



## 2266 - **TITLE IX SEXUAL HARASSMENT**

The District does not discriminate on the basis of race, color, national origin, ethnicity, religion, sex (including gender identity or expression, sexual orientation, pregnancy, childbirth, or a related condition), age, height, weight, familial status, marital status, military service, veteran status, genetic information, disability, or any other legally protected basis in admission, access to District programs and activities, or employment. Unlawful discrimination, including unlawful harassment and retaliation, in District programs, services, and activities is prohibited.

This Policy series supersedes any other non-discrimination, anti-harassment, and non-retaliation policy. To the extent another policy grants different rights regarding the topics covered in this Policy series, this Policy series controls.

The Board directs the Superintendent or designee to designate one or more employees to serve as the District's applicable Coordinator(s), as described in Policy 2266B.

- A. **Definitions:** For definitions related to the District's non-discrimination, anti-harassment, and non-retaliation policy, including examples of prohibited conduct, see Policy 2266A – Definitions.
- B. **Designation of Coordinators:** To find the appropriate coordinator/compliance officer, see Policy 2266B – Designation of Coordinators.
- C. **Supportive Measures:** For more information about supportive measures, see Policy 2266C – Supportive Measures.
- D. **Informal Resolution:** For more information about informal resolution, see Policy 2266D – Informal Resolution.
- E. **Grievance Procedure and Remedies:** For more information about the grievance procedure for investigating unlawful discrimination, harassment, and retaliation complaints, and for possible remedies, see Policy 2266E – Grievance Procedure and Remedies.
- F. **Complaint Dismissal and Appeals:** For more information about dismissing a complaint, appealing a complaint dismissal, or appealing a determination of responsibility, see Policy 2266F – Complaint Dismissal and Appeals.
- G. **Pregnancy Discrimination:** For more information about preventing and responding to pregnancy discrimination, see Policy 2266G – Additional Requirements to Prevent and Address Pregnancy Discrimination.

- H. **Training, Recordkeeping, and Notice:** For more information about training requirements, recordkeeping protocols, and notice of the District's non-discrimination policy, see Policy 2266H – Training Requirements, Recordkeeping, and Policy Notice

***Policy 2266A - Definitions for 2266 Series***

- A. The following definitions apply to the 2266 Policy Series, which address non-discrimination, anti-harassment, and non-retaliation:
1. "Appeals Officer" means a person who is designated to hear a determination appeal, a dismissal appeal, or a challenge to a Supportive Measures decision. The Appeals Officer must be a District employee and may not be the same person as the Coordinator, Decisionmaker, Investigator, or Informal Resolution Facilitator.
  2. "Complainant" means: (1) a student or employee who is alleged to have been subjected to conduct that could constitute Unlawful Discrimination; or (2) a person other than a student or employee who is alleged to have been subjected to conduct that could constitute Unlawful Discrimination and who was participating or attempting to participate in the District's education program or activity at the time of the alleged Unlawful Discrimination.
  3. "Complaint" means an oral or written request to the District that objectively can be understood as a request for the District to investigate and make a determination about alleged Unlawful Discrimination.
  4. "Consent" means a voluntary agreement to engage in sexual activity by a person legally capable of consenting. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent. Sexual conduct or romantic relationships between students and District employees, volunteers, or contractors, regardless of age or consent, are prohibited.
  5. "Coordinator" means the person(s) designated by the District to coordinate the District's compliance with state and federal non-discrimination laws. The Coordinator may be the same person as the Investigator and Decisionmaker.
  6. "Day" means a day that the District's central office is open for business, unless otherwise indicated.
  7. "Decisionmaker" means the person designated to issue a determination as to whether Unlawful Discrimination occurred. The Decisionmaker may be the

same person as the Coordinator and Investigator.

8. "Disciplinary Sanctions" means consequences imposed on a Respondent following a determination that the Respondent engaged in Unlawful Discrimination.
9. "Grievance Procedure" means the process outlined in Policy 2266E.
10. "Informal Resolution Facilitator" means the person designated to facilitate an informal resolution process. The Informal Resolution Facilitator may not be the same person as the Investigator or the Decisionmaker.
11. "Investigator" means the person designated to investigate a complaint of Unlawful Discrimination. The Investigator may be the same person as the Coordinator and Decisionmaker.
12. "Key Role" means Coordinator, Investigator, Decisionmaker, Informal Resolution Facilitator, or Appeals Officer.
13. "Party" means a Complainant or Respondent.
14. "Relevant" means related to the allegations of Unlawful Discrimination under investigation as part of the Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged Unlawful Discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged Unlawful Discrimination occurred.
15. "Remedies" means measures provided, as appropriate, to a Complainant or any other person the District identifies as having had their equal access to the District's education program or activity limited or denied by Unlawful Discrimination. These measures are provided to restore or preserve that person's access to the District's education program or activity after the District determines that Unlawful Discrimination occurred.
16. "Respondent" means a person who is alleged to have violated the District's prohibition on Unlawful Discrimination.
17. "Retaliation" means intimidation, threats, coercion, or discrimination against any person by the District, a student, or an employee or other person authorized by the District to provide aid, benefit, or service under the District's education program or activity, for the purpose of interfering with any right or privilege secured by the 2266 Policy Series, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the 2266 Policy Series. Retaliation does not

include a requirement that a District employee participate in a Grievance Procedure.

18. "Supportive Measures" means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:
  - a. Restore or preserve that Party's access to the District's education program or activity, including measures that are designed to protect the safety of the Parties or the District's educational environment; or
  - b. Provide support during the District's Grievance Procedure or during an informal resolution process.
19. "Unlawful Discrimination" means to treat a person differently or less favorably due to the person's race, color, national origin, ethnicity, religion, sex (including gender identity or expression, sexual orientation, pregnancy, childbirth, or a related condition), age, height, weight, familial status, marital status, military service, veteran status, genetic information, disability, or any other legally protected basis or any other legally protected class, and includes unlawful harassment and retaliation based on a person's membership in a protected classification.

#### B. Examples of Unlawful Harassment

Unlawful harassment may include, but is not limited to:

1. **Race, Color, or National Origin Harassment**, which is prohibited by Title VI and Title VII of the Civil Rights Act of 1964 and the Michigan Elliott-Larsen Civil Rights Act. Race, color, or national origin harassment is unwelcome conduct based on a person's actual or perceived race, color, or national origin that creates a hostile environment or becomes a condition of continued employment. Race includes traits historically associated with race, including, but not limited to, hair texture and protective hairstyles. Race, color, or national origin harassment may take many forms, including slurs, taunts, stereotypes, or name-calling, as well as racially motivated physical threats, attacks, or other hateful conduct.

Under this Policy, harassment based on ethnicity, ancestry, or perceived ancestral, ethnic, or religious characteristics, will be considered race, color, or national origin harassment.

2. **Disability Harassment**, which is prohibited by the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Michigan Persons with Disabilities Civil Rights Act. Disability harassment is

unwelcome conduct based on a person's actual or perceived disability that creates a hostile environment or becomes a condition of continued employment. Disability harassment may take many forms, including slurs, taunts, stereotypes, or name-calling, as well as disability motivated physical threats, attacks, or other hateful conduct.

3. **Sex-Based Harassment**, which is prohibited by Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, and the Michigan Elliott-Larsen Civil Rights Act, and includes harassment based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:
  - a. **Quid Pro Quo Harassment.** An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
  - b. **Hostile Environment Harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    1. The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
    2. The type, frequency, and duration of the conduct;
    3. The Parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each Party that may be relevant to evaluating the effects of the conduct;
    4. The location of the conduct and the context in which the conduct occurred; and
    5. Other sex-based harassment in the District's education program or activity; or
  - c. **Specific Offenses**
    1. "Sexual assault" means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting

system of the Federal Bureau of Investigation.

2. "Dating violence" means violence committed by a person: (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.
3. "Domestic violence" means felony or misdemeanor crimes committed by a person who: (i) is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the District, or a person similarly situated to a spouse of the victim; (ii) is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner; (iii) shares a child in common with the victim; or (iv) commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.
4. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for the person's safety or the safety of others; or (ii) suffer substantial emotional distress.

***Policy 2266B – Designation of Coordinators***

The District designates the following person(s) to serve as non-discrimination Coordinators:

Designated Title IX Coordinator

ASSISTANT SUPERINTENDENT OF HUMAN RESOURCES

8542 BYRON CENTER AVE SW, BYRON CENTER, MI 49315

616-878-6100

HR@BCPSK12.NET

Second Title IX Coordinator:

SPECIAL EDUCATION DIRECTOR

8542 BYRON CENTER AVE SW, BYRON CENTER, MI 49315

616-878-6100

HR@BCPSK12.NET

Designated Section 504 Coordinator

SPECIAL EDUCATION DIRECTOR

8542 BYRON CENTER AVE SW, BYRON CENTER, MI 49315

616-878-6100

HR@BCPSK12.NET

Designated Civil Rights Coordinator/Employment Compliance Officer

ASSISTANT SUPERINTENDENT OF HUMAN RESOURCES

8542 BYRON CENTER AVE SW, BYRON CENTER, MI 49315

616-878-6100

HR@BCPSK12.NET

A Complaint against one of the Coordinators listed above may be made to the Superintendent or Board President. A Complaint against the Superintendent may be made to the Board President. A Complaint against the Board President may be made to the Board Vice President.

## **Policy 2266C- Supportive Measures**

### **A. Supportive Measures**

The District will offer and coordinate Supportive Measures, as appropriate, for Complainants, Respondents, and others whose access to the District's education program and activity was impacted by alleged Unlawful Discrimination. Supportive Measures are designed to restore or preserve a person's access to the District's education program or activity or provide support during the District's Grievance Procedure and informal resolution process. Supportive Measures are available at any time, including before, during, and after the Grievance Procedure or Informal Resolution Process.

Supportive Measures must not unreasonably burden any Party.

## Examples of Supportive Measures

Supportive Measures may include, but are not limited to:

1. District-provided counseling;
2. Course-related adjustments, such as deadline extensions;
3. Modifications to class, extracurricular, or work schedules;
4. Provision of an escort to ensure that the Complainant and Respondent can safely attend classes and school activities;
5. Training and education programs; and
6. Mutual no-contact orders

Any Party may seek modification or termination of a supportive measure applicable to them if circumstances materially change. The District must not disclose information about any Supportive Measures to persons other than the person to whom they apply, unless necessary to provide the Supportive Measure or to restore or preserve a party's access to the education program or activity, or as otherwise authorized by law.

## **B. Challenging Supportive Measures**

For allegations of Title IX Sex Discrimination, any Party may seek modification or reversal of a decision to provide, deny, modify, or terminate Supportive Measures applicable to them. To request a modification to Supportive Measures, the Party must submit a written request to the Title IX Coordinator. The Title IX Coordinator will designate an impartial employee as an Appeals Officer to review the challenge. The Appeals Officer must be an employee, must not be the person who made the challenged decision, and must have the authority to modify or reverse Supportive Measures. The Appeals Officer will only modify or reverse a decision about Supportive Measures if the Appeals Officer determines that the initial decision to provide, deny, modify, or terminate the supportive measure is inconsistent with the definition of Supportive Measures in this Policy.

## **C. Students with Disabilities**

If a Party is a student with a disability, the applicable Coordinator or designee must consult with one or more members, as appropriate, of the student's Section 504 or Individualized Education Program Team (as applicable), to ensure compliance with Section 504 or the IDEA in the implementation of Supportive Measures.



### ***Policy 2266D - Informal Resolution***

In lieu of resolving a Complaint through the Grievance Procedure, and if offered by the District, the Parties may instead elect to participate in an informal resolution process. This process is not available to resolve a Complaint that includes allegations that an employee engaged in sex-based harassment of a student, or when such a process would conflict with Federal, State, or local law.

Informal resolution does not require a full investigation and may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice.

### ***Policy 2266E - Grievance Procedure and Remedies***

#### **Grievance Procedure**

##### **A. Generally**

The District has adopted the following Grievance Procedure that provides for the prompt and equitable resolution of Unlawful Discrimination, including harassment and retaliation, Complaints. This Grievance Procedure will be used to investigate and resolve Complaints of Unlawful Discrimination, including harassment and retaliation, between and among students, employees, volunteers, contractors, and Board members.

The District will treat Complainants and Respondents equitably.

The District requires that any individual serving in a Key Role not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. Individuals serving in a Key Role for a Title IX Sex Discrimination Complaint must meet the additional training requirements in Policy 2266H.

The District presumes that the Respondent is not responsible for the alleged Unlawful Discrimination until a determination is made at the conclusion of the Grievance Procedure.

Grievance Procedure Stages and Timeframes: The District has established the

following stages and, where applicable, timeframes for the Grievance Procedure:

1. Evaluation

Upon receipt of a Complaint, the Coordinator will determine whether to proceed with an investigation or dismiss the Complaint consistent with Policy 2266F. For Title IX Sex Discrimination Complaints, this determination will occur within 5 days.

2. Investigation

If the Complaint proceeds to the Investigation phase, the Coordinator will appoint an Investigator to conduct the investigation and provide notice of the allegations. The Coordinator may serve as the Investigator. For Title IX Sex Discrimination Complaints, the notice of allegations will be provided within 5 days. For Title IX Sex Discrimination Complaints, the Investigator will endeavor to complete the investigation within 60 days.

3. Evidence Access (Title IX Sex Discrimination Complaints Only)

For Title IX Sex Discrimination Complaints only, upon completion of the Investigation phase, the Parties will have 5 days to access and respond to the evidence as further explained below.

4. Decision

Upon completion of the Investigation, the Decisionmaker will endeavor to promptly issue a decision as to whether Unlawful Discrimination occurred. For Title IX Sex Discrimination Complaints, the decision will be issued within 10 days.

Unless otherwise determined by the applicable Coordinator based on unique circumstances, the Investigator will also serve as the Decisionmaker.

5. Appeal Decision

If an appeal is permitted under Policy 2266F, that appeal must be submitted within 5 days from a Party's receipt of the determination.

At any point, the Coordinator, Investigator, Decisionmaker, or Appeals Officer may reasonably extend timelines on a case-by-case basis for good cause. If good cause exists, the Coordinator, Investigator, Decisionmaker, or Appeals Officer will notify each Party in writing within 5 days of the decision to extend the timelines. Such notice will include the reason and length of the extension. Good cause may include absence of a Party or witness; concurrent law enforcement activity; complexity of the underlying allegations; or the need for

accommodations (e.g., language assistance or accommodation of disabilities).

**B. Confidentiality**

The District will take reasonable steps to protect the privacy of the Parties and witnesses during its Grievance Procedure. These steps will not restrict the ability of the Parties to obtain and present evidence, including consulting with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the Grievance Procedure. The Parties may not engage in retaliation, including against witnesses.

**C. Evidence Considerations**

The Decisionmaker will objectively evaluate all evidence that is Relevant and not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness. For Title IX Sex Discrimination Complaints, the Decisionmaker must attempt to independently question and evaluate the credibility of Parties and witnesses if credibility is in dispute and Relevant.

**D. Complaint Consolidation**

The District may consolidate Complaints when the allegations arise out of the same facts or circumstances.

**E. Notice of Allegations**

Upon receiving a Complaint, the applicable Coordinator will notify the Parties of the following:

1. The Grievance Procedure and any informal resolution process;
2. Sufficient information available at the time to allow the Parties to respond to the allegations, including the identities of the Parties involved in the incident(s), the conduct alleged to constitute Unlawful Discrimination, and the date(s) and location(s) of the alleged incident(s);
3. Retaliation is prohibited; and
4. For Title IX Sex Discrimination Complaints, the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an accurate description of the evidence. If the District provides a description of the evidence, the Parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence upon request.

If, during an investigation, the District decides to investigate additional

allegations of Unlawful Discrimination by the Respondent toward the Complainant that are not included in the notice provided or that are included in a Complaint that is consolidated, the District will notify the Parties of the additional allegations.

#### **F. Investigation**

The District will provide for adequate, reliable, and impartial investigation of Complaints. The burden is on the District — not on the Parties — to conduct an investigation that gathers sufficient evidence to determine whether Unlawful Discrimination occurred.

The Parties will be provided an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. The Investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Throughout the investigation, the Investigator must determine, what, if any, facts remain in dispute. If dispositive facts are not reasonably in dispute (e.g., based on Party admissions, irrefutable evidence), further investigation is not required.

#### **G. Title IX Sex Discrimination Specific Evidence Rules**

1. Access to Evidence: For allegations of Title IX Sex Discrimination, the District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of Title IX Sex Discrimination and not otherwise impermissible, in the following manner:
  - a. The Investigator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the Investigator provides a description of the evidence, the Investigator will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
  - b. The Investigator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
  - c. The District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the Grievance Procedure. Disclosure of such information and evidence for purposes of administrative proceedings or litigation related to the Title IX Sex Discrimination Complaint is authorized.

2. Impermissible Evidence: The following types of evidence, and questions seeking that evidence, are impermissible regardless of whether they are relevant:
  - a. Evidence that is protected under a privilege recognized by Federal or State law, unless the person to whom the privilege is owed has voluntarily waived the privilege or confidentiality;
  - b. A Party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or witness, unless the District obtains that Party's or witness's voluntary, written consent for use in the Grievance Procedure; and
  - c. Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct or is evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Impermissible evidence will not be accessed or considered, except by the District to determine whether one of the above exceptions applies. Impermissible evidence will not be disclosed or otherwise used in the investigation.

#### **H. Determination**

Following the investigation and evaluation of all relevant and not otherwise impermissible evidence, the Decisionmaker will:

1. Use the preponderance of the evidence standard to determine whether Unlawful Discrimination occurred. The Decisionmaker must evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the Decisionmaker is not persuaded by a preponderance of the evidence that Unlawful Discrimination occurred, whatever the quantity of the evidence, the Decisionmaker will not determine that Unlawful Discrimination occurred.
2. Notify the Parties in writing of the determination whether Unlawful Discrimination occurred, including the rationale for such determination and the procedures and permissible bases for the Complainant and Respondent to

appeal, if applicable.

3. Not discipline a Respondent for Unlawful Discrimination unless there is a determination at the conclusion of the Grievance Procedure that the Respondent engaged in unlawful discrimination.
4. Comply with this Grievance Procedure before imposing any disciplinary sanctions against a Respondent.

#### **I. Remedies**

If there is a determination that Unlawful Discrimination occurred, the applicable Coordinator will, as appropriate:

1. Coordinate the provision and implementation of remedies to a Complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by Unlawful Discrimination;
2. Coordinate the imposition of any Disciplinary Sanctions against a Respondent. For a Title IX Sex Discrimination Complaint, notify the Complainant of any such Disciplinary Sanctions; and
3. Take other appropriate prompt and effective steps to ensure that Unlawful Discrimination does not continue or recur within the District's education program or activity.

#### **J. False Statements**

A person who knowingly files a false Complaint or makes a materially false statement is subject to discipline, including discharge from employment or expulsion.

The District will not discipline a Party, witness, or others participating in a Title IX Sex Discrimination Complaint Grievance Procedure for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

### ***Policy 2266F - Complaint Dismissal and Appeals***

#### **A. Complaint Dismissal**

The District may dismiss a Complaint if:

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

Upon dismissal, the District will promptly notify the Complainant of the basis for the dismissal. If the dismissal occurs after the Respondent has been notified of the allegations, the District will also notify the Respondent of the dismissal and the basis for the dismissal promptly following notification to the Complainant, or simultaneously if notification is in writing.

Upon dismissal, the District will take prompt and effective steps, as appropriate, through the applicable Coordinator, to ensure that Unlawful Discrimination does not continue or recur within the District's education program or activity. The District will offer Supportive Measures to the Complainant as appropriate. The District will also offer Supportive Measures to the Respondent as appropriate if the Respondent has been notified of the Complaint allegations.

The District will notify a Complainant alleging Title IX Sex Discrimination that a dismissal may be appealed and will provide the Complainant with an opportunity to appeal the dismissal of a Complaint. If the dismissal occurs after the Respondent has been notified of the allegations, then the District will also notify the Respondent that the dismissal may be appealed.

#### **B. Complaint Dismissal Appeal – Title IX Sex Discrimination Only**

1. Complaint dismissals may be appealed within 5 days of receipt on the following bases:
  - a. Procedural irregularity that would change the outcome;

- b. New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
  - c. The Title IX Coordinator, Investigator, or Decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.
2. If the dismissal is appealed, the District will:
- a. Notify the Parties of any appeal, including notice of the allegations, if notice was not previously provided to the Respondent;
  - b. Implement appeal procedures equally for the Parties;
  - c. Ensure that the Appeals Officer did not take part in an investigation of the allegations or dismissal of the Complaint;
  - d. Ensure that the Appeals Officer has been trained consistent with the applicable federal regulations;
  - e. Provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
  - f. Notify the Parties of the result of the appeal and the rationale for the result.

The Appeals Officer will affirm the dismissal if it met any of the above-listed standards for dismissal, unless the Appeals Officer determines that dismissal will result in unremedied Unlawful Discrimination.

**C. Determination Appeal Procedure – Title IX Sex Discrimination Complaints Only**

Any party may appeal the determination to the Title IX Coordinator, who will appoint an Appeals Officer to hear the appeal. The appeal must be filed within 5 days of receipt of the determination. The Appeals Officer will offer each Party the opportunity to submit a statement in support of the appeal or in support of the original determination. The Appeals Officer will issue a written decision on the appeal within 5 days of the deadline for the Parties to submit statements.

**D. Determination Appeal Procedures – Other Complaints**



Unless expressly stated in writing by the Decisionmaker, other determinations are not subject to appeal.

***Policy 2266G - Additional Requirements to Prevent and Address Pregnancy Discrimination***

**A. Pregnancy or Related Conditions**

The District will not adopt or implement any policy, practice, or procedure, or take any action, on the basis of sex: (1) concerning a student's current, potential, or past parental, family, or marital status that treats students differently on the basis of sex; (2) concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment that treats persons differently or that is based upon whether an employee or applicant for employment is the head of household or principal wage earner; (3) concerning pre-admission inquiries as to the marital status of an applicant for admission.

**B. Comparable Treatment to Other Medical Conditions**

The District treats pregnancy or related conditions as any other temporary medical condition for all job-related purposes and with respect to any medical or hospital benefit, service, plan, or policy the District administers, operates, offers, or participates in with respect to students.

**C. Lactation Time and Space**

The District will ensure access to and provide reasonable break time for an employee or student to express breast milk or breastfeed as needed.

The lactation space will be a space other than a bathroom that is clean, shielded from view, free from intrusion from others, and which may be used by an employee or student for expressing breast milk or breastfeeding as needed.

**D. Student Pregnancy or Related Conditions Additional Requirements**

1. Employee Obligations

Unless the employee reasonably believes that the Title IX Coordinator has already been notified, when a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related condition, the employee will promptly provide that person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's

education program or activity.

## 2. Title IX Coordinator Obligations

Upon receiving information that a student is pregnant or has a related condition, the Title IX Coordinator will take the steps below.

- a. Inform the student and the person who notified the District of the pregnancy or related condition (if that person has the legal right to act on behalf of that student) of the District's obligations and the student's rights.
- b. Provide a copy of the District's notice of non-discrimination to the student and the person who notified the District of the pregnancy or related condition (if that person has the legal right to act on behalf of that student).
- c. Make reasonable modifications to the District's policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to the District's programs and activities. Any reasonable modification must be based on the student's individualized needs and made by consulting with the student. The student has the right to accept or reject any reasonable modifications. Any accepted reasonable modifications will be implemented.
- d. Allow the student to voluntarily access any separate and comparable portion of the District's education program or activity.
- e. Allow the student to voluntarily take a leave of absence from the District's program or activity to cover (at a minimum) the period of time deemed medically necessary by the student's licensed healthcare provider. Upon return, the student will be reinstated to the academic status and extracurricular status (as applicable) that the student held before leave began.
- f. Provide access to a lactation space.
- g. Not require supporting documentation unless the documentation is necessary and reasonable for the District to determine the reasonable modifications to make or whether to take additional actions to support the student.

## 3. Certificate to Participate

The District will not require a student who is pregnant or has a related condition to provide certification from a healthcare provider or any other

person that the student is physically able to participate in the District's class, program, or extracurricular activity unless: (i) the certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity; (ii) the District requires such certification of all students participating in the class, program, or extracurricular activity; and (iii) the information obtained is not used as a basis for discrimination.

***Policy 2266H – Training Requirements, Recordkeeping, and Policy Notice***

**A. Title IX Training Requirements**

The following individuals must receive training related to their duties under Title IX. Training may not rely on sex stereotypes.

1. All Employees

All District employees must be trained upon hiring and annually on:

- a. The District's obligation to address sex discrimination;
- b. The scope of conduct that constitutes sex discrimination under Title IX and its implementing regulations, including the definition of sex-based harassment;
- c. The obligation to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination;
- d. The obligation to provide a possible Complainant with the Title IX Coordinator's contact information and information about how to make a complaint of sex discrimination; and
- e. Notification requirements for pregnant students.

2. Key Role Training

- a. All Key Roles: Any individual who serves in a Key Role under Title IX must be trained upon hire, when Key Role duties change, and annually thereafter on:
  1. All training requirements applicable to all employees;

2. The District's obligations in responding to allegations of sex discrimination;
3. The District's Grievance Procedure;
4. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
5. The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

b. Informal Resolution Facilitator

Individuals who are designated as a Title IX Coordinator must be trained upon hire, when Key Role duties change, and annually thereafter on:

1. All training requirements applicable to all employees;
2. All training requirements applicable to Key Roles;
3. The rules and practices of the District's informal resolution process; and
4. How to serve impartially, including by avoiding conflicts of interest and bias.
5. Title IX Coordinator

Individuals who serve as an Informal Resolution Facilitator must be trained upon hire, when Key Role duties change, and annually thereafter on:

1. All training requirements applicable to all employees;
2. All training requirements applicable to Key Roles;
3. All training requirements applicable to the Informal Resolution Coordinator;
4. The Coordinator's obligation to coordinate the District's efforts to comply with its responsibilities under Title IX;

5. Supportive Measures;
6. The District's recordkeeping system;
7. Recordkeeping requirements; and
8. Any other training necessary to coordinate the District's Title IX compliance.

**B. Other Coordinator Training Requirements**

All other Coordinators and individuals assigned to serve in a Key Role outside of Title IX investigations must be adequately trained.

**C. Record Keeping**

The District will maintain the following records for a minimum of seven years:

1. For each Title IX Sex Discrimination Complaint, records documenting the informal resolution process or the Grievance Procedure, and the resulting outcome;
2. For each notification to the Title IX Coordinator about conduct that reasonably may constitute sex discrimination, including notifications received from District employees, records documenting the actions the District took to meet its obligations in responding to sex discrimination; and
3. All materials used to provide training under Title IX.

**D. Nondiscrimination Notice Requirement**

The District will prominently post on its website and otherwise provide notice of nondiscrimination to students, parents, employees, applicants for admission and employment, and all unions and professional organizations with collective bargaining agreements with the District. The notice of nondiscrimination will comply with all applicable laws.

Legal

20 USC 1400 et seq., 1681 et seq.

29 USC 206 et seq., 621 et seq., 701 et seq., 794, 2601 et seq., 6101 et seq.

38 USC 4301 et seq.

42 USC 1983, 2000d et seq., 2000e et seq., 2000ff et seq., 6101 et seq., 12101 et seq.

29 CFR 1604.1 et seq., 1635

34 CFR 106.1,106.40 et seq.

MCL 37.1101 et seq., 37.2101 et seq.