

**TITLE IX PROHIBITION OF SEX DISCRIMINATION AND SEX-BASED HARASSMENT:  
POLICY AND GRIEVANCE PROCEDURE**

This policy and grievance procedure applies to all reports or complaints of sex discrimination, including reports or complaints of sex-based harassment. The “Title IX Grievance Procedure” (or sometimes simply the “Grievance Procedure”) is Section III (Grievance Procedure for Complaints of Sex Discrimination Including Sex-Based Harassment). Instructions for making a report of sex discrimination or sex-based harassment are found in Section II.G (Making a Report of Sex Discrimination Including Sex-Based Harassment), and instructions for making a “Complaint” initiating the formal investigation and determination process are found in Section III.A (Form of and Making a Complaint).

Definitions of “sex discrimination” and “sex-based harassment,” along with examples of what might constitute sex-based harassment, are found in Section II.D (Definitions) of this Policy.

- I. **TITLE IX “NONDISCRIMINATION POLICY”** (copied to policy AC) The Hillsboro Deering School District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admissions/enrollment, or in employment.

A full version of the Title IX Notice of Nondiscrimination with name and contact information for the Title IX Coordinator is found on the District website, in policy AC-R(2), and school handbooks, and additional information regarding District nondiscrimination policies, statements, and procedures can be found in Policy AC. By locating information regarding all nondiscrimination resources in one place, the District intends to clearly communicate the protections, resources, and procedures to which individuals are legally entitled.

- II. **DISTRICT POLICY PROHIBITING AND RESPONDING TO SEX DISCRIMINATION INCLUDING SEX-BASED HARASSMENT**

- A. **Introduction and General Purpose.**

Sex discrimination of any type, including sex-based harassment, or to any extent is strictly prohibited by the District whether or not such conduct or behavior rises to the level of conduct prohibited under Title IX. Retaliation for reporting sex discrimination or participating in the Grievance Procedure set out in Section III of this Policy, among other things, is also strictly prohibited by the District. For discriminatory or harassing conduct which does not meet the definition of sex discrimination or sex-based harassment under Title IX and this Policy, the District’s response will be governed under other applicable laws and policies per Board policy AC, the policies referenced therein, and applicable codes of conduct or handbooks.

Title IX and various other state and federal statutes prohibit discrimination on the basis of sex. Title IX obligates all recipients to comply with Title IX and the Department's Title IX regulations, with some limited exceptions set out in the statute and regulations. When “Title IX” is referenced in this policy, the term

refers to Title IX and the regulations. Accordingly, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, co-curricular, extra-curricular, research, occupational training, or other education program or activity operated by the District. Sex-based harassment is a form of sex discrimination and is likewise prohibited.

If the District has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, it must respond promptly and effectively. Conduct that occurs under the District's education program or activity includes conduct that is subject to the District's disciplinary authority. As part of the general prohibition on sex discrimination, the District has an obligation to address sex-based harassment, including such conduct that creates a hostile environment under its education program or activity.

**B. Title IX Notice of Nondiscrimination and Grievance Procedures.**

The District's Title IX Notice of Nondiscrimination may be found in Board policy AC and on the District's website at {insert website address}. Additional information regarding District nondiscrimination policies, statements, and procedures can also be found in Policy AC. By locating all nondiscrimination resources in one place, the District intends to clearly communicate the protections and resources to which individuals are legally entitled.

**C. Application of This Policy.**

This Policy applies to all students, employees, and any third party who contracts with the District to provide services to District students or employees, upon District property or during any school program or activity. Additionally, the protections extend to any other person who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

The prohibitions and obligations under this policy apply to all sex discrimination as defined in Title IX that occurs within the District's education programs or activities. The context of behavior can impact whether conduct falls within the definitions of sex discrimination and sex-based harassment prohibited under Title IX, and of conduct of a sexual nature that is offensive or hostile in itself, but which is not sex discrimination prohibited under Title IX. However, all conduct of the kind listed in the definition of "sex-based harassment" in Section II.D, is prohibited under this policy, as well as under various other Board policies and applicable codes of conduct. However, for purposes of its Title IX obligations the District must address reports or complaints of conduct which MAY constitute sex discrimination or sex-based harassment as set forth in this policy and the Title IX Grievance Procedure set out in Section III. Except when the context in this policy suggests otherwise, or as used in other laws (e.g., Title VII) or other Board policies (e.g., policy JICK) which pertain to harassment all references to "sex-based harassment" in this policy mean sex-based harassment that meets the definition below.

Nothing in this policy will be construed to confer on any third party a right to due process or other proceedings to which student and employee respondents are entitled under this policy unless such right exists under law.<sup>1</sup> Volunteers and visitors who engage in sex discrimination will be directed to leave school property and/or be reported to law enforcement and/or the NH Division of Children, Youth and Families (DCYF), as appropriate. A third party under the supervision and control of the school system will be subject to termination of contracts/agreements, restricted from access to school property, and/or subject to other consequences, as appropriate.

**D. Definitions.**

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

“Complainant” is an individual who is alleged to be the victim of conduct that could constitute sex discrimination, whether or not that person files a report or Complaint. This person must be a District student or employee, or a person who was participating or attempting to participate in District education programs or activities at the time of the alleged sex discrimination. A parent, legal guardian or other person legally authorized to act on behalf of a complainant may also be a complainant. See Section III.B for persons eligible to make a Complaint.

“Complaint” means an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination. Note that a person who makes a Complaint is not necessarily eligible to be a “complainant.” See Section III.B for persons eligible to make a Complaint.

“Dating violence” is defined in sub-paragraph 2.b of the definition of “Sex-based harassment”, below.

“Domestic violence” is defined in sub-paragraph 2.c of the definition of “Sex-based harassment,” below.

“Days” shall mean calendar days, but shall exclude non-weekend days on which the SAU office is closed (e.g., holidays, office-wide vacations), or any weekday during the school year on which school is closed (e.g., snow days).

“Decisionmaker” means persons tasked with: the responsibility of making initial determinations of responsibility (at times referred to as “initial decisionmaker”); or the responsibility to decide any appeal (at times “appeals decisionmaker”) with respect to Complaints of sex discrimination or sex-based harassment in accordance with the Title IX Grievance Process.

“Determination of Responsibility” is the formal finding by the decisionmaker on each allegation of sex discrimination or sex-based harassment contained in a

Complaint that the respondent did or did not engage in conduct constituting sex discrimination or sex-based harassment under Title IX.

“Grievance Procedure” is the process by which the District determines if there has been a violation of the District’s policies. As used in this policy, Grievance Procedure means the process of evaluation, investigation, determination, and appeal, if any, of a complaint of sex discrimination in violation of the District’s prohibition on sex discrimination. The Grievance Procedure is set forth in Section III of this policy.

“Hostile Environment” is defined in sub-paragraph 3 of the definition of “Sex-based harassment”, below.

“Pregnancy or related conditions” means: pregnancy, childbirth, termination of pregnancy, or lactation, and any conditions relating to or arising from the same or recovery from the same.

“Quid Pro Quo” is defined in sub-paragraph 1 of the definition of “Sex-based harassment”, below.

“Respondent” is an individual who is alleged to have violated the District’s prohibition on sex discrimination.

“Retaliation” (copied to policy AC) with minor modification) means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District’s education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, hearing, or appeal under this policy, including, without limitation, any informal resolution process under Section II.J or in any other actions taken by the District under Section III. Nothing in this definition or this part precludes the District from requiring an employee or other person authorized by the District to provide aid, benefit, or service under the District’s education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part. Persons who are/were personally subjected to the alleged discriminatory conduct are exempt from the previous sentence. See also Sections II.H and III.E.7.

“Sex discrimination” prohibited under Title IX and by this policy includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, gender, sexual orientation, and/or gender identity. Sex-based harassment is a form of sex discrimination. For a definition of “discrimination” and additional types of discrimination prohibited by the District, refer to Board policy AC.

“Sex-based harassment” is a form of sex discrimination. Sex-based harassment prohibited under Title IX and by this policy means sexual harassment and other conduct on the basis of sex (including, without limitation, gender, sexual orientation, and/or gender identity), occurring in a school system education program or activity, that qualifies as one or more of the types of harassment described in sub-paragraphs 1-3 of this definition.

- NOTE: Even when conduct might meet the criteria of one or more of the definitions, it would not be sex-based harassment under Title IX if (1) the conduct occurred outside the United States or (2) the District did not have disciplinary authority over the conduct. However, the District would nonetheless have an obligation to address a sex-based hostile environment under its education program or activity. Additionally, if the conduct occurred outside of the United States in the context of a District sponsored activity, such conduct would be subject to the applicable Code of Conduct, handbook, or activity rules/agreement.
1. “Quid pro quo” - a school District employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity 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. Specific Offenses - Sexual assault, dating violence, domestic violence, or stalking as defined in state or federal law. Under Title IX, these specific defenses are defined as follows:
    - a. Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
    - b. Dating violence meaning violence committed by a person:
      - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
      - Where the existence of such a relationship shall be determined based on a consideration of the following factors:
        - i. The length of the relationship;
        - ii. The frequency of interaction between the persons involved in the relationship;
        - iii. The type of relationship; and
    - c. Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of New Hampshire or a person similarly situated to a spouse of the victim;
  - Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
  - Shares a child in common with the victim; or
  - Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- d. Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- Fear for the person's safety or the safety of others; or
  - Suffer substantial emotional distress.

OR

3. Hostile Environment - Unwelcome sex-based conduct that, based on the totality of the circumstances (including, but not limited to, the ages and disability statuses of the harasser and victim and the number of individuals involved and their authority), is
- subjectively AND objectively offensive, AND
  - is so severe OR pervasive
  - that it limits or denies a person's ability to participate in or benefit from the District's education program or activity;

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- The degree to which the conduct affected the complainant's ability to access the District's education program or activity;
- The type, frequency, and duration of the conduct;
- The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- The location of the conduct and the context in which the conduct occurred; and
- Other sex-based harassment in the District's education program or activity.

Behaviors that constitute sex-based harassment may include, but are not limited to: (NOTE: Incidents of the conduct below would still need to satisfy

the criteria in one or more of paragraphs 1-3 of this definition. Behavior that does not meet the Title IX definition of sex-based harassment or sex discrimination may still violate other District policies).

- Sexually suggestive remarks or jokes;
- Verbal harassment or abuse;
- Displaying or distributing sexually suggestive pictures, in whatever form (e.g., drawings, photographs, videos, irrespective of format);
- Sexually suggestive gesturing, including touching oneself in a sexually suggestive manner in front of others;
- Harassing or sexually suggestive or offensive messages that are written or electronic;
- Subtle or direct propositions for sexual favors or activities;
- Touching of a sexual nature or groping; and
- Teasing or name-calling related to sexual characteristics (including pregnancy) or the belief or perception that an individual is not conforming to expected gender roles or conduct.
- Sex-based harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.

“Sexual assault” is defined under Sex-based harassment, sub-paragraph 2.a.

“Stalking” is defined under Sex-based harassment, sub-paragraph 2.d.

“Supportive Measures” are free, non-disciplinary, non-punitive, individualized services and shall be offered at no cost to the complainant, and may be offered - also at no cost - to the respondent, as appropriate as described in Sections II.I.1.b and II.I.1.c, below, including, e.g., during the Grievance Procedure (Section III) and the informal resolution process (Section II.J). These measures may include, but are not limited to, the following:

- Counseling;
- Course modifications;
- Schedule changes; and
- Increased monitoring or supervision.

Such measures shall be designed to restore or preserve equal access to the District’s education programs and activities without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District’s educational environment and/or deter sex-based harassment. Supportive

measures shall remain confidential with exclusive exceptions stated required in Section II.R, below.

**E. Title IX Coordinator.**

The Title IX Coordinator is the District's employee who coordinates the District's efforts to comply with its responsibilities under Title IX. Contact information for the Title IX Coordinator shall be included in the Notice of Nondiscrimination. Title IX Coordinator duties are as prescribed throughout this policy and in the Title IX regulations.

No later than July 1 of each year, the Superintendent shall appoint a person to serve as the District's Title IX Coordinator. The Superintendent shall update the Title IX Coordinator information contained in Board policy AC-R(2) and the Title IX Notice of Nondiscrimination and disseminate both as stated in Board policy AC and Section II.B, above. Such information shall be updated in a timely manner any time there is a change to the identity of the Title IX Coordinator before the next annual update.

The Title IX Coordinator shall have such duties as are described in this policy, the Grievance Procedure, and 34 CFR 106.01 – 106.82. The Title IX Coordinator's duties may be carried out by more than one employee or a third party trained as required under Section II.T, as delegated by the named Title IX Coordinator, but the Title IX Coordinator must be an employee and will maintain ultimate administrative oversight of the District's Title IX compliance efforts.

Among other duties, the Title IX Coordinator also monitors the District's education program or activity for barriers to reporting information about conduct that may reasonably constitute sex discrimination under Title IX and take steps reasonably calculated to address such barriers. Additionally, the Title IX Coordinator shall be responsible for ensuring that students, staff, and other participants in District education programs or activities are informed of how to contact its confidential employees per 34 CFR 106.44(d)(1).

**F. Implementation.**

The Superintendent shall have overall responsibility for implementing this Policy and shall annually appoint a District Title IX Coordinator<sup>2</sup> as that position is described in Section II.E, above. The name and contact information for the Title IX Coordinator is set forth in Board Policy {\*\*}AC-R(2), which policy shall be updated and disseminated annually with the Title IX Coordinator's name as required under Board policy {\*\*}AC. The Title IX notice of nondiscrimination is located at [insert website address].

**G. Making a Report of Sex Discrimination Including Sex-Based Harassment.**

- NOTE: A report alone does not begin the District's Title IX Grievance Procedure. That Procedure is only begun upon the making of a Complaint as described in Section III.A, below.



Any person may report sex-based harassment/sex discrimination whether relating to themselves, another person or about the District's policies or practices. However, if any District employee – other than an alleged harasser, or the Title IX Coordinator – receives information of conduct which may constitute sex discrimination or sex-based harassment, they shall, without delay, inform the Title IX Coordinator of the information. Failure to report can subject the employee to discipline up to and including dismissal.

A report of sex discrimination or sex-based harassment may be made at any time, in person, by mail, by telephone, electronic mail, or by any other means that results in the Title IX Coordinator receiving the person's oral or written report. Additionally, while the District strongly encourages reports of sexual harassment to be made directly to the Title IX Coordinator, the report may be made to any District staff member, including, for instance, a counselor, teacher or principal.

If the Title IX Coordinator is the alleged respondent, the report or Complaint may be made directly to the Superintendent, who shall thereafter fulfill the functions of the Title IX Coordinator regarding that report/Complaint or delegate the function to another person, provided that the Superintendent or other person has the requisite training as provided in Section II.T, below.

#### H. Staff Obligations to Report.

1. Sex Discrimination and Sex-Based Harassment. Every employee who is not a confidential employee (confidential employees are discussed in subparagraph II.H.3, below) is required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination, including, without limitation, sex-based harassment, or retaliation. (Retaliation is described in Sections II.D and II.Q, and "confidential employees" discussed in sub-paragraph II.H.3.

This requirement, however, does not apply to an employee who is/was personally subjected to the alleged discriminatory conduct as long as no other person within the District's program or activity (including any student) is/was adversely affected by that conduct, and the conduct is not required to be reported by another policy or law.

Nothing in this policy modifies reporting obligations under any other reporting policy, including but not limited to, suspicion of abuse or neglect of a child under RSA 169-C:29 and Board policy {\*\*}JLF; acts of "theft, destruction, or violence" as defined under RSA 193-D:4, I (a) and Ed 317.04; incidents of "bullying" per RSA 193-F and Board Policy {\*\*}JICK; or hazing under RSA 671:7. See also Board Policy {\*\*}GBEAB. A single act may simultaneously require reports under several of these authorities.

2. Pregnancy and Related Conditions. For information regarding protections available to pregnant students, see policy {\*\*}IHBCA. When a student, or a person who has a legal right to act on behalf of the student, informs any employee

of the student's pregnancy or related conditions, unless the employee reasonably believes that the Title IX Coordinator has been notified, the employee must promptly provide the student or other person with the Title IX Coordinator's contact information and inform the student or other person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's education program or activity.

3. Confidential Employees. Any person employed by the District in a position for which communications to that person in the performance of their duties would be eligible for an evidentiary privilege (e.g., physicians, psychologists) is not required to report to the Title IX Coordinator information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applied. However, upon receiving information of conduct that reasonably may constitute sex discrimination, a confidential employee must specifically advise the reporter:

- a. The employee's status as confidential for purposes of this part, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- b. How to contact the District's Title IX Coordinator and how to make a Complaint of sex discrimination; and
- c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the Grievance Procedures.

**I. District Response to Information, Report, or Complaint of Sex Discrimination and Sex-Based Harassment.**

The District must respond promptly and effectively when it receives a report, a Complaint, or otherwise has knowledge, of conduct that reasonably may constitute sex discrimination in its education program or activity. The District shall take the actions and apply the other measures as described in this policy and 34 CFR 106.44, and, if a Complaint is made, the District's Grievance Procedure (Section III, below) and 34 CFR 106.45.

1. Title IX Coordinator Duties Upon Receiving Any Report, Complaint, or Other Information of Sex Discrimination. Upon receiving any report, Complaint, or other information of conduct that reasonably may constitute sex discrimination/sex-based harassment, the Title IX Coordinator shall assess the information received for a determination as to whether the alleged conduct could constitute sex discrimination under Title IX. With all such reports or Complaints of sex discrimination, the District shall:
  - a. Treat the complainant and respondent equitably;
  - b. Offer and coordinate appropriate free and confidential supportive measures as described in 34 CFR 106.44(g) and generally in the Definitions Section II.D of this policy;

- i. to the complainant; and
    - ii. to the respondent in the event that either a Complaint has been made initiating the Grievance Procedure, or an informal resolution has been offered to the respondent.
  - c. Coordination of supportive measures shall include the opportunity for the complainant, and if applicable, the respondent, to seek review and modification of such measures under 34 CFR 106.44(g)(4);
  - d. Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the District's Grievance Procedure and the informal resolution process if available and appropriate (see Section II.J);
  - e. If a Complaint is made, notify the respondent of the District's Grievance Procedure, and the informal resolution process if available and appropriate (see Section II.J);
  - f. In response to a Complaint, initiate the Grievance Procedure or the informal resolution process if available and appropriate (see Section II.J).
2. Title IX Coordinator's Duties When No Complaint Is Made or Is Withdrawn. If the Title IX Coordinator has received a report of sex discrimination but no Complaint is made or – having been made – any or all of the allegations are withdrawn, and there is no informal resolution process underway, then the Title IX Coordinator shall determine whether to initiate a Title IX Coordinator Complaint of sex discrimination. In making that determination, the Title IX Coordinator shall consider, at a minimum, the following factors, as enumerated in 34 CFR 106.44(f)(1)(v)(A):
- a. The complainant's request not to proceed with initiation of a Complaint;
  - b. The complainant's reasonable safety concerns regarding initiation of a Complaint;
  - c. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated;
  - d. The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
  - e. The age and relationship of the parties, including whether the respondent is an employee of the District;
  - f. The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
  - g. The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and
  - h. Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its Grievance Procedure under § 106.45.

- If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the District from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint.

Before initiating a Complaint, the Title IX Coordinator shall notify the complainant – if known – and/or the person who made the report and appropriately address reasonable concerns about the complainant's safety or the safety of others, including providing supportive measures to the complainant as appropriate.

If the Title IX Coordinator determines that no Complaint is appropriate or necessary after consideration of the above, the Title IX Coordinator may refer any non-confidential information to the appropriate administrator.

**J. Informal Resolution.**

At any time prior to reaching a determination whether sex discrimination occurred under the Grievance Procedure (whether or not a Complaint has been made) the District, through the Title IX Coordinator, may offer an optional informal resolution process (e.g., mediation, arbitration). See 34 CFR 106.44(f)(v).

0. When offering informal resolution, the District must Provide notice to the parties disclosing:
  - a. The allegations;
  - b. The requirements of the informal resolution process;
  - c. That at any time prior to agreeing to an informal final resolution, any party has the right to withdraw from the informal resolution process and resume or initiate the Grievance Procedure;
  - d. That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
  - e. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
  - f. What information the District will maintain and whether and how the District could disclose such information for use if the Grievance Procedure is initiated or resumed.
2. Participation in the informal resolution process requires the voluntary written consent of both the complainant and the respondent.
3. The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the District's grievance procedures, and may not have a conflict of interest or bias relative to either the complainant or respondent, and must have received the training

described in Section II.T.2. Any person designated by the District to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training under § 106.8(d)(3).

4. Potential terms that may be included in an informal resolution agreement include but are not limited to:
  - a. Restrictions on contact; and
  - b. Restrictions on the respondent's participation in one or more of the District's programs or activities or attendance at specific events, including restrictions the District could have imposed as remedies or disciplinary sanctions had the District determined at the conclusion of the District's grievance procedures that sex discrimination occurred.

Notwithstanding that informal resolution occurs relative to a particular case, the Title IX Coordinator must take such other prompt and effect steps as are necessary and appropriate to ensure that sex discrimination does not continue or recur.

In no event may the District offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- K. **Permitted Emergency Removals Upon Complaint of Sex Discrimination.**  
In consultation with the Title IX Coordinator, District administrators may remove a respondent from the District's education program or activity on an emergency basis at any time after receiving a report of sex discrimination – including sex-based harassment, provided that the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504, or the Americans with Disabilities Act.
- L. **Administrative Leave.** Nothing in this policy precludes the Superintendent, with or without consulting the Title IX Coordinator, from placing an employee on administrative leave pursuant to RSA 189:31.
- M. **Remedies to Restore Access to Education Program or Activity.**  
The District may provide remedies, as appropriate, to a complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity. A wide variety of remedies affecting personal circumstances may be appropriate depending on the circumstance. Remedies may cause additional burdens upon respondents who have violated the prohibition on sex discrimination. Remedies may include recommended adjustments in District policies and practices.

**N. Disciplinary Sanctions.**

Administrators should consult with the Title IX Coordinator about potential disciplinary responses to the conduct that is alleged to be in violation of the prohibition on sex discrimination. The District is not permitted to impose disciplinary sanctions upon a respondent to a Complaint for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the District's Grievance Procedure that the respondent engaged in prohibited sex discrimination. However, appropriate supportive measures may be provided to both the Complainant and the Respondent during the Grievance Procedure. See "Supportive Measures" definition in Section II.D, and 34 CFR 106.44(g).

**O. Pregnancy and Related Conditions Response Required by Title IX Regulations.**

The Title IX Coordinator is directed to coordinate the District's actions required by Title IX regulations to promptly and effectively prevent sex discrimination and ensure equal access to the District's education program or activity once a student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions.

**P. Provision for Students with a Disability.**

If a complainant or respondent is a student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under Section 504, if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act and Section 504 throughout the District's implementation of Grievance Procedures and/or supportive measures.

**Q. Retaliation Prohibited.**

The District prohibits intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations. When the District has information about conduct that reasonably may constitute retaliation under Title IX or this part, the District must respond promptly and effectively within its Title IX framework.

**R. Confidentiality and Privacy.**

1. Exceptions to Non-Disclosure - The District must not disclose personally identifiable information obtained in the course of complying with Title IX, except in the following circumstances:

- a. To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA.

- b. As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
    - c. To carry out the purposes of Title IX, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the District's education program or activity;
    - d. When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
    - e. When the District has obtained prior written consent from a person with the legal right to consent to the disclosure;
  - 2. Privacy During Grievance Process - The District will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. Examples of such steps might include statements of non-disclosure, identifying water-marks, redaction with separate witness codes, etc. However, such steps may not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures.
- S. 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.
- T. Training Requirements.
- The superintendent must ensure that the persons described below receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX or this part, and annually thereafter. This training must not rely on sex stereotypes.
- 1. All employees must be trained on:
    - a. The District's grievance procedures.
    - b. All applicable notification and information requirements pertaining to pregnant students or students with pregnancy related conditions, as detailed in policy IHBCA, and
    - c. The scope of conduct that constitutes sex discrimination under Title IX, including sex-based harassment; and
    - d. The District's obligation to address sex discrimination in its education programs and activities;
  - 2. In addition to the foregoing, any investigator, decisionmaker, facilitator of informal resolutions (if any are offered), and any person otherwise responsible for implementing the District's Grievance Procedures or who has the authority to modify or terminate supportive measures, must each receive the corresponding level of advanced training required by Title IX.

3. The Title IX Coordinator and any persons to whom Title IX Coordinator duties are delegated must receive the level of advanced training required by Title IX, and any other training necessary to coordinate the District's compliance with Title IX.

4. The District must make all materials it uses for required Title IX training available upon request for inspection by members of the public. Such materials must be retained as required under Section II.U, below.

5. Other than the Title IX Coordinator, who must be a District employee, the District may engage outside parties who have received qualifying training elsewhere for a role under Title IX.

**U. Records and Record Keeping.**

The District, through the Superintendent and Title IX Coordinator, must maintain for a period of at least seven years:

1. For each Complaint of sex discrimination, including sex-based harassment, records documenting the informal resolution process under Section II.J, or the Grievance Procedures and the resulting outcome under Section III.
2. For each notification or other report the Title IX Coordinator receives about conduct that reasonably may constitute sex discrimination under Title IX, including, for instance, notifications by employees (under Section II.H, above), any records documenting the actions the District took to meet its obligations to respond promptly and effectively as provided in Section II.I, above.
3. All materials used to provide training under Section II.T. A District must make these training materials available upon request for inspection by members of the public.

**III. GRIEVANCE PROCEDURE FOR COMPLAINTS OF SEX DISCRIMINATION INCLUDING SEX-BASED HARASSMENT**

This Grievance Procedure is initiated by the making of a Complaint of sex discrimination of any form, including a Complaint of sex-based harassment. As defined in Section II.D a "Complaint" under this policy is an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination. However, whether the Grievance Procedure is initiated also depends on the status of the person bringing the request to the attention of the District.

**A. Form of and Making a Complaint.**

All Complaints shall be made with the Title IX Coordinator (unless the Title IX Coordinator is the alleged respondent, in which event the Complaint shall be made to the Superintendent). The Complaint should include, to the extent available at the time, all of the information available to allow the parties to respond to the allegations of the conduct alleged to constitute sex discrimination, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s). A Complaint may be made orally or in writing, but the Title IX Coordinator will encourage persons making a Complaint to do so in writing. If



the person making the Complaint declines, is unable, or requires assistance to make the Complaint in writing, the Title IX Coordinator will be responsible for preparing or assisting in preparing the written Complaint.

**B. Persons Eligible to Make a Complaint.**

1. **Complaints of Sex-Based Harassment.** A person is entitled to make a Complaint of sex-based harassment (a sub-category of sex discrimination) only if they:

- a. Themselves are alleged to have been subjected to the sex-based harassment,
- b. Have a legal right to act on behalf of the person(s) alleged to have been subjected to the sex-based harassment (i.e., parent, guardian or other authorized legal representative).
- c. Additionally, as described under Section II.I.2, above, the Title IX Coordinator is permitted or required to make a Complaint of sex-based harassment.

2. **Complaints of Sex Discrimination Other Than Sex-Based Harassment.** A person is entitled to make a Complaint of sex discrimination in the programs or activities of the District other than a Complaint of sex-based harassment if they are:

- a. A student or employee of the District;
- b. Any person other than a student or employee who was participating or attempting to participate in an education program or activity of the District at the time of the alleged sex discrimination;
- c. A parent, guardian, or other authorized legal of a person authorized to make a Complaint; or
- d. The Title IX Coordinator if permitted or required to make a Complaint under Section II.I.2, above.

**C. Complaints Concerning District Policy or Practice.**

Not all Complaints of sex discrimination involve active participation by complainants and respondents, including those alleging that the District's own policies and procedures discriminate based on sex. When a sex discrimination Complaint alleges that the District's own policy or practice discriminates on the basis of sex, the District is not considered a "respondent" for procedural purposes. However, the District must fully implement and follow those parts of the Grievance Procedure that apply to such Complaints and complainants, including when responding to a Complaint alleging that the District's policy or practice discriminates on the basis of sex.

For a Complaint alleging that an individual engaged in sex discrimination based on actions the individual took in accordance with the District's policy or practice, the District must treat the individual as a respondent and comply with the requirements in this Grievance Procedure that apply to respondents. This is because such Complaints may involve factual questions regarding whether the

individual was, in fact, following the District's policy or practice, what actions the individual took, and whether the individual could be subject to disciplinary sanctions depending on these facts. To the extent an individual was following the District's policy or practice, the District has flexibility to determine whether the original Complaint must be amended to be a Complaint against the District itself or whether this determination can be made based on the original Complaint against the individual.

**D. Timeframes.**

The District has established the following timeframes for the Grievance Procedure. Timelines are not jurisdictional, but merely establish expectations for being "prompt" in resolving Title IX matters in most cases. As used in this procedure, a "day" has the meaning provided in the Definitions found in Section II.D, above.

1. Evaluation of the Complaint (i.e., the decision whether to dismiss or investigate a Complaint): 3 days
2. Notices and Investigation: 15 days
3. Evidence organization, summarization by investigator: 5 days
4. Evidence review and responses by parties: 5 days
5. Decisionmaker evidence evaluation and determination: 10 days
6. Appeal of dismissal: 10 days to file;
7. 15 days to conduct the appeal of dismissal;
8. Appeal of determination (merits): same as Level II and Level III of the grievance process under Policy ACAA or as stated in Board policy JICD if the sanction recommended is a long-term suspension or expulsion.

The District allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. The Title IX Coordinator may grant these extensions on the Title IX Coordinator's own initiative or upon a qualifying request or need presented by a party, investigator, decisionmaker, District administration, witness, DCYF, or law enforcement agency. The circumstances warranting a qualifying extension will be noted in the District's Title IX records of the complainant's case.

**E. District's Response to Complaints of Sex Discrimination.**

Whether or not the information alleging sex discrimination first came to the attention of the District by way of a Complaint, once the Grievance Procedure is initiated with the filing of a Complaint, the District will continue to perform and adhere to the provisions described in Section II of this policy, including, without limitation, those described in Section II.I. In addition, the District will adhere to the following provisions.

1. Title IX Coordinator, Investigator, and Decisionmaker Functions. The District requires that the Title IX Coordinator, the person assigned to investigate a Complaint, and any decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The Title IX Coordinator may also serve as the investigator and as a

decisionmaker. See also Section II.S, above relative to impermissible conflicts of interest.

The Title IX Coordinator shall coordinate with the Superintendent with respect to assignment of persons to fulfill the District's obligations, both general and case specific, relative to this Policy (e.g., investigator, decisionmakers, etc.); this may involve the retention of third-party personnel or additional expenditure of resources.

2. Additional Notice After a Complaint is Made. Once a Complaint is made, and the Grievance Procedure initiated, the District, through the Title IX Coordinator will further notify the parties of the following:

If, in the course of an investigation, the District decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that were not included in the notice provided or that are included in a Complaint that is consolidated, the District will notify the parties of the additional allegations.

- a. That the parties are entitled to an equal opportunity to access either an accurate description of the relevant and not otherwise impermissible evidence, or the evidence itself. If the District provides a description of the evidence, the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- b. That retaliation is prohibited; and
- c. Sufficient information to the extent available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);

3. Complaint Consolidation. The District may consolidate Complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

4. Investigation of Complaints. The District will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on the District—not the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

5. Consideration of and Access to Evidence. The District presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the Grievance Procedure.

- a. The District will objectively evaluate all evidence that is relevant and not otherwise impermissible including both inculpatory and exculpatory evidence.

- b. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.
  - c. The District will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
  - d. The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
  - e. The District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:
    - i. The District will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the District provides a description of the evidence: the District will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
    - ii. The District will provide a reasonable opportunity to respond to the evidence or the description of the evidence; and
    - iii. The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the Grievance Procedure. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.
6. Evidentiary Exclusions. The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:
- a. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
  - b. A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its Grievance Procedure; and
  - c. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the

respondent committed the alleged conduct or evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex discrimination. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex discrimination or preclude determination that sex discrimination occurred.

7. **Duty of Staff, Volunteers, and Third Party Representatives to Participate.** Any employee or any other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, including volunteers and representatives of third parties, must, upon request by the Title IX Coordinator, an investigator, or a decisionmaker, participate as a witness in, or otherwise assist with, an investigation or proceeding under this Policy, including the Grievance Procedure. This requirement would not apply to an employee, etc. who is/was personally subjected to the alleged discriminatory conduct as long as no other person within the District's program or activity (including any student) is/was adversely affected by that conduct.

8. **Questioning Parties and Witnesses.** The grievance decisionmaker, who may also be the investigator, will question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. Where the investigator has interviewed a party or witness and the investigator is also serving as the grievance decisionmaker, credibility evaluation is inherent in the process of conducting the interview. In situations where credibility determinations are required from a grievance decisionmaker who did not interview a party or witness, the Title IX Coordinator will facilitate an opportunity for the decisionmaker to conduct an interview as part of the grievance decisionmaker's process of engaging with the evidence resulting from the investigation.

9. **Determination Whether Sex Discrimination Occurred.** Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the grievance decisionmaker will:

- a. Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred.
  - i. If the decisionmaker is not persuaded by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
  - ii. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness.
- b. Notify the parties in writing of the determination whether sex discrimination occurred under Title IX, including the rationale for such determination, and the procedures and permissible bases for

- the complainant and respondent to appeal as provided in Section III.E.13, below.
- c. Identify recommended discipline for the respondent for sex discrimination prohibited by Title IX under the District's code of conduct.
  - d. Promptly transmit the grievance record and the determination to the Title IX Coordinator if the Title IX Coordinator did not serve as the decisionmaker
10. Dismissal of a Complaint.
- a. The Title IX Coordinator or decisionmaker may dismiss a Complaint of sex discrimination if:
    - i. The respondent is unable to be identified even after the District has taken reasonable steps to do so;
    - ii. The respondent is not participating in the District's education program or activity and is not employed by the District;
    - iii. The complainant voluntarily withdraws any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the District determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
    - iv. The Title IX Coordinator or the decisionmaker determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX.
  - b. Before dismissing the Complaint, the District through the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.
  - c. Upon dismissal, the Title IX Coordinator will promptly notify the complainant of the basis for the dismissal, and that the complainant may appeal the dismissal, and the grounds upon which the dismissal may be appealed. If the dismissal occurs after the respondent has been notified of the allegations, then the respondent will also be notified of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.
  - d. When a Complaint is dismissed, the District will, at a minimum:
    - i. Offer supportive measures to the complainant as appropriate;
    - ii. If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
    - iii. Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not occur, continue, or recur within the District's education program or activity.

- e. Dismissal on these grounds does not prevent the application of any other District policy that applies to the alleged conduct or referral of the alleged conduct to appropriate administrators.

11. **Disciplinary Sanctions for Sex Discrimination.** The Title IX Coordinator will provide the appropriate administrator with the findings and determinations arising from the grievance procedures for purposes of implementing disciplinary sanctions upon a respondent for violating the prohibition on sex discrimination.

12. **Remedies and Sanctions for Sex Discrimination Other than Sex-Based Harassment.** If the Decisionmaker makes a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:

- a. Coordinate the provision and implementation of remedies (as described in Section II.M, above) to a complainant and other people the District identifies as having had equality in access to the District's education program or activity limited or denied by sex discrimination;
- b. Coordinate the imposition of any disciplinary sanctions on a respondent, including:
  - i. Notification of the complainant of any such disciplinary sanctions; and
  - ii. Taking other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.
  - iii. Compliance with the Grievance Procedure before the imposition of any disciplinary sanctions against a respondent; and
  - iv. Not disciplining a party, witness, or others participating in the Grievance Procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination that sex discrimination occurred.
- If the respondent is a student, disciplinary sanctions and/or interventions may be found in the District's Student Code of Conduct, student handbook or other comprehensive list of conduct and discipline standards. See also Board policy JIC.

If the respondent is an employee, the employee is subject to discipline up to and including dismissal, in accordance with applicable Board policies, employee handbook and any applicable collective bargaining agreement.

The Title IX Coordinator will provide the appropriate administrator with the findings and determinations arising from the grievance procedures for purposes of implementing disciplinary sanctions upon a respondent for violating the prohibition on sex discrimination.

**13. Appeals.**

- a. **Appeal of Determination Whether Sex Discrimination Occurred (Merits Appeals)** – An appeal as to whether sex discrimination occurred, i.e. a “merits appeal” (as opposed to an appeal of a dismissal, discussed below), must be filed as provided in Section III.D.8, above, and in accordance with the procedures specified in policy ACA. All persons serving as decisionmaker in appeals arising from the Title IX grievance process are subject to applicable training requirements located in Section II.T. Appropriate supportive measures managed by the Title IX Coordinator will continue during all appeals.
  - i. **Student Respondents Generally.** For student respondents generally, a determination of whether sex discrimination occurred will be appealable by either the complainant or the respondent, or both, using the procedures for Level II and Level III grievances under policy ACAA. If the determination that sex discrimination occurred is affirmed, reversed, or modified on appeal, the appeal decision will be promptly reported to the Title IX Coordinator to modify the District’s response actions as and if appropriate.
  - ii. **Student Respondents Facing Long Term Suspension or Expulsion.** Whether or not a student respondent who has been determined by the Grievance Procedure to have violated the prohibition against sex discrimination avails themselves of the Level II or Level III appeals under Board policy ACA, if the student respondent found to have violated the prohibition against sex discrimination is facing a long term suspension or expulsion for that violation, they will also be entitled to a hearing before the School Board pursuant to RSA 193:13 and the procedures found in Rule 317.04 (Ed 317.04) of the New Hampshire Department of Education administrative rules. As to such hearing:
    1. The predicate issue of whether the student-appellant violated the prohibition on sex discrimination may be raised before the Board as an issue in the appeal or hearing on a disciplinary sanction under Board policy JICD.
    2. In addition to such evidence as may be introduced as provided under Ed The evidentiary record of Title IX grievance and the testimony of any witness, including the Title IX Coordinator and any investigator or decisionmaker in the matter, may be taken into evidence and argument to support the determination that the student-appellant violated the



prohibition on sex discrimination, and for any other relevant purpose in the appeal or hearing.

3. The Board may adjust, vacate, or deny a disciplinary sanction directed toward a respondent under the [Student Code of Conduct, student handbook ....or other comprehensive list of conduct and discipline standards] without disturbing the determination that sex discrimination occurred in the District's program or activity. Such a decision by the Board may also be grounds for the Title IX Coordinator to adjust remedies provided to the Complainant.
  4. If the Board finds that the respondent did not personally violate the prohibition on sex discrimination, the remedies ordered by the decisionmaker that are specifically dependent upon the determination that the respondent violated the District's prohibition on sex discrimination will be vacated or modified accordingly by the Title IX Coordinator.
- iii. Employee Respondents. For employee respondents, a determination that sex discrimination occurred will be appealable by either the complainant or the respondent, or both, using the procedures for Level II and Level III grievances under Policy ACA. If the determination that sex discrimination occurred is affirmed, reversed, or modified on appeal, the grievance returns to the Title IX Coordinator to modify the District's response actions as and if appropriate. However, when a final determination is made that an employee violated the prohibition on sex discrimination under Title IX, the concluded grievance record and determination will be sent to the Superintendent or a designee for purposes of determining disciplinary action specifically directed at that employee.
- b. Appeal of Dismissal of a Complaint
- i. If a Complaint is dismissed, the Title IX Coordinator will notify the complainant that the dismissal may be appealed and provide opportunity for an appeal. As noted in Section III.D.6, above, an appeal must be filed within 10 days of the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, the Title IX Coordinator will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed only on the following bases:
    1. The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for

- or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.
- 2. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- 3. Procedural irregularity that would change the outcome;
- ii. If the dismissal is appealed, the District will:
  - 1. Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
  - 2. Implement appeal procedures equally for the parties;
  - 3. Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the Complaint;
  - 4. Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
  - 5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging the outcome; and
  - 6. Notify the parties of the result of the appeal and the rationale for the result.
- F. Relationship of Title IX Grievance Procedures to Other Discrimination or Harassment Procedures.

To the extent the underlying facts and legal questions in a Complaint handled under the Title IX Grievance Procedure overlap with and pertain to compliance by the District with another law or regulation concerning discrimination under policy AC, the evidence and findings of the Title IX Grievance Process may be used for both purposes, in the discretion of the Title IX Coordinator and, if not the same person, the District's Human Rights/Nondiscrimination Officer/Coordinator use position described in District's AC.

**Legal References:**

*20 U.S.C. 1681, et seq Title IX of the Education Amendments of 1972*  
*34 CFR. Part 99, Family Educational Rights and Privacy Act Regulations*  
*34 CFR 106.8, Designation of responsible employee and adoption of grievance procedures.*  
*34 CFR 106.30, Definitions*  
*34 CFR 106.44, Recipient's response to sexual harassment*  
*34 CFR 106.45, Grievance process for formal complaints of sexual harassment*  
*34 CFR 106.71, Retaliation*  
*RSA 193:38, Discrimination in Public Schools*  
*NH Dept of Ed. Rules Ed 303.01 (i), School Board Substantive Duties*  
*Ed 303.01(j), Substantive Duties of School Boards; Sexual Harassment Policy*

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