

**HARASSMENT, DISCRIMINATION, AND SEXUAL HARASSMENT OF
STUDENTS COMPLAINT PROCEDURE**

*Safe and Equitable Schools: Preventing and Addressing Harassment,
Discrimination, and Sexual Harassment*

Any individual who has experienced or witnessed discrimination or harassment, including sexual harassment, assault, or misconduct, based on a person's race, ethnicity, gender, sexual orientation or other protected category is encouraged to report the incident to PPS staff.

All PPS faculty and staff are considered mandatory reporters under Title IX regulations, which means they must report incidents of discrimination, harassment, or sexual harassment to the District Affirmative Action Officer/Title IX Coordinator.

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Each secondary school shall also designate school level Liaison(s) that can provide guidance and support to any party seeking to report an incident of discrimination, harassment, or sexual harassment. If an individual would like to access **confidential support** or information before reporting to PPS, many community resources are also available including:

SARSSM
Through These Doors
See the Students Speak Up website for more community resources

Individuals are encouraged to utilize the school unit's complaint procedure. However, individuals are hereby notified that they also have the right to report incidents of discrimination or harassment to the Maine Human Rights Commission, 51 State House Station, Augusta, Maine 04333 (telephone: 207-624-6290) and/or to the federal Office for Civil Rights, U.S. Department of Education, 5 Post Office Square, 8th Floor, Boston, MA 02109-3921 (telephone: 617-289-0111).

1. Prevention and Notification

To prevent unlawful discrimination, harassment, and sexual harassment of students at district schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

1. Publicize the district's nondiscrimination policy and related complaint procedures, including the District AAO/Title IX coordinator's and school level Liaisons' contact information, to students, parents/guardians, employees, volunteers, and the general public and post them on the district's web site and other prominent locations and provide easy access to them through district-supported social media, when available. Such information shall include guidelines for addressing issues related to transgender and gender-nonconforming students.
 - a. *Notification will include what constitutes prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying*
 - b. *Notification will include clear information about how students can make reports and formal complaints; and to whom a report of an incident should be made*
 - c. *Notification will include information about confidentiality guidelines within the school system and confidential services within the community;*
 - d. *Notification will include clear information about what mandated reporting means within the PPS system.*
2. Provide to students a handbook that contains age-appropriate information that clearly describes the district's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the alleged target of any such behavior.
3. The Superintendent or designee shall ensure that students and parents/guardians with limited English proficiency are notified of how to access the relevant information provided in the district's nondiscrimination policy and related complaint procedures, notices, and forms in a language they can understand.
4. The Superintendent or designee shall ensure that prevention education, affirmative consent education and sexual respect training, education and support will be provided to students through the health curriculum and other means.
5. At the beginning of each school year, inform school employees that any employee who witnesses any act of unlawful discrimination, including discriminatory harassment, intimidation, or bullying against a student is required to intervene,

and shall, within one school day (24 hours), report the conduct to the District Affirmative Action Officer/Title IX Coordinator or a school level Liaison, whether or not the alleged victim makes a report or files a complaint. Any and all witnesses must also conform to mandated reporting laws and Board

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Policy JLF, Reporting Child Abuse and Neglect, which state that any suspicion of abuse must be reported.

6. Train all staff in trauma-informed best practice responses for receiving disclosures of harassment and discrimination; update training regularly.
7. At the beginning of each school year, inform each Principal/designee of the district's responsibility to provide appropriate assistance or resources to protect students' privacy rights and to ensure their safety from harassment, discrimination, or sexual harassment.
8. Support student led culture change and prevention projects including support for Civil Rights Teams, GSA organizations, and feminist student groups, that are consistent with Board policy and procedure.

2. Definitions

For purposes of the harassment and discrimination complaint procedures, the following definitions will be used. Additional definitions regarding Title IX sexual harassment complaint procedures are detailed in section 2.1. The District Affirmative Action Officer/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

1. **“Protected category”**: Federal and State law prohibits discrimination based on membership in particular identity categories. Current protected classes include race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, language, genetic information, pregnancy/family status, or disability (mental or physical).
2. **“Discrimination”**: Treating individuals differently, or interfering with or preventing them from enjoying the advantages or privileges afforded to others because of their membership or targeted/perceived membership in a protected category.
 - a. Examples include (but not limited to):
 - i. disparities in access to educational programs, including extra curriculars, honor societies and classes.
 - ii. disparities in discipline, including severity of consequences

for misbehavior

iii. disparities in the application of school policies, such as dress code enforcement or congregating in informal spaces

3. **“Harassment”**: Oral, written, graphic, electronic or physical conduct relating to an individual’s actual or perceived membership in a protected category that has a negative impact on student and interferes with or limit that individual’s ability to

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participate in the school unit’s programs or activities by creating a hostile, intimidating or offensive environment.

4. **“Sexual orientation”**: Under Maine law, this means a person’s actual or perceived heterosexuality, bisexuality, homosexuality or gender identity or expression.
5. **“Gender identity”**: Under Maine law, this means the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, regardless of the individual’s assigned sex at birth.
6. **“Disclosure”** is the initial report of possible discrimination or harassment to a mandated reporter.
7. **“Complaint”**: is defined as an allegation that a student has been discriminated against or harassed on the basis of race, color, sex, sexual orientation, gender identity, religion, ancestry, national origin or disability or other protected identity categories (and not otherwise addressed in the Title IX regulations and Section 3 of ACAA-R). Reports or Complaints of bullying not involving the protected categories or definitions described above may be addressed under Board Policy JICK – Bullying and Cyberbullying of Students.
8. **“Reporting Party”**: refers to an individual who discloses experiences of unlawful harassment, discrimination, or sexual harassment. “Responding Party” refers to an individual who has been accused of harassment, discrimination or sexual harassment. A “third party” refers to any other participant in the process, including an individual who makes a third-party report, participates in an investigation or disciplinary process as a witness.

2.1 Title IX Sexual Harassment Complaint Procedure Definitions

For purposes of the Title IX sexual harassment complaint procedures, the following definitions will be used. The District Affirmative Action Officer/Title IX Coordinator shall assess all reports and complaints to ensure that they are addressed under the appropriate policy and complaint procedure.

1. **“Sexual Harassment”**: Under the federal Title IX regulations, sexual harassment includes the following conduct on the basis of sex which takes place within the context of the school unit’s education programs and activities:

a. “Quid pro quo” sexual harassment by a school employee: Conditioning a school aid, benefit or service (such as a better grade or a college recommendation) on an individual’s participation in unwelcome sexual conduct;

b. “Hostile environment” sexual harassment: Unwelcome conduct based on sex, including sexual orientation and gender identity, that a reasonable

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person would determine is so severe, pervasive and objectively offensive that it effectively denies an individual’s equal access to the school unit’s education programs and activities; or

c. Sexual assault, dating violence, domestic violence and stalking as these terms are defined in federal laws.

2. **“Report”**: Under the Title IX regulations, any individual may make a report of sexual harassment involving a student, whether the individual is the alleged victim or not. School employees are required to report possible incidents of sexual harassment involving a student. If the report alleges suspected abuse or neglect of a student, a report must be made in accordance with Board Policy JLF Reporting Child Abuse and Neglect. A report must be made to the District Affirmative Action Officer/Title IX Coordinator or to the school level Liaison who will pass the report to the District AAO/Title IX Coordinator. A report triggers certain actions by the District AAO/Title IX Coordinator for the alleged victim of sexual harassment, but an investigation is not conducted unless a “Formal Complaint” is filed. If an anonymous report is made, the District AAO/Title IX Coordinator should contact the victim/survivor, if known, who may decide whether to file a formal complaint. A report may be transformed into a formal complaint by the alleged victim/survivor, their parent or legal guardian, or the District AAO/Title IX Coordinator.

3. **“Formal Complaint”**: Under the Title IX regulations, the alleged victim of sexual harassment can file a written complaint that triggers the complaint procedure in Section 4 of this policy. Only a student and/or their parent/legal guardian (and in certain circumstances, the District AAO/Title IX Coordinator) may file a formal complaint. A formal complaint must be filed to begin a Title IX investigation.

4. **“Student”**: For the purposes of this procedure, a student is an individual who is enrolled or participating in the school unit’s education programs and activities, or is attempting to enroll or participate.

5. **“Educational programs and activities”**: This includes participation in

educational programs and activities of the school or district, including all the academic, educational, extracurricular, athletic, and other programs and activities of the school, whether those programs or activities take place in a school's facilities, on a school bus, or at a class or training program sponsored by the school at another location.

6. **“Third party”**: This includes someone who is connected to the school or the district for educational, business or extra-curricular purposes. For example, a third party may include a vendor, volunteer, coach, or other person who is on school or district grounds during the hours of operation or who is present in the educational setting.

3. Discrimination/Harassment Complaint Procedure

This procedure should be used for any report or complaint of harassment or discrimination based on a protected category which does not involve Title IX sexual harassment (which is addressed in Section 4 of this procedure). The District AAO/Title IX Coordinator will determine which complaint procedure to apply based on information provided through the report or formal complaint.

A. How to Make A Report and Complaint

1. Students (and others) who believe that they, or another student has been harassed or discriminated against should report their concern promptly to the AAO/Title IX Coordinator or school level Liaison or a school employee of their choice who must report it to the AAO/Title IX coordinator.
2. The individual receiving the report must provide basic information in writing concerning the allegation of harassment or discrimination (i.e., date, time, location, individual(s) who allegedly engaged in harassment or discrimination, description of allegation) to the AAO/Title IX Coordinator and/or the school level Liaison.
3. If an individual is unsure as to whether unlawful discrimination or harassment has occurred, or who need assistance in preparing a written complaint, they are encouraged to discuss the matter with the AAO/Title IX Coordinator or the school level Liaison. Students may also access information and support from community organizations.
4. A clear message that student safety is the district's primary concern, and that any separate rule violation involving an alleged victim or any other person reporting a

sexual harassment incident will be addressed separately and will not affect the manner in which the sexual harassment complaint will be received, investigated, or resolved.

5. Individuals will not be retaliated against for reporting suspected discrimination or harassment, or for participating in an investigation. Retaliation is illegal under federal and state nondiscrimination laws, and any retaliation will result in disciplinary action, up to and including discharge for employees, and expulsion for students.
6. Anonymous reports, including via social media, that are brought to the attention of school personnel, will be investigated by the AAO/Title IX Coordinator depending on the specific allegations made. If an anonymous report is made, the Title IX Coordinator should contact the victim/survivor, if known, who may decide whether to file a formal complaint. A report may be transformed into a

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formal complaint by the alleged victim/survivor, their parent or legal guardian, or the District Title IX Coordinator.

7. Though an incident of harassment may occur off campus or unrelated to school activity, if the effects of the incident may result in harassment, intimidation, or bullying at school or at a school activity, which is sufficiently serious to interfere with or limit the targeted student's ability to participate in or benefit from the education program, the district shall address the incident through this procedure.
8. Any sexual harassment or sexual violence report or complaint between third parties, including anonymous reporting and social media posts, which took place in the educational setting shall be referred to the AAO/Title IX Coordinator to determine how to appropriately address the complaint.

B. Intake Guidelines for Reports and Complaints

Within one day (24 hours) of receiving a report or otherwise becoming aware of harassment, discrimination, or sexual harassment, employees must inform the school level Liaison and/or the district AAO/Title IX Coordinator. Upon receiving a report or otherwise becoming aware of harassment, discrimination, or sexual harassment, the school level Liaison, District AAO/Title IX Coordinator or designee shall quickly schedule an intake meeting with the alleged victim(s).

If requested by the student(s) or required by law, the school level Liaison, District AAO/Title IX Coordinator or designee shall inform their parent(s) or guardian(s) of the report and invite them to attend the scheduled intake meeting. In all cases, the student(s) shall be informed that they may bring an advisor their choice with them to the meeting. A student may request to reschedule the intake meeting to a later date to enable their advisor to attend.

At the intake meeting, the student will be informed that:

1. The district will take immediate steps to protect the safety and emotional well being of the reporting student(s);
2. Inform the student(s) that they may file a formal written complaint in accordance with the district's complaint procedures, and the time limit for filing a complaint;
3. Explain that complaints and allegations of sexual harassment will be kept confidential except as necessary to carry out the investigation or take other necessary action;
4. Explain the circumstances under which the school level Liaison or District AAO/Title IX Coordinator would be required to make a report to the Department of Health and Human Services and/or law enforcement;

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5. Inform the student(s) that retaliation for making a report or participating in an investigation of sexual harassment is prohibited, and how to report any retaliation they experience;
6. Explain that after the complaint is investigated, the school level Liaison or District AAO/Title IX Coordinator will make a recommendation regarding how to proceed and that, to the extent permitted by law and district policy, the student(s) may have input into that decision;
7. Ask the student to explain in their own words what occurred, how it has affected them, and what they need to feel safe at school;
8. If a student requests that their name be kept confidential from the alleged harasser, the school level Liaison or District AAO/Title IX Coordinator shall explain that such a request may limit the District's ability to investigate the complaint and stop the harassment. The school level Liaison or District AAO/Title IX Coordinator shall also explain that the District cannot keep the reporting student's name confidential from the alleged harasser if doing so would undermine the district's ability to ensure a safe and nondiscriminatory environment for all students, including the reporting student.

C. Complaint Handling and Investigation

1. The District AAO/Title IX Coordinator will promptly inform the Superintendent and the person who is the subject of the complaint (respondent) that a complaint has been received. School staff shall comply with student wishes regarding disclosure of their sexual orientation, sexual activity, and gender identity, unless the student has explicitly authorized the disclosure, it is required to process the complaint, or the district is legally obligated to do so.

a. If a report or complaint has been made by a 3rd party, the alleged victim(s) will be contacted before the responding parties and notified of their rights and confidential support resources.

b. If the alleged victim chooses not to make a formal complaint, the Liaison and/or Title IX Coordinator will evaluate the need for a third-party formal complaint on behalf of PPS. If they decide to go forward they will notify the alleged victim and provide them with support services.

c. All communication with alleged victim(s) will be trauma informed and support services will be made available to them.

d. The parents or guardians of students under the age of 18 will be notified if a complaint is made in a language understood by the parent or guardian, with information about the families rights and an explanation of the investigation process.

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e. Students alleged of misconduct will be informed of their rights and responsibilities under Board Policy and Title IX, and will be reminded that retaliation is not acceptable under any circumstances.

2. The District AAO/Title IX Coordinator may pursue an informal resolution of the complaint with the agreement of the parties involved. Any party to the complaint may decide to end the informal resolution process and pursue the formal process at any point. Any informal resolution is subject to the approval of the parties and the Superintendent, who shall consider whether the resolution is in the best interest of the school unit and the parties in light of the particular circumstances and applicable policies and laws. Informal resolution must require the consent of all parties. Either party may withdraw from the informal resolution process at any time.

3. The District AAO/Title IX Coordinator must implement supportive measures when needed to reduce the risk of further discrimination or harassment to a student while an investigation is pending.

4. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and the District AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal

counsel concerning the handling and investigation of the complaint.

5. The investigator shall consult with the District AAO/Title IX Coordinator as agreed during the investigation process.

6. The respondent will be provided with an opportunity to be heard as part of the investigation. The complainant shall not be required to attend meetings with the respondent, but may choose to do so as part of an informal resolution process.

7. The complainant and the respondent may suggest witnesses to be interviewed and/or submit materials they believe are relevant to the complaint.

8. If the complaint is against an employee of the school unit, any rights conferred under an applicable collective bargaining agreement shall be applied.

9. Privacy rights of all parties to the complaint shall be maintained unless such a disclosure is mandated in accordance with applicable state and federal laws.

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10. The investigation shall be completed within 40 calendar days of receiving the complaint, if practicable. Reasonable extensions of time for good reason shall be allowed.

11. The investigator shall provide a written report and findings to the District AAO/Title IX Coordinator.

D. Findings and Subsequent Actions

1. The District AAO/Title IX Coordinator shall consult with the Superintendent or designee concerning the investigation and findings.
2. If there is a finding that discrimination or harassment occurred, the District AAO/Title IX Coordinator, in consultation with the Superintendent or designee shall:
 - a. Determine what remedial action, if any, is required to end the discrimination or harassment, remedy its effect and prevent recurrence; and
 - b. Determine what disciplinary action should be taken against the individual(s) who engaged in discrimination or harassment, if any.

Examples of remedial and disciplinary actions include but are not limited to: Opportunity for additional education, service learning, restorative justice processes, restitution, accommodations such as changing schedules, no contact orders, and in the most severe cases suspension or expulsion.

3. Inform the complainant and the respondent in writing of the results of the investigation and its resolution (in accordance with applicable state and federal privacy laws).

E. Appeals

1. After the conclusion of the investigation, the complainant or respondent may seek an appeal of the findings solely on the basis of either: (a) prejudicial procedural error or (b) the discovery of previously unavailable relevant evidence that could significantly impact the outcome.
 - a. A prejudicial procedural error can include bias in the investigation including victim blaming, racial stereotyping or other egregious mishandling.
2. Appeals must be submitted in writing to the Superintendent within five **business** days after receiving notice of the resolution.

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3. Upon receipt of a valid appeal, the Superintendent shall provide notice to the other party, along with an opportunity to provide a written statement within five **business** days.
4. The Superintendent shall review the available documentation and may conduct further investigation if deemed appropriate.
5. The Superintendent's decision on the appeal shall be provided to the parties within 10 business days. The Superintendent's decision shall be final.

F. Records

The District AAO/Title IX Coordinator shall keep a written record of the complaint process.

The Superintendent or designee shall maintain a record of all reported cases of harassment, discrimination or sexual harassment to enable the district to monitor, address, and prevent repetitive behavior in district schools.

4. Title IX Sexual Harassment Complaint Procedure

This section should be used only for complaints of Title IX sexual harassment as defined in Section 2.1. The District AAO/Title IX Coordinator will determine which complaint procedure to apply based on information provided through the report or formal complaint.

A. How to Make A Report

1. School employees who have reason to believe that a student has been subjected to sexual harassment are required to make a report, within 24 hours of becoming aware of such harassment, to the District AAO/Title IX Coordinator and/or to the school level Liaison.
2. Students, parents/legal guardians or other individuals who believe a student has been sexually harassed are encouraged to make a report to the District AAO/Title IX Coordinator and/or school level Liaison.
3. If the individual making the report is the alleged victim, or if the alleged victim is identified by the individual making the report, the District AAO/Title IX Coordinator will meet with the alleged victim to discuss supportive measures that may be appropriate in the particular circumstances and explain the process for filing a formal complaint. The student may elect to have a school

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employee of their choosing or other advisor present for this discussion and throughout the process.

- a. Supportive measures are individualized measures designed to ensure the student can continue to access educational programs and activities (such as requiring no contact between individuals or changing classes).
 - b. Supportive measures may be continued even if the alleged victim chooses not to file a formal complaint, if appropriate under the particular circumstances.
4. The school unit cannot provide an informal resolution process for resolving a report unless a formal complaint is filed.
 5. Individuals will not be retaliated against for reporting sexual harassment, or for participating in an investigation. Retaliation is illegal under federal and

state nondiscrimination laws, and any retaliation will result in disciplinary actions, up to and including discharge for employees, or expulsion for students.

6. The Superintendent shall be informed of all reports and formal complaints of sexual harassment.

B. How to Make A Formal Complaint

1. An alleged student victim and/or their parent/legal guardian may file a formal written complaint requesting investigation of alleged Title IX sexual harassment. The written complaint must include basic information concerning the allegation of sexual harassment (i.e., date, time, location, individual(s) who allegedly engaged in sexual harassment, description of allegation).

Students who need assistance in preparing a formal written complaint are encouraged to consult with the school level Liaisons, a community partner organization or the District AAO/Title IX Coordinator. Language support for any student or parent/guardian will be provided through district offices.

2. In certain circumstances, the District AAO/Title IX Coordinator may file a formal complaint even when the alleged victim chooses not to. Examples include if the respondent (person alleged to have engaged in sexual harassment) has been found responsible for previous sexual harassment or there is a safety threat within the school unit). In such cases, the alleged victim is not a party to the case, but will receive notices as required by the Title IX regulations at specific points in the complaint process.

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3. In accordance with the Title IX regulations, the District AAO/Title IX Coordinator must dismiss a formal complaint under this Title IX procedure if: a) the conduct alleged in the formal complaint does not constitute sexual harassment under the Title IX regulations and this policy; or b) if the conduct alleged did not occur within the scope of the school unit's education programs and activities, or c) did not occur in the United States.

4. In accordance with the Title IX regulations, the AAO/Title IX Coordinator may dismiss a formal complaint under this Title IX procedure if: a) a complainant withdraws the formal complaint, or withdraws particular allegations within the complaint; b) the respondent is no longer employed by or enrolled in the school unit; or c) there are specific circumstances that prevent the school unit from gathering evidence sufficient to reach a determination regarding the formal complaint. However, if the conduct potentially violates other policies or laws, it may be addressed through the applicable Board policy/procedure.

5. If a formal complaint is dismissed under this Title IX procedure, the District AAO/Title IX Coordinator will promptly and simultaneously send written notices to the parties explaining the reasons. Parties have the opportunity to appeal dismissals in accordance with subsection I below.

6. If the conduct alleged in a formal complaint potentially violates other laws, Board policies and/or professional expectations, the school unit may address the conduct under Section 3 or another applicable Board policy.

C. Emergency Removal or Administrative Leave

1. The Superintendent may remove a student respondent from education programs and activities on an emergency basis during the complaint procedure:

a. If there is a determination (following an individualized safety and risk analysis) that there is an immediate threat to the physical health or safety of an individual arising from the allegations of sexual harassment. Examples of such circumstances might include, but are not limited to, a continued threat of violence against a complainant by a respondent, or a respondent's threat of self-harm due to the allegations.

b. The respondent (and their parent/legal guardian) will be provided notice of the emergency removal, and will be provided an opportunity to challenge the decision following the removal (this is an opportunity to be heard, not a hearing). The respondent has the burden to demonstrate why the emergency removal was unreasonable.

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2. The Superintendent may place an employee respondent on administrative leave during the complaint procedure in accordance with any applicable State laws, school policies and collective bargaining agreement provisions.

3. Any decision to remove a respondent from education programs and activities on an emergency basis or place an employee on administrative leave shall be made in compliance with any applicable disability laws, including the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

D. Notice to Parties of Formal Complaint

1. The District AAO/Title IX Coordinator will provide to the parties written notice of the formal complaint and allegations of sexual harassment

potentially constituting prohibited conduct under the Title IX regulations and this procedure. The notice shall include:

- Notice regarding the complaint procedure and the availability of an informal resolution process;
- Sufficient details known at the time (including identities of parties, if known; the conduct alleged; and the date and location of the alleged incident, if known), with sufficient time to prepare before any initial interview (not less than five calendar days);
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination of responsibility will be made at the conclusion of the complaint;
- Notice that the parties may each have an advisor of their choice (who may be an attorney), and that the parties may inspect and review evidence;
- Notice that knowingly making false statements or submitting false information during the complaint process is prohibited and may result in disciplinary action;
- Notice of the name of the investigator, with sufficient time (no less than three calendar days) to raise concerns of conflict of interest or bias.

2. If additional allegations become known at a later time, notice of the additional allegations will be provided to the parties.

3. The District AAO/Title IX Coordinator will discuss supportive measures with each party and implement such measures as appropriate.

E. Informal Resolution Process

After a formal complaint has been filed, and if the District AAO/Title IX Coordinator believes the circumstances are appropriate, the District AAO/Title IX Coordinator may

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offer the parties the opportunity to participate in an informal resolution process to resolve the complaint without completing the investigation and determination process. Informal resolutions cannot be used to resolve a formal complaint where a student is the complainant and the respondent is an employee.

Informal resolutions can take many forms, depending on the particular case. Examples include, but are not limited to: facilitated discussions between the parties; acknowledgment of responsibility by a respondent; apologies; disciplinary actions against a respondent; a requirement to engage in specific services; and/or supportive measures. Both parties must voluntarily agree in writing to participate in an informal resolution process, and either party can withdraw from the process at any time. The

Superintendent must agree to the terms of any informal resolution reached between the parties. If an informal resolution agreement is reached, it must be signed by both parties and the school unit. Any such signed agreement is final and binding according to its terms.

If an informal resolution process does not resolve the formal complaint, nothing from the informal resolution process may be considered as evidence in the subsequent investigation or determination.

A. Investigation

1. The complaint will be investigated by a trained internal or external individual designated by the Superintendent and District AAO/Title IX Coordinator. Any complaint about an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. Any complaint about the Superintendent should be submitted to the Chair of the Board, who should consult with legal counsel concerning the handling and investigation of the complaint.

a. The District AAO/Title IX coordinator and investigators will be provided training regarding the legal procedures and trauma informed practices necessary to fulfill their roles.

2. The investigator shall consult with the District AAO/Title IX Coordinator as agreed during the investigation process.

3. If the complaint is against an employee of the school unit, rights conferred under an applicable collective bargaining agreement shall be applied, to the extent they do not conflict with the Title IX regulatory requirements.

4. Privacy rights of all parties to the complaint shall be maintained in accordance with applicable state and federal laws.

5. The investigator will:

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a. Meet with each party after they have received appropriate notice of any meeting and its purpose, with sufficient time to prepare. Interviews of the victim should be coordinated with other agencies when feasible to avoid multiple interviews and to lessen the impact of the investigation and prevent further traumatization.

b. Allow parties to have their advisor at all meetings related to the complaint, although advisors may not speak on behalf of a party or interfere with the process.

- c. Allow parties a reasonable opportunity to identify witnesses and submit favorable and unfavorable evidence.
- d. Interview witnesses and conduct such other activities that will assist in ascertaining facts (site visits, review of documents, etc.).
- e. Consider evidence that is relevant and directly related to the allegations in the formal complaint.
- f. During the course of the investigation, provide both parties with an equal opportunity to inspect and review any evidence that is obtained in the investigation that is directly related to the allegations in the formal complaint (including evidence which the school unit does not intend to rely upon in reaching a determination of responsibility), and favorable and unfavorable evidence.
- g. Prior to completion of the investigation report, provide each party and advisor (if any) the evidence subject to inspection and review, and provide the parties with ten calendar days to submit a written response.
- h. Consider the parties' written responses to the evidence prior to completing the investigation report.
- i. Create an investigative report that fairly summarizes relevant evidence and send the report to the parties and advisors (if any), for their review and written responses within ten calendar days of receipt.
- j. After receipt of the parties' written responses (if any), forward the investigation report and party responses to the assigned decision maker. The "assigned decision maker" will be identified at the start of each complaint process.

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6. The investigation shall be concluded within 40 calendar days if practicable. Reasonable extension of time for good reason shall be allowed.

G. Determination of Responsibility

1. The decision maker shall provide the parties with the opportunity to submit written, relevant questions that the party wants asked of another party or

witness within five calendar days of when the decision maker received the investigation report and party responses.

- a. The decision maker shall explain to a party proposing questions if the decision maker excludes a question as not relevant.
 - b. Questions intended to harass, intimidate, or coerce will be excluded and respondent's may challenge questions on this basis.
2. Each party shall be provided the opportunity to review the responses of another party and/or witness, and to ask limited written follow-up questions within five calendar days of receiving the answers.
3. Each party will receive a copy of the responses to any follow-up questions.
4. The decision maker shall review the investigation report, the parties' responses and other relevant materials, applying the preponderance of the evidence standard ("more likely than not").
5. The decision maker shall issue a written determination, which shall include the following:
 - a. Identification of all the allegations potentially constituting sexual harassment as defined in the Title IX regulations and this policy;
 - b. A description of the procedural steps taken from receipt of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and meetings held;
 - c. A determination regarding responsibility as to each allegation and findings of fact supporting the determinations;
 - d. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the school unit imposes on the respondent, and whether remedies designed to restore or preserve equal access to the school unit's programs and activities will be provided to the complainant;
 - e. The school unit's appeal procedure and permissible bases for the parties to appeal the determination.
6. The written determination shall be provided to the parties

simultaneously. The determination concerning responsibility becomes final either on the date that the school unit provides the parties with the written determination of the results of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which the appeal would no longer be considered timely.

H. Remedies, Discipline and Other Actions

1. Remedies

Remedies are measures used to ensure that the complainant has equal access to the school unit's education programs and activities following the decision maker's determination. Such remedies may include supportive measures, and may include other appropriate measures, depending upon the determination and the needs of the complainant. The District AAO/Title IX Coordinator is responsible for implementing remedies and providing any needed assistance to the Complainant.

2. Discipline and Other Actions - Students

The following are of the types of discipline and other actions that may be imposed on a student when there is a determination that they are responsible for one or more violations involving sexual harassment:

- In or out of school suspension.
- Expulsion.
- Restorative justice.
- Requirement to engage in education or counseling program.

3. Discipline and Other Actions – Employees

The following are examples of the types of disciplinary actions that may be imposed on an employee when there is a determination that they are responsible for one or more violations involving sexual harassment:

- Written warning.
- Probation.
- Demotion.
- Suspension without pay.
- Discharge.

The following are examples of other types of actions that may be imposed on an employee when there is a determination of responsibility:

- Performance improvement plan.
- Counseling.
- Training.
- Loss of leadership/stipend position.

Decision makers must be careful to avoid any racial or protected-category bias in determining disciplinary and other actions.

I. Appeals

The parties have the opportunity to appeal a determination regarding responsibility and from dismissals of formal complaints. Under the Title IX regulations, appeals are allowed on the following grounds:

1. A procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal of the formal complaint was made, that could affect the outcome of the matter; or
3. The District AAO/Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent that affected the outcome of the matter.

An appeal must be filed in writing within five calendar days of receiving the determination, stating the grounds for the appeal and including any relevant documentation in support of the appeal. Appeals submitted after this deadline are not timely and shall not be considered.

1. Appeals must be filed with the Superintendent, who will consider the appeal.
2. The Superintendent shall notify the other party in writing of the appeal and will allow both parties to submit a written statement in support of, or challenging, the determination of the decision maker.
3. The Superintendent shall conduct an impartial review of the appeal, including consideration of the written record of the matter, and may consult with legal counsel or other school unit officials in making their decision.
4. The Superintendent shall issue a written decision describing the result of the appeal and rationale for the result, and provide the written decision simultaneously to the parties. The decision will either deny the appeal; grant

the appeal and remand to the decision maker for further consideration;
or grant the appeal by revising the disciplinary or other action(s).

5. Confidentiality

Portland Public Schools is committed to protecting the privacy of all individuals involved in a report of discrimination and harassment, including sexual harassment, assault, and misconduct. All employees who are involved in responding to any such complaint including investigators receive specific instruction about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a thorough review of the report. Such a review is essential to protecting the safety of the reporting party, the responding party, and the broader community and to maintaining an environment free from discrimination and harassment.

Privacy generally means that information related to a report of misconduct will only be shared with a limited group of individuals. The use of this information is limited to those employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet, and respect and safeguard the privacy of all individuals involved in the process.

Confidentiality means that information shared by an individual cannot be revealed to any other individual without the express permission of the individual unless there is an imminent threat of harm to self or others or as otherwise required by law. Conversations with individuals who are not employees of PPS do not constitute reports to PPS and do not initiate any investigative response.

Under state law and board policy, all PPS employees are responsible for student welfare and are mandated reporters. All staff are responsible for reporting alleged incidents of harassment and discrimination, including sexual harassment, to the District AAO/Title IX Coordinator and/or school level Liaison.

Before a disclosing party reveals information that they may wish to keep confidential, staff should make every effort to ensure that the disclosing party understands staff's obligation to report the name of the responding party involved in the alleged violation, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the District AAO/Title IX Coordinator and/or school level Liaison.

PPS will pursue a course of action consistent with a disclosing party's request where possible. Where a disclosing party requests that their name or other identifiable information not be shared with the responding party or that no formal action be taken, the District AAO/Title IX Coordinator will balance this request with its obligation to provide a safe and non-discriminatory environment for all PPS community members and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before disciplinary action is taken against a responding party. In

making this determination, the District AAO/Title Coordinator may consider, among other factors, the seriousness of the conduct, the respective ages of the parties, whether the disclosing party is a minor under the age of 18, whether there have been other complaints or reports of harassment or discrimination against the responding party, the existence of independent evidence, and the rights of the responding party to receive notice and relevant information before disciplinary action is sought.

PPS will take all reasonable steps to investigate and respond to the report consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the disclosing party. Staff will assess any barriers to proceeding, including the threat or presence of retaliation. In all instances, the District AAO/Title IX Coordinator will inform the disclosing party that Title IX and PPS policy prohibit retaliation and it will take appropriate action to protect the disclosing party.

Where PPS is unable to act consistent with the request of the disclosing party, the District AAO/Title IX Coordinator will inform the disclosing party about the school's chosen course of action, which may include seeking disciplinary action against a responding party. Alternatively, the course of action may also include steps to limit the effects of the alleged discrimination or harassment and prevent its recurrence that do not involve formal disciplinary action against a responding party or revealing the identity of the disclosing party.

6. Records and Reports to the Community

- A. Records in connection with harassment and discrimination reports, including sexual harassment reports, and the complaint process shall be maintained for a minimum of seven years.
- B. The District shall establish and implement tools to monitor and assess bias, harassment and sexual violence prevention activities, incidents and responses, including:
 - a. Evaluations, using data-based outcomes at least every three years to determine the effectiveness and efficiency of the services;
 - b. An annual report to the Board about school safety;
 - c. Where appropriate, surveys (such as a school climate survey or locally adapted national surveys), tracking systems or other mechanisms that provide useful information for the school community.

The Superintendent's office will provide a written report to the School Board regarding the progress made in prevention of discrimination and harassment

as well as the number of reports, complaints and formal Title IX complaints and resolutions of complaints annually.

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C. Implementation of this policy will be the responsibility of the Superintendent's office.

Legal Reference: Americans with Disabilities Act (42 U.S.C. §12101 et seq., as amended; 28 C.F.R. § 35.107)

Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. § 794 et seq., as amended; 34 C.F.R. § 104.7)

Title IX of the Education Amendments of 1972 (20 USC § 1681, et seq.); 34 C.F.R. Part 106

Clery Act (20 U.S.C. §1092(f)(6)(A)(v) - definition of sexual assault) Violence Against Women Act (34 U.S.C. § 1092(f)(6)(A)(v) – definition of sexual assault; 34 U.S.C. § 12291(a)(10) – dating violence; 34 U.S.C. §12291(a)(3) – definition of stalking; 34 U.S.C. §12291(a)(8) – definition of domestic violence)

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)

Maine Human Rights Act, 5 MRSA § 4551 et seq.

20-A MRSA § 6553

MHRC/MDOE Joint Rule Chapter 94-348 and 05-071, ch. 4

Cross Reference: ACAA – Harassment, Discrimination, and Sexual Harassment of Students

AC – Nondiscrimination/Equal Opportunity and Affirmative Action

ACAD – Hazing

GBEB – Staff Conduct with Students

JFCK – Student Use of Cellular Telephones and Other Electronic Devices

JICIA – Weapons, Violence and School Safety

JICK – Bullying

JLF—Reporting Child Abuse and Neglect

