

## **Title IX Investigative Process Overview & Notice of Rights**

This overview sets forth the investigative, notification, and follow-up procedures and the rights of the parties for complaints of student-to-student, staff-to-student and staff-to-staff sexual harassment covered by Title IX. The term “parties” refers to the complainant and respondent. The term “complainant” refers to the alleged victim, regardless of whether the victim reported the behavior; and the term “respondent” refers to the student or staff accused of engaging in sexual harassment (Note: with respect to allegations of student-to-student sexual harassment, the school is also required to conduct a separate investigation in accordance with Chancellor’s Regulation A-831, Student-to-Student Sexual Harassment, in addition to the this Title IX investigation. The type of behavior prohibited but Title IX and the procedures for conducting Title IX investigations differ from the conduct prohibited by Chancellor’s Regulation A-831 and the required procedures for investigating such conduct).

Where a student is a party in a complaint, any written notices or communications will be sent to the student’s parent unless the student is 18 years of age or older or is an emancipated minor.

1. In order to facilitate the prompt, thorough, and equitable resolution of complaints, all complaints must be filed as soon as possible and no later than one (1) year after the most recent alleged incident. Where there are extenuating circumstances, the Title IX investigator may investigate complaints filed more than one (1) year after the most recent alleged incident.
  - a. The Title IX Coordinator may initiate a complaint when they have notice of alleged conduct which, for example: suggests a potential pattern or risk of additional sex discrimination, and/or involved violent acts or threats of violence or retaliation, or a power imbalance between the parties.
2. An investigation of the alleged conduct will be conducted by a Title IX investigator on the DOE Office of Equal Opportunity & Diversity Management’s Title IX Team.
3. The investigation must be completed within 140-165 school days of receipt of the complaint, absent extenuating circumstances.
4. Pending completion of the investigation, the parties/parents have the right to seek appropriate supportive measures.
5. The complainant/parent has the right to request to withdraw the complaint at any time before the conclusion of the investigation.
6. The DOE may dismiss a Title IX complaint if: (i) the complainant/parent has provided notice in writing that they wish to withdraw the complaint or some of the allegations; (ii) if the accused is no longer enrolled in a DOE school or employed by the DOE; or (iii) if specific circumstances prevent the DOE from gathering evidence sufficient to reach a determination.
7. Notice of dismissal must be promptly sent to the parties advising them that the Title IX complaint (or allegations therein) has been dismissed and the reasons for the dismissal. Note: Where a student is a party in a complaint, any written notices or communications will be sent to the student’s parent unless the student is 18 years of age or older or is an emancipated minor.
8. The parties may appeal the dismissal as set forth below.
9. The Investigator will conduct interviews of the parties and witnesses and obtain evidence.

Knowingly making false statements or knowingly submitting false information during the investigative process is prohibited.

10. The parties have the right to have an advisor of their choice, who may or may not be an attorney, participate in any meetings or interviews to which the party is invited to attend. Participation must be non-adversarial in nature.
11. For complaints involving a DOE staff member, the staff member also has the right to have a union representative, if they are affiliated with a union, participate in any meetings or interviews to which they are invited to attend.
12. The parties have the right to present witnesses and evidence.
13. The investigator must send the parties and their respective advisor(s), if any, in hard copy or electronically, any relevant evidence submitted to or obtained by the investigator.
14. The parties have the right to submit a written response to the evidence within ten (10) school days of receipt to the investigator. All written responses must be considered by the investigator prior to the completion of the investigative report.
15. At the conclusion of the investigation, the investigator must complete a draft investigative report and send it and the evidence to the parties and their respective advisor(s), if any, in hard copy or electronically, for their review and comment.
16. The parties have the right to submit written responses to the draft report/evidence to the investigator. These responses must be sent within ten (10) school days of receipt of the report.
17. The investigator must complete a final investigative report taking into consideration the responses of both parties, and must submit the final investigative report to the decision-maker within fifteen (15) school days of receipt of the parties' responses. The decision-maker is responsible for making a final decision regarding the allegations in the complaint. The decision-maker, cannot be the Title IX Coordinator or the Title IX investigator who investigated the complaint.
18. The decision-maker must send the final investigative report and evidence to the parties and their respective advisor(s), if any, and provide them with the opportunity to submit to the decision-maker, any written relevant questions that they want asked of any party or witness. The parties must submit such questions within seven (7) school days of receipt of the final investigative report. If the decision-maker determines that a question is not relevant, they must explain the decision to exclude the question to the party proposing the question.
19. The decision-maker must provide each party or witness with the question(s) being asked of them and advise them to submit a written response to the question(s) within seven (7) school days of receipt of the question to the investigator. The decision-maker must provide each party with the answers to the questions submitted and allow for additional, limited follow-up questions from each party.
20. At the conclusion of the investigation, the decision-maker must review the investigative report, all the evidence and all relevant questions and answers submitted and make a determination whether the allegations are substantiated by a preponderance of the evidence (i.e., whether based upon a review of all of the evidence, including the quality of the evidence and the credibility of the parties and witnesses, it is more likely than not that the alleged conduct occurred).
21. The decision-maker must issue a written determination, within fifteen (15) school days, that states whether the allegations are substantiated and if the conduct violates Title IX. The written decision must be sent simultaneously to both parties within fifteen (15) school days after the conclusion of the written question and answer period described in 16 and 17 above.

22. Both parties have the option to appeal the written determination as set forth below.
23. The Title IX Coordinator must take immediate steps and appropriate follow-up action to ensure that the alleged conduct or activity has ceased.
  - a. Supportive measures shall be provided to the parties where appropriate.
  - b. Students who have been found to have engaged in prohibited conduct are subject to appropriate disciplinary responses in accordance with the Discipline Code and Chancellor's Regulation A-443.
  - c. DOE or school employees who are found to have engaged in prohibited conduct are subject to appropriate disciplinary or corrective action.

## APPEAL PROCEDURES

1. The parties may appeal a dismissal of the complaint or of the final written determination on any of the following grounds:
  - a. Procedural irregularity that affected the outcome of the matter;
  - b. 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; and
  - c. The Title IX Coordinator, investigator(s), or decision-maker(s) 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.
2. Either party must file the appeal within seven (7) school days of receiving the written decision regarding dismissal of the complaint or the written determination of the decision-maker. DOE will notify the other party of the appeal and provide them with a copy of the appeal whenever an appeal is filed. The non-appealing party will have up to seven (7) school days from receipt of the appeal to file a response to the written appeal. A decision on the appeal will be made within ten (10) school days of receipt of the responses to the appeal.

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