l. After considering the written responses, the investigator creates an investigative report that fairly summarizes relevant evidence. This report must be provided to the parties and their advisors, if any, at least 10 calendar days prior to the determination of responsibility.

7. Determination of Responsibility

- a. A decision maker will be appointed to issue a determination of responsibility. The parties will be notified of the identity of the decision maker. The decision maker cannot be the same person as the Title IX Coordinator(s) or the investigator(s), and may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- b. Before reaching a determination regarding responsibility, the decision maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The decision maker must explain to the party proposing the questions any decision to exclude questions as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if 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.

- c. When determining responsibility, the District uses the preponderance of the evidence standard. The decision maker issues a written determination regarding responsibility. The written determination must include:
 - i) Identification of the allegations potentially constituting sexual harassment;
 - ii) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence;
 - iii) Findings of fact supporting the determination;
 - iv) Conclusions regarding the application of the District's code(s) of conduct to the facts;
 - v) A statement of, and rationale for, the results as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the education program or activity will be provided by the District to the Complainant; and
 - vi) The District's procedures and permissible bases for the complainant and respondent to appeal.

The decision maker must provide the written determination to the parties simultaneously and to the Title IX Coordinator. The written determination becomes final either on the date that the District provides the parties with the written determination of the result of an appeal, if an appeal is filed, or if an appeal is filed, the date on which an appeal would no longer be considered timely.

d. Informal Resolution

Informal intervention, remedies, mediation, and resolution that does not involve a full investigation and adjudication are available to resolve the complaint at any time prior to reaching

a determination of responsibility. As a part of the initial assessment of a complaint, and throughout the grievance process, the Title IX Coordinator will determine whether an informal resolution process is appropriate, consulting with the Complainant and Respondent, considering District safety, and evaluating the District's obligation to maintain an environment free from harassment and discrimination.

Informal resolution of a sexual harassment formal complaint is available, subject to the following conditions:

- i) The District may not offer an informal resolution process to resolve a report of sexual harassment unless a formal complaint is filed.
- ii) The District must provide the parties a written notice contained in the following:
 - a) The allegations in the formal complaint;
 - b) The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - c) Notice that any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to resume the formal complaint grievance process with respect to the formal complaint;
 - d) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- iii) The District obtains the parties' voluntary, written consent to the informal resolution process. Participation in the informal resolution process is not required by either party. The District may not require as a condition of enrollment or continuing enrollment or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment under the formal complaint grievance process.
- iv) Informal resolution is never available to resolve allegations that an employee sexually harassed a student.

8. Appeals

The District will offer both the complainant and respondent the opportunity to appeal from a determination regarding responsibility, and from a dismissal of a formal complaint or any allegations therein, on the following bases:

- a. Procedural irregularity that affected the outcome of the matter;
- b. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and/or
- c. The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or for or against the individual complainant or respondent, that affected the outcome of the matter.

An appeal must be submitted in writing to the Title IX Coordinator within three calendar days of the issuance of the determination regarding responsibility, and must include a statement specifying the grounds for the appeal. The Title IX Coordinator will notify both parties of the appeal. Both parties shall have an opportunity to provide a written statement in support of or

challenging the outcome, which shall be submitted to the Title IX Coordinator within two business days of the notice of the appeal.

An "Appeal Decision Maker" who is not the same person(s) as the decision maker that reached the determination of responsibility, the investigator(s), or the Title IX Coordinator, shall be appointed. The Appeal Decision Maker will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Both parties shall be notified of the designee. The Appeal Decision Maker will affirm the written determination of responsibility unless the Appeal Decision Maker finds clear error and/or a compelling rationale, related to the basis for the appeal, for overturning or modifying the determination of responsibility. .

The Appeal Decision Maker shall issue a written decision describing the result of the appeal and the rationale for the result, and shall provide the written decision simultaneously to both parties and their advisors within 10 business days of the Title IX Coordinator's receipt of a parties' notice of appeal of the original decision maker.

9. Dismissal of Complaints

- a. Complaints must be dismissed by the decision maker where the allegations, if true, would not meet the Title IX jurisdictional conditions:
 - i) The conduct alleged in the formal complaint would not constitute "sexual harassment," even if proved;
 - ii) The conduct did not occur against a person in the United States;
 - iii) The actions complained of did not occur in the District's education program or activity.
- b. Complaints may be dismissed by the decision maker where:
 - i) A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - ii) The respondent is no longer enrolled or employed by the District; and/or
 - iii) Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the allegations contained in the formal complaint.
- c. The Title IX Coordinator will send the parties written notice of any dismissal decision, and the reason(s) therefore. Dismissal for purposes of this Title IX Policy does not preclude action under the District's other codes of conduct or other policies.

10. Sanctions and Remedies

In the event the respondent is determined to be responsible for sexual harassment, the District will provide remedies to the Complainant that are designated to restore or preserve equal access to the education program or activity. Such remedies may include supportive measures, but need not be non-disciplinary, non-punitive, or avoid burdening the Respondent. The Title IX Coordinator is responsible for the effective implementation of any remedies.

The District follows the grievance process described in this policy before imposing any disciplinary sanctions or other measures that are not supportive measures against Respondent.

Staff members who engage in conduct that violates Title IX as set forth in this Policy are subject to disciplinary action, up to and including termination of employment, consistent with any applicable collective bargaining agreement.

Students who engage in conduct that violates Title IX as set forth in this Policy are subject to disciplinary action, up to and including suspension, expulsion, and permanent exclusion.

11. Reasonable Timeframe

The District will seek to complete the appropriate resolution process and appeals as promptly as possible, consistent with the need to conduct sensitive and informed fact-gathering to ensure an equitable resolution. The process ordinarily shall be completed within 60 business days. This timeline will be stayed during any period during which the parties have agreed to an informal resolution process. The District may extend any timeframe in this Policy for good cause. A delay or limited extension may occur due to the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; or other good cause to ensure the integrity and thoroughness of the investigation. Reasonable requests for delays by the parties may serve to extend the time period for resolution. In the event of a delay or extension, the District will notify the complainant and respondent of the delay or extension and the reasons.

12. Emergency Removal of Students

The District may remove a student respondent from its education program or activity on an emergency basis, provided that the district undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Such an emergency removal must be conducted consistent with student due process rights regarding emergency removal, suspension and expulsion, and consistent with any applicable obligations under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act.

13. Administrative Leave of Staff

The District may place a non-student employee on administrative leave during the pendency of a grievance process.

14. Notice of Nondiscrimination

The District provides the following notice to the list of persons below:

The Board does not discriminate on the basis of sex in its education programs or activities and the Board is required by Title IX and its regulations not to discriminate in such a manner. The requirement not to discriminate extends to admission and employment. Inquiries about the application of Title IX may be referred to the Title IX Coordinator, Krista Miller, **Assistant Superintendent, 1100 Broad Ave. Findlay, Ohio 45840, 419-425-8202, kristamiller@findlaycityschools.org**, or to the Assistant Secretary of the U.S. Department of Education, Office for Civil Rights.

The Board has adopted grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX. Anyone may report or file a complaint of sex discrimination or sexual harassment with the Title IX Coordinator at the address, email address, or telephone number above. The District will investigate and respond consistent with its grievance procedures.

Persons to be notified: Applicants for admission and employment, students, parents or legal guardians, employees, and unions.

15. Retaliation

Retaliation against those who file a complaint or participate in the investigation of the complaint is prohibited. No employee or representative of the District, nor any other person, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation. Discipline for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation; however, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Complaints alleging retaliation may be filed according to the procedures for sex discrimination.

16. Confidentiality

The District must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

17. Training

The District ensures that Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process receives 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. The District ensures that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. The District ensures that decision makers receive training on issues of relevance of questions and evidence, including when questions and evidence about the

Complainant's sexual predisposition or prior sexual behavior are not relevant. Materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. The District makes publicly available all Title IX training materials on its website.

The District also trains all employees concerning their legal obligations to report sexual harassment to the Title IX Coordinator. The training includes practical information about how to identify and report sexual harassment.

18. Record-Keeping

The District maintains the following records for a period of seven years:

- a. Documentation of the District's response to a report or formal complaint of sexual harassment. Such documentation must include:
 - i) Any actions, including supportive measures, taken and designed to restore or preserve equal access to the District's education program or activity.
 - ii) If supportive measures were not provided, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.
 - iii) Documentation for the basis that its conclusion that its response to the report or complaint was not deliberately indifferent.
- b. Documentation of each 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 or preserve equal access to the District's education program or activity.
- c. Any appeal and the appeal outcome.
- d. Any informal resolution and the outcome.
- e. All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process.

19. Off-Campus Misconduct

Depending on the relationship of the respondent to the District, the District may not have the authority to impose disciplinary action. Where the District does not have disciplinary authority, the District will seek to meet its Title IX obligations by evaluating the reported conduct, providing reasonably available supportive measures, assisting the Complainant in identifying external reporting options, and taking reasonably available steps to end the sexual harassment.

20. Misconduct of a Sexual Nature that Does Not Constitute Sexual Harassment

Not all conduct of a sexual nature will constitute sexual harassment in violation of Title IX. Misconduct of a sexual nature that is not covered by this Policy may be referred for investigation and disposition under the Student Code of Conduct or other policies, rules, and handbooks applicable to employees, including the *Licensure Code of Professional Conduct for Educators* and other applicable laws and regulations, as appropriate.

21. Duty to Report Suspected Child Abuse or Neglect

District employees acting in an official or professional capacity who know, or have reasonable cause to suspect, that a child less than 18 years of age or a person under 21 years of age with a developmental disability or physical impairment, has suffered or faces a threat of suffering a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child or person must immediately report that knowledge or suspicion to a municipal or county law enforcement officer or the public children's services agency in the county. Nothing in this Policy shall negate the obligation to report or delay the timeline to make a mandatory report. Failure to report may result in disciplinary action, up to and including termination of employment.

LEGAL REFS: Title IX of the Education Amendments of 1972 20 C.F.R. 1604.11

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