



## **Administrative Directive 4.30.072-AD**

### **Title IX Student to Student Sexual Harassment**

Title IX of the Education Amendments of 1972 states, “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.”

While all forms of sex discrimination are prohibited in the District, the purpose of this Administrative Directive is to address, and only to address, sexual harassment as defined in Title IX and Section 2 below, that occurs between students and within the educational programs and activities of the District, and to provide a grievance process for investigating and reaching a final determination of responsibility for a formal complaint of sexual harassment between students. This Administrative Directive does not apply to harassment of employees or between employees and students.

All other complaints or reports of sex discrimination and sexual harassment will be governed by applicable state and federal laws and in accordance with other District policies and administrative directives including but not limited to Board Policies 1.80.020-P Nondiscrimination/Anti-Harassment Policy and 4.30.070-P Teen Dating Violence Policy.

#### **1. Application of Title IX Prohibitions and Procedures**

The District’s Title IX Director or designee will respond to a complaint of sexual harassment under Title IX in a manner that is not deliberately indifferent, meaning a response that is “not clearly unreasonable in light of the known circumstances” and follows the grievance process when a formal complaint or report has been received alleging prohibited conduct under this Administrative Directive that meets one of the following:

- (a) Occurs on or immediately adjacent to District property;
- (b) Occurs at or in any District-sponsored activity or program (*e.g.*, athletic events, off site student organization events, etc.), on District-provided transportation, or at any location, event, or activity where the District exercises substantial control over the respondent and the context for the prohibited behavior;

OR

- (c) Disrupts or creates a hostile school environment for the student while at school or school sponsored activity or program (even if the incident does not occur during the normal course of the school day or on campus).

This includes (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 harassment and/or discrimination.

## **2. Definition of Prohibited Behavior**

For purposes of this Administrative Directive, sexual harassment includes the following conduct on the basis of sex between students and is prohibited under this policy:

- (a) **Hostile Environment.** Unwelcome conduct of sexual nature or on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the District's education program or activity.

- (b) **Sexual Assault.**

- (i) Forcible sex offenses, including any sexual act directed against another person without that person's consent or when the person is incapable of giving consent because of age or physical/mental incapacity, including influence of drugs/alcohol, unconsciousness, or use of physical force, coercion, or threats. Forcible sex offenses this include penetration of vagina, anus or oral penetration with body part or object; intercourse of any kind; and touching of the private body parts of another person.

- (ii) Non-forcible sexual offenses, including incest and statutory rape.

- (c) **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.

- (d) **Stalking.** 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 the person's safety, or the safety of others, or suffer substantial emotional distress. This includes stalking that occurs online or through messaging platforms (cyber-stalking) when it occurs in the District's education program or activity.

### 3. Definitions Used in Administrative Directive

- (a) **Advisor(s).** Complainants and respondents are allowed an “advisor of choice” to support them throughout the grievance process. This is a person of their choosing, including advocates, parents, peers, counselors, lawyers, etc. Advisors' role is further defined below.
- (b) **Complainant (reporting Party).** A student who is alleged to have been harmed by another student’s prohibited behavior under this policy
- (c) **Respondent (responding party).** A student who is alleged to have harmed another student (complainant) by a prohibited behavior under this policy
- (d) **Supportive Measures.** Non-disciplinary, non-punitive individualized measures available to complainant, respondent, and other impacted individuals that can be enacted immediately. Supportive measures are to restore or preserve equal access to the District’s education program or activity. Supportive measures can include, for example, safety planning; academic accommodations, connection to mental, emotional, or other wellness resources; temporary limitations on contact.
- (e) **Grievance Process.** Grievance processes refer broadly to the investigation, hearing, and appeal process triggered following a formal complaint, which adheres to due process principles, treats both parties fairly, and reaches reliable determinations regarding responsibility.
- (f) **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%).
- (g) **Determination of Responsibility.** The formal finding by the decisionmaker on each allegation of sexual harassment contained in a formal complaint that the respondent did or did not engage in conduct constituting sexual harassment under Title IX.

### 4. How to Report Sexual Harassment

The District encourages students and third parties who believe they or others have been subject to prohibited behavior (Title IX sexual harassment, other discrimination, or retaliation) to promptly report such incidents to the school principal, even if some elements of the related incident took place or originated away from school property or school activities. A person who is not an intended target of prohibited behavior but is adversely affected by the offensive conduct may also report.

The student's parents/guardians or any other person with knowledge of conduct that may violate this policy is encouraged to immediately report the matter to the school principal or use the methods below.

The District provides multiple ways to report sexual harassment:

1. By Phone: Reports may be made at any time via phone to Title IX Director, Bobby Cruz (503-839-3660).
2. By Email: Reports may be made at any time by email to [civilrights@pps.net](mailto:civilrights@pps.net).
3. Electronic reports can be made through Safe Oregon or by using the PPS reporting system found on the District Conflict Resolution webpage.
4. In Person: Reports may be submitted to the building's School Compliance Officer (SCO) at each school or to District Title IX staff.

All District employees must promptly report information or reports they receive of potential sexual harassment under this Administrative Directive to the Title IX Director. The District must respond whenever any District employee has been put on notice of any sexual harassment or allegations of sexual harassment as defined in this Administrative Directive. If the incident of sexual harassment would constitute child abuse, District employees must also meet their mandatory child abuse reporting obligation and should cross-report to both the State of Oregon and to the Title IX Director.

## **5. District Process for Responding to Reports of Prohibited Behavior**

The District's Title IX Director coordinates the District's efforts to comply with Title IX and state law. All reports and allegations of prohibited behavior under this Administrative Directive will be directed to the District's Title IX Director.

When a complaint or report of sexual harassment is made under this Administrative Directive, the Title IX Director (or designee) will:

- a. Confidentially contact the complainant to offer supportive measures, consider the complainant's wishes with respect to supportive measures, and inform them of the availability of supportive measures with or without filing a formal complaint.
- b. Explain the process for how to file a formal complaint.
- c. Inform the complainant that any report made in good faith will not result in discipline.

- d. Inform the complainant of the drugs and alcohol amnesty clause.
- e. Respect the complainant's wishes with respect to whether a school investigates unless the Title IX Director determines that it is necessary to pursue the complaint in light of a health or safety concern for the community.

## **6. Title IX Resolution Methods**

After a formal complaint is filed, the District will issue a notice to the complainant and the respondent which will include information on the below methods of resolution. The District may then determine one of these three methods to resolve a potential violation of this policy:

- 1. Informal resolution;
- 2. Investigation and determination of responsibility; or
- 3. Dismissal.

## **7. Informal Resolution Options**

If the Title IX Director deems appropriate, the Title IX Director may offer to the parties the option of informal resolution of the formal complaint at any time during the grievance process. Both parties and the District (through the Title IX Director) must agree to use informal resolution, and the District will provide to the parties a written notice disclosing the allegations, the requirements of the informal resolution process (including the circumstances under which it precludes the parties from resulting a formal complaint); the right of either party to end the Informal Resolution process at any time and pursue the grievance process; any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.

Express and explicit consent by both parties is required before engaging in a voluntary informal resolution process, including any restorative options. If either party does not voluntarily agree to pursue informal resolution, or if a party or the Title IX Director determines that informal resolution is no longer appropriate, the Title IX Director will promptly inform both parties that the formal complaint will proceed through the grievance process. This option must be agreed upon and may not be required as a condition of enrollment or continuing enrollment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints. Once the final terms of an informal resolution have been agreed upon by both parties, in writing, the matter will be considered closed, and no further action will be taken. Voluntary agreements under the informal resolution process are not subject to appeal.

## **8. Initiation of Grievance Process (Investigation and Determination of Responsibility)**

A formal complaint must be filed in order to initiate a Title IX investigation. A formal complaint is a written report, filed by a complainant, their parent or legal guardian, or the Title IX Director alleging sexual harassment and requesting that the District investigate. It may be submitted online using the District's reporting form or submitted to the building's School Compliance Officer (SCO). It may also be filed by the Title IX Director on behalf of a complainant.

Once the District has received a formal complaint, the Title IX Director or designee will provide written notice of the formal complaint to the parties. The written notice will include information about the process to comply with Title IX, including, but not limited to:

- Notice of the investigation and the grievance process, including any available informal resolution process.
- Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response.
- A statement that the respondent is presumed not responsible and that a determination regarding responsibility will be made at the conclusion of the grievance process.
- That the parties may have an advisor of their choice who may be, but is not required to be, an attorney, and may inspect and review evidence.
- A description of potential sanctions and the use of the preponderance of the evidence standard.

The notice will be updated as needed should additional allegations be added after the initial notice. The District may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by one or more complainant against one or more respondents, or by one party against another party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Any reports deemed by the Title IX Director to meet the definition of sexual harassment under Title IX shall follow the grievance process for formal complaints described in this Administrative Directive. Temporary delays of the grievance process, or limited extensions of time, will be allowed for good cause with written notice to the parties.

When a report alleges Title IX sexual harassment, disciplinary sanctions may not be imposed until the completion of the grievance process for formal complaints. The District shall presume that the respondent is not responsible for the alleged conduct until a determination has been made at the completion of the grievance process.

## **9. Investigations**

All investigations under this Administrative Directive shall meet the requirements of Title IX and shall have:

- a. Trained Title IX investigators who will investigate the allegations free from prejudice, prior knowledge, conflict of interest, or bias for or

against any party, and the investigation will include objective evaluation of all relevant evidence. The District will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

- b. Written notice to both parties prior to any meeting or hearing that provides date, time, location, participants, and purpose of the meeting with sufficient time to prepare.
- c. Protections for all parties' privacy and the requirement of written consent before accessing any protected medical or psychological records.
- d. The presumption that the respondent is not responsible for the prohibited conduct; the District bears the burden of proof.
- e. An advisor of each student's choice is permitted to attend meetings as a support person. The District may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties.
- f. An equal opportunity for the parties to present witnesses, and other evidence.
- j. Prior to the completion of the investigative report, the investigator shall:
  - 1. Send to each party and the party's advisor, if any, the evidence subject to inspection and review in electronic or hard copy format.
  - 2. Provide the parties at least ten (10) school days following receipt of the evidence to submit a written response.
  - 3. Consider the written response prior to drafting the investigative report.
- k. An investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a hearing (if a hearing is provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

## **10. Determination of Responsibility**

The determination of responsibility shall be made by a decisionmaker who is not the investigator. The District will follow this AD and any other applicable Policy, AD, or rule requiring a hearing, but the following process will apply and shall meet the following criteria:

- a. Before the decisionmaker reaches a determination regarding responsibility, the decisionmaker shall afford each party the opportunity to submit written, relevant questions that a party wants to be asked of any party or witness, shall provide each party with the answers, and shall allow for additional, limited follow-up questions from each party. Relevant questions for a party or witness must be submitted by each party within ten (10) school days following receipt of the investigative report. Follow-up questions must be submitted by each party within three (3) school days of being provided the answers to the initial questions. With or without a hearing, questions about the complainant's prior sexual predisposition or sexual behavior are strictly prohibited unless offered to prove that someone other than the respondent committed the conduct alleged or if the questions concern specific incidents of prior sexual behavior with respect to respondent and are offered to prove consent. The decisionmaker must explain to the party proposing the questions any decision to exclude as not relevant.
- b. The preponderance of evidence standard shall be used.
- c. The respondent is deemed to be not responsible for the alleged conduct until a determination regarding responsibility is made by the decisionmaker.
- d. The decisionmaker must issue a written determination/decision within ten (10) school days after the close of time for responses to questions.
- e. If the respondent is determined to be responsible, the decisionmaker may impose disciplinary sanctions and remedies.

#### **11. Written Notification of Outcome**

A written notification of the outcome will be provided to the parties simultaneously and shall contain:

- The allegations potentially constituting Title IX sexual harassment
- A description of the procedures followed after receipt of the formal complaint through determination
- Findings of fact supporting the determination of responsibility



- Conclusions regarding the application of the District policies to the conduct
- Determination of responsibility and rationale
- If notice to the respondent, the sanctions assigned; if notice to the complainant, sanctions assigned to the respondent as they relate to complainant's safety
- Ongoing supportive measures
- Additional remedies and rights, including procedures and permissible bases for appeal.

The determination regarding responsibility becomes final either on the date that the District provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

## **12. 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 school 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. Remedies are designed to maintain the complainant's equal access to education and may include supportive measures or other remedies.

## **13. Dismissal of a Formal Complaint**

Title IX requires that the District must dismiss a formal complaint claim when:

- The conduct alleged in the formal complaint would not constitute sexual harassment as defined in Section 2 above, even if true.
- The conduct did not occur in the District's education program or activity as defined in Section 1.
- The conduct did not occur against a person in the United States; or

- d. At the time of filing the formal complaint, the complainant is not participating or attempting to participate in the education program or activity.

The District may dismiss a formal complaint when:

- a. The complainant notifies the Title IX Director in writing that the complainant would like to withdraw the formal complaint or allegations made in the formal complaint;
- b. The respondent is no longer enrolled as a student in the District; or
- c. Circumstances prevent the District from gathering evidence that would be sufficient to reach a determination of whether the alleged behavior occurred.

Notification of dismissal will be sent to the complainant and respondent, along with the reason for dismissal and information about any right to appeal the dismissal. Following dismissal under this Administrative Directive, the District may still consider pursuing the complaint as violation of another District policy or Administrative Directive, or any other District rule or process, including the Student Rights and Responsibilities Handbook.

#### **14. No Conflict of Interest or Bias**

The Title IX Director and all designees or decisionmakers involved in an investigation, hearing, grievance process, informal resolution, or carrying out this Administrative Directive must be free from prejudice, 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 notify the Title IX Director who may designate another administrator or investigator to act on their behalf.

#### **15. Appeals**

Either the complainant or the respondent can submit a written appeal from a determination regarding responsibility, and from the dismissal of a formal complaint or any allegations in the formal complaint, due to any of the following:

- a. procedural irregularities that affected the outcome,
- b. new evidence that was not reasonably available at the time of the determination of responsibility or dismissal was made that could affect the outcome, or
- c. conflict of interest or bias by the Title IX Director, investigator, or decisionmaker for or against the individual complainant or respondent

individually or complainants or respondents generally. that affected the outcome of the matter.

Appeals should be sent in writing to the Title IX Director. The Title IX Director will notify the other party in writing when an appeal is filed.

When an appeal is filed, the District will:

- a. Implement appeal procedures equally for both parties;
- b. Ensure the decision-makers(s) for the appeal is not the same person as the decisionmaker(s) who reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Director;
- c. Ensure the decisionmaker for the appeal is free from conflicts of interest and bias;
- d. Give both parties a reasonable equal opportunity to submit a written statement in support of, or challenging the outcome;
- e. Issue a written decision describing the result of the appeal and the rationale for the result; and
- f. Provide the written decision simultaneously to both parties.

Appeals must be submitted within five (5) business days of the notification to a party of dismissal or failure to dismiss a formal complaint or the receipt of determination regarding responsibility from decision-maker(s). Any person designated by the District to decide the appeal will not be the Title IX Director, investigator, decisionmaker, or any person who facilitated an informal resolution process in the matter.

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

District procedures do not deny the right of any individual to pursue alternative remedies. 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 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](mailto:OCR.Seattle@ed.gov).

## **16. 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. These are non-disciplinary and non-punitive individualized services designed to offer support without being

unreasonably burdensome. They are meant to restore access to education, protect student and employee safety, and/or deter future acts of sexual harassment.

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; increased security and monitoring of certain areas of the building.

#### **17. Emergency Removal from School, Program, or Activity**

A respondent may be removed or placed on leave, on an interim basis, from a school, program, or activity if the District determines through an individualized safety and risk analysis (threat assessment) that there is an immediate threat to the physical health or safety of any person that arises from the allegations of sexual harassment that justifies the removal.

The District will provide the respondent with notice of the decision to do so and an opportunity to challenge the decision immediately following the removal.

Respondents will not be disciplined under this Administrative Directive until and unless they are found “responsible” for violating a District Policy or Administrative Directive.

#### **18. Parental Rights**

A student’s parent or guardian must be permitted to exercise the rights granted to their child under Title IX, whether such rights involve requesting supportive measures or participating in a grievance process. Similarly, a student’s parent or guardian must be permitted to accompany the student to meetings, interviews, and hearings during a grievance process to exercise rights on behalf of the student, while 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.

Consistent with Oregon law, students over the age of 14 may 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 medical and mental health services.

#### **19. Retaliation Prohibited**

Retaliation is prohibited by the District’s policies. The District will not tolerate any materially adverse action against a person who reports, complains of, or participates in good faith in any manner under this Administrative Directive. Retaliation includes but is not limited to behavior or actions (including electronic or online) that intimidate, threaten, or harass or otherwise result in other adverse action threatened or taken.

Any person who believes they have experienced retaliation under this AD should contact the Title IX Director. Individuals who engage in retaliation may be subject to disciplinary action.

## **20. Documentation & Record Retention**

Documentation of District actions taken in response to a report or formal complaint of sexual harassment must be retained for seven years including, but not limited to, documentation for each sexual harassment investigation, including any responsibility determination, disciplinary sanctions imposed, remedies and supportive measures provided, and appeal as well as informal resolution documentation, if applicable.

## **21. Training Requirements**

Mandatory training on the topics of bias, conflict of interest, and impartial service as a Title IX Director, investigator, decisionmaker, and/or facilitator of informal resolution process is required for all who serve in those roles. Materials used to train the Title IX Director and/or School Compliance Officers and administrators, decisionmakers and any person engaged in the facilitation of the formal or informal resolution process must be publicly available on the PPS Title IX website for Students/Families. This includes proprietary materials and organizational materials.

## **22. Compliance with Oregon and Federal Law**

The District intends to comply with all applicable requirements under federal and Oregon law, including requirements regarding confidentiality. If there are any inconsistencies between the District's policies/procedures and such requirements, the District will follow state and federal requirements.

History: Amended 8/2021, Amd 11/24, Amd 3/25