



Administrative Directive

4.30.063-AD

Title IX Student-to-Student Sex Discrimination and Sex-Based Harassment

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Title IX of the Education Amendments Act of 1972

All forms of sex discrimination are prohibited at Portland Public Schools.

PPS has a Title IX Office and school-based coordinators whose responsibility includes responding to concerns regarding Title IX and its application at PPS.

The purpose of this Administrative Directive is to provide a complaint process for investigating and reaching a final determination for formal complaints of sex discrimination or sex-based harassment between students. This Administrative Directive does not apply to alleged sex discrimination or sex-based harassment of or by employees or between employees and students, which are addressed in other policies.

1. How to Report

The District encourages students to report concerns and provides multiple ways to report sex discrimination or sex-based harassment, including the following:

- [Title IX Office](#),
- The school-based Title IX officer,
- The Civil Rights Director, Bobby Cruz, via phone (503) 839-3660, via email at civilrights@pps.net.
- Electronic reports can be made through Safe Oregon or by using the PPS reporting system, which includes an anonymous option. The link is available here: <https://www.pps.net/Domain/5294>. (Please note that PPS may be limited in its ability to investigate and address anonymous reports.)

In addition to the reporting requirements under this AD, Oregon mandatory child abuse reporting laws require all District employees report incidents of sex-based harassment that create a reasonable suspicion of child abuse to DHS or law enforcement (see [4.50.051-P](#)).

2. Notice & PPS Duty to Promptly Respond

PPS must respond whenever any District employee has been put on notice of conduct that reasonably may constitute conduct prohibited by Title IX. ***All District employees are required to promptly report any complaints, allegations or concerns of sex discrimination or sex-based harassment.***

3. Application of Title IX Procedures

When the Title IX Office or a school-based coordinator receives a complaint, the response must be reasonable in light of the known circumstances and follow the procedures in this Administrative Directive. Complaints or reports within the scope of this administrative directive include those by and between students alleging sex discrimination or sex-based harassment incidents that:

- a) Occur on or immediately adjacent to District property;
- b) Occur at or during any District-sponsored activity or program (e.g., athletic events,

- off-site student organization events, etc.), on District-provided transportation, or at any official District bus stop; Occur off-campus when a student acts toward another in a manner that creates a hostile environment while at school; OR
- c) Disrupt or create a hostile school environment for the student.
- I. This could include (but is not limited to) behavior that occurs online (e.g., social media) when it results in a negative impact on another PPS student's right to safely access their public education in an environment free from sex discrimination and/or sex-based harassment.

4. Definitions of Prohibited Conduct

Under Title IX, all of the following are prohibited.

- a) **Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex – including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity – that are defined further as:**

- I. Hostile environment harassment: Engaging in 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 student equal access to a school's education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
- the degree to which the conduct affected the complainant's ability to access the District's education program or activity;
 - the type, frequency, and duration of the conduct;
 - the parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - the location of the conduct and the context in which the conduct occurred; and
 - other sex-based harassment in the District's education program or activity.
- OR
- II. Specific offenses:
- Sexual assault Unwelcome sexual conduct that occurs without consent or when under the influence of drugs/alcohol, while unconscious or elicited using physical force, coercion, explicit or implied threats.
 - Dating (or domestic) violence Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with another.
 - Stalking A pattern of sex/gender-discrimination-based behavior intended to cause fear or intimidation.

- b) **Sex discrimination** Includes discrimination on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity.

5. Role of the Title IX Office

The Title IX Office coordinates the District's efforts to comply with Title IX and state law.

The Title IX Office's contact information, including the name, phone number, office and email address, will be clearly and consistently applied across the District's website and on every school's website.

When a complaint or report of sexual harassment or sex-based discrimination is made under this Administrative Directive, the Title IX Office (or designee) will:

- a. Treat the complainant and respondent equitably
- b. Offer and coordinate supportive measures, as appropriate
- c. Notify the complainant, or the reporter of complaint, of the complaint procedure and informal resolution process and, if a complaint is made, notify the respondent of the same
- d. Inform the complainant that any report made in good faith will not result in discipline
- e. Inform the complainant of the drugs and alcohol amnesty clause
- f. Initiate the complaint procedure and/or provide information on informal resolution process
- g. Respect the complainant's wishes with respect to whether a school investigates, unless the Title IX Office determines that it is necessary to pursue the complaint in light of a health or safety concern for the community, and
- h. Regardless of whether a complaint is initiated, coordinate supportive measures as appropriate to preserve students' access to their education.

6. Dismissal of Claim

PPS may dismiss a claim of sex discrimination or sex-based harassment under this Administrative Directive when:

- a. The complainant withdraws the formal complaint
- b. The respondent is no longer enrolled as a student in the District
- c. Circumstances prevent the District from gathering evidence that would be sufficient to reach a determination whether the alleged behavior occurred
- d. The Title IX Office reasonably determines the conduct as alleged would not constitute sex discrimination or sex-based harassment

Upon dismissal, the Title IX Coordinator will promptly notify, in writing, the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will also simultaneously notify, in writing, the respondent of the dismissal and the basis for the dismissal.

When a claim is dismissed under Title IX, the District may address conduct through other policies, practice, or guidance including, but not limited to, District policy or Administrative Directive, or any process in the Student Rights and Responsibilities Handbook.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

- offer supportive measures to the complainant and respondent (if notified of allegations), as appropriate; and
- take other prompt and effective steps, as appropriate, to ensure that sex discrimination or sex-based harassment does not continue or recur within the District's education program or activity.

7. Appeal of Dismissal of a Complaint

The Title IX Coordinator will notify the complainant 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 Title IX Coordinator will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

8. Conflicts of Interest

The Title IX Office and all designees involved in an investigation or hearing must be free from prejudgment, conflict of interest, or bias for or against any party. District employees who have extensive interaction with any party involved in a complaint are advised to designate another administrator or the Title IX investigator to act on their behalf.

9. Supportive (Safety) Measures

The District will make available supportive measures with or without filing a formal complaint. These supports will be available to both parties, free of charge. Supportive measures are temporary and flexible, based on the needs of the individual, and may include counseling, extensions of deadlines or course-related adjustments such as schedule changes or modifications of academic requirements; restrictions on contact between parties (must be applied equally to both parties); leaves of absence; and/or increased security and monitoring of certain areas of the building. Supportive measures must not unreasonably burden either party and will not be imposed for punitive or disciplinary reasons.

10. Emergency Removal from School, Program, or Activity

Respondents may not be disciplined or face consequences until and unless they are found "responsible" for violating a District policy or administrative directive or school directive or as agreed-upon through an informal resolution process.

Respondents may, however, be removed from the school, program, or activity during an investigation if an individualized safety and risk analysis (behavioral safety and threat assessment) determines that there is an imminent and serious threat to the physical health or safety of any person that arises from the allegations of sex-based harassment or sex discrimination that justifies the removal. Respondent will be given notice and an opportunity to challenge the decision immediately following the removal.

11. Retaliation is Prohibited

Neither the District nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual made a report or complaint to the District of sex discrimination or sex-based harassment under this administrative directive, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this administrative directive.

Retaliation against a person for making a complaint or participating in an investigation is a

serious violation of this administrative directive that can result in the imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

Charging a student with a code of conduct violation for making a materially false statement in bad faith in the course of a complaint process under this administrative directive shall not constitute retaliation; provided, however, that a determination that sex discrimination or sex-based harassment occurred, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

Complaints alleging retaliation may be reported in the same complaint process described above (Title IX Office; Title IX Coordinator; online reporting form). The District shall initiate its complaint process upon receiving any complaint alleging retaliation.

12. Parental Rights

A student's parent or guardian is permitted to exercise the rights granted to their child, whether such rights involve requesting supportive measures or participating in a complaint process. Similarly, a student's parent or guardian is permitted to accompany the student to meetings, interviews, and hearings during a complaint process and to exercise rights on behalf of the student, even if the student's advisor of choice may be a different person from the parent or guardian. Schools must also ensure parents and legal guardians are aware of their right to file formal complaints on behalf of their children.

Students over the age of 14 should be offered more discretion in when/how parents are notified (e.g., when parent/guardian is unsafe and allowing students to identify another trusted adult in their lives) given their legal rights to confidential medical and mental health services.

13. Informal Resolution Options

Express and explicit consent by both parties is required before engaging in a voluntary informal resolution process, including any restorative options. Even when informal resolution process does occur, the Title IX Coordinator will take other appropriate prompt and effective steps to ensure that sex discrimination or sex-based harassment does not continue or recur within the District's education program or activity.

Complainants and respondents are allowed an "advisor of choice" to support them throughout the complaint process. This is a person of their choosing, including advocates, parents, peers, counselors, lawyers, etc.

14. Fair, Transparent, and Consistent Complaint Procedures

Complaint procedures refer broadly to the investigation, hearing, and appeal process triggered following a complaint, which adheres to due process principles, treats both parties fairly, and reaches reliable determinations regarding responsibility.

The District applies a leveled framework of response and intervention to sex-based discriminatory or sex-based harassing behaviors, which begins with opportunities for the intervention, education and support. The leveled response allows for interventions that are calibrated to the incident and needs of the student. Level 1/2 responses are designed to interrupt early to prevent recurrence and can be addressed at the building or class level while level 3/4 addresses persistent, pervasive and severe incidents for which the Title IX office

partners with building administrators to investigate and support.

15. LEVEL 3-4 Investigations

All investigations shall have:

- a. Written notice of the allegations to both parties.
- b. Protections for all parties' privacy and the requirement of written consent before accessing any protected medical or psychological records.
- c. The presumption that the respondent is not responsible for the prohibited conduct.
- d. An advisor of each student's choice who is permitted to attend meetings as a support person.
- e. An objective evaluation of all relevant and permissible evidence, both inculpatory and exculpatory.
- f. Credibility determinations not based on a person's status as complainant, respondent, or witness.
- g. An equal opportunity for the parties to present relevant and not otherwise impermissible evidence and witness testimony and to have access to all of the evidence upon request.
- h. No questions about complainant's prior sexual history.
- i. A reasonable opportunity for the parties to respond to the evidence.
- j. Written explanations that must be shared with both parties that (at a minimum) include the investigator's responsibility determination and an explanation for how and why the investigator arrived at this conclusion.
- k. An expectation that they will be conducted within a reasonable timeframe.

16. Disciplinary Hearings & Determination of Responsibility

Following the investigation, a determination of responsibility shall be made by a decision maker and shall meet the following criteria:

- a. For students with disabilities, the District will follow 4.30.025-AD Discipline of Students with Disabilities.
- b. The preponderance of evidence standard shall be applied to all student disciplinary proceedings under Title IX.
- c. The decision maker will take reasonable steps to prevent the parties' unauthorized disclosure of information and evidence obtained through the complaint process.
- d. The opportunity for both parties (complainant/respondent) to appeal the decision.
- e. Protection for all parties against retaliation for reporting or participating in an investigation.
- f. The respondent is considered to be not responsible for the alleged conduct until a determination is substantiated by a decision maker. The decision maker must issue a written determination/decision within 10 days of the conclusion of the investigation.
- g. The decision maker may impose disciplinary sanctions and remedies.

17. Outcome Notifications

After an investigation is completed, the decision maker will make one of the following findings:

Substantiated: The information gathered supports a finding that it is more likely than not that

the behavior DID occur.

Unsubstantiated: The information gathered supports a finding that it is more likely than not that the behavior DID NOT occur.

Not enough information to determine: The information gathered does not allow for the establishment of facts or supported conclusions necessary to render a finding either way.

Unfounded: The report was intentionally false, misleading and/or intended to cause another person harm.

Once a Determination of Responsibility is rendered and sanctions are imposed, final notification to both parties must occur simultaneously.

- a. **Final written notification to both parties will include:** date investigation concluded; finding (substantiated, unsubstantiated, not enough information, unfounded) and the rationale for such determination; ongoing supportive measures, if any; information on how to appeal the decision and appeal bases available; non-retaliation reminder; name/contact info of Title IX Office (for follow-up); information about civil remedies and applicable statutes of limitations; and privacy/FERPA rights and explanation of exceptions for Title IX cases.
- b. **Final notification to Complainant will include** any sanction information given to the Respondent, as it relates to Complainant's safety.
- c. **Final notification to Respondent will include the sanction or discipline assigned, if any.**

18. Sanctions and Remedies

a. Respondent (Sanction)

When a respondent is found responsible for the prohibited behavior as alleged, sanctions are based on the severity and circumstances of the behavior. Disciplinary actions or consequences can range from a conference at building level through suspension or expulsion.

b. Complainant (Remedies)

When a respondent is found responsible for the prohibited behavior as alleged by a complainant, remedies must be provided to the complainant as reasonably necessary to restore or to preserve access to the District's education program or activity. Remedies are designed to maintain the complainant's equal access to education and may include supportive measures or other remedies.

19. Appeals Process

Appeals are allowed by both parties due to any of the following:

- 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 decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Appeals should be sent in writing to the Title IX Office. They will then be sent to the appropriate District Senior Director for review. The outcome notification sent to both parties shall indicate where to file an appeal and any applicable deadlines for doing so.

The reviewer's decision on the appeal will be final and binding on the parties.

The United States Department of Education's Office for Civil Rights ("OCR") is the federal agency responsible for overseeing Title IX and other anti-discrimination laws. Parties may contact OCR to make a complaint at: Office for Civil Rights, Seattle Office, U.S. Department of Education, 915 Second Avenue, Room 3310, Seattle, WA 98174, (206)-607-1600, OCR.Seattle@ed.gov.

20. Documentation & Record Retention

All actions taken in response to a report or complaint of sex discrimination or sex-based harassment must be retained for seven years, including but not limited to, documentation for each investigation, including any responsibility determination, disciplinary sanctions imposed, remedies and supportive measures provided, and appeal and informal resolution documentation, if applicable. The District will also retain materials used for Title IX training.

21. Training Requirements

All PPS employees shall be trained on our obligation to recognize and address sex discrimination and sex-based harassment, and to understand their reporting requirements. Materials used to train the Title IX Office employees and/or School-Based Title IX Coordinators and administrators, decision makers and any person engaged in the facilitation of the formal or informal resolution process must be made available upon request. This includes proprietary materials and organizational materials.

22. Definitions

- a) Advisor-Complainants and respondents are allowed an "advisor of choice" to support them throughout the complaint process. This is a person of their choosing, including advocates, parents, peers, counselors, lawyers, etc.
- b) Complaint- an oral or written request to investigate and make a determination about alleged sex discrimination or sex-based harassment.
- c) Complaint process- the investigation, hearing, and appeal process following a formal complaint.
- d) Complainant (reporting party) - a student who is alleged to have been harmed by another student's prohibited behavior under this administrative directive.
- e) Respondent (responding party) - a student who is alleged to have harmed another student (complainant) by prohibited conduct under this administrative directive.
- f) Determination of Responsibility - the formal finding by the decision maker on each allegation of sex discrimination or sex-based harassment contained in a formal complaint alleging conduct constituting sex discrimination or sex-based harassment under Title IX and this AD.
- g) Preponderance of evidence- a standard of proof in which the finder of fact weighs the evidence to determine if a fact is more likely than not to be true (at a minimum, slightly more than 50%).
- h) Sexual Incident Response Committee (SIRC) - a group of school staff familiar with the respondent student that uses an assessment tool to identify sexualized behaviors in children to assist schools in determining appropriate interventions to ensure safety for all PK-12 students. SIRC's purpose is to provide timely support to children and mitigate potential risk to others in the school community. SIRC will use an assessment tool to identify sexualized behaviors in children to assist

schools in determining appropriate interventions to ensure safety for all PK-12 students. SIRC assesses a broad range of sexualized behaviors to determine whether they are developmentally appropriate and whether they may be indicative of other risk factors. Most importantly, SIRC informs a multidisciplinary team of educators (administrators, counselors, subject matter experts) at a child's school in better understanding why a child may be exhibiting certain behavior and how to respond and support a child during the school day. SIRC is an integral part of our comprehensive response to Title IX-related matters.

- i) School-based Title IX Coordinator (SBC)- designated building leader who a) receives school-based reports; b) conducts safety planning and/or Sexual Incident Response Committee (SIRC) for a respondent; c) acts as the District point of contact for investigations in collaboration with the Title IX Office or SIRC Coordinator; and d) ensures incidents or reports are cross-reported to the Title IX Office for tracking patterns of behavior.
- j) Supportive Measures- Individualized measures offered as appropriate and as reasonably available to (1) provide support during the complaint/informal resolution process or (2) 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. Supportive measures must not unreasonably burden the complainant or respondent; not impose a cost to a complainant or respondent; and not be imposed for punitive or disciplinary reasons.

Amended 8/2021; Amd 11/24