

St. Charles Parish Public Schools Title IX Sexual Harassment Grievance Guidelines and Procedures

I. Definitions

As used in this policy and the Title IX Grievance Process, the terms below shall have the meaning ascribed.

- A. Actual Knowledge means notice, observation or a report of sexual harassment or allegations of sexual harassment to the District's Title IX Coordinator or any employee of the District.
- B. Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A parent or legal guardian may exercise their rights on behalf of their minor child.
- C. Decision Maker is the individual or group of individuals who issue the initial written determination of responsibility by objectively evaluating all relevant evidence.
- D. Emergency Removal is the removal of a respondent from the District's education program or activity on an emergency basis provided the District undertakes an individualized safety and risk analysis, 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.
- E. Employee means anyone who is directly or indirectly, including but not limited to, temporary service agencies or independent contractors, employed by the District.
- F. Formal Complaint means 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.
- G. Grievance Process the process by which a District responds to a formal complaint of sexual harassment.
- H. Investigator is the individual or group of individuals who conducts the investigation of a formal complaint and issues an investigative report.
- I. Notice results whenever any school employee, or the Title IX Coordinator, witnesses sexual harassment; hears about sexual harassment or sexual harassment allegations from a complainant (i.e., a person alleged to be the victim) or a third party (e.g., the complainant's parent, friend, or peer); receives a written or verbal complaint about sexual harassment or sexual harassment allegations; or by any other means and may include notice conveyed by an anonymous report.
- J. Program or Activity includes all of the operations of the District, including locations, events, or circumstances over which the District exercises substantial control over both the respondent

and the context in which the harassment occurs.

- K. Relevant means the evidence (a) has any tendency to make a fact more or less probable than it would be without the evidence; and (2) the fact is of consequence in determining the action.
- L. Remedies are what the District provides to the complainant and to the respondent, after the District has made a determination of responsibility for sexual harassment against the respondent via the grievance process that complies with the Title IX regulations and are designed to restore or preserve equal access to the District's education program or activity. Remedies may include supportive measures and need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.
- M. Report is the act of providing a District employee "notice" (as defined above) of alleged sexual harassment – whether through oral or written means.
- N. Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. A parent or legal guardian may exercise their rights on behalf of their minor child who is the "respondent".
- O. Sexual Harassment (prohibited under Title IX and by this policy) is conduct on the basis of sex that satisfies one or more of the following:
 - 1. A District employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation or refusal to participate in sexual conduct irrespective of whether the conduct is welcomed by the student or other employee.
 - 2. Unwelcomed 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; or
 - 3. Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law.
 - 4. Behaviors that constitute sexual harassment may include, but are not limited to:
 - a. Sexually suggestive remarks or jokes;
 - b. Verbal harassment or abuse;
 - c. Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
 - d. Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
 - e. Harassing or sexually suggestive or offensive messages that are written or electronic;

- f. Subtle or direct propositions for sexual favors or activities;
- g. Touching of a sexual nature or groping; and
- h. Teasing or name-calling related to sexual characteristics or the belief or perception that an individual is not conforming to expected gender roles or conduct.

Note: incidents of the above conduct would still need to satisfy one or more of the criteria in paragraphs 1-3 of this definition.

Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

The context of behavior can make a difference between conduct falling within the technical definition of Sexual Harassment under Title IX, and conduct of a sexual nature that is offensive or hostile in itself, but which does not arise to the level within that definition. **District policies prohibit both, but for purposes of its Title IX obligations the District must address reports or complaints of conduct which may constitute sexual harassment as defined above, under this specific, limited scope Policy and Title IX Grievance Process.** Except as used in other laws (e.g., Title VII) or policies (e.g., Board policy 4.10 pertaining to harassment, including of a sexual nature, other than Title IX sexual harassment, all references to “sexual harassment” in this policy mean sexual harassment that meets the above definition.

Conduct that satisfies this definition is not sexual harassment for purposes of this policy if the conduct occurred (1) outside the United States or (2) under circumstances in which the school system did not have substantial control over both the harasser/respondent and the context in which the harassment occurred.

P. Supportive Measures are free, non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. These measures may include but are not limited to, the following:

1. Counseling
2. Course modifications
3. Extension of Deadlines
4. Schedule changes
5. Increased monitoring or supervision
6. Modifications to class schedule
7. Mutual restrictions on contact between parties
8. Other similar measures

Such measures are designed 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 deter sexual harassment. The District must 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 District to provide the supportive measures.

II. Title IX Grievance Procedures

A. Reporting

Any person may report sex discrimination, including sexual harassment, in person, by mail, by telephone, or by electronic mail, at any time, 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. An employee with actual knowledge shall promptly, and in a manner that is not deliberately indifferent, inform the supervisor unless (the supervisor is the alleged perpetrator) and the Title IX Coordinator.

St. Charles Parish Public Schools has appointed Tamika Green as the District's Title IX Coordinator. The coordinator may be contacted as follows:

Tamika S. Green, M.Ed.
13855 River Road
Luling, LA 70070
Phone: 985-785-3113
Email: tgreen@stcharles.k12.la.us

B. Title IX Coordinator is required to:

1. Promptly contact the complainant to:

- a. Determine facts and required action
- b. Discuss and determine available supportive measures
- c. Discuss and determine potential informal resolution (for student to student only)
- d. Discuss the right to and process for filing a formal complaint

Note: The formal complaint is required prior to starting an investigation. The Title IX Coordinator has the authority and, depending on the circumstances, the responsibility, to file and sign a formal complaint even if the complainant does not wish to file a complaint.

2. Dismiss formal complaint if:

- a. The conduct alleged, even if true, would not constitute sexual harassment as defined in Title IX
- b. The conduct did not occur in the recipients educational program or activity
- c. The conduct did not occur in the United States

Note: Upon dismissal of the formal complaint, whether mandatory or discretionary, the District must promptly send written notice simultaneously to the parties with specific reasons for the dismissal.

3. Consider dismissal of the formal complaint if:
 - a. The complainant withdraws the formal complaint in writing
 - b. The respondent is no longer enrolled or employed by the District
 - c. Specific circumstances prevent the District from gathering sufficient evidence

Note: Upon dismissal of the formal complaint, whether mandatory or discretionary, the District must promptly send written notice simultaneously to the parties with specific reasons for the dismissal.

4. Provide a notice of formal complaint and notice of investigation to the known parties containing:
 - a. Allegations of sexual harassment
 - b. A statement that the respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is reached by the decision maker at the conclusion of the grievance process
 - c. A statement informing the parties they may have an advisor (does not need to be an attorney) to inspect and review evidence
 - d. A notice prohibiting of false statement or submitting false information
 - e. Additional allegations (if applicable)
 - f. A statement that intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any Title IX right is prohibited.
 - g. A statement that the parties will be treated equitably by providing remedies for a complaint when a determination of responsibility for sexual harassment has been made
 - h. A notice that complaints may be consolidated as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents
 - i. A notice to the respondent, if an employee of the District, that such employee may be placed on administrative leave during the pendency of the grievance process which must be approved by the Superintendent and administered by the appropriate Human Resources staff

5. Document the supportive measures taken designed to preserve and restore equal access to education

Note: If a complainant is not provided supportive measures, the Title IX Coordinator must document the reasons why such response was not clearly unreasonable in light of known circumstances.

6. May, at any point, request the Superintendent to direct that an individualized

safety and risk analysis be performed to determine whether a respondent is an immediate threat to the physical health or safety of any person

Note: If the analysis determines the respondent does present an immediate threat, the District may remove the respondent as long as such removal is in full compliance with IDEA, the IEP and the 504 plan if applicable and provides notice of opportunity to challenge the decisions following removal.

7. Oversee implementation of any remedies designed to restore or preserve equal access to the District's education program or activity. These may include supportive measures and may be disciplinary or punitive for the respondent.

C. Investigator is required to:

1. Collaborate with the Title IX Coordinator relative to the investigation process and timelines
2. Conduct a timely and thorough investigation once the Notice of Investigation has been issued to all parties
3. Gather relevant evidence

Note: The investigator shall provide a Written Notice of Interview to each interviewee that includes the date, time, location, participants, and purpose of the interview. No statements can be taken prior to such written notice.

4. Obtain a medical release that is made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in order to access, consider, disclose, or otherwise use a party's records in the investigation's process

Note: If the party is a minor, then the District must obtain the voluntary, written consent of the parent or legal guardian. If the student has reached the age of majority, then such consent should be obtained from the student.

5. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses
6. Submit written questions for the other party/witness to answer provided the questions are relevant, and other relevant inculpatory (evidence implying guilt) and exculpatory (evidence removing guilt) evidence
7. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence
8. Not allow as relevant evidence questions and evidence related to a complainant's sexual predisposition or prior irrelevant sexual behavior, 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 in the complaint, 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

9. 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, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding

Note: 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.

10. Provide timely written notice of the date, time, location, participants, and purpose of all hearings (if applicable), investigative interviews, or other meetings to a party whose participation is invited or expected
11. 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, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility so that each party can meaningfully respond to the evidence prior to conclusion of the investigation

Note: 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. The parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The District must make all such evidence subject to the parties' inspection and review available at any hearing (if applicable) to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

12. Develop and send an investigative report that fairly summarizes relevant evidence at least 10 days prior to the completion of the determination of responsibility or prior to any hearing (if applicable) to each party and the party's advisor, if any, and the Decision Maker in an electronic format or a hard copy, for their review and written response.

D. Decision-maker is required to:

1. Review the investigative report
2. Afford each party seven (7) calendar days for the opportunity to:
 - a. Submit additional written, relevant questions that a party wants asked of any party or witness,

- b. Provide each party with the answers, and
- c. Allow for additional, limited follow-up questions from each party.

Note: Any decision to exclude a question as not relevant, must be explained to the party proposing the questions.

- 3. Not make any creditability determinations based on the person's status as a complainant, respondent or witness.

Note: The standard of evidence to be used for formal complaints in determining whether a violation has occurred and/or that the respondent is responsible is preponderance of evidence standard, which is only met when the party with the burden convinces the decision-maker that there is a greater than 50% chance that the claim is true (i.e., more likely than not).

- 4. Develop a written determination including:

- a. Identification of the allegations potentially constituting sexual harassment as defined above
- b. 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, methods used to gather other evidence, and hearings held
- c. findings of fact supporting the determination
- d. conclusions regarding the application of the District's Code of Conduct to the facts
- e. a statement of, and rationale for, the result 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 District's education program or activity will be provided by the District to the complainant and
- f. the District's process for the complainant and respondent to appeal.

- 8. Provide the written determination and the appeal process to the parties simultaneously, the Title IX Coordinator and the Superintendent

Note: The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

9. Must offer an opportunity for both parties to appeal the Determination of Responsibility, and the dismissal of a formal complaint or any allegations therein, when:
 - a. A procedural irregularity affected the outcome of the matter;
 - b. New evidence has been presented 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
 - c. The Title IX Coordinator, investigator, or decision-maker 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

Note: A District may offer an appeal equally to both parties on additional bases. Appeals must be submitted using the St. Charles Parish Public Schools Title IX Determination of Responsibility Appeals Form and submitted to Title IX Coordinator within 10 days of receipt of the Determination of Responsibility.

E. Appeal Officer is required to:

- a. notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- b. ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- c. ensure that the decision-maker(s) for the appeal complies with the standards set forth above;
- d. give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- e. issue a written decision describing the result of the appeal and the rationale for the result (34 C.F.R. § 106.45(b)(8)(i)(E)); and
- f. provide the written decision simultaneously to both parties.

G. Finality of Determination of Responsibility

The determination regarding responsibility becomes final either on the date that the recipient, through the Superintendent, provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal of the Initial Determination of Responsibility would no longer be considered timely. The final determination shall be identified

as the Title IX Decision.

Once the Title IX Decision is final, the District may implement remedies and disciplinary sanctions. The Title IX Coordinator is responsible for effective implementation of any non-disciplinary remedies, with the assistance of building and District administrative personnel, while disciplinary sanctions will be imposed by persons charged with such responsibilities under other Board policies, regulations or administrative procedures. The District may also proceed against the respondent or complainant pursuant to the District's applicable code of conduct or other Board policies, individual contract or administrative rules/regulations/procedures. The issue of responsibility for the conduct shall not be subject to further review or appeal within the District.

H. Informal Resolution (optional for student-to-student harassment only)

The Title IX Coordinator or Investigator may not require parties to participate in informal resolution as a condition of enrollment or continuing enrollment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment. Similarly, the parties may not be required to participate in an informal resolution process pursuant to the Title IX grievance procedure and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the Title IX Coordinator:

1. Provides to the parties a written notice disclosing:
 - a. the allegations
 - 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, provided, however, that at any time prior to agreeing to a resolution
 - c. any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

I. Timeframe of Grievance Process

The District shall make a good faith effort to conduct a fair, impartial grievance process in a timely manner designed to provide all parties with a prompt and equitable resolution.

1. Summary of Grievance Process Timeline

The Title IX Coordinator will collaborate with the investigator and decision maker to follow the tentative timelines below. In more complex cases, additional time may be required to complete a fair and thorough investigation.

- a. Investigation 20 +/- days as the complexity of the case demands (Sec. III.E.1)
- b. 10 days for reviewing information prior to conclusion of investigation (law)
- c. 10 days after receiving report to respond to report (law)
- d. 10 days for decision maker to allow initial questions
- e. 10 days for responses to questions
- f. 10 days for questions and responses to follow-up questions
- g. 10 days for determination of responsibility decision
- h. 10 days for appeal (6 additional days for administrative steps)
- i. 10 days for argument/statement challenging or supporting determination
- j. 10 days for decision on appeal

2. Delays and Extensions of Time

At any stage of the grievance process, the District (through the Superintendent, or if the Superintendent is the respondent, the Title IX Coordinator or designee) may for good cause allow for temporary delays or extensions of time upon request of either party, or on his/her own initiative. Examples of good cause may include such things as availability of parties or witnesses, school or school administrative office holidays or vacations, referral back to an earlier stage of the grievance process, concurrent law enforcement or other agency activity, or need to obtain interpreters or accommodation of disabilities. For any such delay or extension of time, the Superintendent or the Title IX Coordinator will provide written notice to the parties of the delay/extension and the reason(s).

J. Confidentiality

The District will respect the confidentiality of the complainant and the respondent as much as possible, however, some information may need to be disclosed to appropriate individuals or authorities. All disclosures shall be consistent with the District's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action. Examples of required disclosure include:

1. information to either party to the extent necessary to provide the parties due process during the Title IX Grievance Process;
2. information to individuals who are responsible for handling the District's investigation and determination of responsibility to the extent necessary to complete the District's grievance process;
3. mandatory reports of child abuse or neglect to Department of Child and Family Services (DCFS) or local law enforcement;
4. information to the complainant's and the respondent's parent/guardian as required under this Policy and or the Family Educational Rights and Privacy Act (FERPA); and
5. reports to the Louisiana Department of Education (LDOE) as required.

Additionally, any supportive measures offered to the complainant or the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures.

Except as specified above, the District shall keep confidential the identity of:

1. any individual who has made a report or complaint of sex discrimination
2. any individual who has made a report or filed a formal complaint of sexual harassment
3. any complainant
4. any individual who has been reported to be the perpetrator of sex discrimination
5. any respondent; and
6. any witness.

K. Retaliation Prohibited

Retaliation against any person who makes a report or complaint, or against any person who assists, participates, or refuses to participate in any investigation of an act alleged in this Policy is prohibited. Actions taken in response to materially false statements made in bad faith, or to submitting materially false information in bad

faith, as part of a report or during the Title IX Grievance Process do not constitute retaliation. A finding of responsibility alone is insufficient to conclude that a person made a materially false statement in bad faith. Complaints of retaliation with respect to reports or formal complaints of sexual harassment shall be filed under the District's general grievance process.

L. Conflict of Interest

No person designated as a Title IX Coordinator, investigator, decision-maker, nor any person designated by the District to facilitate an informal resolution process, may have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

M. Record Keeping

1. The District must maintain the following records for a period of seven years.
 - a. all sexual harassment investigation documentation including:
 - i. any records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment
 - If supportive measure are not provided, the reasons why must be documented
 - ii. any determination regarding responsibility and any audio or audiovisual recording or transcript required by any hearing (if applicable)
 - In each instance, the District must document the basis for its conclusion that its response was not deliberately indifferent
 - iii. any disciplinary sanctions imposed on the respondent,
 - iv. any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity;
 - b. any appeal and the result thereof
 - c. any informal resolution and the result thereof; and
 - d. all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.