



Administrative Directive 4.30.063-AD

Title IX Sexual Harassment Student to Student Sex-Based Discrimination and Harassment

Title IX of the Education Amendments Act of 1972 states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

While all forms of sex-based discrimination are prohibited in the District, the purpose of this Administrative Directive is to address, and only to address, sexual harassment as defined in Title IX and Sec. 2 below, that occurs within the educational programs and activities of the District, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment between students and does not apply to harassment of employees or between employees and students.

All other complaints or reports of sexual harassment will be governed by applicable state laws and in accordance with Board Policies 1.80.020-P Non-Discrimination/Anti-Harassment Policy, and 4.30.060-P Student Anti-Harassment and Teen Dating Violence Policy.

1. Application of Title IX Procedures

The Title IX Director or designee must respond to a complaint of sexual harassment under Title IX in a manner that is not deliberately indifferent, meaning a response that is not clearly unreasonable in light of the known circumstances and follows the procedures when a formal complaint or report has been received against a student for alleged sexual harassment incidents that:

- a) Occur on or immediately adjacent to District property;
- b) Occur at or during any district-sponsored activity or program (*e.g.*, athletic events, off-site student organization events, etc.), on District-provided transportation, or at any official District bus stop;

- c) Occur off-campus when a student acts toward another in a manner that creates a hostile environment while at school; OR
- d) Disrupt or create a hostile school environment for the student while at school or school-sponsored activity or program (even if the incident does not occur during the normal course of the school day).
 - I. This includes (but is not limited to) behavior that occurs online (*e.g.*, social media) when it results in a negative impact on another PPS student's right to safely access their public education in an environment free from harassment and/or discrimination.

2. Definition of Sexual Harassment

Under Title IX, all of the following are considered forms of sexual harassment.

- a) Sexual harassment
 - I. Conditioning access to educational benefits on unwelcome sexual conduct ("quid pro quo"); or
 - II. Engaging in unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies a student equal access to a school's education program or activity.
- a) Sexual assault
 - I. Forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation; or
 - II. Unwelcome sexual conduct that occurs without consent or when under the influence of drugs/alcohol, while unconscious or elicited using physical force, coercion, explicit or implied threats.
- b) Dating (or domestic) violence
 - I. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with another.
- c) Stalking
 - I. A pattern of behavior intended to cause fear or intimidation.

3. Definitions Used in Administrative Directive

- a) Advisor(s) - Complainants and respondents are allowed an "advisor of choice" to support them throughout the grievance process. This is a person of their choosing, including advocates, parents, peers, counselors, lawyers, etc. Advisors' role in a disciplinary hearing are further defined below.
- b) Complainant (reporting party) - a student who is alleged to have been harmed by another student's prohibited behavior under this policy

- c) Respondent (responding party) - a student who is alleged to have harmed another student (complainant) by a prohibited behavior under this policy
- d) Conduct that Creates a Hostile environment - is conduct that is sufficiently serious that it interferes, denies, or limits the ability to enjoy educational benefits or programs; is intimidating, offensive, or abusive; is severe, pervasive, or persistent AND objectionably offensive to a reasonable person; OR has the effect of creating an intimidating, hostile, or offensive environment while at school
- e) Supportive Measures- safety measures that can be enacted immediately and remain throughout an investigation and that are available equally to both parties
- f) School Compliance Officers (SCO) - designated building leader who a) receives school-based reports; b) conducts safety planning and/or Sexual Incident Response Committee (SIRC) for a respondent; c) acts as the District point of contact for investigations in collaboration with the Title IX Director or SIRC Coordinator; and d) ensures incidents or reports are cross-reported to the Title IX Director for tracking patterns of behavior.
- g) Sexual Incident Response Committee (SIRC) - SIRC or Sexual Incident Response Committee is an assessment tool used by school districts across Oregon that examines sexualized behaviors in children to assist schools in determining appropriate interventions to ensure safety for all PK-12 students. SIRC's purpose is to provide timely support to kids, and mitigate potential risk to others in the school community. SIRC assesses a broad range of sexualized behaviors to determine whether they are developmentally appropriate, and whether they may be indicative of other risk factors. Most importantly, SIRC informs a multidisciplinary team of educators (administrators, counselors, subject matter experts) at your child's school in better understanding why your child may be exhibiting this behavior and how to respond and support your child during the school day. SIRC is an integral part of our comprehensive response to Title IX-related matters
- h) Grievance process - the investigation, hearing, and appeal process following a formal complaint.
- i) Preponderance of evidence- a standard of proof in which the finder of fact weighs the evidence to determine if a fact is more likely than not to be true (at a minimum, slightly more than 50%).
- j) Determination of Responsibility- the formal finding by the decision-maker on each allegation of Sexual Harassment contained in a formal complaint that the Respondent did or did not engage in conduct constituting Sexual Harassment under Title IX.

4. Notice & Actual Knowledge

The District must respond whenever any District employee has been put on notice of any sexual harassment or allegations of sexual harassment as defined in this Administrative Directive. This mandatory obligation is in addition to the child abuse mandatory obligation in Oregon.

5. Reporting

In addition to the mandatory child abuse reporting requirement, all District employees are must also report incidents of sexual harassment that would constitute child abuse. District employees should also cross-report these types of behaviors to the Title IX Director promptly.

a. Reporting Options

The District will provide multiple ways to report sexual harassment. Reports may be made at any time via phone (503) 568-2646. Electronic reports can be made using the PPS reporting system, which includes an anonymous option. The link is available here:

<https://www.pps.net/Domain/5294>

6. Role of the Title IX Director

The Title IX Director coordinates the district's efforts to comply with Title IX and state law.

The Title IX Director's contact information, including the name, phone number, office and email address, will be clearly and consistently applied across the District's website and on every school's website.

When a complaint or report of sexual harassment is made under this Administrative Directive, the Title IX Director (or designee) will:

- a. Confidentially contact the complainant to offer supportive measures, consider the complainant's wishes with respect to supportive measures, and inform them of the availability of supportive measures with or without filing a formal complaint.
- b. Explain the process for how to file a formal complaint
- c. Inform the complainant that any report made in good faith will not result in discipline
- d. Inform the complainant of the drugs and alcohol amnesty clause
- e. Respect the complainant's wishes with respect to whether a school investigates unless the Title IX Director determines that it is necessary to pursue the complaint in light of a health or safety concern for the community

7. Dismissal of Claim

Title IX requires that the District must dismiss a claim when it:

- a. Does not fit the definition of sexual harassment under this Administrative Directive

- b. Did not occur in an education program or activity as defined in Sec. 1.
- c. Did not occur in the United States

The District may dismiss a claim when:

- a. The complainant withdraws the formal complaint in writing
- b. The respondent is no longer enrolled as a student in the District
- c. Circumstances prevent the District from gathering evidence that would be sufficient to reach a determination of whether the alleged behavior occurred.

While a claim must be dismissed under Title IX, this does not preclude the District from acting through another District policy or Administrative Directive, or any process in the Student Rights and Responsibilities Handbook.

8. Conflicts of Interest

The Title IX Director and all designees involved in an investigation or hearing must be free from prejudgment, prior knowledge, conflict of interest, or bias for or against any party. District employees who have extensive interaction with any party involved in a complaint are advised to designate another administrator or the Title IX investigator to act on their behalf.

9. Supportive (Safety) Measures

The District will make available supportive measures with or without filing a formal complaint. These supports will be available to both parties, free of charge. These are non-disciplinary and non-punitive individualized services designed to offer support without being unreasonably burdensome. They are meant to restore access to education, protect student and employee safety, and/or deter future acts of sexual harassment.

Supportive measures are temporary and flexible, based on the needs of the individual, and may include counseling, extensions of deadlines or course-related adjustments such as schedule changes or modifications of academic requirements; restrictions on contact between parties (must be applied equally to both parties); leaves of absence; increased security and monitoring of certain areas of the building.

10. Removal from School, Program, or Activity

Respondents may only be removed from the school, program, or activity if an individualized safety and risk analysis (threat assessment) determines that there is an immediate threat to the physical health or safety of any person that arises from the allegations of sexual harassment that justifies the removal and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Respondents may not be disciplined or face consequences until and unless they are found “responsible” for violating a policy or rule. For example, a student may not be removed or suspended pending a disciplinary hearing or while an investigation is conducted.

11. Formal Complaints

A formal complaint must be filed in order to initiate a Title IX investigation.

A formal complaint is a written report, filed by a complainant, their parent or legal guardian, or the Title IX coordinator alleging sexual harassment and requesting that the District investigate. It may be submitted online using the District’s reporting form or submitted to the building’s School Compliance Officer (SCO). It may also be filed by the Title IX Director on behalf of a complainant.

12. Parental Rights

A student’s parent or guardian must be permitted to exercise the rights granted to their child under these final regulations, whether such rights involve requesting supportive measures or participating in a grievance process. Similarly, a student’s parent or guardian must be permitted to accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while the student’s advisor of choice may be a different person from the parent or guardian. Schools must also ensure parents and legal guardians are aware of their right to file formal complaints on behalf of their children.

Students over the age of 14 should be offered more discretion in when/how parents are notified (*e.g.*, when parent/guardian is unsafe and allowing students to identify another trusted adult in their lives) given their legal rights to medical and mental health services.

13. Informal Resolution Options

Express and explicit consent by both parties is required before engaging in a voluntary informal resolution process including any restorative options. This option must be agreed upon and may not be required as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints.

14. Fair, Transparent, and Consistent Grievance Procedures

Grievance procedures refer broadly to the investigation, hearing, and appeal process triggered following a formal complaint, which adheres to due process principles, treats both parties fairly, and reaches reliable determinations regarding responsibility.

15. Investigations

All investigations shall have:

- a. Trained Title IX investigators will investigate the allegations free from prejudice, prior knowledge, conflict of interest, or bias for or against any party.
- b. Written notice to both parties
- c. Protections for all parties' privacy and the requirement of written consent before accessing any protected medical or psychological records
- d. The presumption that the respondent is not responsible for the prohibited conduct; the District bears the burden of proof
- e. An advisor of each student's choice is permitted to attend meetings as a support person
- f. A decision-maker who is not the same person as the investigator
- g. An equal opportunity for the parties to present witnesses, and other evidence including the opportunity to offer written questions to all parties
- h. Questions about complainant's prior sexual history are strictly prohibited
- i. the investigator will afford each party 10 days to submit written, relevant questions to the decision maker that the party wants asked of any party or witness
- j. The investigator must explain to the party proposing the questions any decision to exclude a question as not relevant.
- k. Written explanations that must be shared with both parties that (at a minimum) include a responsibility determination and an explanation for how and why this decision-maker arrived at this conclusion.

16. Disciplinary Hearings & Determination of Responsibility

The determination of responsibility shall be made by a decision maker who is not the investigator and shall meet the following criteria:

- a. The preponderance of evidence standard shall be used for Title IX and all related student disciplinary proceedings
- b. The investigator will provide the questions to the party/witness, with copies to each party, and provide no less than 10 days for written responses. The communication will be provided to each party.
- c. The opportunity for both parties (complainant/respondent) to appeal the decision.
- d. Protection for all parties against retaliation for reporting or participating in an investigation.
- e. The decision maker will provide 5 days each for supplementary limited follow-up questions and 5 days for answers, and may provide for additional rounds of follow-up questions, as long as the provision is extended to both parties equally.
- f. The respondent is deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made by the decision maker.

- g. The decision maker must issue a written determination/decision within 10 days after the close of time for responses to questions.
- h. The decision maker may impose disciplinary sanctions and remedies.

17. Outcome Notifications

Once a Determination of Responsibility is rendered and sanctions are imposed, final notification to both parties occurs simultaneously.

- a. **Final notification to Complainant includes:** date investigation concluded; finding (responsible or not); sanction as it relates to complainant's safety; ongoing supportive measures; information about how to appeal the decision; non-retaliation reminder; name/contact info of Title IX Director (for follow-up); information about civil remedies and applicable statutes of limitations; and privacy/FERPA rights and explanation of exceptions for Title IX cases.

- b. **Final notification to Respondent includes:** date investigation concluded; finding (responsible or not); sanction or discipline assigned, if any; ongoing supportive measures; information on how to appeal the decision; non-retaliation reminder; name/contact info of Title IX Director (for follow-up); information about civil remedies and applicable statutes of limitations; and privacy/FERPA rights and explanation of exceptions for Title IX cases.

18. Sanctions and Remedies

a. Respondent (Sanction)

When a respondent is found responsible for the prohibited behavior as alleged, sanctions are based on the severity and circumstances of the behavior. Disciplinary actions or consequences can range from a conference at building-level through suspension or expulsion.

b. Complainant (Remedies)

When a respondent is found responsible for the prohibited behavior as alleged by a complainant, remedies must be provided to the complainant. Remedies are designed to maintain the complainant's equal access to education and may include supportive measures or other remedies.

19. Appeals Process

Appeals are allowed by both parties due to any of the following:

- A. procedural irregularities that affected the outcome,
- B. previously unavailable evidence that could affect the outcome, or
- C. conflict of interest or bias by the Title IX Coordinator (or designee)

D. other bases for appeal may be made available if offered to both parties.

Appeals should be sent in writing to the Title IX Director. They will then be sent to the appropriate Area Senior Director for review. The outcome notification sent to both parties shall indicate where to file an appeal and any applicable deadlines for doing so.

The reviewer's decision will be final and binding on the parties. The United States Department of Education's Office for Civil Rights ("OCR") is the federal agency responsible for overseeing Title IX and other anti-discrimination laws. Parties may contact OCR at: Office for Civil Rights, Seattle Office, U.S. Department of Education, 915 Second Avenue, Room 3310, Seattle, WA 98174, (206)-607-1600, OCR.Seattle@ed.gov.

20. Documentation & Record Retention

All actions taken in response to a report or formal complaint of sexual harassment must be retained for seven years, including but not limited to, documentation for each sexual harassment investigation, including any responsibility determination, disciplinary sanctions imposed, remedies and supportive measures provided, and appeal and informal resolution documentation, if applicable.

21. Training Requirements

Mandatory training on the topics of bias, conflict of interest, and impartial service as a Title IX Director, investigator, decision-maker, and/or facilitator is required for all who serve in those roles. Materials used to train the Title IX Director and/or School Compliance Officers and administrators, decision-makers and any person engaged in the facilitation of the formal or informal resolution process must be publicly available on the PPS Title IX website for Students/Families. This includes proprietary materials and organizational materials.

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