

4374 Title IX Sexual Harassment

Campbell County School District Number 1 (District) is committed to a safe and civil educational environment for all students, employees, volunteers, and patrons free from sexual harassment and discrimination. Sexual harassment is a form of sexual discrimination. This policy shall apply to all students, employees, and volunteers of District. It is often possible to resolve complaints informally. Therefore, before a formal complaint is filed, all individuals are encouraged to discuss the matter with a School Official. Documentation and an investigation will take place at the level at which the alleged harassment occurred. If the aggrieved student or employee is not satisfied with the disposition of their grievance, they may file a formal complaint outlined in this policy.

Prohibition of Sexual Harassment. District prohibits any harassment on the basis of sex in its education programs or any activity that it operates, including in employment.

Title IX Coordinator. District's Title IX Coordinator is designated and authorized to oversee compliance with all aspects of the District's Sexual Harassment Policy. Inquiries about the application of Title IX to CCSD #1 may be referred to: 1) the Title IX Coordinator, who may be reached at the District Administration Building, 1000 West 8th Street, Gillette WY 82716, email address (title9@ccsd.k12.wy.us), phone (307) 682-5171 or 2) the Assistant Secretary, Office of Civil Rights, 1244 Speer Blvd., Suite 310, Denver, CO 80204-3582, (303) 844-5695, OCR.Denver@ed.gov.

The contact information for the Title IX Coordinator is available on the District's website, which may be found at: <https://www.ccsd.k12.wy.us/>.

Complaints of sexual discrimination which do not constitute sexual harassment are processed as per board policy 4010 Equal Opportunity, Title V1, Title IX, Immigration Act and Section 504.

I. **DEFINITIONS**

- A. ***Actual Knowledge*** means notice of sexual harassment or allegations of sexual harassment to: 1) the Title IX Coordinator; 2) any school employee; or 3) any District official who has authority to institute corrective measures on behalf of the District. This standard is not met when the only employee or official with actual knowledge is the respondent.
- B. ***Complainant*** means an individual who is alleged to be a victim of conduct that could constitute sexual harassment.
- C. ***Deliberate Indifference*** means failure to respond to discrimination based on sex reasonably in light of known circumstances.

- D. **Education Program or Activity** includes location, events, or circumstances over which the District exercises substantial control over both the respondent and the context in which the sexual harassment occurs, including but not limited to on school premises, a school bus or other school related vehicle, a school bus stop, an activity or event sponsored by a school, whether or not it is held on school premises, and any other program or function where the school is responsible for the student.
- E. **Formal Complaint** means a document filed by a Complainant or their parent/guardian or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the District's education program or activity. The phrase "documentation filed by a Complainant" means a document or electronic submission (such as email or through (portal)) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint.
- F. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- G. **Retaliation** means intimidation, threats, coercion, or harassment, including charges against an individual for code of conduct violations that do not involve sex sexual harassment, but arise out of the same facts or circumstance as a report or complaint of sex, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.
- H. **School Official** means a building level administrator (principal or assistant principal) or a central office administrator.
- I. **Sexual Harassment** means conduct on the basis of sex that satisfies one or more of the following:
- a. A District employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - b. 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 District's education program; or
 - c. "Sexual assault" (as defined by the Clery Act), "dating violence", "domestic violence", or "stalking" (as defined in the Violence Against Women Act).
- J. **Supportive Measures** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-

related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

II. GRIEVANCE PROCEDURES

A. Reporting Allegations of Sexual Harassment

Any person may report sexual harassment, regardless of whether the person is the alleged victim of the reported conduct.

1. To Whom:

- a. A District employee may receive oral \written reports of sexual harassment at the building or department level. Any employee who receives a report of sexual harassment under this policy shall immediately inform a School Official.
 - b. Any employee who observes or has knowledge that a student is the victim of sexual harassment shall report to a School Official.
 - c. If the complaint involves a School Official, the report may be made directly to the District's Title IX Coordinator.
 - d. Complaints may also be directed to the District's Title IX Coordinator in person, by mail, by telephone, at the District Administration Building, 1000 West 8th Street, Gillette, WY 82716, email address (title9@ccsd.k12.wy.us), phone (307-682-5171). Such report may be made at any time (including non-business hours) by using the Title IX Coordinator's telephone number or email address.
 - e. Individuals experiencing sexual harassment or discrimination also always have the right to file a formal grievance with the Office of Civil Rights, 1244 Speer Blvd., Suite 310, Denver, CO 80204-3582, (303) 844-5695, OCR.Denver@ed.gov.
2. An anonymous report may be made by utilizing the Safe 2 Tell link on the District's website: <https://www.ccsd.k12.wy.us/>.
 3. Complaint. A complainant or their parent/guardian may file a formal complaint with the Title IX Coordinator as outlined above. A third party may not file a formal complaint; however, the Title IX Coordinator may also sign a formal complaint, triggering an investigation. Where the Title IX Coordinator

signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this policy.

4. Anonymity. Irrespective of whether a report of sexual harassment is anonymous or the reporter does not wish for their name to be shared, or does not wish for an investigation to take place, the District is deemed to have actual knowledge of sexual harassment or allegations of sexual harassment in an education program or activity and must respond promptly. On the other hand, if District cannot identify any of the parties involved in the alleged sexual harassment based on the anonymous report, then a response that is not clearly unreasonable under light of these known circumstances will differ from a response under circumstances where District knows the identity of the parties involved in the alleged harassment, and District may not be able to meet its obligation to, for instance, offer supportive measures to the unknown complainant.

B. District's Response

1. General Response:

District will investigate Formal Complaints alleging sexual harassment in a prompt, thorough, and impartial manner that is not deliberately indifferent, and shall take disciplinary action against any student or school personnel found to have violated this policy. The District is committed to providing a balanced and fair process to resolve complaints of sexual harassment so that everyone – complainants, respondents, and the entire school community – is treated in a non-discriminatory manner.

In this regard, District shall:

- a. Offer supportive measures to a complainant and follow the Grievance Procedure as set forth in this policy before imposing any disciplinary consequences or sanctions on the respondent.
- b. Require an objective evaluation of all available evidence, both exculpatory (evidence that tends to show the respondent did not commit the alleged sexual harassment) and inculpatory (evidence that tends to show the respondent did commit sexual harassment), and prohibit credibility determinations based on a party's status as complainant, respondent, or witness.
- c. Require that any person designated as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal process not have a conflict of interest against complainants and respondents generally or against the particular complainant and respondent. The District shall be solely responsible for designating

the Title IX Coordinator, investigators, decision-makers, and any person designated to facilitate an informal process.

- d. Require that throughout the investigation and until a determination has been made at the conclusion of the grievance process, it shall be presumed that the respondent is not responsible for the alleged conduct.
- e. Conclude the grievance process in reasonably prompt time frame, absent extenuating circumstances based on good cause (e.g., law enforcement involvement, absence of a party, witness, or advisor, the need for language assistance or accommodation of disabilities) with written explanation to both parties explaining the reason for delay.

2. Title IX Coordinator Initial Response:

Upon receipt of a report of sexual harassment, the Title IX Coordinator will promptly contact the complainant (alleged victim) to: a) discuss the availability of supportive measures; b) consider the complainant's wishes with respect to supportive measures; c) inform the complainant of the availability of supportive measures with or without filing a formal complaint; and, d) explain the process for filing a formal complaint.

3. Emergency Removal/Administrative Leave:

- a. *Student Respondent.* A student respondent may be removed from the education program or activity on an emergency basis, provided that District conducts an individualized safety and risk analysis and determines that emergency removal is necessary in order to protect a student or other individual from an immediate threat to physical health or safety. In such a case, District will provide the respondent with notice and an opportunity to challenge the decision immediately after the removal.

Emergency removal does not modify any rights under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, or the American with Disabilities Act.

- b. *Employee Respondent.* An employee respondent may be immediately placed on administrative leave as provided under District Board Policy and Wyoming law.

C. Formal Complaint Process

- 1. Written Notice. Upon receipt of a formal complaint, District will provide written notice to all known parties in sufficient time to give the respondent time to prepare a response before an initial interview. Written notice will include:

- a. Notice of the grievance process;
- b. Notice of the allegations in sufficient details (i.e. names of known parties, the conduct alleged to be sexual harassment, and the date and location of the conduct, if known) to allow the respondent to prepare a response;
- c. A statement that the respondent is presumed not responsible for the alleged conduct and that responsibility will be determined at the conclusion of the grievance process;
- d. Notice of the parties' right to have an advisor (who may be, but is not required to be, an attorney) and to inspect and review evidence and provide advice to the party they represent but who will not be allowed to actively participate in the witness interview process nor interrupt nor interfere with the investigator's witness interviews; and
- e. Notice of the provision in this policy that prohibits knowingly making false statements or providing false information in the grievance process.

If, in the course of the investigation, District decides to investigate allegations about the respondent or complainant that were not included in the original written notice, notice of the additional allegations will also be provided in writing to the known parties.

2. Dismissal. District will investigate the allegations in a formal complaint.
 - a. However, the complaint shall be dismissed if the allegations:
 - i. would not constitute sexual harassment as defined in this policy, even if proved;
 - ii. did not occur in District's program or activity; or
 - iii. did not occur against a person in the United States.
 - b. The complaint may be dismissed if:
 - i. The complainant notifies the Title IX Coordinator at any time during the investigation that he or she wishes to withdraw the complaint or any allegation in the complaint;
 - ii. The respondent's enrollment or employment ends; or
 - iii. The specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the complaint or any of the allegations. (i.e.-passage of several years between a formal complaint and the alleged conduct or a complainant ceasing to cooperate with the grievance process).

In the event of dismissal, District may investigate the allegation as a violation of any other applicable code of conduct violation.

3. Consolidation. District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.
4. Investigation
 - a. *By Whom*
 - i. All reports of sexual harassment, false reporting, or retaliation shall be processed by the Title IX Coordinator.
 - ii. An impartial and trained investigator shall conduct the investigation into the allegations and draft an investigative report.
 - b. *Burden of Proof*
 - i. The burden of proof and gathering of evidence rests on the District, not the parties.
 - ii. In its investigation, the District cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional which are made and maintained in connection with treatment to a party, unless the District obtains that party's (or the party's parent's) voluntary, written consent to do so.
 - c. *Parties' Rights*
 - i. Each party will have an equal opportunity to present witnesses and evidence during the investigation process.
 - ii. District does not restrict the ability of either party to discuss the allegations under investigation and to gather and present relevant evidence.
 - iii. The parties may have others present during interviews or other related meetings or proceedings, including an advisor of their choice who may but is not required to be an attorney. The advisor's role will be limited to acting as an advisor to the parties; the advisor will not be allowed to participate in the interview, related meeting or proceeding, or otherwise question parties or witnesses, nor will the advisor be allowed

to interrupt or interfere with questions asked by the investigator(s).

- iv. A party whose participation is invited or expected will be provided written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time to allow the party to prepare to participate.
- v. Both parties and their advisors, if any, will be provided an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in formal complaint, including evidence on which District does not intend to rely and any exculpatory (evidence that tends to show the respondent did not commit the alleged sexual harassment) or inculpatory (evidence that tends to show the respondent did commit sexual harassment) evidence from any source. This evidence will be provided to the parties at a time as determined by the investigator but prior to the completion of the final investigation report and in time to give the parties at least ten (10) school days to prepare a written response. The investigator will consider each party's written response prior to completing the Investigative Report:

d. *Investigative Report*

The District investigator will prepare a written Investigative Report that fairly summarizes the relevant evidence and provide the report to the parties and their advisors, if any, for their review and written response, at least ten (10) school days prior to a determination of responsibility.

5. Determination regarding responsibility

- a. *Decision-Maker*. Following the investigation process, an impartial decision-maker designated and trained by the District, shall make a determination regarding responsibility. The decision-maker cannot be the investigator or the Title IX Coordinator.
- b. *Questions by Parties*. After the having sent the Investigative Report to the parties, but before reaching a determination regarding responsibility, each party shall have the opportunity to submit written, relevant questions that the party wants asked of another party or witness, provide each party with the answers, and provide for limited follow-up questions. The decision-maker must explain to the party proposing the questions that any decision to exclude a

question is not relevant. The decision-maker shall set reasonable deadlines for submission and response to questions.

- c. *Standard of Evidence.* In reaching a determination of responsibility, the decision-maker shall apply the preponderance of evidence standard (“it is more than likely than not that sexual harassment occurred”).
- d. *Written Determination.* The decision-maker shall issue a written determination of responsibility simultaneously to the parties that:
 - i. Identifies the allegations that potentially constitute sexual harassment;
 - ii. Describes the procedural steps taken from receipt of the complaint through the determination;
 - iii. Includes findings of fact supporting the determination;
 - iv. Includes conclusions regarding application of this policy to the facts;
 - v. Includes a statement of, and a rationale for, the result as to each allegation, including
 1. a determination of responsibility;
 2. any disciplinary sanctions;
 3. whether remedies to restore or preserve equal access to District’s education program or activity will be provided to the complainant.
 - vi. Sets forth the procedures and basis for the parties to appeal.

D. Appeal

1. Right to Appeal. Each party shall be offered the right to appeal: 1) from a determination regarding responsibility; and 2) from the District’s dismissal of a formal complaint or any allegations contained therein, on the following limited bases:
 - a. Procedural irregularity that affected the outcome of the matter;
 - b. New evidence that was not 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-makers(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.

No right to appeal exists with respect to remedies, sanctions, or for any other reason not set forth above.

2. How to Appeal. Within ten (10) school days from the date of the written determination, any party who wishes to file an appeal must provide written notice of appeal to the Title IX Coordinator, who may be reached at the District Administration Building, address 1000 West 8th Street, Gillette WY 82716, email address (title9@ccsd.k12.wy.us), or by phone (307) 682-5171.

The written notice of appeal shall indicate whether the appeal is from a determination of responsibility or dismissal of a complaint and include the bases as set forth above upon which the party is relying for the appeal.

3. District Action on Notice of Appeal. Upon receipt of a written notice of appeal, the Title IX Coordinator will notify the other party in writing that an appeal has been filed. The decision-maker on the appeal will not be the same person as the decision-maker(s) that reached the determination of responsibility or dismissal, the investigators, or the Title IX Coordinator.
4. Parties' Rights. Within ten (10) school days from notification of the other party that an appeal was filed, each party may submit a written statement in support of, or challenging, the outcome.
5. Determination of Appeal. Within ten (10) school days of receipt of the parties' written submissions, the decision-maker will issue a written decision describing the result of the appeal and the rationale for the result.

E. Remedies/Sanctions

1. After a determination of responsibility has been made against a respondent, the Title IX Coordinator shall coordinate implementation of remedial action for the complainant and disciplinary action against the student respondent, under the guidance of the District's policies and procedures. The Superintendent shall be responsible for imposing of disciplinary sanctions against an employee respondent.
2. Remedies for Complainant. The remedies for the complainant will be determined on a case-by-case basis and may include the same actions as described as supporting measures.
3. Disciplinary Sanctions against Respondent
 - a. *Student Respondent*. The range of disciplinary sanctions against a student respondent following a determination of responsibility will depend on the severity, and, the age level, but can include suspension or expulsion. All discipline taken shall remain at the full discretion of the District and in accordance with District policy, the District's student handbook, and all applicable law.

- b. *Employee Respondent*. Disciplinary sanctions against an employee respondent will be imposed in accordance with District policy and all applicable law. A determination of responsibility against an employee respondent will be considered “good and just cause” for suspension, termination or dismissal.

III. **INFORMAL RESOLUTION**

- A. **Right to Informal Resolution**. After a formal complaint is filed, and at any time prior to reaching a determination regarding responsibility, the District may facilitate an informal resolution process such as mediation, that does not involve a full investigation and determination of responsibility, if:
 - a. Both parties are provided written notice of:
 - i. the allegations;
 - ii. the requirements of the informal resolution process, including circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - iii. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
 - b. Both parties’ provide voluntary written consent to the informal resolution process.
- B. **Right to Withdraw**. 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.
- C. **Not Available for Employee Respondent**. Informal resolution is not available to resolve allegations that an employee sexually harassed a student.

IV. **RETALIATION**

- A. **Retaliation Prohibited**. Neither the District nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX and this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.
- B. **Confidentiality**. The District is required to keep as confidential the identify of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex

discrimination, any respondent, and any witness, except as may be permitted by law, or to carry out the purposes of this policy, including the conduct of any investigation.

- C. **Complaints of Retaliation.** Complaints alleging retaliation may be filed using the procedures set out in this policy.

V. FALSE ACCUSATIONS OR STATEMENTS

A false accusation of sexual harassment and/or any false statement or providing false information in the grievance process under this policy can have a serious detrimental effect on innocent parties. Any student or employee who is found to have made a knowing, deliberate, or intentional false accusation, statement, report, or formal complaint or who has otherwise provided false information in the grievance process is subject to the disciplinary sanctions outlined above. A determination that a respondent is not responsible for alleged sexual harassment under this policy after investigation does not equate to a false accusation, if the claim is made in good faith.

VI. REPORTS/COMPLAINTS TO LAW ENFORCEMENT AUTHORITIES

Where there is reasonable suspicion that the allegation of sexual harassment involves criminal activity, the appropriate law enforcement agencies will be immediately contacted.

Under certain circumstances, sexual harassment may constitute child abuse or neglect. In such situations, the District shall comply with the reporting requirements contained therein.

In the event that law enforcement agencies become involved, the District will complete its investigation and render its written findings in accordance with its policies and procedures and independent of the law enforcement agencies disposition of the case.

VII. TRAINING

Training of Title IX personnel (Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process) will include training on the definition of Sexual Harassment, the scope of the District's education program or activity, how to conduct an investigation and grievance process, including appeals and informal resolution processes, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Decision makers and investigators will receive training on the issues of relevance, including how to apply the rape shield protections provided only for Complainants.

District will post materials used to train Title IX personnel on its website, or otherwise make such materials available for members of the public to inspect.

VIII. RECORDS

District will maintain for a period of seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, and disciplinary sanction imposed on the respondent, and any remedies provided to the complainant;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

ADOPTION DATE: September 22, 2020

LEGAL REFERENCE(S): Section 703 of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e, et seq. and the Educational Amendments of 1972 (Title IX), as amended, 20 U.S.C. § 1681, et seq. 34 U.S.C.A. . § 12291 (a)(8), 34 U.S.C.A. § 12291 (a)(10), 34 U.S.C.A. § 12291 (a)(30), Clery Act & Violence Against Women Act, WYO. STAT. §§ 14-3-201 et seq.

CROSS REFERENCE(S): 4010 Equal Opportunity, 5135 Student Expulsion, Title V1, Title IX, Immigration Act and Section 504

ADMINISTRATIVE REGULATION: