

Section 5000 – Personnel

5037 –R - Sexual Harassment of Employees or Other Persons

5037-R

The Grand Rapids Public Schools (“GRPS or District”) is committed to employing, contracting, and providing programs and activities, including but not limited to, admission, and educational programs and activities, free from prohibited discrimination on the basis of sex. Title IX of the Education Amendments of 1972, including the amendments thereto, also prohibits unlawful discrimination on the basis of sex in federally funded education programs and activities. Inquiries concerning the application of Title IX and its implementing regulations may be referred to GRPS’ Title IX Coordinator.

Title IX Coordinator

The District’s Title IX Coordinator is Mr. Kurt Johnson, Grand Rapids Public Schools, 1331 Franklin SE., PO Box 117, Grand Rapids, MI 49501-0117, Phone: (616) 819-2010, Email: Johnsonk@grps.org.

Sexual Harassment:

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual’s participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District’s education program or activity; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

Definitions:

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- **Complainant.** An individual who is alleged to be the victim of conduct that could constitute sexual harassment, or the parent/legal guardian of a student.
- **Respondent.** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
- **Actual Knowledge.** Notice of sexual harassment or allegations of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official who has authority to institute corrective measures on behalf of the District, or to any employee of the District.
- **Education Program or Activity.** Any location, event, or circumstance within the United States over which the District exhibits substantial control over the Respondent and the context in which the alleged sexual harassment occurred.
- **Formal Complaint.** A document signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation of sexual harassment. At the time of the filing of the formal complaint, the Complainant must be participating in or attempting to participate in a GRPS education program or activity.
- **Supportive Measures.** Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party, while designed to ensure equal educational access, protect safety, or deter sexual harassment.
- **Investigator.** A District administrator or person hired by the District who is trained in conducting Title IX investigations.
- **Decision Maker.** A District administrator who is not the investigator or the Title IX Coordinator who has received training on Title IX.

Duty to Report:

All District employees have a responsibility to report known or suspected instances of sexual harassment in a District education program or activity involving himself/herself, any other employee, contractor, or vendor, student, or member of the public. Any employee or applicant

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who; 1) believes that he or she has suffered sexual harassment for any reason, 2) witnesses sexual harassment; 3) hears about sexual harassment or sexual harassment allegations from a complainant (i.e., a person alleged to be the victim) or a third party (e.g., the Complainant’s parent, friend, or peer); receives a written or verbal complaint about sexual harassment or sexual harassment allegations; or by any other means, has an affirmative duty to immediately report the incident(s) in person, via mail, email, or telephone to any District employee. Reports may be made at any time, including non-business hours, to:

Kurt Johnson, Title IX Coordinator

Grand Rapids Public Schools
1331 Franklin SE., PO Box 117
Grand Rapids, MI 49501-0117
Phone: (616) 819-2010
Email: Johnsonk@grps.org

Grievance Procedures:

The Title IX grievance procedures do not replace GRPS’ other policies and procedures, which may be pursued in addition to these procedures. Upon receiving actual knowledge of an allegation or being informed of a formal complaint, the Title IX Coordinator shall promptly do the following:

- Immediately contact the Complainant (Complainant in this context can also include the parent/guardian of a student, as appropriate) and discuss and offer supportive measures, taking into consideration the Complainant’s wishes regarding supportive measures, and
- Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and
- Explain to the Complainant the process for filing a formal complaint.

Formal Complaint Response:

The Superintendent or designee, other than the Title IX Coordinator, shall promptly investigate and initiate this grievance process against a Respondent only when a Complainant files, or the Title IX Coordinator signs, a formal complaint. The grievance process requires:

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- The Title IX Coordinator, investigator, decision-maker, and those who facilitate informal resolution processes or appeals to be free of any conflicts of interest.
- The investigator shall send written notice to both parties of the allegations upon receipt of a formal complaint.
- The written notice will include notice of grievance process; notice of allegations in sufficient detail to allow the Respondent to prepare a response; a statement that the Respondent is presumed not responsible/responsibility will be determined at end of process; notice of the parties' rights to have an advisor and to inspect/review evidence; and notice of any provision in the code of conduct or Board policy that prohibits knowingly making false statements or providing false evidence during the grievance process.
- The investigator shall treat the Complainant and Respondent equitably. There shall be a presumption that the Respondent is not responsible.
- The investigator will endeavor to resolve complaints within 60 days, though the actual time will vary depending on the circumstances of each complaint.
- Before the preliminary report is finalized – parties/advisors must have at least 10 days to review and respond to all evidence directly related to allegations.
- The investigator shall provide an objective evaluation of all relevant evidence presented or gathered (inculpatory and exculpatory) and provide a final written report.
- The final report (incorporating feedback) shall be provided to the parties/advisors at least 10 days before the determination of responsibility.

The grievance process must not use, rely on, or seek disclosure of information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

Hearings:

No hearing shall be allowed for employees.

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Written Relevant Questions:

After the investigative report has been sent to the parties, and before reaching a determination regarding responsibility, the decision maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow up questions from each party. The decision maker must explain to the party proposing the question any decision to exclude questions as not relevant.

Legal Standard:

The standard that shall be used is the preponderance of evidence (there is a greater than 50% chance that the claim is true).

Resolutions:

Informal Resolution: Informal resolution is only permitted if a formal complaint is filed. Informal resolution may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice. Informal resolution is allowed at any time during the formal complaint process if:

- Both parties are provided written notice of their rights;
- Both parties' written, voluntary consent is obtained; and
- Complaint does not allege an employee harassed a student.

Dismissals: If the allegations in a formal complaint do not meet the definition of sexual harassment, the District will dismiss such allegations for purposes of Title IX. However, the District may still address the allegations in any manner the District deems appropriate under Board policies, collective bargaining agreements, or employee manuals.

- **Mandatory dismissals:** For purposes of Title IX, the District is required to dismiss formal complaints that do not meet the definition of sexual harassment, did not occur in the District's program or activity, or did not occur in the United States.

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- **Permissive dismissals:** For purposes of Title IX, the District has the discretion to dismiss formal complaints where the Complainant requests withdrawal of a formal complaint, Respondent’s enrollment or employment with the District ends, or specific circumstances prevent the District from gathering evidence sufficient to reach a determination.

Determinations: If the formal complaint is not dismissed, the District will issue a written determination simultaneously to the parties, along with information on how to file an appeal. The determination will include the following information:

- Allegations
- Procedural steps taken
- Findings of fact
- Application of code of conduct to facts
- Statement of and rationale for result as to each allegation, including:
 - Determination of responsibility
 - Any disciplinary sanctions
 - Whether remedies to restore or preserve equal access to the educational program or activity will be provided.

Range of Supportive Measures and Discipline:

If a Respondent is found to be responsible for sexual harassment, the District must effectively implement supportive measures for the Complainant, designed to restore or preserve the Complainant’s equal access to education. Examples of supportive measures include, but are not limited to, counseling, course-related adjustments, modification of work or class schedules, increased security or monitoring, or mutual restriction on contact between the parties. The District may impose disciplinary sanctions on the Respondent that may include suspension or expulsion from school, or in the case of an employee, receipt of a written warning, suspension from employment and/or termination of employment.

Appeals:

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The District will offer appeals to both parties for dismissals and final determinations in the following circumstances:

- Procedural irregularity
- New evidence not reasonably available previously
- Conflict of interest for Title IX Coordinator, investigator, or decision-maker

The District may offer appeals for other reasons on equal terms.

Training of Title IX Personnel:

Training of Title IX personnel must include training on the definition of sexual harassment, the rape shield protections provided for Complainants, other relevant law and topics, and include the scope of the school's education program or activity, how to conduct an investigation and grievance process including appeals, and informal resolution processes, as applicable, and how to serve impartially, including by prejudgment of the facts at issue, conflicts of interest, and bias. Training materials must be posted on the District website.

Retaliation:

Retaliation is prohibited against any employee, contractor or vendor, student, or member of the public for the purpose of interfering with Title IX rights, or because any employee, contractor or vendor, student, or member of the public has participated or refused to participate in any manner in a proceeding relating to District's Sexual Harassment Policy or Rules.

Confidentiality:

The District will keep confidential the identity of Complainant, Respondent, and witnesses, except as permitted or required by law or as necessary to carry out a Title IX proceeding.

Records Retention:

All records related to alleged sexual harassment will be maintained for a minimum of seven (7) years. Records include, but are not limited to, investigation records, disciplinary sanctions, remedies, appeals, and supportive measures.

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Publication of Title IX Rules:

The District will display on its website the Title IX policy, rules, and the name and title, office address, electronic mail address, and telephone number of the employee designated as the Title IX Coordinator. This will serve as notification of the Title IX Coordinator's contact information to all applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and unions.

Rules Accepted: August 3, 2020