

INTERIM TITLE IX PROCESS

SOUTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

I. GENERAL

The District is committed to providing a respectful and inclusive academic and work environment free from sex discrimination, including sex-based harassment in its education programs and activities, consistent with Title IX. Sex-Based Harassment, including Sexual Assault, Dating Violence, Domestic Violence and Stalking, is unlawful sex discrimination and harassment.

In response to new Title IX regulations, the South Orange County Community College District hereby implements the following Interim Title IX Process pending changes to [Board Policy and Administrative Regulation 3433](#) *Sexual Harassment Prevention and Complaints Under Title IX*. This interim process is applicable to sex discrimination that allegedly occurred on or after **August 1, 2024**. Further, the Interim Title IX Process supersedes the grievance process under BP/AR 3433 and [BP/AR 5500](#) *Standards of Student Conduct and Discipline Procedures* with respect to cases that occur on or after August 1, 2024, and which fall under the jurisdiction of Title IX.

No provision of this Interim Title IX Process shall be interpreted to prohibit conduct that is protected under academic freedom as defined in [AR 3430](#) *Unlawful Harassment and Discrimination Prevention and Complaints* or the U.S. Constitution, including the First Amendment, Fifth Amendment and Fourteenth Amendment.

II. OVERSIGHT OF TITLE IX PROCESS

The District's Title IX Coordinator is Karen Dubert, District Director of Employee Relations & Title IX Coordinator, (949) 582-4395, kdubert@socccd.edu, located in District Human Resources (third floor of Saddleback College Health Sciences Building).

The District has also authorized Title IX Officers of each college with coordinating the District's responsibilities under Title IX and this Interim Title IX Process. The Title IX Officer for Irvine Valley College and the Advanced Technology & Education Park (ATEP) is Dr. Martha McDonald, Vice President for Student Services, (949) 451-5624, mmcdonald@ivc.edu, located in the Administration Building (A 100). The Saddleback College Title IX Officer is Dr. Jennifer LaBounty, Vice President for Student Services, (949) 582-4564, jlabounty@saddleback.edu located in the Administration Building (AGB 126).

III. JURISDICTION

This Interim Title IX Process applies to the District's education programs and activities (defined as including locations, events, or circumstances in which the District exercises substantial control over both the Respondent and the context in which the conduct occurred), circumstances where the District has disciplinary authority, and to misconduct occurring within any building owned or controlled by a District-recognized student organization.

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IV. REPORTING SEX-BASED DISCRIMINATION

A. Reporting Obligations

Any person may report Sex Discrimination, including Sex-Based Harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute Sex Discrimination, including Sex-Based Harassment) at any time, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator or Title IX Officers, or by any other means that results in the Title IX Coordinator/Officers receiving the person's verbal or written report.

Any District employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of the District or has the responsibility for administrative leadership, teaching, or advising in the District's education program or activity are required to report allegations of sex discrimination, including sex-based harassment, to the District's Title IX Coordinator.

Confidential employees, pursuant, to state law, include, on-campus health service providers and staff, sexual assault counselor, domestic violence counselor, or other individual acting in a professional capacity for which confidentiality is mandated by law are exempt from having to report sexual harassment concerns to the Title IX Coordinator or other designated employee, unless otherwise required by law.

All other employees who are not confidential employees must either:

- Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; or
- Provide the contact information of the Title IX Coordinator and information about how to make a Complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX.

B. Response to Report of Sexual Harassment

The District takes all complaints of Sex Discrimination, including Sex-Based Harassment seriously. Upon receiving a report of Sex Discrimination, the Title IX Coordinator, Title IX Officer, or designee must:

1. Promptly contact the Complainant to discuss the availability of supportive measures;
2. Consider the Complainant's wishes with respect to supportive measures;
3. Inform the Complainant of the availability of supportive measures with or without the filing of a Complaint; and
4. Explain to the Complainant the process for filing a Complaint.

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C. Supportive Measures

The District must provide supportive measures to a Complainant and Respondent (collective referred to as “**Parties**”) on an equitable basis and may not unreasonably burden the Parties.

Supportive measures are individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- Restore or preserve that party’s access to the District’s education program or activity, including measures that are designed to protect the safety of the Parties or the District’s educational environment; or
- Provide support during the District’s grievance procedures or during an informal resolution process.

The District will provide the Parties with immediate, supportive measures where necessary to ensure equal educational access, protect the safety of all Parties or the District’s educational environment, or deter Sex Discrimination.

The District must maintain as confidential any supportive measures provided to the Parties, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The District must provide a timely opportunity to the Parties to seek modification, reversal, or denial of supportive measures and such process must be heard before a neutral person.

Supportive measures may include:

1. Referrals to psychological mental health services;
2. Providing medical services or a referral to medical services;
3. Extensions of deadlines or other course-related adjustments;
4. Modifications of work or class schedules;
5. Campus escort services;
6. Mutual restrictions on contact between the Parties;
7. Changes in work locations;
8. Leaves of absence;
9. Preventing offending third Parties from entering campus; and
10. Increased security and monitoring of certain areas of the campus, and other similar measures.

D. Emergency Removal

1. Students: The District may remove a student Respondent from an education program or activity on an emergency basis after the District has completed an individualized safety and risk analysis and determined that the student Respondent poses an *imminent and serious* threat to the health or safety of any student, employee, or other individuals arising from the allegations of Sex

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Discrimination. The student Respondent must be provided with notice and an opportunity to challenge the decision immediately following the removal.

2. Employees: The District may place an employee on administrative leave during the complaint and investigation process and will conform to all relevant statutes, regulations, and District personnel policies and regulations, including the provisions of any applicable collective bargaining agreement.

V. DEFINITIONS

A. **Affirmative Consent**

An affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in sexual activity to ensure that they have the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

B. **Complainant**

An individual who is alleged to be the victim of conduct that could constitute Sex Discrimination. This definition includes students, employees, or any other person who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination. The District recognizes the legal rights of parents or guardians to act on behalf of the Complainant (including filing a formal Complaint).

C. **Complaint**

An oral or written request to the recipient that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

D. **Respondent**

An individual who has been reported to be the perpetrator of the conduct that could constitute Sex Discrimination. The District recognizes the legal rights of parents or guardians to act on behalf of the Respondent.

E. **Retaliation**

Intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

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F. **Sex Discrimination:**

Any discrimination based on sex, including, but not limited to, Sex-Based Harassment. Sex Discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

G. **Sex-Based Harassment**

Conduct on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity that satisfies one or more of the following:

1. Quid Pro Quo Sexual Harassment: When an employee, agent, or other person authorized by of the District explicitly or impliedly conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
2. Hostile Environment Sexual Harassment: Unwelcome sex-based conduct determined by based on the totality of the circumstances, is subjectively and objectively offensive and is so severe *or* pervasive that it limits or denies a person ability to participate in or benefit from the District's program or activity.

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

- The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The Parties' ages and roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in the District's education program or activity.
3. Sexual assault, dating violence, domestic violence, or stalking as defined below.

H. **Sexual Assault**

A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Rape (except Statutory Rape) is the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

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2. Sodomy is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
3. Sexual Assault with an Object is to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
4. Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
5. Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse
 - a. Incest is defined as non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - b. Statutory Rape is defined as non-forcible sexual intercourse with a person who is under the statutory age of consent.

I. Dating Violence

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 shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

J. Domestic Violence

Domestic violence includes violence committed by:

1. a current or former spouse or intimate partner of the victim;
2. a person with whom the victim shares a child in common;
3. a person who is cohabitating with or has cohabitated with the victim as a spouse;
4. a person similarly situated to a spouse of the victim under California law; or
5. any other person against an adult or youth victim who is protected from that person's acts under California law.

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K. Stalking

Engaging in 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 to suffer substantial emotional distress.

VI. COMPLAINTS

A. Complaint is defined as an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged discrimination or harassment.

1. Who May File a Complaint

- a. Complaints of sex-based harassment, including sexual assault may only be filed by:
 - A Complainant;
 - A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or
 - Title IX Coordinator or designee.
- b. Complaints of sex discrimination may be filed by:
 - A Complainant;
 - A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant;
 - Any current District student or employee;
 - An individual, other than a current District student or employee, who is alleged to have been subject to conduct that would constitute sex discrimination under Title IX during their participation, or attempt to participate, in the District's education program or activity; or
 - The District's Title IX Coordinator, college Title IX officer or designee.
- c. The District may consolidate Complaints of sex discrimination against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations of sex discrimination arise out of the same facts or circumstances.
- d. If the Complainant withdraws any or all the allegations in a Complaint, or requests the District not process a Complaint, the Title IX Coordinator or designee must determine whether to initiate a Complaint of sex discrimination.

Where the Title IX Coordinator or designee is determining whether to initiate a Complaint, the Title IX Coordinator or designee shall consider the following factors:

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- The Complainant's request not to proceed with initiation of a Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk that additional acts of sex discrimination, including sex-based harassment, would occur if a Complaint is not initiated;
- The severity of the alleged sex discrimination or sex-based harassment, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
- The age and relationship of the Parties, including whether the Respondent is an employee of the District;
- The scope of the alleged sex discrimination, including information suggesting a pattern; ongoing sex discrimination, including sex-based harassment; or, sex discrimination, including sex-based harassment, alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-Maker in determining whether sex discrimination, including sex-based harassment occurred; and
- Whether the District could end the alleged sex discrimination, including sex-based harassment and prevent its recurrence without initiating grievance procedures.

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

2. How to File a Complaint of Sexual Harassment

- a. The Complaint may be oral or written (such as the District's complaint form) or electronic transmission filed by a Complainant or signed by the Title IX Coordinator/Title IX Officer alleging Sexual Harassment against a Respondent and requesting that the District investigate the allegation of Sexual Harassment.

The District encourages complaints to be filed on its form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available from the Vice Chancellor, Human Resources, at the California Community Colleges Chancellor's website, and at the following URL:

<https://www.socccd.edu/sites/default/files/2023-01/UnlawfulDiscriminationComplaintFormFillableREV.1-05-17.pdf>

3. When To File a Complaint

The District does not impose a time limit or statute of limitations on a Complainant's decision to file a Complaint of Sex Discrimination for purposes

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of this Interim Title IX Process. Since failure to report Sex Discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being subjected to Sex Discrimination to file a Complaint.

4. Where to File a Complaint

A oral or written Complaint of Sex Discrimination must be filed with one of the following:

- a. The District Title IX Coordinator, Vice Chancellor of Human Resources; or
- b. The designated Title IX Officer of the college - Vice President, Student Services.

B. Notice of Allegations

1. The written notice of allegations to the Complainant and Respondent must include:

- a. Notice of the District's grievance process, including any informal resolution process;
- b. Notice of the allegations potentially constituting Sex Discrimination under this Interim Title IX Process, with sufficient time to prepare a response before any initial interview;
- c. The identities of the Parties, summary of the alleged conduct, the date and location of the incident, if known;
- d. Statement that the Respondent is presumed not responsible until a determination regarding responsibility is made at the conclusion of the grievance process;
- e. Parties' rights to an advisor of their choice, who may be, but is not required to be, an attorney, and may access and review evidence;
- f. District's use of the preponderance of evidence standard;
- g. The District's code of conduct for making a false statement or knowingly submitting false information during the grievance process; and,
- h. If the District decides to investigate allegations about the Complainant and Respondent that are not included in the notice provided, the District must provide notice of the additional allegations to the known Parties.
- i. The Parties are entitled to an equal opportunity to access relevant evidence or an accurate description of evidence; and if the District provides a description of the evidence, the Parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

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C. Dismissal of Complaints

The District may dismiss a Complaint of sex discrimination if:

1. The District is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is not participating in the District's education program or activity and is not employed by the District;
3. The Complainant voluntarily withdraws in writing any or all of the allegations in the Complaint, the Title IX Coordinator declines to initiate a Complaint, and the District determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the Complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
4. The District determines the conduct alleged in the Complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the Complaint, the District will make reasonable efforts to clarify the allegations with the Complainant.

D. Notification of Dismissal and Right to Appeal Dismissal

A Complainant may appeal the dismissal of a Complaint or any allegations on the following bases no later than five (5) business days from the date of the District's notice of dismissal of a Complaint or any allegations:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the District dismissed the Complaint; and
- The Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

The District must notify of the dismissal and right to appeal to the Respondent only if the Respondent has been notified of the Complaint.

A dismissal of a Complaint under this Title IX process does not preclude action under another provision of the District's board policy and administrative regulation, such as BP/AR 3430 and BP/AR 5500, or an applicable collective bargaining agreement.

When a Complaint is dismissed, the District shall offer supportive measures to the Complainant and Respondent as appropriate. The District shall also take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District's education program or activity.

VII. INFORMAL RESOLUTION

- A. The District may offer an informal resolution process to the Parties only after a Complaint has been filed, including but not limited to mediation, rearrangement of work/academic schedules, providing informal counseling or training, etc. The informal resolution process is intended to resolve a Complaint without a full

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investigation and adjudication process. The District will not offer informal resolution to resolve a Complaint when such as process would conflict with Federal, State, or local law.

B. Steps for Informal Resolution Process

1. Prior to initiating the informal resolution process, the District must provide the Parties with written notice of the following:
 - a. The allegations within the Complaint;
 - b. The right to withdraw from the informal resolution process at any time prior to agreeing to a resolution and to initiate or resume the District's resolution process; and
 - c. That participation and agreement to a resolution in the informal resolution process precludes the Parties from initiating or resuming the grievance process arising from the same allegations;
 - d. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
 - e. What information the District will maintain and whether and how the District could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.
2. The informal resolution facilitator must be trained, free of bias or conflicts of interest and may not serve as the Title IX Investigator or Decision-Maker

VIII. INVESTIGATION

A. Investigation of Complaint

The District must promptly investigate every Complaint, whether oral or written, of Sex Discrimination, unless the Parties give their mutual consent to informal resolution, as set forth above. The District investigation shall be adequate, reliable, and impartial.

B. Timeframes and Extensions

1. **Complaint evaluation:** The District will determine whether to dismiss or investigate a Complaint within **10 business days**.
2. **Complaint investigation:** The District will complete an adequate, reliable, and impartial investigation of Complaints within **160 calendar days**.
3. **Questioning the Parties and Witnesses:** The District will complete the process that enables the Decision-Maker to question the Parties and Witnesses no later than **30 calendar days** after the date that the investigation concludes.
4. **Determination Whether Sex Discrimination Occurred:** The District will issue a written determination whether sex discrimination occurred no later than **20 business days** after the date that the Decision-Maker completes the process that enables the Decision-Maker to question the Parties and Witnesses.

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When appropriate, the Title IX Coordinator may determine that good cause exists to extend the timeline(s) identified in the preceding paragraph to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Parties in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping. The District shall grant a student Party's reasonable request for an extension of a deadline related to a Complaint during periods of examinations or school closures.

C. Investigation Steps

1. Burden of Gathering Evidence

The burden is on the District—not on the Parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

2. Opportunity to Present Witnesses and Evidence

The District will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and otherwise permissible.

3. Evidence

The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each Party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and otherwise permissible, in the following manner:

- The District will provide an equal opportunity to access either the relevant and otherwise permissible evidence, or an accurate description of this evidence. The District will provide the Parties with an equal opportunity to access the relevant and otherwise permissible evidence upon the request of any Party.
- The District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The District will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of sex discrimination are authorized.

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4. Impermissible Evidence

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the individual to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless that Party's or witness's voluntary, written consent for use in the investigation process is obtained; and
- Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

5. Investigative Report

The results of the investigation of a Complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- A description of all evidence gathered through the investigation;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

IX. QUESTIONING OF THE PARTIES AND WITNESSES

As part of the District's grievance process, in lieu of a live hearing, the District will provide the Title IX Investigator, Decision-Maker, or designee an opportunity to question the Parties and witnesses prior to making a determination of responsibility.

A. Roles and Responsibilities

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1. The Title IX Coordinator, Title IX Officer, Investigator or designee, or designee shall be responsible for managing individual meetings with a party or witness and the necessary logistics (scheduling, notifying the Parties and witnesses of individual meetings, providing the Parties and witnesses with appropriate documentation and evidence if needed for the meeting, coordinating the location of the meeting, and any other support that is necessary for the meeting to run smoothly.)
2. The Decision-Maker or designee is responsible for questioning Parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. The Decision-Maker can be the same person(s) as the Title IX Coordinator/Officer or Investigator(s).
3. The Parties' advisor of choice may be, but is not required to be, an attorney. The Parties' advisors may be present for meetings throughout the grievance process, subject to equal restrictions on advisors' participation, at District's discretion.

B. Scope of Individual Meeting Format

1. After the investigative report has been sent to the Parties but before reaching a determination regarding responsibility, the Investigator, Decision-Maker, or designee shall afford each party the opportunity to submit written questions that the party wants asked of any party or witness.
2. Such questions shall be asked by the Decision-Maker or designee during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions.
3. Only relevant questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a question, the Decision-Maker or designee must first determine whether the question is relevant and not otherwise impermissible and explain any decision to exclude a question as not relevant, unclear, or harassing. The hearing officer must give a party an opportunity to clarify or revise the question and if the question is sufficiently clarified or revised, allow the party to ask the question of the party or witness.
4. The Decision-Maker or designee may choose to place less or no weight on the statement of a Party or witness who refused to respond to questions deemed relevant and impermissible. The Decision-Maker or designee cannot draw any inference about the determination regarding responsibility based solely on a Party's or witness's refusal to answer questions.
5. The Complainant and Respondent shall receive an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.
6. The Decision-Maker or designee will have the opportunity to ask follow-up questions of a party and witness, if needed.

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C. Meeting Location

The Decision-Maker or designee shall meet individually with a party or witness either virtually or in-person. The District must create an audio or audiovisual recording, or transcript, of any individual meeting.

X. HEARING PROCESS

As part of the District's grievance process, the District may provide a live hearing with cross-examination conducted by party advisors following an investigation.

A. Roles and Responsibilities

1. The Title IX Coordinator, Title IX Officer, or designee shall be responsible for managing the hearing process and the necessary logistics (scheduling, notifying witnesses, providing the Parties and hearing officer with appropriate documentation and evidence, coordinating the location of the hearing, and any other support that is necessary for the hearing to run smoothly).
2. The hearing officer is responsible for conducting an impartial live hearing and issuing a written determination regarding responsibility to the Parties without bias or conflict of interest. The hearing officer, as the Decision-Maker, can be the same person(s) as the Title IX Coordinator/Officer or Investigator(s).
3. The Parties' advisor of choice may be, but is not required to be, an attorney. The Parties' advisors may be present for meetings and proceedings throughout the grievance process, subject to equal restrictions on advisors' participation, at District's discretion. If the Party does not have an advisor at the hearing, the District must provide an advisor of the District's choice, without fee or charge, solely for the purpose of conducting cross-examination. A District-appointed advisor may not be a confidential employee.

B. Scope of Hearing Format

1. At the live hearing, the hearing officer must either:

Hearing Officer – Facilitated Questioning: afford each party the opportunity to submit written questions that the party wants asked of any party or witness. Such questions shall be asked by the hearing officer directly to a party or witness during the hearing; **or**

Advisor – Led Questioning: permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

2. In the event of Advisor-Led Questioning, such cross-examination at the live hearing must be conducted directly, orally, and in real time by the Party's advisor of choice and never by a Party personally.
3. Only relevant cross-examination and other questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the hearing officer must first determine whether the question is relevant and not otherwise impermissible and explain any decision to exclude a question as not relevant, unclear, or harassing. The hearing

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officer must give a party an opportunity to clarify or revise the question and if the question is sufficiently clarified or revised, allow the party to ask the question of the party or witness.

4. The hearing officer may choose to place less or no weight on the statement of a Party or witness who refused to respond to questions deemed relevant and impermissible. The hearing officer cannot draw any inference about the determination regarding responsibility based solely on a Party's or witness's refusal to answer cross-examination or other questions.
5. The District may consolidate Complaints/hearing where allegations arise out of the same facts or circumstances.

C. Hearing Location

Live hearings may be conducted with all Parties physically present in the same geographic location or, at the District's discretion, any or all Parties, witnesses, and other participants may appear at the live hearing virtually. The District must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

At the request of either Party, In the event of Advisor-Led Questioning the District must also provide for the entire live hearing (including cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other.

D. Standard of Proof

The District will use a "preponderance of the evidence" standard of proof in determining whether there has been a violation of this Interim Title IX Process. This standard of proof is also known as "more likely than not" standard.

XI. WRITTEN DETERMINATION WHETHER SEX DISCRIMINATION OCCURRED

The Decision-Maker must prepare a written determination regarding responsibility to the Parties. The written determination must be sent simultaneously to the Parties and must include:

1. A description of the alleged sex discrimination;
2. Information about the policies and procedures that the postsecondary institution used to evaluate the allegations;
3. The Decision-Maker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
4. When the Decision-Maker finds that sex-based harassment occurred, any disciplinary sanctions the District will impose on the Respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the District to the Complainant, and, to the extent appropriate, other students identified by the District to be experiencing the effects of the sex-based harassment; and
5. The postsecondary institution's procedures for the Complainant and Respondent to appeal.

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The determination regarding responsibility becomes final either on the date that the postsecondary institution provides the Parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

XII. APPEAL

- A. Complainant or Respondent may submit a written appeal no later than **five (5) business days** from the date of the notice of determination whether sex discrimination occurred or from the date of the District's notice of dismissal of a Complaint or any allegations.

If a Complainant or Respondent submits an appeal to the District, the District will notify the other Party in writing within **five (5) business days** of receiving a Party's appeal and allow the non-appealing Parties at least **five (5) business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.

The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

- B. The appeal must be in writing and must be based only on one or more of the appeal issues listed below:
1. Procedural irregularity that would change the outcome of the matter;
 2. New evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that would change the outcome of the matter; and
 3. The Title IX Coordinator, Title IX Officer, 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 would change the outcome of the matter.
- C. Upon receipt of a written appeal, the District must:
1. Notify the other party in writing that an appeal was filed within **five (5) business days** of receiving a Party's appeal; and
 2. Give both Parties **five (5) business days** to submit a written statement in support of or challenging the outcome.
- D. An Appeal Officer will be assigned to consider the appeal of the Hearing Officer's Determination of Responsibility. The Appeal Officer cannot be the same person as the Title IX Coordinator, Hearing Officer, or Investigator(s) responsible for conducting the District's investigation of the Complaint.
- E. The Appeal Officer must issue a written decision describing the result of the appeal and the rationale for the result to all Parties within **45 calendar days** after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response.

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XIII. DISCIPLINE AND CORRECTIVE ACTION

If harassment, discrimination, or retaliation occurred in violation of this Interim Title IX Process, the District will take appropriate disciplinary action against the Respondent and any other remedial action it determines to be appropriate. Remedies may include supportive measures. Remedies may also be disciplinary or punitive and will conform to all relevant statutes, regulations, and District personnel policies and regulations, including the provisions of any applicable collective bargaining agreement. With respect to students, remedies may include but are not limited to disciplinary action authorized under the District's Standards of Student Conduct in Administrative Regulation 5500, including warning, reprimand, probation, suspension, or expulsion. With respect to employees, remedies may include but are not limited to written reprimand, suspension, or termination.

XIV. RETALIATION PROHIBITED

- A. The District prohibits retaliation against any individual for exercising any rights under this interim process, or against any individual who has participated or refused to participate in any manner in a Title IX report, investigation, proceeding or hearing.
- B. Retaliatory acts, which may include: (1) intimidation; (2) threats; (3) coercion, (4) discrimination, or (5) charges for code of conduct violations that arise out of the same facts or circumstances as the report or Complaint of sex discrimination are specifically prohibited by the District.
- C. The exercise of rights under the First Amendment does not constitute retaliation for purposes of this Interim Title IX Process.
- D. Materially False Statements: The District may charge an individual with a code of conduct violation for making a materially false statement in bad faith in the course of the grievance process. A determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement.
- E. A Complaint of retaliation may be filed as a separate Title IX complaint under this Title IX Process.

XV. CONFIDENTIALITY

The District must keep confidential the identity of any Complainant, any Respondent, or any witness except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding under this policy.

XVI. DISTRICT'S PREGNANCY PROTECTIONS AND OBLIGATIONS

- A. The District may not discriminate in its program/activity against any student or employee based on their current, potential, or past pregnancy or related conditions.
- B. When a pregnant student informs any employee of their pregnancy or related conditions, the employee must inform the student of:
 - The Title IX Coordinator's contact information
 - Information about the support available through the Title IX office.

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C. The District will not require certification from a medical provider or other individual that the student is able to participate in class or activity:

- Unless certification required of all students in the class or activity, or
- A certified level of physical ability or health is necessary, or
- The information obtained is not used for discriminatory purposes
- Cannot require documentation, generally, unless necessary for reasonable modifications

References:

Title IX of the Education Amendments of 1972

34 CFR Part 106 of the Code of Federal Regulations

Education Code Sections 212.5, 66262.5, 66281.8, and 67380 et seq.