

**Title IX Sexual  
Harassment Formal  
Complaint  
Procedures**

The following procedures are intended to serve as the “grievance process” required by Title IX regulations (34 C.F.R. 106.45) for responding to formal complaints of sexual harassment, as defined by Title IX and should be reviewed in combination with DIAA(LEGAL) and (LOCAL). According to the Title IX definition, "Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Complaints of sexual harassment or discrimination that do not fit within this definition are subject to the General Sex Discrimination Complaint Procedures. For an overview of the formal complaint process, see DIAA.

**Definitions**

All terms in this regulation have the meaning as defined in DIAA(LEGAL) at Section I: Title IX Definitions. In addition:

1. “Coordinator” means the Title IX coordinator.
2. "Complainant” means any individual, group, or organization who was subject to alleged misconduct as described in any College District policy or any person who submits a referral alleging that a respondent violated College District policy. There may be more than one complainant for an incident.
3. “Days” means College District business days unless otherwise noted by the College District.
4. “College District” or “the College District” refers to any employee or person designated to fulfill obligations under law or Board policies.
5. “Party” or “parties” refers to the complainant and respondent. Where the Title IX coordinator signs a formal complaint, the coordinator is not a party.

6. "Parent" means a person defined by 34 C.F.R. 99.3 who may act on behalf of a student unless prohibited by law or court order, including signing a formal complaint, agreeing to supportive measures, or responding to allegations in a complaint [see FL(LEGAL)]. "Preponderance of Evidence" is a standard of evidence meaning that a proposition is more likely than not to be true.
7. "Respondent" means the alleged perpetrator of conduct that could constitute sexual harassment and may include the parent acting on behalf of a student.
8. "Sexual harassment" refers to sexual harassment as defined by Title IX [see DIAA(LEGAL)].
9. "Student" includes all persons taking courses at the College District, either full-time or part-time, credit or noncredit seeking, certificate, associate, technical, professional studies, or attending an educational program sponsored by the College District. Persons who withdraw from the College District after allegedly violating the Student Code of Conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the College District or who have been notified of their acceptance for admission are considered "students."
10. "Title IX disciplinary sanction" means an action that is not a supportive measure as defined by 34 C.F.R. 106.30 and is imposed against a respondent only after the College District follows the Title IX formal complaint process in compliance with law and Board policy. Title IX disciplinary sanctions do not include an authorized interim action or measure, and do not refer to discipline imposed on a respondent for conduct other than sexual harassment as defined by Title IX. [See DIAA(LEGAL)]
11. "Title IX personnel" includes the coordinator and other individuals designated by the College District or coordinator to perform a role in the formal complaint process, including investigator, hearing officer, appellate decision-maker, and, if applicable, facilitator of an informal resolution process.

**College District  
Response to  
Allegations of Sexual  
Harassment**

The College District's Title IX coordinator will respond promptly and equitably to any verbal or written report or disclosure of alleged sexual harassment received from any source, including personal observation, made to the Title IX coordinator or the Deputy Title IX coordinator. Complainants may, but are not required to, use the

Reporting Form at DIAA, which is also available [online](#)<sup>1</sup>. The coordinator will address anonymous reports if there is an identifiable party.

When the coordinator determines that an allegation of sex-based harassment in a College District program or activity, if proved, would meet the definition of sexual harassment under Title IX, the coordinator will follow the procedures below. In accordance with law, the coordinator may consolidate formal complaints or separate proceedings where allegations of sexual harassment arise out of the same facts or circumstances.

For all other allegations, the Title IX coordinator will follow the applicable College District policy and procedures, including DIAA, as applicable, for Investigations of Reports Other Than Title IX, and DH for employee standards of conduct. Concurrent with a Title IX formal complaint process, the College District may implement discipline in accordance with Board policies and the employee standards of conduct for prohibited conduct other than sexual harassment as defined by Title IX.

#### Initial Response

Upon receipt of a report alleging sexual harassment, the College District's Title IX coordinator or designee will promptly contact the complainant, when identified, to offer supportive measures and interact with the complainant to:

1. Provide information about supportive measures;
2. Discuss the availability of supportive measures;
3. Consider the complainant's wishes concerning supportive measures;
4. Explain to the complainant the process for filing a formal complaint under Title IX (Notice of Rights and Responsibilities at DIAA; and
5. Provide each complainant with a copy of the College District's Title IX formal complaint process.

The Title IX coordinator will document whether a complainant elects to accept or decline the supportive measure or measures offered.

#### Equitable Treatment

The College District's treatment of complainants, respondents, witnesses, and any other person involved in a formal complaint process will not discriminate on the basis of sex. All parties involved will be treated fairly, with dignity, respect, and sensitivity and without bias, prejudice, or reliance on stereotypes.

Supportive  
Measures

The Title IX coordinator is responsible for effective implementation of supportive measures. The Title IX coordinator, together with the Deputy Title IX coordinator and designee(s), as appropriate will serve as the point of contact for any questions or concerns related to supportive measures.

Supportive measures must be offered to a complainant and, as appropriate, also to a respondent. Supportive measures must be offered whether the complainant participates in the formal complaint process. A complainant is not required to show proof of allegations to receive supportive measures and is not required to accept supportive measures.

Supportive measures will be individualized, non-punitive, offered without fee or charge, and will not unreasonably burden either party. Supportive measures may include services, as reasonably available, designed to protect the safety of all parties or the College District's educational environment or to deter sexual harassment. The College District is not required to offer or provide supportive measures to unidentified parties.

Examples of supportive measures may include, as appropriate:

- Counseling about inappropriate behavior and educational conversations;
- Explaining to a respondent in detail the college's anti-sexual harassment policy and expectations of appropriate conduct;
- Changing seating assignments or class assignments;
- Providing other counseling;
- Extending of deadlines or other course-related adjustments, including retaking exams or completing makeup work;
- Implementing mutual restrictions on contact between parties;
- Identifying specific campus employees to serve as regular points of contact for each party;
- Modifying class or activity schedules;
- Escorting parties when on campus;
- Changing campus assignments;
- Increasing security and monitoring of certain areas of the campus; or

- Other similar measures designed to protect the safety of students and employees or deter sexual harassment.

*Emergency  
Removal*

In accordance with law, the College District has the right to remove a student respondent from the College District's education program or activity when the College District determines, based on an individualized safety and risk analysis following the College District's threat assessment processes, that removal is justified due to an immediate threat to the physical health or safety of any student or other individual, including either of the parties in a formal complaint, arising from the allegations of sexual harassment. Emergency Removal generally means that the student is not allowed on College District property and cannot attend classes or participate in any College District-sponsored activities both on and off College District property. It generally includes a prohibition on attending activities hosted by any College District sponsored or recognized groups. An Emergency Removal may be limited to an exclusion and/or administrative ban from a portion of any College District Premises or any College District-sponsored activity, including, but not limited to, removal from an athletic team or removal from housing. Any exceptions to Emergency Removal will be explicitly communicated by the Title IX coordinator.

The College District will provide notice of removal to the respondent through the Dean or Designee. The removal may continue for the duration of an ongoing threat. The notification will include information regarding the alleged Prohibited Conduct, the rationale for the Emergency Removal, and the process to request a review of the decision.

Removal under this provision must comply with all due process requirements under law and policy, including the Americans with Disabilities Act (ADA) and Section 504.

*Post-Removal  
Challenge*

Students who are removed from the College District's program and/or activity on an emergency basis will have the opportunity to request a review of the decision by the College President or Designee. The Emergency Removal will remain in effect while the removal is being challenged. The College District has discretion to impose, lift, reassess, or modify an Emergency Removal as circumstances may warrant at any point in a case, including without limitation as new information becomes available.

*Administrative  
Leave*

Title IX and these procedures do not restrict the College District's right to place an employee respondent on administrative leave pending an investigation. For student-employees, if the alleged Prohibited Conduct primarily occurred in the working environment,

the student-employee may be placed on administrative leave from the working environment as long as the student-employee's access to education is not jeopardized. The Emergency Removal process described above does not apply to faculty, staff, or non-student Respondents.

**No Bias or Conflict of Interest**

All Title IX personnel must serve impartially and free from conflicts of interest or bias against the individual complainant and respondent involved in a formal complaint or against complainants and respondents generally.

For the purpose of the College District's response to allegations of sexual harassment, including the formal complaint process, bias includes but is not limited to bias against an individual's sex, race, ethnicity, sexual orientation, gender identity, disability or immigration status, or financial ability.

**Presumption of Nonresponsibility**

All College District actions must presume that the respondent is not responsible for the alleged conduct until after a final determination in a formal complaint process. In a formal complaint process, a respondent may face Title IX disciplinary sanctions for sexual harassment only after a fair process determines responsibility. However, even if a Title IX formal complaint is not filed or signed, the College District may investigate and respond to prohibited conduct in accordance with Board policies and the Student Handbook.

**Formal Complaints**

A formal complaint may be filed electronically with the College District's Title IX coordinator or by using a form provided by the College District [see DIAA] or in accordance with requirements of DIAA(LEGAL) at Definitions, Formal Complaint. If the Title IX coordinator determines that the law requires the College District to initiate an investigation under a formal complaint process, the coordinator may, without consent of a complainant, sign a written complaint to initiate the process. A complainant is not required to participate in the formal complaint signed by a coordinator but will retain all the rights of a complainant in the process.

Copies of any documents that support the complaint should be attached to the complaint.

In accordance with law and policy, the Title IX coordinator will coordinate the assignment of duties to ensure that all obligations under Title IX are completed in a timely manner.

**Time Frame for Formal Complaint Process**

Absent good cause for the College District to delay an investigation, the Title IX formal complaint process beginning with filing or signing of the formal complaint and ending with the determination of responsibility should be completed within 90 days, not including

appeals, if any. Days used for any voluntary informal resolution process do not count towards the time frame for concluding the formal complaint process.

Modifying Time  
Frames

In calculating timelines under this regulation, the day a document is filed is “day zero” and the next College District business day is “day one.”

All time limits will be strictly followed unless modified by the parties’ mutual written consent or extended by the College District for good cause. If the College District grants an extension of time for one party, the same time extension must also be granted to the other party.

If the College District temporarily delays or extends timelines associated with the formal complaint process, the Title IX coordinator will provide a written explanation to the parties of the good cause basis for the delay or extension. Permissible modifications to timelines include the absence of a party, a party’s advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disabilities; or other good cause as determined by the Title IX coordinator.

The College District will make reasonable attempts to schedule meetings at a time mutually agreeable to all parties. However, extensions should not unnecessarily extend the timeline established below for concluding the formal complaint process.

Notice of  
Allegations

Upon receipt of a formal complaint, the Title IX coordinator or Deputy Title IX coordinator will provide written notice to the complainant and respondent about the allegations of sexual harassment and allow sufficient time for the parties to prepare a response before any initial interview with the assigned investigator. This notice must contain the following:

- Allegations of potential sexual harassment as defined by law, including sufficient details known at the time such as identity of parties, alleged conduct, and date(s) and location(s) of alleged incident(s);
- A statement that the College District, by law, must presume that the respondent is not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the formal complaint process;
- Notification that each party may choose an advisor of choice who may be, but is not required to be, an attorney;

- The right of each party to inspect and review evidence under section 34 C.F.R. 106.45(b)(5)(vi);
- The standard of evidence that will be used [see DIAA(LOCAL)];
- Notification about the College District's Title IX formal complaint process, including procedures for informal resolution and appealing the final determination; and
- Any provision of a College District code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the formal complaint process.

The Title IX coordinator may attach a copy of policy DIAA to the Notice of Allegations.

**Dismissal of  
Complaint or  
Allegation**

Upon dismissal of a formal complaint or an allegation therein, the coordinator will promptly provide written notification to both parties. Dismissal of an allegation or allegations does not preclude action under another policy or provision of the code of conduct.

**Mandatory  
Dismissal**

A formal complaint or allegation must be dismissed as required by law when the allegation(s), if proved:

- Would not meet the definition of sexual harassment under 34 C.F.R. 106.30(a);
- Did not occur against a person in the United States; or
- Did not occur in the College District's education program or activity.

**Discretionary  
Dismissal**

A formal complaint may be dismissed for the following reasons:

- If, at any time, a complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations in the complaint;
- If the respondent is no longer enrolled or employed by the College District;
- If specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein; or
- If the complainant no longer has any involvement with the College District.



FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
SEX AND SEXUAL VIOLENCE

DIAA  
(REGULATION)

Appeal of Complaint  
Dismissal

In accordance with law and local policy, the complainant may appeal the written dismissal of a formal complaint or any allegations therein on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter; or
- The Title IX coordinator, investigator, or hearing officer 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.

To initiate an appeal, a complainant must follow the procedures below at Appeal Procedures.

**Standard of  
Evidence**

The College District uses the preponderance of evidence standard of evidence to determine responsibility. Title IX requires the College District to adopt a standard of evidence that will be used to determine responsibility for all formal complaints of sexual harassment.

Objectivity

When evaluating relevant evidence, whether the evidence is inculpatory (serving to show responsibility) or exculpatory (serving to clear of responsibility), an investigator and hearing officer must remain objective. Credibility determinations may not be based on an individual's status as a complainant, respondent, or witness.

**Privileged  
Information**

If a party seeks or uses information protected under a legally recognized privilege, the party must provide written documentation indicating that the individual holding the privilege has waived the privilege and consents to use for the purpose of the formal complaint process.

**Investigation of  
Formal Complaint**

The Title IX coordinator will appoint a trained investigator or appoint an external investigator to investigate the allegations in a formal complaint. The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the College District and not with the parties. All allegations in a formal complaint will be investigated.

Absent good cause, the investigation should be completed within 90 days from the date that the formal complaint was signed or filed; however, the investigator may take additional time in accordance with law, Board policy, or these procedures.

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DIAA  
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**Gathering Evidence** After receiving the written complaint, the investigator will meet promptly with each party to conduct initial interviews, gather information, and collect evidence. While the College District has the burden of proof for determining responsibility, the parties may submit evidence, testimony, witnesses, or other information that they wish the investigator to consider. Parties may also present fact and expert witness testimony in the form of written statements. Any deadlines or other restrictions related to the formal complaint process must apply equally to both parties. The investigator must provide to any party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any investigative interview or other meetings, with sufficient time for the party to prepare to participate.

**Advisors** Each party may be accompanied by an advisor of the party's choice during the interview with the investigator or other meetings during the formal complaint process.

*Confidentiality* In order to preserve the confidentiality of student information protected by the Family Educational Rights and Privacy Act (FERPA), the College District may require the eligible student or the parent of a minor student to sign a release form indicating consent to allow the College District to release information related to the allegations to the designated advisor. [See FJ] In addition, the College District will inform any designated advisors that confidential information received during the Title IX formal complaint process, including the evidence received for inspection and review as well as the investigation report, may be used only for purposes of the Title IX formal complaint process and may not be further disclosed or disseminated. Any restriction or requirement regarding an advisor must apply equally to all parties.

**Inspection of Evidence** In order to afford each party the opportunity to respond meaningfully to the evidence prior to the conclusion of the investigation, the investigator will make available evidence submitted by the parties or obtained as part of the investigation that is directly related to the allegations raised in a formal complaint to both parties for inspection and review. This includes evidence upon which the College District's hearing officer may choose not to rely when reaching a determination regarding responsibility, as well as inculpatory or exculpatory evidence.

Prior to completion of the investigative report, the investigator will send to each party and the party's advisor, if any, the evidence subject to review and inspection in an electronic format or hard copy. As required by law, each party must be allowed 10 days from

the date of receipt of the evidence to inspect and review the evidence, and to submit a written response that the investigator will consider when completing the final investigative report.

**Investigation Report**

The investigative report will fairly summarize all relevant evidence and may include the following content:

- Identification of the allegations potentially constituting sexual harassment;
- Any procedural steps taken by Title IX personnel from the receipt of the formal complaint through the conclusion of the investigation, including any notifications to the parties, interviews, site visits, and methods used to gather evidence;
- Responses of each party to the allegations in the formal complaint;
- Evidence obtained by the College District;
- Relevant evidence considered by the investigator;
- The parties' responses to the evidence after review and inspection;
- Factual summary; and
- Identification of any College District policies or codes of conduct implicated by the facts or other College District processes initiated as a result of the investigation.

The investigator will simultaneously provide the investigation report to both parties. The investigator also will send a copy of the investigation report to the Title IX coordinator.

**Determination to Proceed to Live Hearing or Dismiss**

Within five days of receipt of the final investigative report, the Title IX coordinator will make a determination that:

1. The College District will convene a hearing before an impartial hearing officer designated by the Title IX coordinator who will hear testimony from the parties and relevant witnesses, review the relevant evidence, and make a determination as to responsibility; or
2. The matter will be dismissed because the investigation revealed facts that either:
  - a. Require a dismissal under Title IX (e.g., the conduct alleged would not constitute Title IX Prohibited Conduct,

even if true; did not occur in the College District's Education Program or Activity; or did not occur in the United States); or,

- b. Allow for a dismissal (e.g., if the complainant notifies the Title IX coordinator in writing that they would like to withdraw the formal complaint, the respondent is no longer enrolled or employed by the College District, or specific circumstances prevent the investigator from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein). If a determination is made to dismiss the formal complaint, the parties may exercise their right to appeal using one or more of the bases for appeal set forth below. In the absence of a dismissal, the matter will be forwarded to a hearing officer for disposition.

**Determination Regarding Responsibility**

The hearing officer designated by the Title IX coordinator will make an independent determination regarding a respondent's responsibility for alleged sexual harassment during a live hearing. In accordance with law, the determination of responsibility may not be issued earlier than 10 days from the date the parties received the final investigation report from the investigator. The hearing officer cannot be the College District's Title IX coordinator or the investigator who investigated the complaint at issue. Either party may challenge the fairness, impartiality or objectivity of a hearing officer. The challenge must be submitted in writing to the hearing officer through the Title IX coordinator's office within two days after notice of the identity of the hearing officer, and must state the reasons for the challenge. The hearing officer will be the sole judge of whether he or she can serve with fairness, impartiality, and objectivity. In the event that the hearing officer recuses themselves, an alternative hearing officer will be designated in accordance with the College District's procedures.

**Live Hearing Process**

Within receipt of the final investigative report and confirmation that both parties have identified an advisor, the Title IX coordinator or their designee will provide concurrent written notice to the parties of the date, time and location of the hearing. The parties cannot waive the right to a live hearing.

**Advisor of Choice**

Each party may have an advisor of their choice at the hearing. If a party does not have an advisor, the College District will provide one. Advisors are only permitted to participate in the hearing by asking cross-examination questions of the other party and any witnesses.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
SEX AND SEXUAL VIOLENCE

DIAA  
(REGULATION)

**Responsibilities of  
Hearing Officer and  
Parties**

The hearing officer is required to objectively evaluate all relevant evidence both inculpatory and exculpatory, and to independently reach a determination regarding responsibility.

**Responsibilities of  
the Hearing Officer**

The hearing officer will:

- Rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing, may question participants who testify at the hearing, and is entitled to have the advice and assistance of outside counsel or legal counsel from the College District's Office of General Counsel. No person will be required to disclose information protected under a legally recognized privilege. The hearing officer must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney-client privilege.
- Ensure that only relevant cross-examination questions must be answered by a party or witness before the party or witness answers. The hearing officer may exclude questions that are irrelevant or duplicative. The hearing officer must explain to the party proposing the questions any decision to exclude a question as not relevant.
- Ensure that the hearing process is administered in a fair and impartial manner and that all participants observe basic standards of decorum and that all questions are asked and answered in a respectful, non-argumentative, and non-abusive way. The hearing officer will be responsible for ensuring that all parties and witnesses are protected from answering questions designed to be harassing, intimidating, or abusive.
- Render a decision using a preponderance of the evidence standard using the facts as presented through careful examination of the final investigative report, witness testimony, including cross-examination, and the review of all relevant evidence.

**Responsibilities of  
the Parties at the  
Hearing  
(Complainant and  
Respondent)**

Parties are expected to:

- Truthfully answer questions posed by the hearing officer.
- Truthfully answer relevant questions posed by the other party via their advisor.
- Attend the hearing in its entirety, being present for all witness testimony.

- Adhere to basic standards of decorum by answering questions posed by the hearing officer or a party's advisor in a respectful, non-argumentative, and non-abusive way.

**General Rules for the Hearing**

The hearing is an opportunity for the complainant and respondent to address the hearing officer in person. The parties may address any information in the final investigation report and supplemental statements submitted in response to the final investigation report.

The complainant and the respondent have the right to make an opening and a closing statement. The complainant will give the first opening statement. The respondent will give the final closing statement. The complainant and the respondent may each include a statement of the impact of the alleged offense as part of their respective closing statements.

Civil and criminal rules of procedure and evidence do not apply in these proceedings. Evidence permitted at the live hearing is limited to only that which is relevant to the allegations in the formal complaint. Evidence is relevant if:

1. It has any tendency to make a fact more or less probable than it would be without the evidence; and
2. The fact is of consequence in determining the action. Evidence not previously provided in advance of the hearing may be accepted for consideration at the discretion of the hearing officer.

With the exception of cross-examination, all questioning of parties is conducted through the hearing officer. A party may recommend direct questions to be asked of a party's own witness or non-party witnesses by submitting them in writing to the hearing officer prior to the hearing by the deadline set by the hearing officer in advance of the hearing. During the hearing, a party may also suggest questions for direct examination of the party's witness to the hearing officer based on information presented during the hearing. The hearing officer, in his or her sole discretion, will determine whether recommended questions are relevant.

The hearing officer may also independently question the parties, witnesses, and/or investigator to elicit relevant information. The hearing officer is barred from drawing any inference about the determination of responsibility based solely on a party's refusal to answer the hearing officer's questions.

Parties have the right to cross-examine any witness, including the investigator, and present both fact and expert witnesses, which

may include investigators. Only advisors can conduct cross-examination on behalf of a party; there is no right of self-representation, however, the party should be an active participant in informing the questions posed by their advisor.

Cross-examination is designed to allow a party to challenge the consistency, accuracy, memory and credibility of the opposing party or witness. Cross-examination must be relevant, respectful, and conducted in a non-abusive way.

Parties, through their advisors, will ask each cross-examination question one at a time and allow the hearing officer to determine the relevance of the question before the other party or witness is asked to answer. This process will be strictly adhered to throughout the entire hearing process.

The hearing officer, in their sole discretion, will determine the relevance of all cross-examination questions presented. If the hearing officer deems the question irrelevant the hearing officer must explain the basis for such decision. A question is relevant if it tends to prove or disprove the issue of responsibility. The hearing officer's relevancy decision may not be challenged during the hearing by the parties or their advisors.

The College District retains discretion under Title IX to apply rules of decorum at a live hearing that require participants (including parties, witnesses, and advisors) to refrain from engaging in abusive, aggressive, or disruptive behavior. Failure to adhere to the rules outlined by the hearing officer may result in a decision to cease the hearing and reconvene once the disruptive behavior has been addressed.

At the request of one or both parties, the complainant and respondent will be permitted to participate in the hearing in separate rooms, assisted by technology that allows each party to see, hear, and ask questions of the other party live and in real-time. Witnesses may also appear in separate rooms, but also must be clearly visible and audibly clear to the hearing officer, the parties, and their advisors.

All witnesses will be considered the College District's witnesses. Names of witnesses may be provided by either party or others who may have been involved with the case by the deadline set by the hearing officer in advance of the hearing.

There will be a single audio record of all Title IX hearings which will be available to the parties for inspection and review. The parties are not permitted to record the hearing. The recording will be the

property of the College District and will be maintained with all records of any actions, including any supportive measures, taken in response to a report or formal complaint for no fewer than seven years. Accordingly, documents prepared in anticipation of the hearings (including the formal complaint, the preliminary investigative report, the final investigative report, the notices of hearing, and any prehearing submissions) and documents, testimony, or other information introduced at the hearings may not be disclosed outside of the hearing process, except as may be required or authorized by law or legal proceeding. In particular, to respect the reasonable privacy of all participants, no party (or representative), nor any witness, may record the hearing or disclose any recording of the hearing or any portion thereof. Any violation of privacy requirements will constitute a violation of this procedure, which may result in disciplinary action.

If a party or witness, with notice, does not appear before the hearing officer, the hearing will take place in their absence. All statements previously made by the absent party or witness as part of the investigation or contained in evidence gathered during the investigation cannot be relied upon by the hearing officer in making a finding. If a party or witness, with notice, appears at the hearing but refuses to answer questions posed to them by the other party's advisor, all statements provided by that party will be stricken and the hearing officer will not be permitted to consider the information in making a finding. The hearing officer will reach the determination using the remaining evidence available to them even if a party or witness refuses to undergo cross-examination. The hearing officer may not draw any inference as to the responsibility of the respondent based on any party or witness's absence or refusal to undergo cross-examination. If a party's advisor does not appear at the time of the hearing, the College District will provide an advisor for that party without fee or charge, to conduct cross-examination on behalf of that party.

If the matter involves more than one respondent, the Title IX coordinator, in their discretion, may permit the hearing concerning each respondent to be conducted either jointly or separately.

Written  
Determination

Following the conclusion of the hearing, the hearing officer will determine whether the evidence (including the information provided in and by the final investigative report, the parties' written statements, if any, the evidence presented at the hearing, and the testimony of the parties and witnesses) establishes that it is more likely than not that the respondent committed a Title IX violation. The hearing officer will issue a written determination regarding responsibility for the alleged conduct within 10 days of the conclusion of the hearing.



The determination of responsibility, and any recommended Title IX disciplinary sanctions therein, is not final or effective until after the period for appeal is over in accordance with the following Appeal procedures.

**Appeal of a Written Determination**

In accordance with law and local policy, either party may appeal the written determination regarding responsibility on the basis of:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX coordinator, investigator, or hearing officer 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.

**Appeal Procedures**

To initiate an appeal, a party must file a written request for appeal with the Title IX coordinator within five days of a party's receipt of the final determination.

The Title IX coordinator will review the request and assign an appropriate appellate decision-maker in compliance with law and policy. If the reason for appealing the dismissal or determination of responsibility is not mandatory, the College District may dismiss the appeal.

If the request for an appeal is not dismissed, the coordinator will designate an appellate decision-maker to proceed. The appellate decision-maker may not be the same person as the hearing officer that reached the determination regarding responsibility or dismissal, the investigator who investigated the complaint at issue, or the Title IX coordinator.

The Title IX coordinator will notify the non-appealing party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will be provided a reasonable, equal opportunity to submit a written statement in support of, or challenging, the dismissal of a formal complaint or determination of responsibility.

College District  
Response to Appeal  
of Complaint  
Dismissal

In an appeal of dismissal of a complaint or any allegation therein, the College District's designated appellate decision-maker will review the request for appeal and issue a written decision within a reasonably prompt time frame explaining why the appeal of the dismissal is granted or denied. The appellate decision-maker may not

be the Title IX coordinator, the investigator, or the hearing officer assigned to the complaint or allegation at issue.

The written decision of the appellate decision-maker will provide the rationale for the College District's response to the complainant's appeal of the College District's dismissal of a formal complaint or any allegation therein. The decision will either instruct the Title IX coordinator to resume implementation of the Title IX formal complaint process or will inform the appealing party of additional options. A copy of this written response will be provided simultaneously to both parties.

Effect of Appeal of  
Determination of  
Responsibility

If an appeal regarding the determination of responsibility is filed, the determination does not become final, and the College District may not proceed with administering Title IX disciplinary sanctions or remedies based on the determination, until the date that the College District provides both parties with the written result of the appeal.

If an appeal is not filed, the determination of responsibility becomes final on the date on which an appeal of the determination would no longer be considered timely.

For an appeal by either party to be fully effective, the College District must wait to act on the determination regarding responsibility while maintaining the status quo between the parties through supportive measures designed to ensure equal access to education.

College District  
Response to Appeal  
of Determination

The written decision of the appellate decision-maker will describe the result of the appeal of the determination regarding responsibility and the rationale for the result. A copy of the written decision of appeal must be provided simultaneously to both parties.

Once an appellate decision-maker issues a written decision regarding the appeal of the determination of responsibility, the College District will proceed with implementing Title IX disciplinary sanctions or remedies or take other appropriate action.

## Remedies

If a respondent has been determined through the formal complaint process to be responsible for the alleged sexual harassment, the College District must provide remedies to the complainant that are designed to restore or preserve the complainant's equal access to the College District's educational programs and activities. The Title IX coordinator is responsible for effective implementation of remedies.

In addition to the individualized services described in this regulation as supportive measures and corrective actions listed in

DIAA(LOCAL), remedies may include the following sanctions or measures:

- Suspension;
- Expulsion;
- Administrative leave; or
- Any disciplinary measure provided by the College District's Student Handbook or policy [see FM, DH, and the DM series].

### **Informal Resolution**

If a formal complaint has been filed, other than a complaint alleging sexual harassment of a student by an employee, and prior to reaching a determination regarding responsibility, the Title IX coordinator may offer but may not require a party to participate in a voluntary informal resolution process, such as mediation.

In addition, either party may request informal resolution by making a written request to the Title IX coordinator, who will promptly notify the other party of this request. The other party is not required to agree to participate. If a party declines or at any time withdraws from an informal resolution process, the coordinator will notify the other party that the informal resolution process has been terminated and resume the formal complaint process.

Prior to facilitating or designating another person to facilitate the informal resolution process, the Title IX coordinator will provide both parties written notice that contains at least the following information:

1. Provide to the parties a written notice disclosing:
  - a. The allegations;
  - b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations; provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
2. Obtain the parties' voluntary, written consent to the informal resolution process.

**Title IX Sexual  
Harassment Training**

The College District will provide all Title IX personnel, including the Title IX coordinator, investigators, decision-makers, and any person designated to facilitate an informal resolution process, training necessary to perform their duties, including: the definition of sexual harassment under Title IX; the scope of the College District's education program or activity; as applicable to assigned duties, how to conduct an investigation and the formal complaint process including overseeing exchange of questions and answers, appeals procedures, and informal resolution procedures; and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

For investigators, training must also include: issues of relevance to create an investigative report that fairly summarizes relevant evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

For hearing officers, training must also include: issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant; and training regarding operation of technology utilized during live hearings.

The College District may choose any training program so long as training materials do not rely on sex stereotypes and promote impartial investigations and adjudication of complaints.

Non-College District employees who are designated to fulfill Title IX obligations may be responsible for costs of securing required training unless otherwise provided by the College District.

**Records Retention**

Records related to the College District's entire response and process related to an allegation of sexual harassment must be maintained in accordance with the College District's records control schedules or a minimum of seven years, whichever is longer. The College District will direct all assigned Title IX personnel to comply with this recordkeeping requirement. [See DIAA(LEGAL)]

**Confidentiality**

The College District must keep information confidential as required by law except as necessary to provide supportive measures, to conduct proceedings under the formal complaint process, when disclosure is required by law, or when permitted by the College District in compliance with FERPA and state law, or to otherwise carry out the purposes of 34 C.F.R. Part 106. However, the College District may not restrict the ability of the parties to discuss the allegations under investigation or to gather and present relevant evidence.

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A complainant's identity, if known, must be disclosed to the respondent once a formal complaint is filed by a complainant or signed by the Title IX coordinator.

**Required Reporting**

At any point during a College District's investigation that evidence is uncovered that requires reporting to law enforcement, Child Protective Services, or another entity, College District employees must take the necessary actions to do so in compliance with law or Board policy.

**Notice of Nondiscrimination**

For the College District's Nondiscrimination Statement, see DIAB(LOCAL).

**Purpose**

The purpose of this portion of the regulation is to outline the General Sex Discrimination Complaint Procedures the College District will follow when it is made aware of alleged sexual misconduct involving employees that is not subject to the Formal Complaint process for "Sexual Harassment" as that term is defined by Title IX [For such complaints, see DIAA(LEGAL), DIAA(LOCAL) and DIAA(REGULATION)]. This regulation also includes reporting options, confidential resources, and support services available to individuals involved in incidents of sexual misconduct.

The scope of this regulation includes sexual misconduct that occurs on campus and, in certain circumstances, off campus. The College District has jurisdiction over, and will address, allegations of sexual misconduct that: have occurred or may have a continuing effect on campus; in the context of College District programs and activities; or when the alleged victim is a College District student, employee, or member of administration and the Respondent is a College District student, employee, or member of administration.

**Applicability**

This regulation applies to allegations of sexual misconduct involving employees and may involve College District students, other employees, contractors, and third parties within the College District's control regardless of the individuals' sex, sexual orientation, gender identity, or gender expression. Reports of non-sex/gender-based discrimination and harassment will be handled in accordance with FFDB for students and DIAB for employees.

**Definitions**

As used in this regulation, relevant terms are defined as follows:

1. "Day" means any weekday when the College District is open.
2. "Coercion" means unreasonable pressure for sexual activity, particularly, though not necessarily only, when a victim resists a sexual advance or request.

3. “Consent” means clear and unambiguous agreement expressed in mutually understandable words or actions to engage in a particular sexual activity. Silence alone cannot be interpreted as consent. Consent can be withdrawn or modified by either party at any point. Consent must be voluntarily given and cannot be obtained by force, violence, or the threat to use force or violence. Consent cannot be obtained from an individual who is incapacitated or emotionally or psychologically pressured, intimidated, or scared into participating in the sexual act. Consent to engage in sexual activity, or past agreement to engage in a particular sexual activity, cannot be interpreted as consent to engage in a different sexual activity or to engage again in the same sexual activity. Consent cannot be communicated in an individual’s manner of dress. In order to give effective consent for sexual contact, one must be of legal age (in Texas: 17). The use, promotion or exploitation of an individual under the age of 18 for the performance, employment, or depiction of sexual conduct is illegal in Texas.
4. “Dating Violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the victim’s statement and with consideration for the length of the relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. For the purposes of this definition, Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
5. “Discrimination” means the treatment of an individual or individuals less favorably because of their race, color, religion, sex, gender identity/expression, national origin, age, disability, sexual orientation, or veteran status. Discrimination can also take the form of a policy, regulation or practice that negatively and unfairly impacts an individual or individual(s) because of their race, color, religion, sex, gender identity/expression, national origin, age, disability, sexual orientation, or veteran status.
6. “Domestic Violence” means violence, including verbal, psychological, economic, or technological abuse committed:
  - a. A current or former spouse or intimate partner of the victim;

- b. A person with whom the victim shares a child in common;
  - c. A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
  - e. Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
7. "Force" means physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes resistance or produces (invalid) consent.
8. "Incapacitation" means the inability to consent to sexual contact. States of incapacitation include, but are not limited to, sleep, unconsciousness, intermittent unconsciousness, or any other state when a person is incapable of making an intentional decision to participate in a sexual act or unaware that sexual contact is occurring. A disability may also limit one's ability to consent to sexual contact. Incapacitation is determined on a case-by-case basis and includes an analysis of whether the accused party knew, or should have known, that the victim was incapacitated, or if the accused party played a role in creating the Incapacitation. Though consumption of alcohol or drugs commonly causes Incapacitation, their consumption alone is not sufficient to demonstrate Incapacitation.
9. "Preponderance of Evidence" is the standard of evidence the College District uses in investigations conducted pursuant to this regulation to determine whether sexual misconduct occurred when relevant disputed facts are in question. It means that it is more likely than not that a policy violation occurred.
10. "Respondent" means the individual(s) accused of sexual misconduct.
11. "Retaliation" means intimidation, threats, harassment, or other adverse action threatened or taken against an individual as a result of reporting sexual misconduct under this regulation, assisting a person with reporting sexual misconduct under

this regulation; or as a result of one's participation in the resolution of a complaint of sexual misconduct under this regulation.

12. "Sexual Misconduct" means discriminatory conduct on the basis of gender that may occur between people of the same sex or between people of different sexes. Sexual or gender-based misconduct can include both intentional conduct and conduct that results in negative effects, even if those negative effects were unintended. Sexual misconduct also includes retaliation in connection with any complaint under this regulation.
13. "Sexual Assault" means a form of Sexual Violence. Unwanted or unwelcome touching of a sexual nature, including hugging, kissing, fondling, oral sex, anal or vaginal intercourse, or other physical sexual activity that occurs without valid consent.
14. "Sexual Harassment" is a broad term that includes Sexual Assault, Stalking, Sexual Violence, and Domestic/Dating Violence. Sexual Harassment is a type of discrimination that can take the form of unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when:
  - a. Submission to such conduct is made, either explicitly or implicitly, as a term or condition related to employment or education;
  - b. Submission to or rejection of such conduct is used as a basis for decisions affecting one's education or employment; and/or
  - c. Such conduct is severe, persistent, or pervasive enough that it creates a hostile environment by unreasonably interfering with, denying, or limiting an individual's work, education, or living conditions. Examples may include, but are not limited to, the following:
    - (1) Unwanted sexual statements, including comments of a sexual nature including sexually explicit statements, questions, jokes, or anecdotes;
    - (2) Unwanted personal attention including stalking and cyber-stalking;
    - (3) Unwanted physical or sexual advances that would constitute sexual assault, as defined in this policy;



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- (4) Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without the knowledge and consent of all parties involved;
  - (5) Touching oneself sexually for others who have not consented to view; and voyeurism (spying on others who are in intimate or sexual situations);
  - (6) Unwanted physical contact of a sexual nature including touching, patting, hugging, or brushing against a person's body;
  - (7) Unwelcome explicit or implicit propositions or offers to engage in sexual activity;
  - (8) Unwelcome remarks of a sexual nature about a person's clothing or body;
  - (9) Unwelcome remarks about sexual activity; and
  - (10) Unwelcome exposure to sexually oriented graffiti, pictures, posters, or materials.
15. "Sexual Violence" is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.
16. "Stalking" means a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:
- a. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

**Offices and Roles**

The Title IX coordinator at the College District is:

Oswaldo Gomez

300 Trinity Campus Circle, 4A05 Fort Worth, TX 76102

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(817) 515-5041

HRTitleIX@tccd.edu

The coordinator is responsible for ensuring, overseeing, and monitoring Title IX compliance across the College District system. The coordinator, with the assistance and support of trained designees, coordinates compliance amongst the Deputy Title IX coordinators, Title IX Case Managers, and College District locations to ensure a fair, thorough, timely, and appropriate response to reported concerns of sexual misconduct.

The coordinator also works closely with Student Services, Campus Police, Human Resources, and other offices to stop any Sexual Misconduct, remedy its effects, and prevent its recurrence. Questions regarding Title IX or gender discrimination, as well as concerns and complaints of non-compliance, may be directed to the coordinator or the Deputy Title IX coordinators [online](#)<sup>2</sup>.

### **Reporting Sexual Misconduct**

Employees who believe they have been the victim of sexual misconduct may submit a complaint to initiate College District action. Complaint forms are available [online](#)<sup>3</sup>.

Hard copies are also available in the District Title IX Office. Reports may also be made to the Title IX coordinator or Deputy Title IX coordinators, who are authorized to receive complaints in hard copy or otherwise.

It is not necessary for an individual to be directly involved in an incident to make a report, though the person reporting the misconduct must have reasonably adequate and credible information.

While all complaints are reviewed, typically only those with sufficient details can be adequately pursued.

### **Interim Measures**

Upon receipt of information regarding alleged sexual misconduct, the College District may, at any time prior to complaint resolution, implement reasonable and appropriate interim measures designed to preserve safety of individuals and the broader College District community while maintaining the integrity of the investigation and deterring retaliation. An individual does not need to file a complaint to receive interim measures. In some situations, interim measures may be implemented without an individual disclosing identifying information related to the incident(s).

Examples of interim measures include, but are not limited to, "no contact" orders that prohibit parties from contacting each other, administrative leave, and schedule adjustments.

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Complaint  
Resolution Process

Matters addressed by this regulation will be resolved as quickly as possible. Though timelines have been provided, they may be adjusted by the coordinator as necessary to maintain the integrity of the process; when such adjustments are required, the coordinator or his designee will promptly notify the affected parties.

Upon receipt and review of a complaint with adequate information and detail, the coordinator or his designee will contact the reporting party (and the alleged victim if the incident is reported by another individual) to discuss the incident and any missing and/or relevant information.

Absent extenuating circumstances, all written notices and communications to and from the College District under this regulation will be delivered using College District email and will be deemed delivered on the date and time at which they are sent.

The coordinator or Deputy Title IX coordinator will review this regulation with each party and share available confidential resources, additional reporting options, support services, available interim measures, and the College District's strict prohibition on retaliation. If applicable, the coordinator will explain the difference between these procedures and the Title IX sexual harassment procedures.

Each party will be informed that they may be accompanied by an advisor of their choice at any meeting held to address the alleged sexual misconduct. Each party will be provided with a written explanation of their rights and options.

*Respondent  
Accepts  
Responsibility*

If a respondent chooses to acknowledge and accept responsibility for the alleged sexual misconduct, and if there are no disputed pertinent facts amongst the parties regarding the incident(s), the coordinator or Deputy Title coordinator will gather additional facts, as appropriate, to identify factors that may be relevant to eliminating the misconduct/hostile environment, preventing its recurrence, and remedying its effects. The matter will then move forward to Sanctioning/Disciplinary Action.

*Respondent  
Denies  
Allegations*

If a respondent denies the allegations, two paths to complaint resolution are available to address most incidents: Formal Investigation and Voluntary Informal Resolution. Voluntary Informal Resolution is not an option for allegations of sexual assault/sexual violence.

*Voluntary  
Informal  
Resolution*

In many instances, informal discussion and/or mediation can be helpful in resolving perceived or real instances of discrimination, harassment, sexual misconduct, or retaliation. Voluntary Informal Resolution, in the presence of/facilitated by the coordinator/designee(s), provides an opportunity for the parties to communicate

feelings and perceptions regarding an alleged incident and wishes and expectations regarding future conduct. It also may allow the reporting party to confront the respondent if she/he so wishes.

If the coordinator or Deputy Title IX coordinator determines that informal resolution may be appropriate, the coordinator or Deputy Title IX coordinator will speak with both parties about this option. Informal resolution will be pursued only with the consent of both parties.

It is anticipated that informal resolution efforts will occur promptly and generally be completed within 10 business days, unless both parties agree to an extension of time and such extension is approved by the coordinator. If the parties are unable to reach a resolution in a timely manner through informal resolution, or if either party requests to terminate the Voluntary Informal Resolution process at any time to pursue the Formal Investigation process, the Formal Investigation will proceed.

*Formal  
Investigation*

When informal resolution does not adequately resolve allegations of Sexual Misconduct; when a party wishes to pursue formal complaint resolution regarding allegations of sexual misconduct; or when addressing matters involving sexual assault/sexual violence, an individual may pursue the Formal Investigation process set forth herein.

The coordinator and the College District's trained Title IX investigators (collectively, "investigators") provide the investigative function regarding reported concerns of sexual and gender-based misconduct. The coordinator has the discretion to consolidate multiple reports of sexual misconduct into a single investigation if evidence relevant to one incident might be relevant to the others. The coordinator will assign each investigation to an investigator or investigators and ensure that all investigations are prompt, fair and impartial. Other violations of College District policy will be addressed in accordance with the applicable regulation(s).

The investigation will commence with written notice to both parties regarding the detailed allegations and disputed facts to allow them the opportunity to present witnesses and evidence to the investigator(s). The investigator(s) will gather information and conduct interviews with both parties, witnesses, and others, as appropriate. The Investigator(s) will also collect and analyze any available physical evidence, including documents, communications, and other electronic records, as appropriate.

To protect the privacy of the circumstances giving rise to the relevant complaint, information regarding the alleged incident will be

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shared only as necessary to maintain the integrity of the investigation, to promptly and fairly resolve complaints, and to determine the College District's response to any sexual misconduct found to have occurred. In some instances, during or at the conclusion of the investigation, the parties may voluntarily agree to end the formal process and utilize the informal resolution/mediation process described above.

Where informal resolution is appropriate for the circumstances, the coordinator will make a decision about whether the matter may be resolved through the informal process.

Investigative Findings

Once the investigation is complete, the investigator(s) will prepare an investigative report that will include a summary of relevant information obtained and any relevant documentation/evidence collected. Not all information disclosed during an investigation is relevant and appropriate to include in the investigative report. For example, the parties' sexual history with anyone other than each other (to the extent relevant to the complaint) and medical or mental health conditions, diagnoses, and/or treatment generally will not be included.

The initial investigative report is then delivered to both parties simultaneously. Each of the parties has 10 days to submit a written statement in response to the report; the purpose of these written statements is to allow the parties an opportunity to:

- Address any perceived factual errors or omissions; and
- Disclose any evidence that was not previously known or available.

The coordinator will review the report and case file, including interview summaries, witness statements, evidence, and other documents to ensure the investigation was prompt and equitable.

Adjudication and Standard of Proof

The coordinator, Deputy Title IX coordinator, or investigator is charged with fairly, promptly and impartially determining, based on a preponderance of the evidence, whether it is more likely than not that a policy or regulation has been violated upon a review of the investigative materials.

This determination will be made without a conflict of interest or bias for or against either party. A party with concern about a conflict of interest or bias should contact the appropriate College District official [see Conflict of Interest/Bias, below].

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Sanctioning /  
Disciplinary Action

If the respondent has accepted responsibility or the coordinator has determined that a violation has occurred, any disciplinary action or sanctions will be determined in consultation with the coordinator and in accordance with DH for employees and in accordance with FLB for students.

The coordinator (and other College District officials, as appropriate) may consider prior documented findings of misconduct to assess any highly relevant patterns of behavior (e.g., previous sexual misconduct violations, acts of violence/dishonesty) and the totality of facts and circumstances in making determinations of responsibility and sanctions.

The coordinator will, in consult with the relevant College District administrators, determine any additional steps the College District will take to end any Misconduct/Discrimination, remedy its effects, and prevent its recurrence.

The coordinator(s) will deliver simultaneously to both parties a written decision that includes 1) a determination as to whether the sexual misconduct occurred 2) a summary of the rationale in support of the determination, and 3) any disciplinary action and/or remedies to be implemented, along with instructions regarding both parties' right to appeal the outcome and/or sanction(s).

**Notice of Outcome**

Both parties have the right to appeal the findings where it is alleged that procedural error or previously unavailable relevant evidence could significantly impact the outcome of the case. The appeal must be made in writing on or by 5:00 p.m. on the third business day after the Report was delivered. The appeal will include the asserted grounds for appeal consistent with this regulation.

**Appeal of Findings**

The appeal levels are designated as follows:

1. The Level One appeal will be heard by the coordinator or designee. A designee is assigned if the coordinator conducted the investigation underlying the appeal.
2. The Second Level Appeal will be heard by a College District-assigned Hearing Officer. Hearing Officers assigned to hear such appeals will be administrators, not in the same department as the complainant, who have been trained in reviewing appeals. The College District reserves the right to designate an external hearing officer. The decision of the Hearing Officer is final and may not be appealed.

Level One –  
Coordinator Review

The coordinator or designee will review the appeal and schedule a conference with the party appealing the finding to be held within seven days after receipt of the written appeal. A written response

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will be provided within five days following the conference. The written response will set forth the basis of the decision. In reaching a decision, the coordinator or designee, may consider information provided during the conference and any other relevant documents or information the coordinator or designee believe will help resolve the raised procedural error or address the previously unavailable relevant evidence.

If an employee did not receive the relief requested at the conference held with the coordinator or designee, the employee may request the appeal be heard at Level Two by a Hearing Officer. Appeals for matters involving students, and no employees, will be handled in accordance with FLD(LOCAL).

The appeal must be made in writing on or by 5:00 p.m. on the third business day after the report was delivered. The appeal notice must be filed with the coordinator.

After receiving notice of the appeal, the coordinator or designee will prepare and forward a copy of the report, which will become the record utilized by the Hearing Officer in reaching a decision.

The record sent to the Hearing Officer will include:

1. The original written complaint and any attachments.
2. All other documents submitted by the employee with the appeal.
3. The written report issued and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

Level Two –  
Hearing Officer

The Hearing Officer will review the record and conduct a hearing. Every effort will be made to hold a hearing within 15 working days after the appeal notice is filed.

The hearing will be a non-adversarial process that will review the facts and provide an opportunity for the employee to present their position fully and thoroughly. The employee will have an opportunity to present evidence and invite witnesses to appear at the hearing; the respondent, if any, will also have the opportunity to appear and present evidence and invite witnesses to appear at the hearing. The hearing will be limited to the issues and documents considered at Level One. The Hearing Officer will set reasonable time restrictions.

A written response by the Hearing Officer will be forwarded to the coordinator within ten days of the completion of a hearing. The written response will set forth the basis of the decision. In reaching a decision, the Hearing Officer may consider the Level One record. The coordinator will forward the Hearing Officer's response to the employee within five days of receiving the response.

The findings and conclusions issued under this section are final and cannot be appealed.

**Confidential Reporting**

If a reporting party or victim does not wish to pursue complaint resolution and/or requests that his or her identity remain confidential, the coordinator will evaluate whether the College District can honor the request. There is no absolute right to confidentiality under this process. The College District will inform the reporting party or victim that honoring the request for confidentiality may limit its ability to respond fully to the complaint, including pursuing disciplinary action against the respondent and that, though the College District will try to honor the confidentiality request, it cannot guarantee confidentiality, as the College District has a duty to both the victim and the campus community to provide a safe and non-discriminatory environment, which may require a formal investigation. The coordinator will evaluate the request for confidentiality in light of the institution's obligation to take reasonable action in response to the reported information.

When a victim declines to pursue a complaint, the coordinator may determine that the College District must still investigate to adequately address the allegation(s); such a determination will be made based on several factors including, but not limited to, ongoing risk to the parties and the College District community, types of allegations, and prior reports received. In the event the coordinator determines the College District must investigate when an affected individual who has requested confidentiality or is otherwise unable or unwilling to participate in the process, she/he will be considered a witness and will receive all notifications due to a party under this procedure unless otherwise requested.

Support services and interim measures will be available to parties involved in alleged sexual misconduct, regardless of their reporting preferences.

**Timeliness**

Because it is often difficult to determine the facts of an incident and gather relevant evidence long after the incident has occurred, prompt reporting of incidents is strongly encouraged. However, there is no time limit to invoking this procedure.



**Retaliation**

The College District takes reports of retaliation very seriously. It is a violation of state and federal law and College District policy to retaliate against any person making a complaint of sexual misconduct or against any person cooperating in the investigation of (including testifying as a witness to) any allegation of sexual misconduct. As such, criminal prosecution may take place independently of any disciplinary action instituted by the College District. Retaliation should be reported promptly to the coordinator and may result in disciplinary action independent of any College District action taken in response to the underlying allegations of sexual misconduct.

**Third-Party Respondents**

When the respondent is a third party (non-employee; non-student), the College District's ability to take direct action against him/her may be limited. The College District will, however, conduct an inquiry into the allegations and take steps to provide appropriate remedies for the individual(s) and, where appropriate, the broader school population including, but not limited to, support services and increased police presence. The College District's response may vary depending on the level of control it has over the respondent.

**Support Individual / Advisor**

Both parties may be accompanied by one support person/advisor of their choice at any meeting held in connection with a matter addressed by this regulation. The support person/advisor will not be permitted to speak aloud during the meeting(s) or otherwise communicate with anyone present at the meeting(s). A support person/advisor who is found by the coordinator or his designee to be improperly interfering with a meeting will be required to leave the meeting and may not be permitted to attend future meetings under this regulation. The support individual/advisor may be an attorney if a party so chooses. Upon request of either party, a one-time brief delay for a meeting or proceeding held under this regulation may be granted to obtain a support person/advisor.

Should an incident involve additional violations of College District policy that are not addressed by this procedure, those alleged violations will be addressed in accordance with the relevant College District policy and regulation.

**Additional Reporting**

Because sexual misconduct may constitute both a violation of College District policy and a violation of law, an individual has the right to simultaneously file a criminal complaint and a complaint under this procedure. However, reporting an incident to the College District does not require an individual to file a complaint with any other authority, and an individual has the right to decline to notify law enforcement.

Criminal investigations may be useful in the gathering of relevant evidence, particularly forensic evidence, and timely collection/preservation of evidence may be necessary to prove criminal Sexual Violence or in obtaining a protection order. Should an individual choose to file a criminal complaint, the coordinator or Deputy Title IX coordinators can facilitate assistance for an individual in making a report to law enforcement.

To contact the College District Police directly, an individual should dial 817-515-8911. For criminal reports relating to off-campus assaults, the Deputy Title IX coordinators, coordinator, or College District Police can also assist in identifying the appropriate law enforcement agency.

Criminal investigations or reports do not determine whether Sexual Misconduct occurred under College District policy. Filing a complaint under this regulation is independent of any criminal investigation or proceeding, and the College District will not wait for the conclusion of any criminal investigation or proceedings to take interim measures to protect the victim or the College District community.

Individuals with complaints under and/or regarding this regulation also have the right to file a formal complaint under Title IX with the United States Department of Education's Office for Civil Rights, Dallas Office, 1999 Bryan Street, Suite 1620, Dallas, TX 75201; T: (214) 661-9600; F: (214) 661-9587; ocr.dallas@ed.gov

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of Sex Discrimination or Sexual Harassment: U.S. Equal Employment Opportunity Commission, 207 S. Houston Street, 3rd Floor, Dallas, TX 75202; Phone 972-918-3580, Fax 214-253-2720, TTY 512-974-2445.

**Cooperation with  
Law Enforcement**

The College District will comply with law enforcement requests for cooperation, and such cooperation may require the College District to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. The College District will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. The College District will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of all individuals and the campus community and to prevent retaliation.

**Remedies**

Remedies available to a victim of sexual misconduct may include, but are not limited to: reasonable accommodations, extending or

making permanent any interim protective measures, schedule adjustments, “no contact” orders, and disciplinary action against the Respondent as determined through the appropriate disciplinary process.

**Responsible Employees**

Individuals should be aware that College District employees who become aware of sexual misconduct or allegations thereof are required to report relevant information to the coordinator. Reports should include all relevant information including, but not limited to the name of the accused (if known); name of the alleged victim; names of others who may be involved; date; time; and location of the incident(s). Failure to do so may result in disciplinary action. Employees are regularly trained on this and other mandatory reporting obligations.

**Conflicts of Interest / Bias**

Though the coordinator’s designees are screened for conflicts of interest and bias prior to assignment of a case, a party with a concern about a conflict of interest or bias on the part of an assigned investigator and/or other College District personnel involved in the complaint resolution process should contact the coordinator as soon as possible. Individuals with concerns about a conflict of interest or bias on the part of the coordinator should contact the Chancellor. When conflict of interest or bias is present, a matter will be reassigned to an alternate trained investigator.

**Mandatory Reporting**

Pursuant to Texas law, College District employees who have direct contact with minors in the normal course their official duties must report suspected child abuse or neglect within 48 hours either to local law enforcement or to the Texas Department of Family and Protective Services (24-hour Family Violence Hotline: 1-800-252-5400.) All other College District employees should report any suspected child (under the age of 18) abuse/neglect immediately. The identity of the abuser does not need to be known in order to file a report, and it is not the responsibility of the individual filing the report to investigate the suspected abuse.

**Individuals with Disabilities**

The College District will make appropriate arrangements to ensure that individuals with disabilities are provided reasonable accommodations as needed to participate in the process set forth in this regulation. Requests for accommodations, along with supporting documentation, must be submitted to the coordinator, who will consult with Ability Services and/or Human Resources to make a decision about the request and notify the requesting individual about approved accommodations. Accommodations may include, but are not limited to, providing interpreters for the deaf, providing recordings of materials for the blind, and assuring a barrier-free location for meetings.

**Pregnant Individuals**

Pregnant individuals are offered services and accommodations similar to those offered to individuals who have temporary medical conditions. Individuals who experience complications or other medical conditions related to pregnancy can submit a request for accommodations, along with supporting documentation, to the coordinator, who will consult with Ability Services and/or Human Resources to make a decision about the request and notify the requesting individual about approved accommodations.

**Confidential Resources**

Although the College District encourages reporting of all incidents of sexual misconduct, an individual who is not prepared to do so, or who may be unsure how to label an incident, may wish to contact a confidential resource for information and support and with whom conversations are generally confidential and privileged and will not trigger College District action or investigation. Individuals may contact the:

1. Safe Haven of Tarrant County 6815 Manhattan Blvd., Ste. 105, Fort Worth, TX 76120 Hotline: 877-701-7233
2. The Women's Center of Tarrant County 1723 Hemphill, Fort Worth, TX 76110 Hotline: 817-927-2737
3. Tarrant County MHMR 3840 Hulen St., North Tower, Fort Worth, TX 76107 Hotline: 817-335-3022
4. Tarrant County District Attorney's Office Protective Order Unit 200 E. Weatherford St., Ste. 3040, Fort Worth, TX 76196 Phone: 817-884-1623
5. National Sexual Violence Resource Center 123 North Enola Drive, Enola, PA 17025 Phone: 717-909-0710 Fax: 717-909-0714 TTY: 717-909-0715 Toll Free: 877-739-3895

**Immediate Medical Assistance**

An individual who experiences any form of sexual, domestic, or dating violence is encouraged to seek immediate medical care. Also, preserving DNA and other physical evidence can be important in identifying the perpetrator in a Sexual Violence incident. Victims can undergo a medical exam to preserve relevant physical evidence with or without police involvement. When possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within four days of the incident. With the patient's consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, an individual may undergo a SAFE without contacting the police. To undergo a SAFE, please go to the nearest hospital or

emergency department that provides SAFE services. Information is available [online](#)<sup>4</sup>.

The cost of the forensic portion of the exam is covered by the law enforcement agency that is investigating the assault or, in cases where a report will not be made to the police, the hospital or emergency department that provides SAFE services will be reimbursed by the Texas Office of the Attorney General for the costs of the exam provided if:

1. The victim arrives at the facility within 96 hours after the assault occurred;
2. The victim consents to the examination; and
3. At the time of the examination the victim has not reported the assault to a law enforcement agency.

**Federal Statistics Reporting and Timely Warning Obligations**

Victims of sexual or gender-based misconduct should be aware that the College District must issue timely warnings for certain types of reported incidents that pose a substantial threat of bodily harm or danger to members of the campus community under the Clery Act (as amended), a federal law that requires higher education institutions to report crime statistics and disclose security related information. The College District will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger. In addition, campus security officials/College District PD have a duty to report violations of this policy for the same federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the [College District's Annual Security Report](#)<sup>5</sup>. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. For more information on the College District's Annual Security Report, please visit:

**Parental Notification**

The College District reserves the right to notify parents/guardians of dependent students regarding any health or safety emergency, change in student status or conduct situation, particularly alcohol and other drug violations. The College District may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the College District will contact parents/guardians to inform them of situations in which there is a health and/or safety risk.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
SEX AND SEXUAL VIOLENCE

DIAA  
(REGULATION)

The College District also reserves the right to designate which College District officials have a need to know about individual conduct complaints pursuant to FERPA.

**Disclosure / Record  
of Outcomes**

The outcome of a sexual misconduct investigation involving students is part of the education record of the student parties involved and is protected from release under FERPA. However, the College District observes the legal exceptions that allow for notification of the parties involved and others whom the College District determines to inform based on the law and College District policy.

**Sexual Assault /  
Sexual Violence /  
Sexual Harassment  
Prevention and  
Awareness  
Programs**

The College District recognizes sexual misconduct as an important issue and therefore offers educational programming to address issues including, but not limited to: what constitutes Sexual Harassment, causes of gender-based discrimination, myths involved with Sexual Harassment, the relationship between Sexual Assault and alcohol use, what to do if assaulted, bystander intervention, an explanation of College District policy/procedure, how to file complaints with the College District, and/or a charge with College District PD, issues for both genders and Sexual Assault, and College District/community resources to assist individuals.

**Office of  
Responsibility**

The District Title IX Office is the office responsible for this regulation.

**Effective Date**

This regulation will be effective as of the adoption date of March 30, 2023.

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<sup>1</sup> Reporting Form: <https://cm.maxient.com/reportingform.php?TarrantCCD>

<sup>2</sup> Title IX and Sexual Misconduct: <https://www.tccd.edu/services/student-life/rights-and-responsibilities/title-ix/>

<sup>3</sup> Incident Reporting Form: <https://cm.maxient.com/reportingform.php?TarrantCCD>

<sup>4</sup> Sexual Assault Exam Reimbursement: <https://www.texasattorneygeneral.gov/crime-victims/services-crime-victims/sexual-assault-exam-reimbursement>

<sup>5</sup> College District's Annual Security Report: <https://www.tccd.edu/documents/services/police-department/clery-act-statistics/2022-annual-security-report.pdf>