

**School District of River Falls  
Special Board Meeting**

Monday, October 5, 2020 - 6:00 PM

River Falls High School Media Center, 818 Cemetery Road, River Falls, WI 54022  
Or view via YouTube- [https://www.youtube.com/channel/UC\\_ayO-dibHH1kd9TSzRbBA](https://www.youtube.com/channel/UC_ayO-dibHH1kd9TSzRbBA)

Agendas can be viewed at <https://www.rfsd.k12.wi.us/district/school-board.cfm> or at <https://meetings.boardbook.org/Public/Organization/1447>

1. **CALL TO ORDER - 6:00 p.m. in the River Falls High School Media Center also available via YouTube**
2. **MANNER OF PUBLIC NOTIFICATION OF MEETING**
3. **HEARING OF VISITORS OR DELEGATIONS**
4. **INFORMATIONAL ITEMS**
  - A. **"Wildcat Roadmap" updates (the COVID-19 pandemic related school plan document for the 2020-21 school year)**
  - B. **Review and/or discuss administration's plan for development, design, and bid of ionization technology in school buildings**
5. **ACTION ITEMS**
  - A. **Consideration and/or Action to determine a change/pivot from the "HYBRID Learning Environment" and athletic/co-curricular programs and spectator updates**
    1. **Staff and Student COVID-impact in District**
    2. **Regional and school district COVID-statistics**

**Description:** Administration will discuss existing COVID-statistics in our region and local school district criteria and if there is a perceived need to shift into an alternative learning environment. (Presentation link)

**Recommended Action:** Determine if we need to pivot/shift the "Learning Environment" and related programs.
  - B. **Consideration and/or Action to approve the second reading of revisions to Policy 411.1 Harassment and 411.1-Rule Harassment Complaint Procedures**

**Description:** These revisions are responses to changes to Title IX regulations. Director of Human Resources and Leadership Development, Dave Bell, will present updates from last week's meeting. The first readings were approved at the September 28, 2020, Special Board of Education meeting.

**Recommended Action:** Approve the second reading of revisions to Policy 411.1 Harassment and 411.1-Rule Harassment Complaint Procedures
  - C. **Consideration and/or Action to approve the second reading of Policy 411.11 Title IX Sexual Harassment and Policy 411.11-Rule Title IX Sexual Harassment Complaint Procedures**

**Description:** These additions are responses to changes to Title IX regulations. The first readings were approved at the September 28, 2020, Special Board of Education meeting.

**Recommended Action:** Approve the second reading of Policy 411.11 Title IX Sexual Harassment and Policy 411.11-Rule Title IX Sexual Harassment Complaint Procedures.
  - D. **Proposed/suggested items for the next regular and future Board meeting agenda(s)**

**Description:** As always, Board members will be given the opportunity to suggest items for future Board member agendas.

**Recommended Action:** As needed.

**E. Schedule next Board/Committee meetings**

**Description:** Upcoming Board meeting dates, times and locations will be reviewed.

**Recommended Action:** Set meeting schedule as follows:

Personnel Committee meeting: Monday, October 12, 2020, 5:30 p.m.

Special Board of Education meeting: Monday, October 12, 2020, 6:00 p.m.

Finance and Facilities Committee meeting: Monday, October 19, 2020, 5:30 p.m.

Regular Board of Education meeting, Monday, October 19, 2020, 6:00 p.m.

Special Board of Education meeting, Monday, October 26, 2020, 6:00 p.m.

Educational Program Committee meeting: Monday, November 2, 2020, 5:30 p.m.

*All above meetings will be held at River Falls High School, 818 Cemetery Road*

**6. ADJOURN**

**SCHOOL DISTRICT OF RIVER FALLS**  
**River Falls, Wisconsin 54022**

411.1

**HARASSMENT**

The School District of River Falls is committed to providing an environment that:

1. Treats all students and staff with dignity and respect
2. Provides students with a learning experience that is physically and emotionally safe
3. Promotes respect, tolerance, and acceptance of others

To accomplish this mission, all students and employees must be allowed to learn and work in an environment free from harassment; therefore, harassment is prohibited on school property and at all school-sponsored programs and activities off school property, such as school-sponsored field trips/activities, and co-curricular activities at other schools or designated/determined locations. This policy prohibits students harassing students, students harassing staff, staff harassing students and staff harassing staff.

Individuals who experience harassment may process a complaint pursuant to 411.1-Rule.

For purposes of this policy, “harassment” means striking, shoving, kicking, throwing objects at, or otherwise subjecting another person to physical contact or attempting or threatening to do the same; name calling or other verbal conduct; or engaging in a course of conduct or repeatedly committing acts which intimidate, cause discomfort to or humiliate another person, or which interfere with the recipient’s academic or work performance. “Intimidate” means to make timid or fearful, to frighten or to compel or deter by threats. Harassment includes but is not limited to verbal comments or other expressions which insult, degrade or stereotype any person, or group on the basis of sex (including gender identity, gender expression, and nonconformance with gender role stereotypes), race, national origin, color, religion, ancestry, creed, pregnancy, marital or parental status, sexual orientation, handicap or physical, mental, emotional or learning disability.

Examples of conduct and behavior prohibited under this policy include, but are not limited to, the following:

1. Physical or mental abuse.
2. Discriminatory remarks which are offensive or objectionable to the recipient or which cause the recipient discomfort, anger, or humiliation, or which interfere with the recipient’s academic or work performance.
3. Any and all forms of sexual harassment. For the purposes of this policy:
  - a. Sexual harassment means unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. “Unwelcome verbal or physical conduct of a sexual nature” includes, but is not limited to, the deliberate, repeated making of unsolicited gestures or comments or the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes. Sexual harassment may include, but is not limited to, actions such as:
    - i. Unwelcome or unwanted sexual advances. This includes, but is not limited to, acts such as patting, pinching, brushing up against, hugging, coercing, kissing, fondling or any other similar physical contact which is considered unacceptable by another individual.
    - ii. Requests or demands for sexual favors. This includes subtle or blatant expectations, pressures or requests for any type of sexual favor accompanied by an implied or stated

## SECOND READING

- promise of preferential treatment or negative consequence concerning one's grade status or employment.
- iii. Verbal abuse or joking that is sexually oriented and considered unacceptable by another individual. This includes commenting about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" that are clearly unwanted and considered offensive by others or any other tasteless, sexually oriented comments, innuendos or actions that offend others.
- iv. Engaging in any type of sexually oriented conduct that would unreasonably interfere with another's learning performance or work. This includes extending unwanted sexual attention to someone such that personal productivity or time available to work at assigned tasks is reduced.
- v. Creating an environment that is intimidating, hostile or offensive because of unwelcome or unwanted sexually oriented conversations, suggestions, requests, demands, physical contacts, attention or sexually oriented materials including but not limited to photographs, posters, websites, or other electronic means.

No district official, employee, or agent may retaliate against any individual because the individual has made a report or complaint, or participated in an investigation of harassment. Complaints of alleged retaliation in violation of this provision may be filed according to the reporting and complaint procedures outlined in [District Policy 411-Rule Student Discrimination Complaint Procedures](#).

[Board Policy 411.11: Title IX Sexual Harassment](#) addresses the definition, reporting, notifications, and training requirements related to [Title IX](#) sexual harassment. Students, parents/guardians, and employees are encouraged to review this policy. Individuals who feel they have been sexually harassed in violation of Title IX may process a complaint pursuant to [Board Policy 411.11-Rule Title IX Sexual Harassment Complaint Procedures](#).

Based on the specific allegations of harassment the Title IX Coordinator will be responsible for determining the appropriate complaint procedure to follow.

Harassment complaints shall be taken seriously and shall be subject to review and investigation by the administration. All individuals included in the investigation of these matters are charged with the responsibility to hold such matters in the strictest confidence to the extent possible and permitted by law, so as to guard against inadvertent disclosure of information relative to anyone.

The District shall not tolerate harassment in any form and shall promptly take all necessary and appropriate action to eliminate harassment, up to and including discipline of offenders. Upon investigation, individuals who are determined to have engaged in harassment under the provisions of this policy may be subject to disciplinary action. This may include, but shall not be limited to, reprimand, detention, suspension, expulsion and/or discipline up to and including termination, as well as being reported to law enforcement officials.

The administration shall maintain a written report of the findings pertaining to a complaint and the action taken to eliminate the harassing conduct. Copies of the written harassment reports shall be forwarded to and maintained by the Director of Student Services (Title IX Coordinator-Student) if the alleged victim is a student and the Director of Human Resources (Title IX Coordinator-Student) for harassment reports in which the alleged victim is an employee. ~~Title IX Coordinator for the purpose of documenting compliance.~~ The district

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shall, at periodic intervals, follow up to make sure that any harassment that has been found to have occurred has not been repeated and to ensure that no retaliatory action has been taken against the complainant or anyone who participates in a harassment investigation.

All employees are required to intervene in and report any suspected or blatant acts of harassment of students. Informal efforts to resolve acts of harassment are encouraged by staff, but the harassment still must be reported.

Building principals shall be responsible for informing students and staff annually of this policy and its accompanying complaint procedures.

The Board should receive a summative report each June that would include information on:

- Reported incidents of harassment of students and employees and resolution(s) of the incident(s).
- Prevention measures such as in-service and educational presentations.

LEGAL REF.: Sections 111.32(13) Wisconsin Statutes  
111.36  
118.13  
PI 9, Wisconsin Administrative Code  
Title IX, Education Amendments of 1972  
Title VI, Civil Rights Act of 1964  
Section 504 of the Rehabilitation Act of 1973  
Americans with Disabilities Act of 1990  
Individuals with Disabilities Education Act  
Civil Rights Act of 1991  
EEOC Guidelines (29 C.F.R.-Part 1604.11)

CROSS REF.:  
411.1-Rule, Harassment Complaint Procedures  
411.11: Title IX Sexual Harassment  
411.11-Rule: Title IX Sexual Harassment Complaint Procedures  
447, Student Discipline  
Current Employee Agreement(s)

APPROVED: September 16, 1991

REVISED: August 19, 2002  
April 17, 2006  
October 19, 2015  
**October 5, 2020**

# SECOND READING

## SCHOOL DISTRICT OF RIVER FALLS River Falls, Wisconsin 54022

411.1-Rule

### HARASSMENT COMPLAINT PROCEDURES

The purpose of these procedures is to provide an orderly means of resolving disputes within the School District of River Falls or against the District for alleged harassment. Retaliation against parties who file informal or formal complaints is prohibited.

The following supports are available to any person who believes he/she has a valid basis for a complaint (grievance).

- The Director of Student Services (Title IX Coordinator-Student) shall be available as a consultant upon request at any step.
- The Director of Human Resources and Leadership Development (Title IX Coordinator-Staff) shall be available as a consultant upon request at any step.
- Any party to the complaint (grievance) may retain and have counsel present at any or all steps.
- A complaint may be withdrawn by the complainant at any step.

A student, parent/guardian, or an employee can report an allegation of harassment to any school employee. The following school employees are trained to receive complaints of harassment.

- Building Principals
- District Office Administrators (Directors of Academic Services, Student Services, Human Resources and Leadership Development, and Finance and Facilities)
- Superintendent
- All of these employees can be reached at (715) 425-1800

#### General Complaint Procedures

Any complaint regarding the interpretation or application of the District's harassment policy shall be processed in accordance with the following complaint procedures. If the complaint (grievance) involves alleged Title IX sexual harassment, the complainant should follow the procedures outlined in 411.11-Rule: Title IX Sexual Harassment Complaint Procedures.

No district official, employee, or agent may retaliate against any individual because the individual has made a report or complaint, or participated in an investigation of harassment. Complaints of alleged retaliation in violation of this provision may be filed according to the reporting and complaint procedures outlined in [District Policy 411-Rule Student Discrimination Complaint Procedures](#).

#### Step 1:

Anyone who believes that he/she is the subject of harassment or any parent/guardian who believes that his/her child has been subjected to harassment should report the conduct to the building principal verbally or in writing. If an individual is not comfortable with making a complaint to the building principal, the complaint may be made to a teacher, a counselor, the individual's immediate supervisor, district office administrators, the Title IX Coordinator, or the superintendent with the understanding that incidents must be reported to the administration for review and action. The ~~employee teacher, counselor, the individual's immediate supervisor or Title IX Coordinator~~ receiving the complaint shall report the complaint to the building principal or Superintendent.

## SECOND READING

Anyone making a complaint is to report the specific nature of the harassing conduct/behavior the individual is experiencing, the times and dates of the harassing behavior/conduct, name(s) of the person(s) doing the alleged harassing, name(s) of any witnesses and what strategies were used to try to stop the harassment, if any. **Individuals filing a complaint are strongly encouraged, but not required, to submit the initial complaint in writing.** Any written report of harassment received must be signed.

If the parent(s)/guardian(s) have not been notified of a report of harassment made by a student, the building principal or Superintendent shall notify the student's parent(s)/guardian(s) of the matter immediately.

All complaints of harassment shall be handled in a confidential manner, to the extent possible.

### Step 2:

The building principal, or Superintendent if the building principal is the alleged harasser, shall investigate the harassment thoroughly. He/she shall notify the person who has been accused of harassment of the nature of the harassment complaint and permit the accused person to respond to the harassment allegations. The building principal or Superintendent shall make arrangements for a private meeting to discuss the harassment complaint with the individual being harassed and interview witnesses. The purpose of this step is to resolve the complaint with all concerned parties within a reasonable period of time after receipt of notice of the harassment complaint. The building principal or Superintendent shall issue a written decision to the parties **as promptly as possible after receipt of the complaint (when possible,** within three school days of the receipt of the complaint).

### Step 3:

If the complainant is not satisfied with the resolution of the harassment complaint in Step 2, he/she may refer the matter to the Superintendent or, if the Superintendent is the alleged harasser, the Board. The appeal should be made to the Superintendent or Board in writing within five school days following the receipt of the written reply in Step 2. (Complaints forwarded to the Board shall be handled in accordance with Step 4.) The Superintendent shall review the decision reached in Step 2, and arrange a private meeting with the parties to discuss the harassment matter. The Superintendent shall determine what action should be taken and provide a written response to the parties **as promptly as possible after receipt of the complaint (when possible, within 10 school days of receiving the complaint).**

### Step 4:

If the complainant is not satisfied with the resolution of the harassment complaint in Step 3, he/she may appeal the matter in writing to the Board. The appeal shall state the specific reason for disagreement with the response provided in Step 3. **The appeal to the Board should be filed with the Board within five school days following the receipt of the written reply in Step 3 in a reasonable period of time.** The Board shall arrange one or more closed session meetings for the purpose of considering a paper review of the appeal. The parties may be asked to attend a meeting at the discretion of the Board. **The Board shall make its decision in writing within 15 school days after any Board review of the appeal and copies of the written decision shall be mailed to the parties and the Superintendent if he/she made the decision in Step 3.**

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### Step 5:

If the complaint is not resolved to the satisfaction of the complainant, it may be appealed to the appropriate governmental agency. This may include, but is not limited to, the following: State Superintendent of Public Instruction, U.S. Office of Civil Rights, Equal Employment Opportunity Commission and Equal Rights Division of the Wisconsin Department of Workforce Development.

NOTE: A complainant may file a complaint directly, or an appeal, with designated agencies as authorized by state and federal law: Equal Rights Division of the Department of Workforce Development, U.S. Office for Civil Rights-Region V in Chicago, and/or courts having proper jurisdiction.

### Maintenance of Complaint Records

Complaint records will be retained in accordance with state record retention laws. Formal complaint records will include:

1. Name and address of complainant.
2. The date the complaint was filed.
3. The allegation made and corrective action requested by the complainant.
4. The name and address of the respondents.
5. The formal complaint level, the resolution, description of any corrective or remedial action taken, and date of resolution.
6. The Director of Student Services (Title IX Coordinator-Student) will maintain complaint records in which the alleged victim is a student.
7. The Director of Human Resources and Leadership Development (Title IX Coordinator-Staff) will maintain complaint records in which the alleged victim is an employee.

Any questions regarding this policy may be directed at the district's Title IX Coordinators.

### Title IX Coordinator for Students Complaints

Jackie Steinhoff, Director of Student Services

852 East Division Street

River Falls, WI 54022

715-425-1800

### Title IX Coordinator for Employee Complaints

David Bell, Director of Human Resources and Leadership Development

852 East Division Street

River Falls, WI 54022

715-425-1800

APPROVED: September 16, 1991

REVISED: August 19, 2002

March 20, 2006

# SECOND READING

October 5, 2020

**SCHOOL DISTRICT OF RIVER FALLS  
River Falls, Wisconsin 54022**

411.11

**TITLE IX SEXUAL HARASSMENT**

**GENERAL PROVISIONS**

The School District of River Falls is committed to providing an environment that:

- treats all students and staff with dignity and respect
- provides students with a learning experience that is physically and emotionally safe
- promotes respect, tolerance, and acceptance of others

To accomplish this mission, all students and employees must be allowed to learn and work in an environment free from Title IX sexual harassment. Title IX sexual harassment is prohibited on school property and at all school-sponsored programs and activities off school property. This policy prohibits students sexually harassing students, students sexually harassing staff, staff sexually harassing students and staff sexually harassing staff. Individuals who experience Title IX sexual harassment may process a complaint pursuant to 411.11-Rule Sexual Harassment Complaint Procedures.

*Title IX Sexual Harassment.* Title IX sexual harassment means conduct on the basis of sex in any District education program or activity and in the United States that satisfies one or more of the following:

1. An employee of the District conditioning the provision of an aid, benefit, or service of the District 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 District's education program or activity;  
or
3. Any of the following, as defined under the Title IX regulations by reference to other federal statutes:
  - a. Dating violence;
  - b. Domestic violence;
  - c. Sexual assault; or
  - d. Stalking.

**Board Policy 411.1: Harassment** addresses the definition, reporting, notifications, and training requirements related to general forms of harassment. Students, parents/guardians, and employees are encouraged to review this policy. Individuals who experience harassment that doesn't fit the definition of Title IX sexual harassment may process a complaint pursuant to **Board Policy 411.1-Rule Harassment Complaint Procedures**.

**TITLE IX**

Discrimination on the basis of sex is prohibited in the School District of River Falls. The District is required by Title IX of the Education Amendments of 1972 and 34 C.F.R. ch106 not to discriminate in this manner. Title IX's requirement not to discriminate in any education program extends to District students, certain admissions processes, and District employment.

Inquiries regarding the application of federal Title IX regulations may be directed to the District's Title IX Coordinators (designated below), to the Assistant Secretary for Civil Rights at the U.S. Department of Education, or both.

## SECOND READING

### **DEFINITIONS**

Actual Knowledge Actual knowledge means notice of Title IX sexual harassment or allegations of Title IX sexual harassment to the District's Title IX Coordinator or any District official who has authority to institute corrective measures on behalf of the District, or to any employee of an elementary and secondary school other than the respondent (in circumstances where the respondent is a District employee).

Complainant. Complainant means an individual who is alleged to be the victim of conduct that could constitute Title IX sexual harassment.

Consent Consent means engaging in sexual activity knowingly, voluntarily, and with clear permission by word or action. Reasonable reciprocation can be considered implied consent. Consent will be interpreted in accordance with Wisconsin law.

Dating Violence Dating violence, as defined in 34 U.S.C. §12291(a)(10), means violence on the basis of sex committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

1. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
2. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
3. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence. Domestic violence, as defined in 34 U.S.C. §12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by 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.

Education Program or Activity. Education program or activity means locations, events or circumstances where the District exercises substantial control over both the respondent and the context in which the Title IX sexual harassment occurs. For purposes of Title IX, the sexual harassment must occur within the United States.

Formal Complaint. Formal complaint means a document filed by an eligible complainant or signed by the Title IX Coordinator alleging Title IX sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment under Title IX.

Notice. Notice as used in this policy includes, but is not limited to, a report of Title IX sexual harassment to the District's Title IX Coordinator.

Preponderance of the Evidence Standard. The preponderance of the evidence standard means the evidence must show that the act of Title IX sexual harassment more likely than not did occur and more likely than not the respondent(s) committed the act.

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**Respondent.** Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute Title IX sexual harassment.

**Retaliation.** Acts of retaliation include, but are not limited to, harassment escalation, unsatisfactory academic evaluation, threats, and differences in academic treatment, sarcasm or unwanted comments to or by peers.

**Sexual Assault.** Sexual assault, as defined in 20 U.S.C. §1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, including but not limited to rape, incest, sexual assault with an object, and fondling.

**Stalking.** Stalking, as defined in 34 U.S.C. §12291(a)(30), means engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition:

1. 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.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.

**Supportive Measures.** Supportive measures mean 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 of sexual harassment under Title IX or where no such formal complaint has been filed.

### **REPORTING A COMPLAINT**

Individuals who experience Title IX sexual harassment may process a complaint pursuant to 411.11-Rule Sexual Harassment Complaint Procedures.

### **RETALIATION IS PROHIBITED**

No district official, employee, or agent may retaliate against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or because the individual has made a report or complaint, or participated in an investigation.

Complaints of alleged retaliation in violation of this provision may be filed according to the reporting and complaint procedures outlined in [District Policy 411-Rule Student Discrimination Complaint Procedures](#).

### **JURISDICTION**

This policy will apply to alleged conduct that takes place on property owned or controlled by the District or at District-sponsored events.

### **CONFLICT OF INTEREST**

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If the formal complaint identifies the District Title IX coordinator as a respondent, then a formal complaint may be filed directly with the Director of Academic Services, either in person, by mail, or using the following contact information.

Director of Academic Services  
River Falls School District  
852 E. Division Street  
River Falls, WI  
715-425-1800

### **TITLE IX COORDINATOR**

Any questions regarding this policy or the District's Title IX requirement may be directed to the District's Title IX Coordinators.

Title IX Coordinator-Student (i.e. when the complainant is a student)  
Jackie Steinhoff, Director of Student Services  
852 E. Division Street  
River Falls, WI 54022  
715-425-1800

Title IX Coordinator-Staff (i.e. when the complainant is an employee)  
David Bell, Director of Human Resources  
852 E. Division Street  
River Falls, WI 54022  
715-425-1800

### **NOTICE**

Notice of this policy will be circulated to all schools and departments in the District on an annual basis and incorporated in employee and student handbooks.

Nothing in this policy shall preclude or restrict rights guaranteed by the U.S. Constitution or the Civil Rights Act of 1964.

Nothing in this policy shall preclude an individual from filing a criminal complaint with outside law enforcement agencies. Such agencies independently determine the extent to which any given complaint falls within their realm of authority.

### **LEGAL REFERENCE**

Sections 111.32(13) Wisconsin Statutes 111.36, 118.13, 118.195, 118.20  
PI 9, Wisconsin Administrative Code  
Title IX, Education Amendments of 1972 as amended  
Title VI, Civil Rights Act of 1964 as amended  
Section 504 of the Rehabilitation Act of 1973  
Americans with Disabilities Act of 1990  
Individuals with Disabilities Education Act  
Civil Rights Act of 1991  
EEOC Guidelines (29 C.F.R.-Part 1604.11)

## SECOND READING

### CROSS REFERENCE

411.1-Rule, Harassment Complaint Procedures

411.1: Harassment

411.11-Rule: Title IX Sexual Harassment Complaint Procedures

447, Student Discipline

Current Employee Handbook

District Policy 411.11

APPROVED:

**October 5, 2020**

## SCHOOL DISTRICT OF RIVER FALLS River Falls, Wisconsin 54022

411.11-Rule

### **TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES**

The purpose of these procedures is to provide an orderly means of resolving disputes within the School District of River Falls or against the District for alleged Title IX sexual harassment and to facilitate the District's compliance with the requirements of the federal regulations issued under Title IX of the Education Amendments of 1972 ("Title IX"). Specifically, this rule establishes expectations and procedures for the prompt and equitable resolution of reports and complaints that allege unlawful sexual harassment, as defined by the Title IX regulations, within the District's education program and activities or workplace. Nothing in this rule diminishes the District's obligations to respond to Title IX sexual harassment or allegations of Title IX sexual harassment in a prompt manner that is not deliberately indifferent under all circumstances in which the federal regulations deem the District to have actual knowledge of such harassment. Retaliation against parties who file informal or formal complaints is prohibited.

A student, parent/guardian, or an employee can report an allegation of sexual harassment to the District Title IX Coordinator.

### **DISTRICT ROLES AND RESPONSIBILITIES**

*All Employees:* Are responsible for reading applicable sexual harassment policies and complaint procedures. Employees are expected to provide notice to the appropriate Title IX Coordinator if they observe sexual harassment as defined by policy 411.11 Title IX Sexual Harassment.

*Title IX Coordinators:* For the purpose of this policy, the Title IX coordinator is responsible for monitoring the implementation of a complaint (grievance) procedure that is in compliance with Title IX regulations. Specific duties are outlined below.

Title IX Coordinator-Student (i.e. when the complainant is a student)

Jackie Steinhoff, Director of Student Services  
852 E. Division Street  
River Falls, WI 54022  
715-425-1800  
[jackie.steinhoff@rfsd.k12.wi.us](mailto:jackie.steinhoff@rfsd.k12.wi.us)

Title IX Coordinator-Staff (i.e. when the complainant is an employee)

David Bell, Director of Human Resources  
852 E. Division Street  
River Falls, WI 54022  
715-425-1800  
[david.bell@rfsd.k12.wi.us](mailto:david.bell@rfsd.k12.wi.us)

*Investigator:* An investigator assigned by the District will conduct an investigation into the allegations of which the parties have been notified. The purpose of the investigation is to gather evidence. The District has the burden of gathering evidence, sufficient to reach a determination regarding responsibility. The Title IX

## SECOND READING

Coordinators, District Social Worker, Director of Academic Services, Director of Finance and Facilities, or a qualified third party will be assigned to investigate formal complaints of Title IX sexual harassment.

*Decision Maker:* A decision-maker assigned by the District will make a determination of responsibility with the respect to the allegations of which the parties have been notified and that have been subject to investigation based on an analysis of the relevant evidence. The decision maker can not serve as both the investigator and decision maker during the course of a formal investigation. The Superintendent, District Social Worker, Director of Academic Services, Director of Finance and Facilities, or a qualified third party will be assigned as a decision maker for formal complaints of Title IX sexual harassment.

*Appeal Decision Maker:* If an appeal of a decision is deemed necessary, then an appeal decision maker assigned by the District will make a determination on an appeal of responsibility with the respect to the allegations of which the parties have been notified and that have been subject to investigation based on an analysis of the relevant evidence. The appeal decision maker cannot serve as either the investigator and/or the decision maker during the course of a formal investigation. The Superintendent, District Social Worker, Director of Academic Services, Director of Finance and Facilities, or a qualified third party will be assigned as an appeal decision maker for appeals of formal complaints of Title IX sexual harassment.

### **SCREENING OF REPORTS OR COMPLAINTS OF SEXUAL HARASSMENT**

The Title IX Coordinator is responsible for promptly reviewing all notices of sexual harassment or allegations of sexual harassment that would be prohibited by any law or District policy, rule, or code of conduct. The Title IX Coordinator will determine if the report or allegations could constitute:

1. Sexual harassment under Title IX;
2. A form of unlawful discrimination other than sexual harassment under Title IX;
3. A violation of District policies or rules applicable to District students or employees.

The Title IX coordinator will investigate all reports or allegations of sexual harassment according to appropriate District procedures, or inform the person who reported the incident that the report or allegations do not meet the standard on which the District could proceed under this policy or procedure.

### **RESPONSE TO TITLE IX SEXUAL HARASSMENT WHEN NO FORMAL COMPLAINT HAS BEEN FILED**

If the District Title IX Coordinator determines that the District has notice of Title IX sexual harassment or allegations of Title IX sexual harassment, but no formal complaint of Title IX sexual harassment has been filed by a complainant or signed by a Title IX Coordinator the procedures will be as follows:

1. The Title IX Coordinator will contact the complainant 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 the filing of a formal complaint; and
  - d. Explain to the complainant the process for filing a formal complaint.
2. In consultation with other District administrators as needed, the Title IX Coordinator will coordinate the identification, offering, and implementation of appropriate supportive measures for the complainant.

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3. If an eligible complainant elects to file a formal complaint of Title IX sexual harassment at any point, the formal complaint shall be processed as provided within this Rule.

### **COMPLAINT (GRIEVANCE) PROCEDURES FOR FORMAL COMPLAINTS OF SEXUAL HARASSMENT UNDER TITLE IX**

These complaint procedures apply to formal complaints of Title IX sexual harassment. Except to the extent a formal complaint is dismissed (in whole or in part), the District is obligated to investigate a formal complaint of Title IX sexual harassment pursuant to this process. No Title IX complainant is obligated to file a formal complaint, but a qualifying formal complaint is necessary for the District to start an investigation of Title IX sexual harassment allegations using this formal grievance process.

#### District Standards.

1. The District shall apply any provisions, rules, or practices other than those required by this section equally to all parties.
2. Unless required by law, the District shall follow this grievance process before imposing disciplinary sanctions or other punitive actions against a respondent for any alleged Title IX sexual harassment, subject to the allowances made in the federal Title IX regulations for implementing supportive measures, implementing an emergency removal, and placing an employee, while a formal complaint is pending, on administrative leave in accordance with the Employee Handbook.
3. The District shall presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process by the preponderance of the evidence standard.
4. The District shall treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent.
5. All persons who are authorized to act as agents in connection with the grievance process shall:
  - a. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and determine credibility without respect to a person's status as a complainant, respondent or witness.
  - b. Ensure that they are free from any conflict of interest or bias for or against complainants or respondents generally, or for or against an individual complainant or respondent.
  - c. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (e.g., attorney-client privilege), unless the person holding such privilege has waived the privilege.
  - d. Refrain from accessing, considering, disclosing, or otherwise using a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the District obtains that party's voluntary, written consent to do so for purposes of the grievance process (if a party is under 18 years old, then the District must obtain the voluntary, written consent of a parent or guardian).
  - e. Avoid restricting the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, except as expressly permitted or required by applicable law. This provision does not restrict the District or its agents from requiring the parties to a formal complaint (including their advisors) to refrain from disseminating certain evidence or other records to others, provided that any such requirements must be lawful and must not

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unreasonably interfere with the purposes of this grievance process. In some situations, established law may independently prohibit any such dissemination of particular evidence/records.

6. Emergency Removal.
  - a. The District may act to remove a student respondent entirely or partially from its education programs or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.
  - b. In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.
  - c. Any emergency removal shall be in accordance with all rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as appropriate.
  - d. The District may place a non-student employee respondent on administrative leave during the pendency of a grievance process under existing procedures, without modifying any rights provided under Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

### Written Notice.

1. Normally within 15 business days of receiving a formal complaint, and always at least 5 calendar days before a party will be required to appear for an initial investigative interview, a Title IX Coordinator or his/her designee shall provide all known parties (i.e., complainants and respondent(s)) with written notice of the following:
  - a. The District's grievance process for formal complaints of Title IX sexual harassment, including a description of any informal resolution process.
  - b. Notice of the allegations potentially constituting sexual harassment as defined under the Title IX regulations, including sufficient details known at the time. Sufficient details include:
    - i. The identities of the parties involved in the incident(s), if known;
    - ii. The conduct allegedly constituting sexual harassment under Title IX, and
    - iii. The date and location of the alleged incident, if known.
  - c. The written notice must also:
    - i. Include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
    - ii. Inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, who may accompany the party when the party attends any District meeting or proceeding that is part of the grievance process (including investigative interviews).
    - iii. Inform the parties that they will have the right to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.
    - iv. Inform the parties that, by policy, the District prohibits a person from knowingly making false statements or knowingly submitting false information during the grievance process.

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2. If, in the course of an investigation, the District decides to investigate allegations about the complainant or respondent that were not included in the initial notice of allegations, the Title IX Coordinator must provide written notice of the additional allegations to all parties whose identities are known.

### Investigation

1. An investigator assigned by the District will conduct an investigation of the allegations of which the parties have been notified. The purpose of the investigation is to gather evidence.
2. The District has the burden of gathering evidence, both inculpatory and exculpatory, sufficient to reach a determination regarding responsibility. In addition, the District shall conduct a balanced and thorough investigation.
3. When conducting the investigation, an investigator will:
  - a. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any investigative interview or other meeting held as part of the investigation, with sufficient time for the party to prepare to participate.
  - b. Allow any party to be accompanied to any investigative interview or other meeting held as part of the investigation by one advisor of their choice. Under any circumstances where a parent or guardian has a legal right to act on behalf of a party (e.g., because the party is a minor), the party's parent or guardian may also accompany the party to any such hearing.
  - c. Conduct one or more investigative interviews of the complainant(s), the respondent(s), and such witnesses as the investigator determines may provide relevant evidence that is able to be considered and that is not unduly duplicative.
  - d. Offer each party an opportunity to identify fact and expert witnesses who the party believes should be interviewed as part of the investigation, along with the nature of the evidence that the party believes the witness may be able to provide. If the investigator declines to interview a witness identified by a party or is unable to interview a witness (e.g., because the witness is not willing to participate or is not reasonably available), the investigator shall document the reason for such decision or unavailability and, unless prohibited by law from doing so, provide the parties with such explanation upon request.
  - e. Consider such documentary and other evidence as a party may wish to provide, except that no party or his/her advisor will be permitted to conduct direct, in-person questioning of another party or of any third-party witness. If the investigator rules that any evidence provided will not be accepted into the record of the investigation, the investigator shall document the reason for such ruling; return the evidence to the party that offered it (in the case of physical evidence); and, unless prohibited by law from doing so, provide the parties with the reason the evidence was rejected upon request.
  - f. Accept such other evidence into the record as the investigator deems relevant and directly related to the allegations, recognizing that nothing prohibits an investigator from initially accepting evidence that may not be relevant.
4. After the investigator completes the process of gathering evidence:
  - a. An investigator, or a designee acting on his/her behalf, must send to each party and the party's advisor, if any, the relevant evidence obtained from the investigation that is subject to inspection and review. Such evidence may be provided in an electronic format or as a hard copy, and consists of the evidence obtained as part of the investigation that is directly related to the pending allegations, including:

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- i. Evidence upon which the District does not intend to rely in reaching a determination regarding responsibility; and
  - ii. Both inculpatory or exculpatory evidence, whether obtained from a party or other source.
5. Beginning from the date that the evidence is delivered to the parties, the investigator must give the parties at least 10 calendar days to submit a written response to the evidence. It is optional for parties to provide a response.
6. After receiving and giving due consideration to any timely written responses received from the parties, the investigator shall complete an investigative report that fairly summarizes the relevant evidence.
  - a. In the report the investigator may convey facts, observations, or impressions that address the credibility of particular persons or other evidence, but any such credibility determinations conveyed in the investigative report are not binding on the decision maker.
  - b. The report shall not advocate for a specific determination or outcome.
7. An investigator or his/her designee shall send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy.
8. Beginning from the date that the investigative report is delivered to the parties, there must be at least 10 calendar days between the sending of the report and the time of the written determination regarding responsibility from the decision-maker.
9. The investigator will forward the final investigative report and complete investigative record to the District-designated decision maker for a determination of responsibility.

### Determination of Responsibility.

1. A decision maker assigned by the District will make a determination of responsibility with the respect to the allegations of which the parties have been notified and that have been subject to investigation based on an analysis of the relevant evidence. During this stage of the proceedings:
  - a. When the District sends the final investigative report to the parties, or shortly thereafter, the decision maker, or his/her designee, shall inform each party that they have the opportunity to submit written, relevant questions that a party wants asked of any party or witness prior to the determination of responsibility, subject to the following:
    - i. The notice of the opportunity to submit such questions shall identify a submission deadline and the allowable method(s) of submission. The District shall allow the parties at least 5 calendar days to submit the questions.
    - ii. If any questions are submitted by the parties, the decision-maker shall either:
      1. Pose the submitted questions to the relevant person(s) and provide each party with the answers; or
      2. Explain to the party proposing the questions any decision to exclude a question as not relevant or as otherwise impermissible in the context of this grievance process.
    - iii. If any questions were submitted, posed, and answered as provided immediately above, then the decision maker shall permit a limited opportunity for the parties to submit follow-up questions. Any such follow-up questions must be directly related to the initial question and answers, and must not be duplicative of other evidence that is already in the record.

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1. The decision maker shall identify a submission deadline for such follow-up questions, which shall be a minimum of 3 calendar days from the date that the parties are provided with the answers to the initial questions.
  2. The decision maker shall either pose the follow-up questions and provide each party with the answers or explain any decision to exclude a question, in the same manner provided above with respect to the initial questions.
2. In making determinations of responsibility with respect to the allegations addressed in the relevant investigative report, the decision maker shall (in all cases) evaluate the available evidence and apply the preponderance of the evidence standard to determine whether any allegation has been substantiated and whether a party has committed any misconduct with respect to such allegation(s).
3. A decision maker or any person acting as the decision maker's designee may not hold a live, adversarial hearing involving the parties as part of this Title IX complaint (grievance) process.
4. The decision maker must issue a written determination regarding responsibility that includes all of the following:
  - a. Identification of the allegations potentially constituting sexual harassment under Title IX.
  - b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of the relevant legal standards and the District's code of conduct (i.e., District policies and rules that apply to the party in question);
  - e. A statement of, and rationale for, the result as to each allegation, including all of the following:
    - i. A determination regarding responsibility;
    - ii. Any disciplinary sanctions the District imposes on the respondent or, in cases where a particular disciplinary sanction is beyond the direct authority of the decision maker, a statement of the disciplinary sanction(s) that the decision-maker is recommending as an appropriate consequence;
    - iii. Whether the District will provide the complainant with any remedies designed to restore or preserve the complainant's equal access to the District's education program or activity; and
    - iv. The District's procedures and permissible bases for the complainant and respondent to appeal. If a formal complaint of Title IX sexual harassment also constitutes a complaint of pupil discrimination under Wis. Adm. Code PI ch. 9, the District may also use this notice to inform the complainant of their right to appeal any adverse final determination of their complaint under state law to the State Superintendent of Public Instruction (DPI), as well as the procedures for making such an appeal to DPI.
5. The decision maker or a designee acting on his/her behalf must provide the written determination to the parties simultaneously.
6. Disciplinary sanctions and any remedies that could not be offered as supportive measure shall not be enforced until the determination of the complaint becomes final. The determination regarding responsibility becomes final either:
  - a. If no appeal is filed, on the date on which an appeal would no longer be considered timely; or
  - b. If an appeal is filed, on the date that the recipient provides the parties with the written determination of the result of the appeal (see below).

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### **DISMISSAL OF FORMAL COMPLAINTS**

Upon receipt of a formal complaint that alleges or purports to allege Title IX sexual harassment and at other points in the grievance process while a formal complaint is pending, the District is responsible for evaluating whether, pursuant to the federal Title IX regulations, the complaint must be dismissed (whether in whole or in part); or may be dismissed (whether in whole or in part) as an exercise of District discretion.

*Mandatory Dismissal.* The District must dismiss a formal complaint, for purposes of Title IX and the District's Title IX grievance process, to the extent the conduct alleged in the complaint:

Even if proved, would not constitute sexual harassment as defined in the federal Title IX regulations; or

1. Did not occur within the scope of the District's education program or activity; or
2. If at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the District.

*Discretionary Dismissal.* The District may dismiss the formal complaint, or any allegations therein, if at any time during the investigation and prior to the determination of responsibility:

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or
2. The respondent is no longer enrolled in the District or employed by the District; or
3. Specific circumstances prevent the District from gathering evidence that is sufficient to reach a determination as to the formal complaint or any allegations therein.

The Title IX Coordinator or his/her designee shall promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to all parties (to the extent known). A dismissal is an appealable decision to the extent identified elsewhere in this complaint (grievance) process. If a formal complaint or any allegation within a complaint is dismissed for purposes of Title IX, the District retains discretion to take action with the respect to the dismissed allegations under other District policies and procedures (e.g., if such alleged conduct could constitute discrimination other than Title IX sexual harassment or if such conduct could constitute a violation of any District policy, rule or code of conduct).

### **VOLUNTARY INFORMAL RESOLUTION OF FORMAL COMPLAINTS**

To the extent permitted by the Title IX regulations, the District may offer and facilitate a strictly voluntary informal resolution process which may resolve the allegations of a formal complaint of Title IX sexual harassment, in whole or in part, without a full investigation and adjudication at any time prior to reaching a determination of responsibility. An informal resolution process may not be used in connection with allegations that a District employee sexually harassed a student.

In order to offer and attempt an informal resolution process, a formal complaint must have been filed and the District must:

1. Provide both parties with a written disclosure notice, as further outlined in the federal Title IX regulations, which includes written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the District; and
2. Obtain each party's voluntary, written consent to participate in the informal resolution process.

As examples of informal processes that may be appropriate in some circumstances, the District's agents may offer to:

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1. Mediate a resolution between the parties identified in a formal complaint; or
2. Explore the parties' willingness to voluntarily proceed without a full investigation and/or adjudication when the facts may be undisputed or where there appears that there may be an opportunity to reach stipulated facts.

If a voluntary informal resolution has not reached a conclusion within 15 business days of the date that the District received the consent of the parties, the District and the parties may mutually and voluntarily agree to extend the timeframe for attempting an informal resolution. In the absence of a mutual agreement to extend the timeframe, the District will provide reasonably prompt written notice to the parties that the informal process is being abandoned and that the District will resume the formal process.

### **CONSOLIDATION OF FORMAL COMPLAINTS**

The District may consolidate formal complaints of Title IX sexual harassment where the allegations of sexual harassment in the different complaints arise out of the same facts or circumstances.

### **CONFIDENTIALITY**

All persons acting as agents of the District must keep confidential the identity of any individual who has made a report or filed a formal complaint alleging Title IX sexual harassment; any complainant; any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment under Title IX; any respondent; and any witness, except as may be permitted by the Family Educational Rights and Privacy Act and its implementing regulations, or as required by law, or to carry out the purposes of the federal Title IX regulations, including the conduct of any investigation, hearing, or judicial proceeding arising under the federal Title IX regulations.

### **SUPPORTIVE MEASURES, SANCTIONS AND REMEDIES**

#### *Supportive Measures.*

1. Supportive measures are designed to restore or preserve equal access to the District's education program, activity, or workplace without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational environment or workplace, or deter sexual harassment.
2. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, additional supervision or planned accompaniment, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security, supervision, or monitoring of certain areas of school grounds, and other similar measures.
3. The District will provide supportive measures to complainants to the extent required by the Title IX regulations. The District may provide supportive measures to a respondent, but it is not required to do so in all cases.
4. 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 District to provide the supportive measures.
5. The range of supportive measures available to complainants and respondents during and in connection with this grievance process does not materially change based on the fact that a formal complaint of sexual harassment under Title IX is pending. At the same time, supportive measures are intended to be individualized and context-sensitive. If the proceedings related to this complaint (grievance) process 23

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create any changed circumstances or special needs for a party, the party may contact the District Title IX Coordinator for the purpose of discussing potential modifications to supportive measures.

6. The Title IX Coordinator shall coordinate the identification, offering, and implementation of supportive measures that the District provides to a complainant or respondent, including appropriate monitoring of the implementation process, coordinating potential modifications to the measures, and, as applicable, determining the appropriate time to end specific supportive measures.

### Disciplinary Sanctions.

After a determination that a party is responsible for Title IX sexual harassment as a result of this grievance process, the disciplinary sanctions that the District may impose will depend on the nature of the misconduct and the individual's then-current status as student, employee, or other person connected to the District's education program or activity. Disciplinary sanctions that are issued or recommended as a result of a determination of responsibility for Title IX sexual harassment are intended as consequences for past misconduct and may also serve to deter future sexual harassment. To the extent that the District reaches a determination using this grievance process that a party engaged in conduct that was or was not Title IX sexual harassment but did violate some other law, regulation, or District policy or rule, this Rule does not directly address the disciplinary consequences for such conduct, even though the District may impose disciplinary consequences for such conduct.

1. Students: Possible disciplinary sanctions or recommended sanctions include but are not limited to suspension from school, expulsion from school, suspension of eligibility to participate in co-curricular activities, or suspension of eligibility to participate in other District-sponsored events. The District may also restrict or deny permission to be present on District property or at certain District-sponsored events or activities. This provision does not modify any student's rights under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973.
2. Employees: In accordance with the Employee Handbook, possible disciplinary sanctions or recommended sanctions include but are not limited to a formal reprimand, a demotion or other disciplinary reassignment, suspension from work, contract nonrenewal, termination of employment, or restrictions on permission to be present on District property or at certain District sponsored events or activities.
3. Other persons: Possible disciplinary sanctions or recommended sanctions include but are not limited to suspension from or termination of a District authorized role (e.g., volunteer); termination or nonrenewal of third-party contracts; and restrictions on permission to be present on District property or at District-sponsored events or activities.

### Remedies to Benefit Complainants.

After a determination that a party to the complaint (grievance) process was responsible for Title IX sexual harassment, the District may provide the complainant with remedies designed to restore or preserve equal access to the District's education program or activity, including providing for a safe educational or working environment. Such remedies may include the continuation or addition of individualized accommodations, services, and interventions that could have been provided as "supportive measures" prior to the determination of responsibility. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. For example, as a means of limiting or preventing future contact between the complainant and respondent, the respondent may be burdened by an involuntary and long-term, perhaps even permanent, change in his/her educational program or in his/her work schedule, work location, or work assignment.

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### APPEAL

1. A complainant or respondent may file an appeal following:
  - a. Receipt of the written determination regarding responsibility; or
  - b. Receipt of notice of dismissal of a formal complaint or of any allegations within a complaint.
2. Any appeal filed by a party is strictly limited to the following bases:
  - a. 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 in the case or a bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
3. An appeal must be filed in writing and submitted either in person, via U.S. Mail, or via email to the Title IX Coordinator with a copy provided to the initial decision-maker. An appeal must be delivered to the District within 5 calendar days from the date the written determination or notice of dismissal is delivered to the party. The notice of appeal submitted by a party must do all of the following:
  - a. Clearly identify the specific bases, from those listed above, on which the party is appealing; and
  - b. With reasonable specificity, state the factual basis for the appeal and the reasoning as to why the decision or dismissal being appealed should be reversed or modified.
  - c. In connection with an appeal, a party may not introduce new evidence that is outside of the existing record of the complaint proceedings except as an offer of proof to support a conflict of interest or bias claim or in the case of an appeal that is premised on a claim that the new evidence was not reasonably available at an earlier time.
4. Upon receiving a notice of appeal from a party, the Title IX Coordinator, appeal decision maker, or a designee acting on their behalf, shall promptly notify the other party (or parties), if known, that an appeal has been filed and provide a copy of the appeal to the other party.
5. The appeal decision maker will establish and inform all parties of a deadline for submitting any additional written statement the party may wish to submit in support of, or challenging, the original outcome on the grounds raised by any pending appeal. The deadline for such submissions shall be at least five calendar days following the date such notice is delivered to the parties.
6. An appeal decision maker shall deny an appeal that merely asserts that the District's decision is wrong or that fails to present a reasonably developed argument in support of the appeal.
7. If the appeal decision maker determines that there is a need to open the record to obtain and consider any additional evidence in order to resolve an appeal, the appeal decision maker may offer additional equal opportunities for the parties to address and respond to any such new evidence if doing so is necessary to preserve the fairness of the proceedings.
8. The District may continue an ongoing investigation into a formal complaint during an appeal with respect to dismissal of a complaint in part (i.e., dismissal of specific allegations). However, the investigation shall not be concluded until the appeal over the dismissed allegation(s) is decided.
9. The appeal decision maker shall:
  - a. Issue a written decision describing the result of the appeal and the rationale for the result; and
  - b. Provide the written decision simultaneously to both parties.

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10. The appeal decision maker shall render the written decision within 15 business days of the receipt of the notice of appeal unless he/she communicates an extension of such time frame, as further described below.

### **MISCELLANEOUS CONSIDERATIONS**

#### *Time Frames, Extensions and Voluntary Waivers of Time Frames.*

1. The District normally intends to conclude the complaint (grievance) process within 90 calendar days of the date that a formal complaint is filed or signed by a Title IX Coordinator, recognizing that in certain circumstances it may be practical to complete the process in less time, and in other circumstances the process may reasonably require more time.
2. Any party or witness may, for good cause, request a temporary delay in the complaint (grievance) process, the rescheduling of an investigative interview or other meeting, or a limited extension of a deadline that applies to the party. The party shall direct the request in writing to the investigator, decision maker, or appeal decision maker, given the applicable stage of the proceedings.
3. The investigator, decision maker, or appeal decision-maker (as applicable) may grant such a request, and may also self-initiate such a delay, rescheduling, or extension upon determining that there is good cause and that approving the request would not be unduly prejudicial to any of the parties or unreasonably extend the conclusion of the grievance process. Though the agents of the District are expected to make reasonable efforts to accommodate the schedules of parties and witnesses, the District also may not, without good cause, deviate from its own designated timeframe for the process.
  - a. In some cases, the District may make the decision to deny a scheduling request and proceed with the grievance process in the absence of a party, witness, or a party's advisor.
  - b. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the complexity of the allegations; or the need for language assistance or accommodation of disabilities.
4. In the absence of extraordinary circumstances, a party's or witness's request for an extended deadline or rescheduled meeting shall normally be limited to no more than 5 calendar days. The District may grant a shorter delay or extension than was requested.
5. If a formal complaint of Title IX sexual harassment also constitutes a complaint of pupil discrimination under Chapter PI 9 of the Wisconsin Administrative Code, and if a requested or contemplated delay/extension would prevent the District from reaching a determination of the complaint within 90 calendar days, the District's agents shall evaluate whether it is necessary or appropriate to request the parties' consent to the delay/extension.
6. The appropriate agent of the District or a designee shall provide the complainant and respondent with prompt written notice of any decision to delay the grievance process or grant an extension of a deadline. Such notice shall include the reason(s) for the action. To the extent a given deadline applies to multiple parties, any extension of the deadline automatically applies to all such parties.
7. In instances where this grievance process gives the parties a minimum period of time to prepare and submit a response or prepare for an interview or meeting, a party may voluntarily waive all or part of such period of time if they communicate their voluntary waiver to the applicable investigator or decision maker in writing.

#### *Restrictions on Participation of Advisors.*

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1. An advisor of the party's choosing shall be permitted to accompany the party to any investigative interview or other meeting held in connection with this grievance process. However, no person who accompanies a party to a meeting or otherwise serves as an advisor to the party may unreasonably interfere with or unreasonably delay the District's investigation. Unreasonable interference by an advisor includes, for example:
  - a. Answering the District's questions on behalf of the party during an investigative interview, such that the District is denied the party's own, direct response.
  - b. Interrupting District questioning with the goal of signaling, prompting, or suggesting responses for the party
  - c. Interrupting District questioning in an attempt to conduct his/her own questioning of the party.
2. The District may place further reasonable restrictions on the extent to which an advisor may participate in the proceedings, provided that such restrictions apply equally to both parties.

### Concurrent Investigation and Consideration of Multiple Potential Grounds for a Determination of Responsibility/Misconduct.

1. If the allegations set forth in a formal complaint of Title IX sexual harassment also constitute or fairly encompass allegations of conduct that could constitute discrimination under a different law; a violation of a District policy or rule (including any District code of conduct that may be applicable to the respondent); or any other established grounds for the imposition of possible disciplinary sanctions, then the District may investigate the facts and circumstances related to such other allegations using this grievance process and apply the facts, as found through the investigation, to all potential grounds for a finding of responsibility/misconduct and possible discipline. Unless otherwise required by law, the investigation and determinations reached through this grievance process shall constitute sufficient processing of any such overlapping/intertwined complaint(s), allegations, or charges that may arise out of the same facts or circumstances as the allegations of Title IX sexual harassment.
2. In all cases involving the concurrent investigation and concurrent consideration of any such overlapping/intertwined complaint(s), allegations, or charges, the District's agents in the grievance process are responsible for giving the parties adequate notice of the scope of the allegations to be investigated and of the different grounds for a potential finding of liability/responsibility (e.g., federal law, state law, or a local policy or rule). The District's agents are also responsible for adequately identifying the specific basis for any determinations of responsibility or substantiated misconduct. For example, a decision-maker might conclude in a given case that the facts as found do not rise to the level of Title IX sexual harassment, but that the complaint is substantiated with respect to prohibited harassment as defined under Chapter PI 9 of the Wisconsin Administrative Code and under District policy.

**MAINTENANCE OF RECORDS.** The District's Title IX Coordinator shall be responsible for maintaining adequate records of each report or formal complaint of sexual harassment filed with the District as required by law, including but not limited to the District's investigation, any determination of responsibility, any disciplinary sanctions imposed, and remedies provided to the complainant to restore or preserve equal access to the District's education program or activity or workplace, any appeal and the result therefrom, any informal resolution and the result therefrom, any actions (including supportive measures) taken in response to a report or formal complaint of sexual harassment, and all materials used to train District staff responsible for carrying out these procedures.

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**TRAINING.** The District will provide training for all appropriate individuals regarding sexual discrimination, sexual harassment, and Title IX. The District will also provide additional training to all staff responsible for implementing the complaint procedures.

### LEGAL REFERENCE

Sections 111.32(13) Wisconsin Statutes 111.36, 118.13, 118.195, 118.20  
PI 9, Wisconsin Administrative Code  
Title IX, Education Amendments of 1972 as amended  
Title VI, Civil Rights Act of 1964 as amended  
Section 504 of the Rehabilitation Act of 1973  
Americans with Disabilities Act of 1990  
Individuals with Disabilities Education Act  
Civil Rights Act of 1991  
EEOC Guidelines (29 C.F.R.-Part 1604.11)

### CROSS REFERENCE

411.1-Rule, Harassment Complaint Procedures  
411.1: Harassment  
411.11-Rule: Title IX Sexual Harassment Complaint Procedures  
447, Student Discipline  
Current Employee Handbook  
District Policy 411.11

APPROVED:           **October 5, 2020**