

Title IX Final Rule: Proposed Grievance Procedures

Step 1: Initial Report

A person (the “reporting party”) reports an alleged incident of prohibited conduct to any employee or the Title IX Coordinator. If a report is made to an employee, that employee, in turn, must notify the Title IX Coordinator.

Step 2: Prompt & Confidential Contact by Title IX Coordinator

After receiving a report, the Title IX Coordinator must promptly and confidentially contact the alleged victim (the “complainant”). During this initial contact, the Title IX Coordinator must: (1) offer supportive services to the complainant, and (2) explain the process for filing a formal complaint.

Supportive services will be made available to complainants even if they choose not to proceed with filing a formal complaint. Complainants also are not required to accept supportive services. Supportive services may include, but are not limited to confidential counseling, academic course adjustments, no-contact orders, classroom reassignments, class schedule changes, leaves of absences, or school transfers.

Step 3: Formal Complaint

After a Title IX Coordinator makes initial contact, a complainant may make a formal complaint. While no specific form is required, it is strongly recommended that formal reports tell the complainant’s story clearly and succinctly, following chronological order. Reports should identify the alleged prohibited conduct. Any persons with relevant information may be identified in the report.

Formal complaints must be in writing and submitted to the Title IX Coordinator. They also must be signed by the complainant or Title IX Coordinator.

Since the filing of a formal complaint is the decision of a complainant, a Title IX Coordinator should sign a complaint in lieu of the complainant only where they determine that initiating an investigation over the complainant’s wishes is not clearly unreasonable under the known circumstances at that time. This may occur where the alleged conduct poses an issue of overall student, employee, or campus safety.

Step 4: Initial Assessment of Complaint by Title IX Coordinator

Once a formal complaint is submitted, the Title IX Coordinator is responsible for making the following determinations:

- a. Is the accused (the “respondent”) a person covered by the Board’s policy (i.e., a student or employee)?
- b. Did the alleged conduct occur in an educational activity or program as defined in the Board’s policy?
- c. Do the facts set forth in the complaint, assuming they are true, constitute prohibited conduct that violates the Board’s policy?

If the answer to any of the above questions is no, the Title IX Coordinator **does not** have the authority to initiate an investigation and resolve the complaint. In such an instance, the reported conduct may nonetheless violate the applicable code of conduct. The Title IX Coordinator may report such conduct to an appropriate school administrator for resolution under that policy.

Step 5: Written Notice to All Parties by the Title IX Coordinator

If the Title IX Coordinator determines that the complaint meets the Board’s policy requirements, they will send written notice to both the complainant(s) and respondent(s). This notice must provide:

- a. An explanation of the allegations made with sufficient details known at that time so that the parties may begin to prepare a response;
- b. A list of the remedies and/or disciplinary actions that may be imposed if the respondent is found responsible for the conduct alleged;
- c. Explain that the school bears the burden of proof rather than the parties, but that disciplinary action will not be taken unless responsibility is found by a preponderance of the evidence;
- d. Describe the grievance procedure step-by-step;
- e. Outline any appeal procedures;
- f. List supportive measures available;
- g. Notify the respondent that they may submit an initial written statement within five (5) business days; and
- h. Inform the parties that they may have the assistance of an advisor during this process – including a parent/guardian or third party of their choosing.

A respondent is not required to submit the initial written statement. The respondent may elect to accept responsibility, waiving their right to complete the remaining grievance process and appeal.

Step 6: Assign an Investigator & Conduct Investigation

The Title IX Coordinator will assign an investigator for each formal complaint. This investigator may be internal (a Board employee) or external (a person outside the school system retained by the Board). The investigator will gather evidence, conduct interviews, and review statements from witnesses and parties. An investigator has discretion to determine the relevance and credibility of witnesses and evidence.

The investigator may conduct witness interviews in person or in writing. However, no “gag orders” may be put in place.

Respondents cannot be required to make a statement or otherwise provide information relevant to the investigation. However, the investigation will proceed even where a respondent declines to actively participate.

A party may, but is not required to, provide voluntary, written consent so that the investigator may access or use their medical, psychological, or similar treatment record.

Step 7: Preliminary Investigation Report Provided to Parties

At the conclusion of the investigation, the investigator must provide to all parties (including their advisors) a copy of all evidence directly related to the allegations of the complaint. This may be provided through a preliminary investigative report.

Parties have **ten (10)** days to review this evidence and respond by submitting further statements or information to the investigator. Parties may also submit written, relevant questions for the investigator to ask of any party or witness. Answers to these questions must be provided to all parties, and the parties will have **three (3)** additional days to submit limited follow-up questions.

Step 8: Final Investigation Report

After reviewing any additional statements or evidence from the parties, the investigator will finalize an investigative report. This written report will be provided to the parties, their advisors, the Title IX Coordinator, and the Title IX Council.

A final investigative report should include the relevant information and facts learned during the investigation, and may include direct observations and reasonable inferences drawn from the facts, as well as any consistencies or inconsistencies between the various source information. The investigator may exclude statements of personal opinion by witnesses and statements as to general reputation for any

character trait, including honesty. The investigator's report must not make a finding or recommendation regarding responsibility. The report will instead include credibility assessments based on their experience with the complainant, respondent, and witnesses, as well as the evidence provided.

Step 9: Title IX Council Review & Decision

The Title IX Coordinator will assign a member of the Title IX Council to serve as decisionmaker in each case. The assigned council member will review the written investigative report and follow up with the investigator if they have any questions. Upon completion of the Council's review, but not later than fourteen (14) days after receipt of the final investigative report, the Title IX Council will issue a written decision regarding responsibility to all parties simultaneously. This written decision must include the Council's:

- Findings of fact;
- Conclusions about whether the alleged conduct occurred;
- Rationale for the result as to each allegation;
- The disciplinary sanction, if any, to be imposed on the respondent;
- Whether additional supportive services will be made available; and
- Information about filing an appeal.

Step 10: Appeals

Appeals must be equally offered to both parties in writing. Appeals will be determined by the Superintendent and may solely be based on one of the following:

- a. Procedural irregularity that affected the outcome of the matter;
- b. Conflict of interest or bias by any involved Title IX personnel that affected the outcome;
- c. Newly discovered evidence that could affect the outcome of the matter; or
- d. Seeking reconsideration solely regarding the severity of the discipline imposed.

To seek an appeal, a party must submit a signed, written appeal notice to the Title IX Coordinator within seven **(7) days** of receipt of the Council's decision. The notice must state the applicable grounds for appeal. If the listed reason does not fall within the four bases listed above, the Title IX Coordinator must notify the party that the appeal has been declined. Otherwise, the Title IX Coordinator will forward the notice of appeal, Council's decision, and investigative report to the Superintendent

for review, along with any new evidence submitted. The Superintendent will issue a final decision within twenty-one (21) days. No further appeals will be granted.

Step 11: Imposition of Discipline

The Council's written decision will note the discipline to be imposed where a finding of responsibility is made. Discipline will be selected at the discretion of the Council and based on several factors:

- The severity of the conduct;
- The circumstances surrounding the violation;
- The disciplinary history of the respondent;
- The need for discipline to prevent further (or reoccurring) discrimination, harassment and/or retaliation; and
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the complainant.

A complainant will not be disciplined under this Policy for making a complaint, even where no finding of responsibility is made. Note, however, that knowingly and intentionally making a false complaint may otherwise violate the applicable code of conduct and give rise to non-Title IX discipline.

Potential discipline where a student is found responsible:

- In-school suspension;
- Out-of-school suspension;
- Revocation of privileges, such as participation in extracurriculars and athletics;
- Expulsion;
- A no contact order; or
- A combination of any the above.

Potential discipline where an employee is found responsible:

- Paid or unpaid administrative leave;
- Termination;
- A no contact order;
- Written reprimands;
- Mandatory counseling;
- Educational assignment;

- Transfer or reassignment of duties;
- Loss of benefits; or
- A combination of the above.