

***Superintendent File: AC-R-2***

**Title IX Sexual Harassment Grievance Process**

The District is committed to a learning and working environment that is free from sexual harassment consistent with Board Policy AC and prohibited by Title IX. The District also prohibits misconduct of a sexual nature which may not constitute a violation of Title IX, but which nevertheless interferes with the District’s learning and working environment.

**Title IX Sexual Harassment Prohibited**

Sexual harassment prohibited by Title IX means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the District conditions the provision of an aid, benefit, or service of the District on an individual’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 equal access to the District’s education program or activity;
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

The District's Title IX Coordinator is Aaron Henderson, Director of Equal Education and Employment Opportunity; 701 Prairie Hawk Drive, Castle Rock, Colorado, 80104; 720-433-1083; [ahenderson1@dcsdk12.org](mailto:ahenderson1@dcsdk12.org).

**Complaints Covered by this Title IX Grievance Process**

1. The allegation of sexual misconduct must be made against an individual present within the United States.
2. The allegation of sexual misconduct must occur within the District’s employment or education program oversight, or activity including locations, events, or circumstances over which the District exercises substantial control over Respondent and the context in which the allegation occurred. This includes any building or property owned or controlled by the District.
3. The allegation seeks to redress alleged sexual misconduct in the form of sexual harassment, sexual assault, dating violence, domestic violence or stalking as defined by this policy.

**Definitions**

For purposes of this regulation, these terms have the following meanings:

- **“Advisor of choice”** means a person the complainant or respondent selects to be present during any grievance proceeding, including related meetings or proceedings.
- **“Complainant”** means an individual who is alleged to be the target of conduct that could constitute Title IX sexual harassment.
- **“Decision Maker”** means an individual(s) who assess the relevant evidence, including party and witness credibility, to decide if the District has met the burden of proof showing the respondent to be responsible for the alleged sexual harassment. The decision maker may not be the Title IX Coordinator or the investigator. The District’s decision maker is the Superintendent, or her designee. The Superintendent is Erin Kane; 620 Wilcox Street, Castle Rock, CO 80104; 303-387-0123; [erin.kane@dcsdk12.org](mailto:erin.kane@dcsdk12.org).
- **“Education Program or Activity”** means locations, events, or circumstances over which the District exercises substantial control over both the complainant and respondent and the context in which the sexual harassment occurs.
- **“Employee”** means a person who works for the District full-time, part-time, seasonally, temporarily, voluntarily, or is contracted by the District.
- **“Formal complaint”** means a document alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment that is either (1) filed and signed by a complainant or the complainant’s parent or guardian with the legal authority to act on behalf of the complainant or (2) signed by the Title IX Coordinator.
- **“Investigator”** means an individual trained to objectively evaluate the credibility of parties and witnesses, synthesize all available evidence - including both inculpatory and exculpatory evidence and consider the unique and complex circumstances of each situation. Investigator may be the Title IX Coordinator but cannot be the Decision Maker. The District’s Investigator is Ms. Emily Sloan, 701 Prairie Hawk Drive, Castle Rock, Colorado, 80104; 720-433-1072; [esloan@dcsdk12.org](mailto:esloan@dcsdk12.org).
- **“Respondent”** means an individual who has been reported to be the perpetrator of conduct that could constitute sex-based discrimination or sexual harassment.
- **“Supportive Measures”** mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge, to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed.
- **“Title IX Coordinator”** means the employee designated by a recipient to coordinate its efforts to comply with Title IX responsibilities.

### **Response to Reports**

The District will promptly respond to all allegations of sexual harassment that occur in a District school’s education/employment program or activity against a person in the United States.

All reports and written reports of sexual harassment from students, District employees, and third parties, will be forwarded immediately to the District’s Title IX Coordinator. Upon receipt, the Title IX Coordinator will contact the alleged victim of sexual harassment within three (3) business

days to discuss the availability of supportive measures and explain the process for filing a formal complaint.

a. Supportive Measures

Supportive measures will be offered to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party. Supportive measures may include, but are not limited to:

1. counseling;
2. extensions of deadlines or other course-related adjustments;
3. modifications of work or class schedules;
4. excused absences;
5. individualized supervision during passing periods or other unstructured times or activities;
6. mutual restrictions on contact between the parties;
7. consideration of increased security and monitoring of certain areas of the campus, and other similar measures; and
8. consideration of whether an IEP or Section 504 plan needs to be re-evaluated.

Any supportive measures provided to the complainant or respondent will remain confidential, to the extent that maintaining such confidentiality would not impair the ability of the District to provide supportive measures.

b. Emergency Removal

Student respondents may be removed from the District's education program or activity on an emergency basis if the Title IX coordinator or District Administration determines, after an individualized assessment, that the respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. The District will provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

c. Administrative Leave

A non-student employee may be placed on administrative leave during the pendency of a grievance process.

**Formal Complaint**

A formal complaint is a document filed and signed by the complainant or parent/guardian with the legal right to act on the complainant's behalf, requesting that the school investigate sexual

harassment allegations. Formal complaint forms are available on the District's website at [www.dcsdk12.org](http://www.dcsdk12.org) and can be found in Superintendent File AC-E-1. Completed forms must be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

If the complainant chooses not to file a formal complaint, the District may still initiate a grievance process if the Title IX Coordinator signs the formal complaint after considering the complainant's wishes and evaluating whether an investigation is clearly unreasonable in light of the specific circumstances.

The District may consolidate formal complaints where the allegations of sexual harassment arise out of the same facts or circumstances.

### **Written Notice**

Within a reasonably prompt time frame of receiving a formal complaint, the District will provide written notice to the parties. The written notice will:

1. notify the parties of the school's grievance process;
2. explain that there is an opportunity to engage in an informal resolution process;
3. describe with sufficient detail the identities of the parties involved, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident;
4. state that the respondent is not presumed responsible at the outset and can only be found responsible after a final decision is made;
5. state that the parties may select an advisor of choice;
6. state that the parties can request to inspect and review certain evidence; and
7. include information regarding the code of conduct, if it exists, that prohibits knowingly making false statements during the grievance process.

### **Dismissal of Formal Complaints**

#### a. Mandatory Dismissal

The District will dismiss a formal complaint for Title IX purposes if the allegations do not meet the definition of sexual harassment under Title IX; did not occur in the District's education program or activity; or did not occur against a person in the United States. If the formal complaint is dismissed for Title IX purposes, the District may continue to address the incidents identified in the reported complaint outside the Title IX Grievance Process, as described in Board File: JBC and Superintendent File: AC-R-1.

#### b. Discretionary Dismissal

The District may, in its discretion, dismiss a complaint if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw the formal complaint or some of its allegations; the respondent is no longer enrolled or employed by the school; or specific

circumstances prevent the school from gathering evidence sufficient to reach a determination about the allegations.

c. Appeal of Dismissal

Upon dismissal of a formal complaint, the Title IX Coordinator will send written notice to the parties within three (3) business days, stating the reasons for the dismissal. Both parties have a right to appeal this decision in accordance with the procedures specified below.

A dismissal does not prohibit the complainant from pursuing other remedies under state or federal law or Board policy, nor does it prohibit the District from offering supportive measures or from addressing the allegations in any manner the District deems appropriate.

**Informal Resolution**

The District may offer an informal resolution process only after a formal complaint is filed. An informal resolution process, such as mediation, will not involve a full investigation and adjudication. The informal resolution process will commence only if the District receives both parties' voluntary, written consent to the informal resolution process.

The District will not offer or facilitate an informal resolution process to resolve allegation that an employee sexually harassed a student.

Before proceeding with an informal resolution process, the District will provide written notice to both parties. The notice will contain the allegations and the requirements of the informal resolution process, including circumstances that the District will prohibit the parties from resuming a formal complaint arising from the same allegations. However, that at anytime prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

**Investigation Procedure**

After the written notice is provided to the parties, the Investigator or Title IX Coordinator will begin investigating the allegations in the formal complaint which will include obtaining and evaluating available relevant evidence. The Investigator or Title IX Coordinator will communicate individually with both the Complainant and the Respondent and may contact other witnesses.

1. Both parties are allowed an Advisor. An Advisor is a person Complainant or Respondent selects to be present during any grievance proceeding, including related meetings or proceedings.
  - a. An Advisor may be an attorney but is not required to be an attorney.
  - b. The Advisor may not participate in the investigation and is not allowed to interview anyone associated in the investigative process.
  - c. At the discretion of the Title IX Coordinator, the Advisor's role may be limited if

the limitations are applied equally to both parties.

- d. Advisors may not be disruptive to the investigative process. At the discretion of the Title IX Coordinator, Advisors who are repeatedly disruptive to the investigative process may be excluded from further participation.
2. The Complainant, Respondent and Advisor(s), if any, will be kept apprised of the investigation's status and anticipated timeframes.
  3. The District will provide written notice to a party and their Advisor, if any, whose participation is expected, of the date, time, location, participants, and purpose of all investigative interviews or other meetings with sufficient time for the party to prepare.
  4. The District will provide an equal opportunity for parties to identify witnesses and other inculpatory and exculpatory evidence.
  5. The Investigator will 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's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for a grievance process.
  6. Prior to the completion of the investigative report, the District will send each party and the party's Advisor, if any, the evidence directly related to the allegations in the 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. The parties will receive this information in an electronic format or a hard copy. The parties will have ten (10) business days to submit a written response, which the Investigator will consider prior to completing the investigative report.
  7. The Investigator or Title IX Coordinator will create an investigative report fairly summarizing relevant evidence and submit it to each party, the party's Advisor, if any, and the Decision Maker in an electronic format or a hard copy within 60 business days following the Title IX Coordinator's receipt or production of the complaint or 45 business days following the termination of the informal resolution process. The parties will then be allowed ten (10) business days to review and submit a written response to the Decision Maker and three (3) concurrent business days to submit relevant questions to any party or witness by way of the Decision Maker.
  8. The Decision Maker will allow three (3) business days for the answering party to respond

to relevant questions. The parties will then have three (3) business days to submit limited relevant follow-up questions to any party or witness. The Decision Maker will allow three (3) business days for the answering party to respond to limited relevant questions.

9. The Decision Maker may exclude questions that are improper or 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. If the Decision Maker excludes a question, they will explain the decision to do so to the party proposing the question.

### **Temporary Delay or Limited Extension for Good Cause**

A temporary delay or a limited extension of the time frames contained within this Grievance Process may be made for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodations of disabilities.

### **Reaching a Determination**

The Decision Maker will determine by a preponderance of the evidence whether a party is responsible for the conduct alleged in the formal complaint. The decision maker will issue a written determination within thirty (30) business days after reviewing the investigative report. The District will provide a written determination to both parties. The written determination will include whether the respondent is responsible, explain how and why the Decision Maker reached the conclusions outlined in the report, and detail any disciplinary measures taken in response to the conduct.

The decision of the Decision Maker in no way prejudices either the complainant or the respondent from seeking redress through state or federal agencies, as provided in law.

### **Appeal**

Either party will have thirty (30) business days to appeal the Decision Maker's determination regarding responsibility or the District's dismissal of a formal complaint or any allegations therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter;
2. 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
3. The Title IX Coordinator, investigator(s), or decision maker(s) had a conflict of interest

or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The District will notify the other party in writing when an appeal is filed. Each party will have ten (10) calendar days to submit a written statement in support of, or challenging the outcome.

The Decision Maker for the appeal will be determined by the Superintendent's Office, but the Decision Maker for the appeal may not be the same person as the Decision Maker that reached the determination regarding responsibility or dismissal, the Investigator, or the Title IX Coordinator. The Decision Maker for the appeal will render their final decision within ten (10) business days upon receipt of the appeal.

### **Retaliation Prohibited**

The District prohibits retaliation. It is a violation of District policy to 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 an investigation, proceeding, or hearing under this part.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Adopted by Superintendent: August 11, 2020

Revised: February 3, 2023