

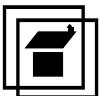
R 5751 SEXUAL HARASSMENT OF PUPILS (M)

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~~Sexual harassment of pupils is prohibited by the Board of Education. The Superintendent and school district staff will use the following methods to investigate and resolve allegations of sexual harassment of pupils engaged in by school employees, other pupils (peers), or third parties.~~

A. Definitions

- ~~1. Quid Pro Quo Harassment — When a school employee explicitly or implicitly conditions a pupil's participation in an educational program or activity or bases an educational decision on the pupil's submission to unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature. Quid Pro Quo Harassment is equally unlawful whether the pupil resists and suffers the threatened harm or submits and thus avoids the threatened harm.~~
- ~~2. Hostile Environment Sexual Harassment — Sexual harassing conduct (which can include unwelcomed sexual advances, requests for sexual favors, or other favors, or other verbal, nonverbal, or physical conduct of a sexual nature) by an employee, by another pupil, or by a third party that is sufficiently severe, persistent, or pervasive to limit a pupil's ability to participate in or benefit from an educational program or activity, or to create a hostile or abusive educational environment.~~
- ~~3. Notice — The school district has notice if it actually "knew, or in the exercise of reasonable care, should have known" about the harassment. If an agent or responsible employee of the school district received notice, the school district is deemed to have notice. The school district may receive notice in many different ways:
 - ~~a. A pupil may have filed a grievance or complained to a teacher about fellow pupils harassing him/her.~~
 - ~~b. A pupil, parent, or other pupil may have contacted other appropriate school personnel.~~~~



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- c. ~~An agent or a responsible employee of the school district may have witnessed the harassment.~~
- d. ~~The school district may obtain information in an indirect manner such as staff, community members, newspapers, etc.~~
4. ~~Constructive Notice—A school district will be in violation if the school district has “constructive notice” of a sexually hostile environment and fails to take immediate and appropriate corrective action. Constructive notice exists if the school district “should have” known about the harassment and if the school district would have found out about the harassment through a “reasonable diligent inquiry.”~~
5. ~~Gender-based Harassment—Gender-based harassment that includes acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on gender, but not involving conduct of a sexual nature, may be a form of sex discrimination if it is sufficiently severe, persistent, or pervasive and directed at individuals because of their gender.~~
6. ~~Title IX of the Education Amendments of 1972—Title IX applies to all public school districts that receive federal funds and protects pupils in connection with all the academic, educational, extra-curricular, athletic, and other programs of the school district, whether they take place in the school facilities, on the school bus, at a class or training program sponsored by the school at another location, or elsewhere. Title IX protects any “person” from sex discrimination; accordingly both male and female pupils are protected from sexual harassment engaged in by school district employees, other pupils, or third parties. Title IX prohibits sexual harassment regardless of the gender of the harasser even if the harasser and the pupil being harassed are members of the same gender. Although Title IX does not specifically prohibit discrimination on the basis of sexual orientation, sexual harassment directed at gay or lesbian pupils may constitute sexual harassment as prohibited by Title IX. Harassing conduct of a sexual nature directed toward gay or lesbian pupils may create a sexually hostile environment and therefore be prohibited under Title IX.~~
7. ~~Grievance Procedure—The grievance procedure provides for prompt and equitable resolution of discrimination complaints, including complaints of sexual harassment. The grievance procedure provides the school district with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems.~~



8. ~~Office Of Civil Rights (OCR) The OCR of the United States Department of Education has federal government's enforcement authority of Title IX.~~
9. ~~Unwelcomeness In order to be actionable as harassment, sexual conduct must be unwelcomed. Conduct is unwelcomed if the pupil did not request or invite it and "regarded the conduct as undesirable or offensive." The school district will be concerned about the issue of welcomeness if the harasser is in a position of authority.~~
10. ~~Acquiescence Acquiescence in the conduct or the failure to complain does not always mean the conduct was welcome. The fact that a pupil may have accepted the conduct does not mean that he/she welcomed it. The fact the a pupil willingly participated in conduct on one occasion does not prevent him/her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a pupil actively participates in sexual banter and discussions and gives no indication he/she objects, then the evidence generally will not support a conclusion that the conduct was unwelcomed.~~
11. ~~Sufficiently Severe, Persistent, or Pervasive Conduct In determining whether conduct is sufficiently severe, persistent, or pervasive, the conduct should be considered from a subjective and objective perspective. In making this determination, all relevant circumstances should be considered:~~
- a. ~~The degree to which the conduct affected one or more pupils' behavior. The conduct must have limited a pupil's ability to participate in or benefit from his/her education or altered the conditions of the pupils educational environment.~~
 - b. ~~The type, frequency, and duration of the conduct.~~
 - c. ~~The identity of and relationship between the alleged harasser and the subject or subjects of the harassment.~~
 - d. ~~The number of individuals involved.~~



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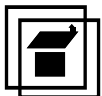
- e. ~~The age and gender of the alleged harasser and the subject or subjects of the harassment.~~
- f. ~~The size of the school, location of the incidents, and context in which they occurred.~~
- g. ~~Other incidents at the school.~~
- h. ~~Incidents of gender-based, but non-sexual harassment.~~

B. ~~Grievance Procedure~~

~~The following Grievance Procedure shall be used for an allegation(s) of Harassment of Pupils by School Employees, Other Pupils, or Third Parties:~~

1. ~~Reporting of Sexual Harassment Conduct~~

- a. ~~Any person with any information regarding actual and/or potential sexual harassment of a pupil by any school employee, other pupils, or third parties must report the information to the school Building Principal, their immediate supervisor or the Affirmative Action Officer.~~
 - (1) ~~If the Building Principal deems it appropriate, he/she may immediately notify the parent(s) or legal guardian(s) of the alleged harasser(s) or alleged victim(s) upon receipt of any information prior to notifying the Affirmative Action Officer.~~
 - (2) ~~The Building Principal will not disclose the name(s) of the alleged harasser(s) or alleged victim(s) to the other party.~~
- b. ~~The school district can learn of sexual harassment through other means such as from a witness to an incident, an anonymous letter or telephone call.~~
- c. ~~Nothing in the Policy and Regulation on Pupil Sexual Harassment shall preclude the Building Principal, or designee, from complying with the provisions of Policy No. 5600—Pupil Discipline in order to maintain the health, safety and welfare of staff and/or pupils.~~



- d. ~~A report from the school Building Principal or an immediate supervisor will be forwarded to the school district Affirmative Action Officer within one working day, even if the school Building Principal or immediate supervisor feels sexual harassment conduct was not present.~~
 - e. ~~Upon receipt of an allegation and/or report, the Affirmative Action Officer shall immediately notify the parent(s) or legal guardian(s) of any alleged harasser(s) and victim(s) for which a report has been filed even if the Building Principal has previously notified the parent(s) or legal guardian(s).~~
 - f. ~~The Affirmative Action Officer shall notify the parent(s) or legal guardian(s) of all involved pupils and any other involved individuals of the process to be followed in investigating a report or complaint.~~
2. ~~Affirmative Action Officer's Investigation~~
- a. ~~Upon receipt of any report of potential sexual harassment conduct, the Affirmative Action Officer will begin an immediate investigation. The Affirmative Action Officer will promptly investigate all alleged complaints of sexual harassment, whether or not a formal grievance is filed and steps will be taken to resolve the situation, if needed. This investigation will be prompt, thorough, and impartial. The investigation will be completed no more than ten working days after receiving notice.~~
 - b. ~~When a pupil or the parent(s) or legal guardian(s) of a pupil provides information or complains about sexual harassment of the pupil, the Affirmative Action Officer will initially discuss what actions the pupil or parent(s) or legal guardian(s) is seeking in response to the harassment.~~
 - c. ~~The Affirmative Action Officer's investigation may include, but is not limited to, interviews with all persons with potential knowledge of the alleged conduct, interviews with any pupils who may have been sexually harassed by any school employee, other pupils, or third parties and any other reasonable methods to determine if sexual harassment conduct existed.~~



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- d. ~~The Affirmative Action Officer will request, if relevant to an investigation, the parent(s) or legal guardian(s) of any pupil involved in the investigation to assist in the investigation to determine if sexual harassment conduct exist(ed).~~
- e. ~~The Affirmative Action Officer will provide a copy of the Board Policy and Regulation to all persons who are interviewed with potential knowledge and to any other person the Affirmative Action Officer feels would be served by a copy of such documents.~~
- f. ~~The Affirmative Action Officer will explain the avenues for formal and informal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation on how the procedure works.~~
- g. ~~Any person interviewed by the Affirmative Action Officer may be provided an opportunity to present witnesses and other evidence.~~
- h. ~~The Affirmative Action Officer and/or Superintendent may contact law enforcement agencies if there is potential criminal conduct by any party.~~
- i. ~~The school district administrators may take interim measures during an Affirmative Action Officer's investigation of a complaint in order to alleviate any conditions which prohibits the pupil from assisting in the investigation.~~
- j. ~~If elementary or middle school pupils are involved, it may become necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. The Affirmative Action Officer will consider the age of the pupil, the nature of the conduct involved, and other relevant factors in determining whether a pupil had the capacity to welcome sexual conduct.~~
- k. ~~The Affirmative Action Officer will consider particular issues of welcomeness if the alleged harassment relates to alleged "consensual" sexual relationships between a school employee and a pupil.~~



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- ~~(1) If elementary or middle school (grades K-8) pupils are involved, welcomeness will not be an issue. Sexual conduct between a school employee and an elementary pupil will not be viewed as consensual.~~
- ~~(2) If secondary (grades 9-12) pupils are involved, there is a strong presumption that sexual conduct between a school employee and a secondary pupil is not consensual.~~
- ~~(3) In cases involving older secondary and post secondary pupils and older secondary and post secondary special education pupils, the Affirmative Action Officer will consider the following to determine whether a school employee's sexual advances or other sexual conduct could be considered welcome:
 - ~~(a) The nature of the conduct and the relationship of the school employee to the pupil, including the degree of influence, authority, or control the employee has over the pupil.~~
 - ~~(b) Whether the pupil was legally or practically unable to consent to the sexual conduct in question.~~~~
- ~~1. If there is a dispute about whether harassment occurred or whether it was welcome (in a case which it is appropriate to consider whether the conduct could be welcome) determinations should be based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:
 - ~~(1) Statements made by any witnesses to the alleged incident.~~
 - ~~(2) Evidence about the relative credibility of the alleged harassed pupil and the alleged harasser.~~
 - ~~(3) Evidence that the alleged harasser has been found to have harassed others may support the credibility of the pupil claiming harassment.~~~~



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- ~~(4) Evidence of the allegedly harassed pupil's reaction or behavior after the alleged harassment.~~
- ~~(5) Evidence about whether the pupil claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred.~~
- ~~(6) Other contemporaneous evidence such as did the pupil write about the conduct and his/her reaction to it soon after it happened in diary or letter and/or tell friends or relatives.~~
- ~~m. The scope of a reasonable response also may depend upon whether a pupil, or parent(s) or legal guardian(s) reporting harassment asks that the pupil's name not be disclosed to the harasser or that nothing be done about the harassment. The Affirmative Action Officer:~~
- ~~(1) Will provide an overview of harassment policy [and Title IX if applicable] to the pupil, parent(s) or legal guardian(s) guardian which shall include the prohibition of retaliation. In the event the pupil, parent(s) or legal guardian(s) request the pupil's name remain confidential, the Affirmative Action Officer will inform the pupil, parent(s) or legal guardian(s) that the request may limit the school district's ability to respond.~~
- ~~(2) Will evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all pupils. The factors to be considered shall be the seriousness of the alleged harassment, the age of the pupil harassed, whether there have been any other complaints or reports against the alleged harasser. And the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.~~
- ~~(3) May use other means available to address the harassment. Steps that may be taken to limit the effects of the alleged harassment and prevent its reoccurrence without initiating a formal complaint and revealing the identity of the complainant. These steps may require sexual harassment~~



~~training at the site where the problem occurred, taking a pupil survey concerning any harassment problems that may exist, or other systematic measures where the alleged harassment occurred.~~

- ~~(4) By conducting a limited investigation without revealing the name of the pupil sexually harassed, may be able to learn about or confirm a pattern of harassment based on claims of different pupils that were harassed by the same individual. The Affirmative Action Officer may place an individual on notice of allegation of harassing behavior and counsel appropriately without revealing, even indirectly, the identity of the pupil who notified the school district.~~

~~3. Investigation Results~~

- ~~a. Upon the conclusion of the investigation, but not later than ten working days after reported, the Affirmative Action Officer will prepare a summary of findings to the parties. At the least this shall include the person(s) providing notice to the school district and the pupil(s) who were alleged to be sexually harassed.~~
- ~~b. The Affirmative Action Officer shall make a determination whether sexual harassment conduct was present.~~
- ~~c. If the Affirmative Action Officer concludes sexual harassment conduct was not, or is not present, the investigation is concluded.~~
- ~~d. If the Affirmative Action Officer determines that sexual harassment has occurred, the school district administrators and staff shall take reasonable, age appropriate, and effective corrective action, including steps tailored to the specific situation. Appropriate steps will be taken to end the harassment such as counseling, warning, and/or disciplinary action, as specified in pupil and/or staff discipline policies and regulations. The steps will be based on the severity of the harassment or any record of prior incidents or both. A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.~~



- e. ~~In the event the Affirmative Action Officer determines a hostile environment exists, the school district administrators and staff shall take steps to eliminate the hostile environment. The school district administrators may need to deliver special training or other interventions to repair the educational environment. Other measures may include directing the harasser to apologize to the harassed pupil, dissemination of information, distribution of new policy statements or other steps to communicate the message that the Board does not tolerate harassment and will be responsive to any pupil that reports such conduct.~~
 - f. ~~In some situations, the school district administrators may need to provide other services to the pupil that was harassed if necessary to address the effects of the harassment on that pupil. Depending on the type of harassment found, these additional services may include an independent re-assessment of the harassed pupil's work, re-taking a course with a different instructor, tutoring and/or other measures that are appropriate to the situation.~~
 - g. ~~The school district administrators will take steps to avoid any further sexual harassment and to prevent any retaliation against the pupil who made the complaint, was the subject of the harassment, or against those who provided the information or were witnesses. The Affirmative Action Officer will inform the sexually harassed pupil and his/her parent how to report any subsequent problems and make follow up inquiries to see if there has been any new incidents or retaliation.~~
 - h. ~~All sexual harassment grievances and accompanied investigation notes will be maintained in a confidential file by the Affirmative Action Officer.~~
4. ~~Affirmative Action Officer's Investigation Appeal Process~~
- a. ~~Any person found by the Affirmative Action Officer's investigation to be guilty of sexual harassment conduct, or any pupil who believes they were sexually harassed but not supported by the Affirmative Action Officer's investigation, may appeal to the Superintendent. The Superintendent will make his/her determination within ten working days of receiving the appeal.~~



- b. ~~Any person who is not satisfied with the Superintendent's determination may appeal to the Board. The Board will make its determination within forty five calendar days of receiving an appeal from the Superintendent's determination.~~

C. ~~Office Of Civil Rights (OCR) Case Resolutio~~

~~Parents or pupils not satisfied with the resolution of an allegation of sexual harassment by the school district officials or the Board may request the Office of Civil Rights (OCR) of the United States Department of Education to investigate the allegations.~~

1. ~~Any alleged victim of sexual harassment may appeal a decision of the Affirmative Action Officer, Superintendent, or the Board to the Office of Civil Rights (OCR).~~
2. ~~Any person may report an allegation of sexual harassment to the OCR at any time. If the OCR is asked to investigate or otherwise resolve incidents of sexual harassment of pupils, including incidents caused by employees, other pupils, or third parties, OCR will consider whether:~~
 - a. ~~The school district has a policy prohibiting sex discrimination under Title IX and an effective Title IX grievance procedure;~~
 - b. ~~The school district appropriately investigated or otherwise responded to allegations of sexual harassment; and~~
 - c. ~~The school district has taken immediate and appropriate corrective action responsive to Quid Pro Quo or Hostile Environment Harassment.~~
3. ~~If the school district officials have taken the steps described in 2 above, the OCR will consider the case against the school district resolved and take no further action other than monitoring compliance with any agreement between the school district and the OCR. This shall apply in cases in which the school district was in violation of Title IX, as well as those in which there has been no violation of Title IX.~~



[See POLICY ALERT No. 225]

R 5751 SEXUAL HARASSMENT OF STUDENTS

The Board of Education will not tolerate sexual harassment of students by school employees, other students, or third parties. The school district shall investigate and resolve allegations of sexual harassment of students engaged in by school employees, other students, or third parties pursuant to 34 CFR §106.3(c) and Policy and Regulation 5751. In addition, reports of sexual harassment shall also be investigated in accordance with the requirements of New Jersey's Anti-Bullying Bill of Rights Act and Policy 5512.

A. Definitions

1. For the purpose of Policy and Regulation 5751 and in accordance with 34 CFR §106:
 - a. "Sexual harassment" (34 CFR §106.30(a)) means conduct on the basis of sex that satisfies one or more of the following:
 - (1) An employee of the school district conditioning the provision of an aid, benefit, or service of the school district on a 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 student equal access to the school district's education program or activity; or
 - (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).



- b. **“Complainant” (34 CFR §106.30(a)) means a student currently enrolled who is alleged to be the Complainant of conduct that could constitute sexual harassment.**
 - (1) **A parent may act on behalf of the Complainant in accordance with State law, court orders, child custody arrangements, or other sources granting legal rights to parents.**
 - (2) **A parent has a legal right to act on a Complainant’s behalf, this right applies throughout all aspects of the Title IX matter, including throughout the grievance process.**
- c. **“Decision-maker” (34 CFR §106.45(b)(7)) means a staff member(s) who is not the Title IX Coordinator or the school staff member who conducted the investigation, designated by the Superintendent of Schools, to objectively evaluate the relative evidence and reach conclusions about whether the Respondent is responsible for the alleged sexual harassment in accordance with the provisions of 34 CFR. §106.**
- d. **“Education program or activity” (34 CFR §106.44(a)) includes locations, events, or circumstances over which the school district exercises substantial control over both the Respondent and the context in which the sexual harassment occurs.**
- e. **“Formal complaint” (34 CFR §106.30(a)) means a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school district investigate the allegation of sexual harassment. As used in this definition paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the school district) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.**



- f. **“Investigator” (34 CFR §106.45(b)(5)) means a staff member or staff members who may be the Title IX Coordinator and who is not a decision-maker, designated by the Superintendent of Schools, to investigate alleged sexual harassment in accordance with 34 CFR §106. The investigator may be the school district’s Affirmative Action Officer only if the Affirmative Action Officer is not the decision-maker.**
- g. **“Program or activity” and “program” (34 CFR §106.2(h)(2)(ii)) means all of the operations of a local educational agency (as defined in 20 U.S.C. §8801), system of vocational education, or other school system.**
- h. **“Respondent” (34 CFR §106.30(a)) means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.**
 - (1) **A parent may act on behalf of the Respondent in accordance with State law, court orders, child custody arrangements, or other sources granting legal rights to parents.**
 - (2) **If a parent has a legal right to act on a Respondent’s behalf, this right applies throughout all aspects of the Title IX matter, including throughout the grievance process.**
- i. **“Title IX Coordinator” (34 CFR §106.8(a)) means an individual designated and approved by the Board to coordinate its efforts to comply with its responsibilities under 34 CFR §106 and this Policy. The individual must be referred to as the “Title IX Coordinator” and may also be the investigator but cannot be the decision-maker.**

B. Reporting and Notification Requirements

- 1. **Sexual harassment may take place electronically or on an online platform used by the school, including, but not limited to, computer and internet networks; digital platforms; and**



computer hardware or software owned or operated by, or used in the operations of the school.

2. In accordance with 34 CFR §106.8(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.
 - a. 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.
3. A school district with "actual knowledge" of sexual harassment in the educational program or activity of the school district against a student, must respond promptly in a manner that is not "deliberately indifferent".
 - a. The school district has "actual knowledge" when an employee receives a complaint of sexual harassment or an employee is aware of behavior that could constitute sexual harassment.
 - (1) Any school employee who receives a complaint of sexual harassment or is aware of behavior that could constitute sexual harassment is required to report that information to the Title IX Coordinator in accordance with the provisions of B.1. above.
 - (2) In addition to the district's response in accordance with this Regulation, the district must report any potential child abuse to appropriate law enforcement and child welfare authorities in accordance with N.J.S.A. 18A:36-24; N.J.S.A. 18A:36-25; N.J.A.C. 6A:16-11.1; and Policy and Regulation 8462.



- b. A school district is “deliberately indifferent” only if the response to sexual harassment is clearly unreasonable in light of the known circumstances, pursuant to 34 CFR §106.44(a).
4. The district is required to offer supportive measures to the Complainant even if the Respondent ceased being enrolled or employed by the district prior to the filing of a formal complaint.
 - a. If the Respondent ceases to be enrolled in or employed by the district after a formal complaint is filed, the district may dismiss the complaint, but must still offer supportive measures to the Complainant pursuant to 34 CFR §106.45(b)(3)(ii).
5. The Title IX Coordinator shall notify persons entitled to a notification pursuant to 34 CFR §106.8(a) that the school district does not discriminate on the basis of sex in the education program or activity it operates and it is required by Title IX and Policy and Regulation 5751 not to discriminate in such a manner in accordance with 34 CFR §106.8(b)(1).
6. The Title IX Coordinator shall prominently display the contact information required to be listed for the Title IX Coordinator pursuant to 34 CFR §106.8(b)(2)(i) on the school district’s website and in each handbook or catalog the school district makes available to persons entitled to a notification in accordance with 34 CFR §106.8(a).
 - a. Policy 5751 and this Regulation shall be prominently displayed on the district’s website and accessible to anyone.

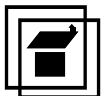
C. Supportive Measures

1. “Supportive measures” mean non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or



where no formal complaint has been filed pursuant to 34 CFR §106.30(a).

2. Supportive measures shall be available to the Complainant, Respondent, and as appropriate, witnesses or other impacted individuals.
 3. The Title IX Coordinator shall maintain consistent contact with the parties to ensure that safety, emotional and physical well-being are being addressed.
 4. Generally, supportive measures are meant to be short-term in nature and will be re-evaluated on a periodic basis.
 - a. To the extent there is a continuing need for supportive measures after the conclusion of the resolution process, the Title IX Coordinator will work with appropriate school district resources to provide continued assistance to the parties.
- D. Grievance Process**
1. The school district will use the grievance process outlined in 34 CFR §106.45 and this Regulation to address formal complaints of sexual harassment.
 2. Parents, students, unions and associations, and staff members shall receive notice of the grievance procedures and the Title IX Coordinator's name or title, office, address, email address, and telephone number in accordance with 34 CFR §106.8(a).
 3. The school district's grievance process may, but need not, provide for a hearing pursuant to 34 CFR §106.45(b)(6)(ii).
 4. The school 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 consistent with 34 CFR §106.45(b)(9).



5. The school district may not require the parties to participate in an informal resolution process regarding a Title IX claim and may not offer an informal resolution process unless a formal complaint is filed pursuant to 34 CFR §106.45(b)(9).
6. The Title IX Coordinator must promptly contact the Complainant in accordance with 34 CFR §106.44(a).
7. In response to a formal complaint, the school district will follow a grievance process that complies with 34 CFR §106.45.
 - a. Upon receipt of a formal complaint, the Title IX Coordinator shall provide written notice to the parties who are known in accordance with 34 CFR §106.45(b)(2)(i).
 - b. The Title IX Coordinator shall provide the investigator with a copy of the formal complaint if the Title IX Coordinator is not the investigator.
 - c. The investigator shall investigate the allegations contained in a formal complaint pursuant to 34 CFR §106.45(b).
8. The investigator shall create an investigative report in accordance with the provisions of 34 CFR §106.45(b)(5)(vii).
 - a. The investigator will attempt to collect all relevant information and evidence.
 - b. While the investigator will have the burden of gathering evidence, it is crucial that the parties present evidence and identify witnesses to the investigator so that they may be considered during the investigation.
 - c. While all evidence gathered during the investigative process and obtained through the exchange of written questions will be considered, the decision-maker may in their discretion grant lesser weight to last minute



information or evidence introduced through the exchange of written questions that was not previously presented for investigation by the investigator.

- d. To the greatest extent possible, and subject to Title IX, the school will make reasonable accommodations in an investigation to avoid potential re-traumatization of a student.
 - e. The investigative report shall be provided to the decision-maker in accordance with the provisions of 34 CFR §106.45(b)(6)(ii).
9. The decision-maker, who cannot be the same person as the Title IX Coordinator or the investigator, shall issue a written determination regarding responsibility pursuant to 34 CFR §106.45(b)(7).
- a. To reach this determination, the decision-maker will apply the preponderance of the evidence standard, which shall be the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment pursuant to 34 CFR §106.45(b)(1)(vii).
 - b. The decision-maker will facilitate a written question and answer period between the parties.
 - (1) Each party may submit their written questions for the other party and witnesses to the decision-maker for review.
 - (2) The questions must be relevant to the case and the decision-maker will determine if the questions submitted are relevant and will then forward the relevant questions to the other party or witnesses for a response.



- (3) The decision-maker shall then review all the responses, determine what is relevant or not relevant, and issue a decision as to whether the Respondent is responsible for the alleged sexual harassment.
- (4) The decision-maker will issue a written determination following the review of evidence. The written determination will include:

 - (a) Identification of allegations potentially constituting sexual harassment as defined in Policy and Regulation 5751 and 34 CFR §106.30;
 - (b) A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, and methods used to gather evidence;
 - (c) Findings of fact supporting the determination, conclusions regarding the application of this formal grievance process to the facts; and
 - (d) A statement of and rationale for the result as to each allegation, including any determination regarding responsibility, any disciplinary sanctions the decision-maker imposed on the Respondent that directly relate to the Complainant, and whether remedies designed to restore or preserve equal access to the school's education program or activity will be provided to the Complainant; and procedures and permissible bases for the parties to appeal the determination.



- (5) The written determination will be provided to the parties simultaneously.
- (6) Notwithstanding a temporary delay of the grievance procedure or the limited extension of the grievance procedure time frames with good cause, the written determination shall be provided within sixty calendar days from receipt of the Complaint.
 - (a) The sixty calendar day time frame does not include the appeal process.
- (7) Remedies and supportive measures that do not impact the Respondent should not be disclosed in the written determination; rather the determination should simply state that remedies will be provided to the Complainant.

E. Appeals

1. The school district will offer both parties an appeal from a determination regarding responsibility, and from the Title IX Coordinator's dismissal of a formal complaint or any allegations therein in accordance with 34 CFR §106.45(b)(8)(i).
2. As to all appeals, the school district will comply with the requirements of 34 CFR §106.45(b)(8).
3. The Superintendent shall designate an appeal officer for each appeal filed.
 - a. The appeal officer shall not be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator in accordance with 34 CFR §106.45(b)(8)(iii)(B).



4. **The Complainant and Respondent shall have an equal opportunity to appeal the policy violation determination and any sanctions.**
5. **The school district shall administer the appeal process, but is not a party and will not advocate for or against any appeal.**
6. **A party may appeal only on the following grounds and the appeal shall identify the reason(s) why the party is appealing:**
 - a. **There was a procedural error in the hearing process that materially affected the outcome;**
 - (1) **Procedural error refers to alleged deviations from school district policy, and not challenges to policies or procedures themselves;**
 - b. **There is new evidence that was not reasonably available at the time of the hearing and that could have affected the outcome;**
 - c. **The decision-maker had a conflict of interest or bias that affected the outcome;**
 - d. **The determination regarding the policy violation was unreasonable based on the evidence before the decision-maker;**
 - (1) **Appealing on this basis is available only to a party who participated in the hearing; and**
 - e. **The sanctions were disproportionate to the hearing officer's findings.**
7. **The appeal must be submitted in writing to the Title IX Coordinator within ten calendar days following the issuance of the notice of determination.**
8. **The appeal must identify the ground(s) for appeal and contain specific arguments supporting each ground for appeal.**



9. The Title IX Coordinator shall notify the other party of the appeal, and that other party shall have an opportunity to submit a written statement in response to the appeal, within ten calendar days.
10. The Title IX Coordinator shall inform the parties that they have an opportunity to meet with the appeal officer separately to discuss the proportionality of the sanction.
11. The appeal officer shall decide the appeal considering the evidence presented at the hearing, the investigation file, and the appeal statements of both parties.
12. In disproportionate sanction appeals, input the parties provided during the meeting may also be considered.
13. The appeal officer shall summarize their decision in a written report that will be sent to the Complainant and Respondent within twenty calendar days of receiving the appeal.

F. Remedies

1. The Title IX Coordinator shall be responsible for effective implementation of any remedies in accordance with 34 CFR §106.45(b)(7)(iv).
2. Following receipt of the written determination from the decision-maker, the Title IX Coordinator will facilitate the imposition of sanctions, if any, the provision of remedies, if any, and to otherwise complete the formal resolution process.
3. The appropriate school official designated by the Superintendent, after consultation with the Title IX Coordinator, will determine the sanctions imposed and remedies provided, if any.
 - a. The imposition of sanctions or provisions of remedies will be revisited by the Title IX Coordinator following the appeal officer's decision, as appropriate.



4. The Title IX Coordinator must provide written notice to the parties simultaneously.
5. The school district must disclose to the Complainant the sanctions imposed on the Respondent that directly relate to the Complainant when such disclosure is necessary to ensure equal access to the school district's education program or activity.
6. It is important to note that conduct that does not meet the criteria under Title IX may violate other Federal or State laws or school district policies regarding student misconduct or may be inappropriate and require an immediate response in the form of supportive measures and remedies to prevent its recurrence and address its effects.

G. Parent Rights

1. Consistent with the laws of New Jersey, a student's parent must be permitted to exercise the rights granted to their child under Policy and Regulation 5751, whether such rights involve requesting supportive measures, filing a formal complaint, or participating in a grievance process.
2. A student's parent must also be permitted to accompany the student to meetings, interviews, and hearings, if applicable, during a grievance process in order to exercise rights on behalf of the student.
3. The student may have an advisor in addition to the parent.

H. Training

The Superintendent or designee shall ensure that Title IX Coordinators, investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process, receive training in accordance with 34 CFR §106.45(b)(1)(iii).

I. Compliance



The Superintendent or designee shall consult with the Board Attorney to ensure the school district's response to any allegations of sexual harassment and the school district's grievance process are in accordance with 34 CFR §106.44 and 34 CFR §106.45.

J. Requirements of New Jersey's Anti-Bullying Bill of Rights Act

Any time a report is made to the Title IX Coordinator or formal complaint is filed pursuant to Policy and Regulation 5751 and in accordance with 34 CFR §106, the Title IX Coordinator shall forward the report or complaint to the Principal of the school building attended by the alleged victim for the Principal to follow the requirements of New Jersey's Anti-Bullying Bill of Rights Act and Policy 5512.

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REGULATION

BLACK HORSE PIKE REGIONAL
BOARD OF EDUCATION

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