



## TITLE IX PROCEDURES REGARDING SEX-BASED DISCRIMINATION

*The 2024 Title IX regulations are currently enjoined (not enforceable) in the state of Utah. Until the Court makes a final determination on the enforceability of the 2024 Title IX regulations, the 2020 Title IX regulations remain in effect.*

### Title IX of the Education Amendments of 1972

Title IX 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." The U.S. Department of Education's [Office for Civil Rights \(OCR\)](#) enforces Title IX.

Title IX requires that schools adopt specific grievance procedures to address formal complaints of sexual harassment (as that term is defined by Title IX.) The 2020 Title IX regulations prescribe the steps to the grievance process and outline the District's compliance obligations.

### Prohibition of Discrimination on the Basis of Sex

Jordan School District (the "District") is committed to providing an educational environment that is free from discrimination based on sex, including sexual harassment and sexual violence. To that end, Jordan School District does not discriminate on the basis of sex in its programs and activities. Inquiries about the application of Title IX and its regulations to the District may be referred to the District's Title IX Coordinator.

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### **Who can contact the Title IX Coordinator?**

Any person may report sex discrimination, including sexual harassment, to the Title IX Coordinator, regardless of whether the person reporting is the person who experienced the conduct alleged to constitute sex discrimination or sexual harassment.

Any person can contact the Title IX Coordinator in person, by mail, telephone, or by electronic mail, or by using the contact information listed above.

Reports can be made to the Title IX Coordinator at any time, including during non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

### Sexual Harassment Under Title IX

#### **What is sexual harassment?**

Title IX defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

1. A District employee conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (quid pro quo);
2. Unwelcome conduct so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking each of which is as defined by the Violence Against Women's Act (VAWA).

## **How does the District respond to reports of sexual harassment?**

All students, parents, and/or guardians are encouraged to report sexual harassment to their respective school administrator or directly to the Title IX Coordinator. Upon receiving a report of sexual harassment the Title IX Coordinator will contact the complainant (the individual who experienced the alleged conduct that could constitute sexual harassment) to offer supportive measures, explain the process for filing a formal complaint of sexual harassment (if one has not already been filed), and discuss the jurisdictional requirement outlined in Title IX. The Title IX Coordinator will also contact the respondent to offer supportive measures, review the complaint, and explain the jurisdictional requirements as outlined in Title IX.

The District also reserves the right to remove a respondent (the alleged perpetrator of conduct that could constitute sexual harassment) from the education program or activity on an emergency basis, provided the Title IX emergency removal protocol is followed.

## **What is a formal complaint of sexual harassment?**

Only formal complaints trigger the Title IX grievance process. To qualify as a formal complaint, the complaint must be submitted by the person who experienced the alleged conduct that could constitute sexual harassment (or their parent/guardian). The complaint must be signed (a physical or digital signature qualifies as a signature), or signed by the Title IX Coordinator. The document must allege sexual harassment against a respondent over whom the District has control, and must request that the District investigate the allegation(s).

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the District's education program or activity.

### How to File a Complaint of Discrimination on the Basis of Sex

The District has established a number of methods for filing complaints of discrimination on the basis of sex (including sexual harassment). They include:

- Filing a complaint using the online reporting form at <http://compliance.jordandistrict.org/title-ix/>
- Speaking to your School Principal or Assistant Principal
- Contacting the Title IX Coordinator

## **How does the District respond to formal complaints of sexual harassment?**

Formal complaints of sexual harassment trigger the grievance procedure prescribed by Title IX and its regulations, but that does not mean that all formal complaints are investigated under that grievance procedure. The District has grievance procedures for processing complaints of sex-based discrimination that provide for the prompt and equitable resolution of student complaints alleging discrimination on the basis of sex, including sexual harassment.

## **Preliminary Review and Mandatory/Discretionary Dismissals**

Formal complaints of sexual harassment and formal complaints including allegations of sexual harassment trigger a unique grievance process required by Title IX and its regulations. However, under certain circumstances, a formal complaint of sexual harassment may not be subject to the jurisdiction of Title IX and this grievance procedure and must be dismissed. If a complaint is dismissed, it will be forwarded to the school administrator to investigate the allegations.

The Title IX regulations require dismissal of a Title IX complaint when:

1. The conduct would not constitute sexual harassment as defined in the Title IX regulations even if proved;
2. The conduct did not occur in the District's education program or activity (as defined by the Title IX regulations); or
3. The conduct did not occur against a person in the United States.

The District also has discretion to dismiss a formal complaint subject to this grievance process under the following conditions.

1. The complainant submits a written request for withdrawal to the Title IX Coordinator,
2. The respondent is no longer enrolled at or employed by the District, or
3. The specific circumstances prevent the District from gathering evidence sufficient to reach a determination.

Either party may appeal a mandatory or discretionary dismissal of a complaint. If the formal complaint survives the preliminary review, it will proceed through the grievance process.

### **What are my rights during this grievance process?**

During the grievance process, both the complainant and respondent are guaranteed a number of rights, including:

1. Presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
2. Equal opportunity to (i) present witnesses and other evidence, and (ii) inspect and review any evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint.
3. Privacy protections for records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional.
4. Protections for information covered by a legally recognized privilege.
5. Credibility determinations that are not based upon a person's status as a complainant, respondent, or witness.
6. Objective evaluation of all relevant evidence.
7. That no member of the Title IX team has a conflict of interest or bias for or against complainants or respondents generally or for or against an individual complainant or respondent.
8. The right to an advisor of choice, who may be, but is not required to be, an attorney.
9. To be free from retaliation throughout the grievance process.

### **How long will the grievance process take?**

The grievance process (up to and including an appeals determination, if applicable) will be completed in a reasonably prompt time frame. Temporary delays or limited extensions of time frames may be permitted for good cause with written notice to the complainant and respondent of the delay or extension. Good cause may include considerations such as District closures for breaks, such as winter or summer break, absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

### **What is the standard of evidence for determining responsibility?**

The standard of evidence to be used for determining responsibility under this grievance procedure (and for all formal complaints of sexual harassment, including formal complaints against employees and students) is the preponderance of the evidence standard, which means more likely than not.

### **What happens during the investigation phase of the grievance process?**

Upon receipt of a formal complaint, the Title IX Coordinator (or Deputy) will provide the known parties written notice of: the grievance process, allegations of sexual harassment, and other information required by Title IX and its regulations.

The specific steps of the investigation will vary based on the nature of the allegations and other factors. However, the District's inquiry will be prompt, thorough, and impartial. The burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the District and not the parties.

The investigation may include, but is not limited to, the following:

1. Interviews of the parties and/or witnesses;
2. Requests for written statements from the parties and/or witnesses; and/or
3. Review and collection of relevant documentation or information.

Both parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which the District does not intend to rely upon in reaching a determination of responsibility.

The investigator will create an investigative report that fairly summarizes the relevant evidence. Prior to completion of the investigative report, the District will send to each party (and their advisor, if any) the evidence subject to inspection and review. The parties will have 10 days to submit a written response, including written, relevant questions that the party wants asked of any other party or witness. The investigator will provide each party with the answers to those questions and will allow for additional, limited follow-up questions from each party. The investigator will consider all of this information prior to completion of the investigative report.

The District will send the final investigative report to the decision-making team and to each party (and advisor(s), if any) for their review and written response at least 10 days prior to a determination being made by the decision-making team. Written responses, if any, will be provided to the decision-making team for their consideration. The investigative report will be advisory in nature and will not bind the decision-making team to any particular decision, course of action, or remedial measure.

### **What happens after the investigative report has been finalized?**

After receiving a copy of the investigative report and the parties' written questions and responses (if any), the decision making team will issue a written determination regarding responsibility in accordance with Title IX and its regulations. The written determination will include, among other things, findings of fact supporting their determination, the rationale for their determination, and any disciplinary sanctions imposed on the respondent and/or remedies designed to restore or preserve equal access to the District's education program or activity for the complainant.

### **Can I appeal the decision-maker(s)' determination?**

Any party can appeal the decision-maker(s)' determination regarding responsibility within 10 school days of its issuance. Any party may file an appeal by making a written appeal request to the Title IX Coordinator detailing the reason for the appeal.

Parties can appeal on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or against the individual complainant or respondent that affected the outcome of the matter.

### **What is the appeal process?**

Upon receipt of a timely appeal, the Title IX Coordinator will notify the parties that an appeal has been filed. The Title IX Coordinator will submit the appeal to the Appeal Officer.

The reviewer will notify the parties of the appeal procedures and set a schedule for the parties to submit a written statement in support of, or challenging, the decision-maker(s)' determination.

Upon reviewing both parties' statements, the reviewer will issue a reasoned written decision describing the result of the appeal and rationale for the result. The reviewer's decision will be final and binding on the parties.

### **What remedies and sanctions are available under this grievance procedure?**

Remedies under this grievance procedure must be designed to restore or preserve equal access to the

education program or activity. For students, the range of possible remedies may include but is not limited to: restorative conversations, safety escorts, or change of classes. The Title IX Coordinator and/or Deputy Title IX Coordinator is responsible for effective implementation of any remedies.

This grievance procedure may also provide for discipline or recommendations for discipline where a determination of responsibility for sexual harassment has been made against the respondent. For students, the range of possible discipline may extend from verbal counseling up to and including expulsion from all District schools for up to one school year with no instruction provided by the District. Recommendations for discipline will be pursued according to applicable District policies and procedures.

### **What if I change my mind and want to withdraw my formal complaint?**

At any time after a formal complaint has been filed (but before a determination regarding responsibility), the Complainant may withdraw their complaint by sending a written, signed request to the Title IX Coordinator.

### **Is there any other option available if I don't want to go through the formal grievance process?**

The District offers an informal resolution process whereby the allegations may be reviewed and resolved. Informal Resolution is a way of dealing with a complaint by solving, explaining, clearing up or settling the matter directly between the complainant and respondent, without investigation or formal grievance procedure. Both the complainant and respondent must agree, in writing, to engage in the informal resolution process. Either party may—at any time prior the resolution—withdraw from the informal resolution process and proceed with the formal grievance process.

At any time, a complainant may seek assistance from the Department of Education's Office for Civil Rights.

OFFICE FOR CIVIL RIGHTS

U.S. Department of Education

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