

**Regulation 5145.71: Title IX Sexual Harassment Complaint Procedures**

**Status: ADOPTED**

**Original Adopted Date: 03/17/2021 | Last Reviewed Date: 03/17/2021**

The District does not discriminate on the basis of sex ~~complaint procedures described in this administrative regulation shall be used to address~~ any of its programs or activities, and it complies with ~~complaint governed by~~ Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106). The District is committed to maintaining an educational and workplace environment free from sexual harassment.

**Title IX Sexual Harassment Prohibited**

Sexual Harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited in District education programs or activities. Title IX Sexual Harassment is conduct on the basis of sex ~~alleging that a student, while~~ in an education program or activity ~~that satisfies~~ **in which a district school exercises substantial control over the context and respondent, was subjected to** one or more of the following: **forms of sexual harassment:** (34 CFR 106.30, 106.44)

1. A district employee conditioning the provision of a district aid, benefit, or service on a ~~person's~~ **the student's** participation in unwelcome sexual conduct
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a ~~person~~ **student** equal access to the district's education program or activity
3. Sexual assault, **dating violence, domestic violence, or stalking** as defined in 20 U.S.C. § USC 1092 or **34 USC 12291** ~~(f)(6)(A)(v)~~

For the purpose of this AR, the District defines "consent" as defined in California Penal Code Section 261.6: "positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289, or former Section 288a."

4. Dating violence as defined in U.S.C. § ~~(a)(10)~~
5. Domestic violence as defined in 34 U.S.C. §12291(a)~~(8)~~
6. Stalking as defined in 34 U.S.C. §12291(a)~~(30)~~

~~(cf. 4119.11/4219.11/4319.11—Sexual Harassment)~~

### **~~Term Definitions~~** (34 C.F.R. §106.30)

The following Title IX definitions apply to the following terms used in this Administrative Regulation:

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~~Complainant—an individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.~~

~~Education program or activity—locations, events, or circumstances where the District has substantial control over both respondent(s) and the context in which alleged Title IX Sexual Harassment occurred.~~

~~Formal Complaint—a document filed by a complainant (or a complainant’s parent or guardian) or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a respondent(s) and requesting that the District investigate the allegation.~~

~~Respondent—an individual who has been reported to be the perpetrator of the conduct that could constitute Title IX Sexual Harassment.~~

~~Supportive measures—non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to complainant(s) or respondent(s) before or after the filing of a formal complaint or where no formal complaint has been filed.~~

### **~~Title IX Sexual Harassment Complaints~~**

~~The complaint procedures set forth in this administrative regulation will be used to address any report of Title IX Sexual Harassment in a District education program or activity to the extent required by Title IX.~~

~~Should the Title IX Regulations be modified or repealed, the District will implement only the aspects of these procedures required by law. If permitted by law, the District will address reports of~~

***All other*** sexual harassment, including Title IX Sexual Harassment, ***complaints or allegations brought by or on behalf of students shall be investigated and resolved*** in accordance with AR 4030, Nondiscrimination in Employment, or ***BP/AR 1312.3 - Uniform Complaint Procedures***, as applicable.

### **~~Non Title IX Sexual Harassment Complaints~~**

~~Reports of sexual harassment not covered by the definition of Title IX Sexual Harassment will be addressed in accordance with AR 4030, Nondiscrimination in Employment, or AR 1312.3, Uniform Complaint Procedure, as applicable. The determination of whether the allegations meet the definition of Title IX Sexual Harassment~~***sexual harassment*** ~~under Title IX~~ ***will*** ~~shall~~ be made by the District’s Title IX Coordinator.

~~(cf. 4030—Nondiscrimination in Employment)  
(cf. 1312.3—Uniform Complaint Procedure)~~

### **Reporting Title IX Sexual Harassment**

~~Anyone who believes they have experienced, witnessed or received a~~

***Because the complainant has a right to pursue a complaint under BP/AR 1312.3 for any allegation that is dismissed or denied under the Title IX complaint procedure, the Title IX Coordinator shall ensure that all requirements and timelines for BP/AR 1312.3 are concurrently met while implementing the Title IX procedure.***

### **Reporting Allegations/Filing a Formal Complaint**

***A student who is the alleged victim of sexual harassment or the student's parent/guardian may submit a report of sexual harassment to the District's Title IX Coordinator using the contact information listed in AR 5145.7 - Sexual Harassment or to any other available school employee, who shall forward the*** report of Title IX Sexual Harassment is strongly encouraged to report the incident to the District's Title IX Coordinator, District administrator, or any District employee with whom the person is comfortable.

~~District employees receiving a report of or witnessing Title IX Sexual Harassment are required to report it to the Title IX Coordinator. An employee who fails to promptly report or forward a report of Title IX Sexual Harassment to the Title IX Coordinator may be disciplined, up to and including dismissal.~~

Title IX Coordinator  
Dr. Mariane Doyle  
21380 Centre Pointe Parkway  
Santa Clarita, CA 91350  
661-259-0033  
[UCP@hartdistrict.org](mailto:UCP@hartdistrict.org)

### **~~Processing Reports of Title IX Sexual Harassment~~ within one day of receiving the report.**

~~Upon receiving such a report, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures,~~**shall** inform the complainant of the right to file a formal complaint and ~~explain~~ the process for filing a formal complaint. (34 CFR 106.44)

***A formal complaint, with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email, or by any other method authorized by the District. (34 CFR 106.30)***

***Even if the alleged victim chooses not to file a formal complaint, the Title IX Coordinator shall file a formal complaint in situations when a safety threat exists. In addition, the Title IX Coordinator may file a formal complaint in other situations as permitted under the Title IX regulations, including as part of the District's obligation to not be deliberately indifferent to known allegations***

***of sexual harassment. In such cases, the Title IX Coordinator shall provide the alleged victim notices as required by the Title IX regulations at specific points in the complaint process.***

***The Title IX Coordinator, investigator, decision-maker, or a facilitator of an informal resolution process shall not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Such persons shall receive training in accordance with 34 CFR 106.45. (34 CFR 106.45)***

## Supportive Measures

Upon receipt of a report of Title IX sexual harassment, the Title IX Coordinator ~~will~~**shall** promptly contact the complainant to discuss the availability of supportive measures and ~~will~~**shall** consider the complainant's wishes with respect to the supportive measures implemented. Supportive measures ~~must~~**shall** be offered as appropriate, as reasonably available, and without charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures ~~must~~**shall** be nondisciplinary, nonpunitive, and designed to restore or preserve equal access to the District's education program ~~and/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. Supportive measures may include, but are not limited to, counseling, ~~extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between 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 respondents.~~ (34 CFR 106.30, 106.44)

The District ~~will~~**shall** maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the District's ability to provide the supportive measures. (34 CFR 106.30)

## **Administrative Leave**

~~If a District employee is the respondent, the employee may be placed on administrative leave during the pendency of the formal complaint process. (34 CFR 106.44)~~

## **Emergency Removal**

A student ~~may~~**shall** not be disciplined for alleged **sexual harassment under** Title IX Sexual Harassment until the formal complaint process is **investigation has been** completed and a ~~determination of responsibility has been made.~~ However, on an emergency basis, the District may remove a student from the District's education program or activity, provided that the District conducts an individualized safety and risk analysis, determines that removal is justified due to an immediate threat to the physical health or safety of any student or other individual arising from the allegations, and provides the student with notice and an opportunity to challenge the decision immediately following the removal. This authority to remove a student does not modify a student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act

of 1973. (34 CFR 106.44)

### **Formal Complaint**

***A-If a District employee is the respondent, the employee may be placed on administrative leave during the pendency of the*** formal complaint, ~~with the complainant's physical or digital signature, may be filed with the Title IX Coordinator in person, by mail, by email.~~ ***process. (34 CFR 106.44)***

### **Dismissal of Complaint**

~~Even-~~***The Title IX Coordinator shall dismiss a formal complaint*** if the alleged victim chooses not to file a formal complaint, ~~the conduct would not constitute sexual harassment as defined in 34 CFR 106.30 even if proved. The Title IX Coordinator may sign a formal complaint in situations when a safety threat exists~~***shall also dismiss any complaint in which the alleged conduct did not occur in the District's education program or activity or did not occur against a person in the United States, and in other situations as permitted under Title IX, including as part of the District's obligation to not be deliberately indifferent to known***~~may dismiss a formal complaint if the complainant notifies the District in writing that the complainant would like to withdraw the complaint or any allegations of Title IX Sexual Harassment. In such cases~~***in the complaint, the respondent is no longer enrolled or employed by the District, or sufficient circumstances prevent the District from gathering evidence sufficient to reach a determination with regard to the complaint. (34 CFR 106.45)***

~~Upon dismissal, the Title IX Coordinator is not a party~~***shall promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties, and shall inform them of their right to appeal the dismissal of a*** formal complaint. ~~The Title IX Coordinator will provide notices to the complainant as required by Title IX.~~

~~The District-~~ ***or any allegation in the complaint in accordance with the appeal procedures described in the section "Appeals" below. (34 CFR 106.45)***

~~*If a complaint is dismissed, the conduct*~~ may consolidate formal complaints of Title IX Sexual Harassment against more than one respondent, or by more than one complainant, or by one party against another, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

~~Formal~~***still be addressed pursuant to BP/AR 1312.3 - Uniform Complaint Procedures as applicable.***

### **Informal Resolution Process**

The District treats complainants and respondents engaging in the formal complaint process equitably. Respondents are presumed not responsible for the alleged conduct until ***When a formal complaint of sexual harassment is filed, the District may offer an informal resolution process, such as mediation, at any time prior to reaching a determination regarding responsibility is made at the conclusion of this. The District shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a***

***formal complaint. (34 CFR 106.45)***

***The District may facilitate an informal resolution process provided that the District: (34 CFR 106.45)***

- 1. Provides the parties with written notice disclosing the allegations, the requirements of the informal resolution process, the right to withdraw from the informal process and resume the formal complaint process. ~~(34 CFR 106.45(b)(1)(iv))~~ The District complies with this, and any consequences resulting from participating in the informal resolution process, including that records will be maintained or could be shared.***
- 2. Obtains the parties' voluntary, written consent to the informal resolution process***
- 3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student***

#### ***Written Notice***

~~***If a***~~ formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent. ~~(34 CFR 106.45(b)(1)(i))~~

~~Anyone designated by the District as a Title IX Coordinator, investigator, decisionmaker, appeal decisionmaker, or informal resolution facilitator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent and will receive training in accordance with 34 CFR 106.45. (34 CFR 106.45(b)(1)(iii))~~

#### ***Written Notice of Allegations***

~~Upon receipt of a formal complaint, the Title IX Coordinator must~~ ***is filed, the Title IX Coordinator shall*** provide the known parties with written notice of allegations including the following: (34 CFR 106.45(b)(2))

- ~~Notice of this formal~~ ***The District's*** complaint process, including any informal resolution process
- ~~The allegations potentially constituting Title IX Sexual Harassment~~ ***sexual harassment*** with sufficient details known at the time, including the ~~identities~~ ***identity*** of parties involved in the incident if known, the conduct allegedly constituting Title IX Sexual Harassment ***sexual harassment***, and the date and location of the alleged incident, if known. Such notice shall be provided with sufficient time for the parties to prepare a response before any initial interview.

***If, during the course of the investigation, new Title IX allegations arise about the complainant or respondent that are not included in the initial notice, the Title IX Coordinator shall provide notice of the additional allegations to the parties.***

~~If, during the course of the investigation, new Title IX Sexual Harassment allegations arise about the complainant or respondent that are not included in this initial notice of allegations, the Title IX Coordinator must provide notice of the additional allegations to the parties.~~

3. 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 complaint process

4. Notice that ***The opportunity for*** the parties ~~may~~**to** have an advisor of their choice who may be, but is not required to be, an attorney,

~~Notice that the parties, and their advisors, if any, will have an opportunity~~***the ability*** to inspect and review evidence

5. Advise the parties that the District's code of conduct prohibits ***The prohibition against*** knowingly making false statements or knowingly submitting false information during the formal complaint process

~~4. When possible, the name of the investigator, informal resolution facilitator, decisionmaker and appeal decisionmaker, and inform the parties that, if at any time a party has concerns regarding a conflict of interest or bias regarding any of these persons, the party should immediately notify the Title IX Coordinator.~~

#### **Dismissal of Formal Complaint**

~~The Title IX Coordinator must dismiss a formal complaint if the alleged conduct: (1) would not constitute Title IX Sexual Harassment as defined in 34 CFR 106.30 even if proved, (2) did not occur in the District's education program or activity, or (3) did not occur against a person in the United States. Such conduct may still be addressed pursuant to other District Board policies and administrative regulations including, but not limited to, AR 4030 Nondiscrimination in Employment, or BP/AR 1312.3, Uniform Complaint Procedure, as applicable.~~

~~At any time during the investigation, the Title IX Coordinator may dismiss a formal complaint of Title IX Sexual Harassment if: (1) the complainant notifies the District in writing that the complainant would like to withdraw the formal complaint or any allegations in the formal complaint, (2) the respondent is no longer enrolled or employed by the District, or (3) sufficient circumstances prevent the District from gathering evidence sufficient to reach a determination with regard to the formal complaint. (34 CFR 106.45)~~

~~Upon dismissal, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons for the dismissal simultaneously to the parties and inform them of their right to appeal the dismissal of a formal complaint or any allegation in the formal complaint in accordance with the appeal procedures described in the "Appeals" section below. (34 CFR 106.45)~~

#### **Informal Resolution**

~~After a formal complaint of Title IX Sexual Harassment is filed, but at any time before a determination regarding responsibility is reached, the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The District shall not require a party to participate in the informal resolution process or to waive the right to an investigation and adjudication of a formal complaint. (34 CFR 106.45)~~

~~Prior to facilitating an informal resolution process, the District must: (34 CFR 106.45(b)(9))~~

- ~~1. Provide the parties with written notice disclosing:~~
- ~~2.—~~
  - ~~a. the allegations;~~
  - ~~3.—~~
- ~~b. the requirements of the informal resolution process including the circumstances under which the parties are precluded from resuming the formal complaint process arising from the same allegations;~~
- ~~1.—~~
- ~~c. the right of either party to withdraw from the informal resolution process and resume the formal complaint process at any time prior to agreeing to a resolution; and~~
- ~~2. Obtain the parties' voluntary, written consent to the informal resolution process~~

~~Informal resolution is not available to resolve allegations of Title IX Sexual Harassment by a student against an employee.~~

### **Investigation Procedures**

~~The burden of proof and the burden of gathering evidence sufficient to reach a determination of responsibility rest on the District and not the parties.~~

~~Unless a party provides voluntary, written consent, the District cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))~~

During the investigation process, the District's designated investigator will: (34 CFR 106.45)

1. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
3. Provide the parties with 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 be, but is not required to be, an attorney

4. Not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding. ~~All party advisors are limited to providing support and may not be direct participants. This conduct expectation applies equally to complainants and respondents,~~ **although the District may establish restrictions regarding the extent to which the advisor may participate in the proceedings as long as the restrictions apply equally to both parties**
5. Provide, 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
6. ~~Prior~~ **Send in an electronic format or hard copy** to the completion of the investigative report, provide the **both** parties, and their advisors, if any, an equal opportunity to inspect and review ~~any~~ **the** evidence **obtained as part of the investigation that is** directly related to the allegations **raised** in the formal complaint including evidence the District does not intend to rely in reaching a determination, and provide the parties at least 10 days to submit a written response for the investigator to consider prior to the completion of the investigative report
7. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness
8. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response

~~The District's investigator must not require, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. (34 CFR 106.45(b)(1)(x))~~

**Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence 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. (34 CFR 106.45)**

**Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.**

If the complaint is against an employee, rights conferred under an applicable collective bargaining agreement shall be applied to the extent they do not conflict with **the** Title IX **requirements**.

## Written ~~Determination~~ **Decision**

The Title IX Coordinator~~Superintendent~~ shall designate a ~~decisionmaker~~ **an employee as the decision-maker** to determine responsibility for the alleged conduct, who shall not be the Title IX Coordinator, investigator or appeal decisionmaker on the formal complaint. **a person involved in the investigation of the matter.** (34 CFR 106.45(b)(7))

After the investigative report has been sent to the parties, but before reaching a determination ~~of~~ **regarding** responsibility, the decision-maker ~~will~~ **shall** afford each party the opportunity to submit written, relevant questions that ~~at~~ **the** 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 decisionmaker will notify the parties and witnesses of the following applicable timelines for the submission of questions and responses:

***The decision-maker shall issue, and simultaneously provide to both parties, a written decision as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45)***

- ~~1. The parties have seven~~ **The written decision shall be issued within 60** calendar days ~~to submit their questions to the decisionmaker after receiving notice of the opportunity to submit questions from the decisionmaker.~~
- ~~2. After receipt of the questions, the parties and witnesses will have seven calendar days to submit their responses to the questions to decisionmaker.~~
- ~~3.1. When providing the questions and responses to both parties, the decisionmaker must explain to the party proposing the questions any decision to exclude a question as not relevant. Upon receipt of the responses to the questions, the parties will have five calendar days to submit limited follow-up questions.~~

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence 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. ~~(34 CFR 106.45(b)(6)(ii))~~ The District's decisionmaker must not require, rely upon, allow, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under legally recognized privilege unless the person holding the privilege has waived the privilege. ~~(34 CFR 106.45(b)(1)(x))~~

The written determination shall be issued within 90 work days of the receipt of the formal complaint. ~~However, the time for completing the formal complaint process will be temporarily delayed during school recess periods exceeding three days.~~

The timeline may be **temporarily** extended for good cause with written notice to the complainant and respondent of the extension and the reasons for the action. ~~Good cause may include, but is not limited to, absence of a party, witness, or party advisor; concurrent law enforcement activity;~~

participation in the informal resolution process; or need for language assistance or disability accommodation. ~~(34 CFR 106.45)(b)(1)(v))~~

~~The decisionmaker shall issue, and simultaneously provide to both parties, a written determination as to whether the respondent is responsible for the alleged conduct. (34 CFR 106.45(b)(7)) In making this determination, the decisionmaker shall use the "preponderance of the evidence" standard for all formal complaints of Title IX Sexual Harassment. (34 CFR 106.45(b)(1)(vii)) The decisionmaker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility in a manner that is not based on a person's status as a complainant, respondent, or witness. (34 CFR 106.45(b)(1)(ii))~~

~~The written determination will include the following: (34 CFR 106.45(b)(7))~~

***In making this determination, the decision-maker shall use the "preponderance of the evidence" standard for all formal complaints of sexual harassment. The same standard of evidence shall be used for formal complaints against students as for complaints against employees. (34 CFR 106.45)***

***The written decision shall include the following: (34 CFR 106.45)***

1. Identification of the allegations potentially constituting Title IX Sexual Harassment ***sexual harassment*** as defined in 34 CFR 106.30
2. A description of the procedural steps taken from receipt of the formal complaint through the written ~~determination~~ ***decision***, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather other evidence, ***and hearings held if the District includes hearings as part of the grievance process***
3. Findings of fact supporting the determination
4. Conclusions regarding the application of the District's code of conduct or policies to the facts
5. A statement of, and rationale for, the result as to each allegation, including a ~~determination~~ ***decision*** regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's educational program or activity will be provided by the District to the complainant
6. The District's procedures and permissible bases for the complainant and respondent to appeal

~~Unless a party provides voluntary, written consent, the District cannot access, consider, disclose, or otherwise use a party's records maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, which are made and maintained in connection with the provision of treatment to the party. (34 CFR 106.45(b)(5)(i))~~

## Appeals

Either party may appeal the District's decision or dismissal of a formal complaint or any allegation in the formal complaint, if: ~~(1) the party believes that a procedural irregularity affected the outcome, (2) new evidence is available that could affect the outcome, or (3) a conflict of interest or bias by the Title IX Coordinator, investigator(s), or decision-maker(s) affected the outcome.~~ ***If an appeal is filed, the District shall: (34 CFR 106.45)***

- 1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties***
- 2. Ensure that the decision-maker(s) for the appeal is trained in accordance with 34 CFR 106.45 and is not the same decision-maker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator***
- 3. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome***
- 4. Issue a written decision describing the result of the appeal and the rationale for the result***
- 5. Provide the written decision simultaneously to both parties***

An appeal must be filed in writing with the Title IX Coordinator within 10 calendar days of receiving the ~~written determination~~ ***notice of the decision*** or dismissal, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

If an

***A written decision shall be provided to the parties within 20 calendar days from the receipt of the appeal is timely filed, the District shall: (34 CFR 106.45(8)).***

- ~~1. The District's~~
- ~~2. Ensure that the appeal decisionmaker is trained in accordance with 34 CFR 106.45 and is not the decisionmaker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator~~
- ~~3. Give both parties 10 calendar days to submit a written statement in support of or challenging the outcome~~
- ~~4. Issue a written decision describing the result of the appeal (e.g., affirms, reverses, remands, or amends the written determination regarding responsibility) and the rationale for the result~~ ***may be appealed to the California Department of Education*** within 20 calendar days from the deadline for the parties to submit their written statement in support of or challenging the outcome
- ~~5. Provide the 30 days of the written decision simultaneously to both parties within five business days of issuing the decision~~ ***in accordance with BP/AR 1312.3.***

Either party has the right to file a complaint with the U.S. Department of Education's Office for Civil Rights within 180 days of the date of the most recently alleged misconduct.

The complainant shall be advised of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable.

#### Remedies

When a determination of responsibility for ~~Title IX Sexual Harassment~~ **sexual harassment** has been made against the respondent, the District shall provide remedies to the complainant. ~~Remedies must be designed to restore or preserve equal access to the District's education program or activity.~~ Such remedies may include the same individualized services described above in the section "Supportive Measures," but need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. (34 CFR 106.45) ~~The Title IX Coordinator is responsible for effective implementation of any remedies. (34 CFR 106.45(b)(7)(iv))~~

#### Sanctions

##### **Corrective**/Disciplinary Actions/~~Corrective Actions~~

The District shall not impose any disciplinary sanctions or other actions against a respondent, other than supportive measures as described above in the section "Supportive Measures," until the ~~formal complaint process~~ **procedure** has been completed and a determination of responsibility has been made. (34 CFR 106.44)

For students in grades ~~4-7~~-12, discipline for sexual harassment may include suspension and/or expulsion. After the completion of the ~~formal complaint process~~ **procedure**, if it is determined that a student at any grade level has committed sexual assault or sexual battery at school or at a school activity off school grounds, the principal or Superintendent shall immediately suspend the student and shall recommend expulsion. (Education Code 48900.2, 48915)

~~(cf. 5144—Discipline)~~

~~(cf. 5144.1—Suspension and Expulsion/Due Process)~~

Other actions that may be taken with a student who is determined to be responsible for sexual harassment include, but are not limited to:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education of the student regarding the impact of the conduct on others

4. Positive behavior support
5. Referral of the student to a student success team

~~(cf. 6164.5—Student Success Teams)~~

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

~~(cf. 6145—Extracurricular and Cocurricular Activities)~~

When an employee is found to have committed sexual harassment or retaliation, the District shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

(cf. 4117.7/4317.7 - Employment Status Report)  
 (cf. 4118 - Dismissal/Suspension/Disciplinary Action)  
 (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)  
 (cf. 4218 - Dismissal/Suspension/Disciplinary Action)

## Record-Keeping

The Title IX Coordinator ~~Superintendent or designee~~ shall maintain records of the following, for a period of seven years: (34 CFR 106.45(b)(10))

1. ~~All~~ **A record of all** reported allegations ~~cases~~ and Title IX Sexual Harassment investigations **of sexual harassment**, any determinations of responsibility, any **audio or audiovisual recording and transcript if applicable**, any disciplinary sanctions imposed on respondent, and, any remedies provided to the complainant ~~designed to restore equal access to the District's education program or activity. Any, and any~~ appeal and the result. ~~Any~~ or informal resolution and the results: **therefrom**

2. ~~Any~~ **A record of any** actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. ~~In each instance, the District must document the sexual harassment, including the District's basis for its conclusion that its response was not deliberately indifferent and, the measures taken that were designed to restore or preserve equal access to the education program or activity. If, and, if~~ no supportive measures were provided to the complainant, the District ~~must document the reasons that such a response was not unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District from providing additional explanations or detailing additional measures in the future.~~

3. All materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and **any person who facilitates an** informal resolution ~~facilitators~~ **process**. The District shall make such training materials publicly available on its web site, **or if the District does not maintain a web site, available upon request by members of the public.**