

**Clark County School District
Interim Title IX Sexual Harassment
Grievance Procedures**

1. Introduction

The Clark County School District ("CCSD") will use the following Interim Title IX Sexual Harassment Grievance Procedures ("grievance procedures") to address allegations of sexual harassment under Title IX of the Education Amendments of 1972 ("Title IX").

These interim procedures are pending review by the Clark County School District Superintendent or designee and are subject to approval by the Clark County School District Board of School Trustees.

Issues of sexual harassment that do not fall within the definition of Title IX sexual harassment as outlined in 34 C.F.R. Part 106, Federal Register, Vol. 85, No. 97 (published May 19, 2020), will be addressed in accordance with other policies and regulations including CCSD Policy 4110, Regulation 4110, Regulation 5141.2, Policy 5137, and Policy 5138 (as appropriate).

2. Title IX Notice of Non-Discrimination

Title IX, 20 U.S.C. § 1681(a), provides: "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 prohibits recipients of federal financial assistance, including CCSD, from discriminating on the basis of sex. CCSD does not discriminate on the basis of sex in its education programs or activities, and is required by Title IX not to discriminate in such a manner.

Above is the Title IX notice of non-discrimination. The full version of CCSD's "Non-Discrimination and Accessibility Notice" is found at the following link:

<https://www.ccsd.net/district/info/non-discrimination/>

3. Designation of Title IX Coordinator

In accordance with Title IX, CCSD has designated and authorized the Executive Manager of Diversity and Affirmative Action/ADA and Title IX Program Coordinator to serve as the CCSD Title IX Coordinator. This individual has been tasked with coordinating CCSD's efforts to comply with its responsibilities under Title IX. CCSD has or will notify applicants for employment, students, employees, and all employee associations that have entered into negotiated agreements with CCSD, of the name or title, office address, electronic mail address, and telephone number of the individual designated as the Title IX Coordinator.

4. Making a Report or Formal Complaint Under Title IX

If an individual experiences sexual harassment, he or she may file a formal complaint or make a report of sexual harassment to CCSD's Title IX Coordinator. If an individual sees, hears, or otherwise learns of sexual harassment (whether or not they are the person alleged to be the victim), he or she may make a report to

CCSD's Title IX Coordinator. If an individual is not sure whether the conduct meets the definitions of Title IX sexual harassment as set forth below, the conduct should still be reported.

Mandatory Reporting. Under Title IX, any employee or official of CCSD who has actual knowledge (sees, hears, or otherwise learns) of sexual harassment that occurred within an education program or activity **must** promptly report the incident to the CCSD Title IX Coordinator (contact information in Section 5).

If a complaint involves allegations of child abuse, the reporting requirements of CCSD Regulation 5152 and NRS Chapter 432B must **also** be satisfied.

5. Contact Information for Title IX Coordinator

A complainant (alleged victim) may file a formal complaint or make a report of sexual harassment, and any other person may make a report of sexual harassment under Title IX, in any of the following manners:

- Emailing the complaint or report to ***TitleIXCoordinators@nv.ccsd.net***.
- Contacting the Office of Diversity and Affirmative Action/ADA and Title IX Programs via phone at (702) 799-5087 to obtain guidance on how and where to submit a complaint or report.
- Faxing the complaint or report to the attention of the Title IX Coordinator at 702-799-5257.
- Mailing the complaint or report to the attention of the Title IX Coordinator at the following address: Office of Diversity and Affirmative Action/ADA and Title IX Programs (Attention Title IX Coordinator) 5100 W. Sahara Ave., Las Vegas, NV 89146.
- In person at the Office of Diversity and Affirmative Action/ADA and Title IX Programs at the address set forth above.

Complaints or inquiries regarding the application of Title IX to CCSD may also be sent directly to the United States Department of Education – Office for Civil Rights, 915 2nd Ave. Room 3310, Seattle, Washington 98174-1099. The email address is ***OCR.Seattle@ed.gov***. OCR may also be contacted at ***OCR@ed.gov***.

6. Notification of Non-Discrimination

CCSD will notify persons entitled to a notification under Section 3 (above) that it does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. Such notification will state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary of the Department of Education, or both.

7. Publication of Policy

CCSD will prominently display the contact information for the Title IX Coordinator and the policy of non-discrimination on its website, and in each handbook or catalog that it makes available to persons entitled to a notification under Section 3.

8. Adoption and Publication of Grievance Procedures

CCSD will adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited under Title IX. CCSD will provide to persons entitled to a notification under Section 3 notice of CCSD's grievance procedures, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how CCSD will respond.

9. Definitions

- a. **"Complainant"** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- b. **"Respondent"** means an individual who has been reported to be the individual engaging in the conduct that could constitute sexual harassment. When complainants and respondents are referred to collectively, they may be referred to as the **"parties."**
- c. **"Reporting Party"** means any person who reports sexual harassment or conduct that could constitute sexual harassment, whether or not the person reporting is the person alleged to be the victim.
- d. **"Sexual harassment"** means conduct on the basis of sex, occurring within the United States, that satisfies one or more of the following:
 - (1) An employee of CCSD conditioning the provision of an aid, benefit, or service of CCSD on an individual's participation in unwelcome sexual conduct (i.e., *quid pro quo* sexual harassment). This applies to all employees.
 - (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 an education activity or program. This applies to all students and employees.
 - (3) Sexual assault, dating violence, domestic violence, or stalking as those terms are defined below (and which are based on federal laws). This applies to all students and employees.
 - (a) "Sexual assault," as defined in 20 U.S.C. § 1092(f)(6)(A)(v), means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - (b) "Dating violence," as defined in 34 U.S.C. § 12291(a)(10), means violence committed by a person—
 - 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - 2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i) The length of the relationship.

- ii) The type of relationship.
 - iii) The frequency of interaction between the persons involved in the relationship.
- (c) "Domestic violence," as defined in 34 U.S.C. § 12291(a)(8), includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- d) "Stalking," as defined in 34 U.S.C. § 12291(a)(30), means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - 1) Fear for his or her safety or the safety of others; or
 - 2) Suffer substantial emotional distress.
- e. **"Education activity or program,"** for the purposes of the definition of sexual harassment under Title IX, is defined as a location, event, or circumstance over which CCSD exercised substantial control over both the person(s) alleged to have committed sexual harassment and the context in which the harassment occurred.
- f. **"Formal complaint"** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that CCSD investigate the allegation of sexual harassment.
- g. **"Supportive measures"** means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

Depending on the specific nature of the problem, supportive measures and remedies may include, but are not limited to: counseling; referral to community-based service providers; academic support, extensions of deadlines, or other class-related adjustments; modifications of work or class schedules; mutual restrictions on contact between the parties; increased and/or targeted education and prevention efforts; changes in school or work locations or arrangements; leaves of absence; providing transportation accommodations; safety planning; increasing security and monitoring of certain areas of the school or building; school safety escorts; and other similar measures deemed appropriate by the Title IX Coordinator. Supportive measures and remedies may also include restraining orders, or similar lawful orders issued by the civil or criminal courts. Supportive measures and remedies will be confidential to the extent that confidentiality will not impair the effectiveness of the measures or remedies.

- h. **“Actual knowledge”** means notice of sexual harassment or allegations of sexual harassment to CCSD’s Title IX Coordinator, to any CCSD employee, or to any other official of CCSD who has authority to institute corrective measures on behalf of CCSD. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of CCSD with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform an individual about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of CCSD.
- i. **“Day”** means a business day when CCSD is in normal operations (and excludes weekends and holidays).
- j. **“Title IX Coordinator”** means the official designated by CCSD to ensure compliance with Title IX and the Title IX program.
- k. **“Investigator”** means the person or persons assigned by CCSD to gather facts about an alleged violation of Title IX, assess relevance and credibility, synthesize the evidence, and compile the information into an investigation report and file of directly related evidence.
- l. **“Grievance Process Pool”** includes any decision-makers or appeals decision-makers who may perform either of those roles (but not at the same time in the same case).
- m. **“Decision-Maker”** means an individual who has decision-making and sanctioning authority within CCSD’s formal grievance process. The Title IX Coordinator will designate a panel of three (3) individuals from the Grievance Process Pool to be the decision-maker(s) in each proceeding. This panel may be referred to as the **“Decision-Maker”** or the **“Decision-Making Panel.”**
- n. **“Appeals Panel”** means a panel of three (3) individuals selected by the Title IX Coordinator from the Grievance Process Pool to decide the appeal. The Title IX Coordinator will ensure that the decision-makers for the appeal are not the same person(s) as the decision-maker(s) who reached the initial determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.
- o. **“Advisor”** means a person chosen by a party to accompany the party to meetings or interviews related to the resolution process and to advise the party on that process.
- p. **“Final determination”** means a conclusion by the preponderance of the evidence that the alleged conduct did or did not violate the Title IX sexual harassment policy.
- q. **“Sanction”** means a consequence imposed by CCSD on a respondent who is found to have violated the Title IX sexual harassment policy.

10. Title IX Grievance Procedure

- a. When CCSD has actual knowledge of sexual harassment allegations against a person in an education program or activity occurring within the United States, it will respond promptly in a manner that is not deliberately indifferent. A response to sexual harassment allegations

is “deliberately indifferent” only if it is clearly unreasonable in light of the known circumstances.

- b. Upon learning of an instance of alleged sexual harassment, even if no formal complaint is filed, the Title IX Coordinator will:
 - (1) Promptly contact the complainant to discuss the availability of supportive measures.
 - (2) Consider the complainant’s wishes with respect to supportive measures.
 - (3) Inform the complainant of the availability of supportive measures.
 - (4) Explain the process for filing a formal complaint.
- c. If the complainant does not want to sign a formal complaint, the Title IX Coordinator has the authority to sign a formal complaint if appropriate.
- d. While CCSD will respect the confidentiality of the complainant and the respondent as much as possible, some information may need to be disclosed to appropriate individuals. All disclosures will be consistent with CCSD’s legal obligations and the necessity to investigate allegations of harassment and take disciplinary action.
- e. Disciplinary consequences or sanctions will not be initiated against the respondent until the grievance procedures have been completed. Unless there is an immediate threat to the physical health or safety of any student arising from the allegation of sexual harassment that justifies removal, the respondent’s placement will not be changed. If the respondent is an employee, he/she may be placed on administrative leave or suspension without pay consistent with state law and any relevant collective bargaining agreement during the pendency of the grievance process.
- f. **Emergency Removal.** CCSD is not precluded from removing a respondent from an education program or activity on an emergency basis, provided that CCSD undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.
- g. **Conflicts and Bias.** CCSD will ensure that the Title IX Coordinator, investigator, decision-makers, appeals decision-makers, and any person designated by CCSD to facilitate an informal resolution process, does not have a conflict of interest or bias for or against complainants or respondents generally, or an individual complainant or respondent. CCSD may require any party to make their allegation of conflict of interest or bias in a prompt manner.
- h. **Formal Complaint**
Upon receipt of a formal complaint, the Title IX Coordinator will promptly:

- (1) Provide written notice of the allegations, and the grievance procedure to all known parties to give the respondent time to prepare a response before an initial interview;
- (2) Inform the parties of the prohibition against making false statements or knowingly submitting false information;
- (3) Inform the parties that they may have an advisor present during any subsequent meetings; and
- (4) Offer supportive measures in an equitable manner to both parties.

i. **Dismissal of Formal Complaint**

The following are circumstances where dismissal of a formal Title IX complaint may occur:

- (1) **Must Dismiss.** If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in Section 9(d) even if proved, did not occur in CCSD's education program or activity, or did not occur against a person in the United States, then CCSD must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. Such a dismissal does not preclude action under another provision of CCSD's policies, regulations, and/or codes of conduct.
- (2) **May Dismiss.** CCSD may dismiss the formal complaint or any allegations therein, if at any time during the investigation:
 - (a) A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - (b) The respondent is no longer enrolled or employed by CCSD; or
 - (c) Specific circumstances prevent CCSD from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (3) If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for dismissal, will be provided to both parties simultaneously.

j. **Investigations**

When investigating a formal complaint and throughout the grievance process, CCSD will do the following:

- (1) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on CCSD and not on the parties, provided that CCSD cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless CCSD

obtains that party's voluntary, written consent to do so for a grievance process under this section (if a party is not an "eligible student," as defined in 34 C.F.R. § 99.3, then CCSD must obtain the voluntary, written consent of a "parent," as defined in 34 C.F.R. § 99.3).

- (2) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
- (3) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- (4) Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding. However, CCSD may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to all parties.
- (5) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
- (6) Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which CCSD does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- (7) Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have ten (10) days to submit a written response, which the investigator will consider prior to completion of the investigative report. CCSD will make all such evidence subject to the parties' inspection and review to give each party equal opportunity to refer to such evidence in the process, including for purposes of cross-examination.
- (8) Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to the time of a 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.

k. **Determination of Responsibility**

- (1) **Presumption of No Responsibility.** The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

- (2) **Standard of Evidence.** CCSD will use the preponderance of the evidence standard to determine responsibility, and will apply that same standard of evidence to all formal complaints of sexual harassment, including formal complaints against students and formal complaints against employees. “Preponderance of the evidence” means the evidence establishes that it is more likely than not that the prohibited conduct occurred.
- (3) **Decision-maker (also known as the Decision-Making Panel).** CCSD will have a Grievance Process Pool that will include decision-makers and appeals decision-makers who may perform either of those roles (but not at the same time in the same case). Members of the Grievance Process Pool will meet the conflict of interest and bias standards as set forth above. The Title IX Coordinator will select three (3) individuals from the Grievance Process Pool to comprise the initial Decision-Making Panel in a Title IX proceeding.
- (4) **No Live Hearings.** CCSD will not conduct live hearings as part of the Title IX sexual harassment process, and is not required to do so under the Title IX regulations.
- (5) **Exchange of Questions.** After CCSD has sent the investigative report to the parties, for purposes of cross-examination, and before reaching a determination regarding responsibility, the decision-makers 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.

Questions submitted as part of this process must be drafted in such a way that they do not violate any provisions under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) (FERPA) where applicable, and/or Rape Shield Laws. Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complaint, or if the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent are offered to prove consent. The decision-makers must explain to the party proposing the questions any decision to exclude a question as not relevant.

- (6) **Determination Regarding Responsibility.** The Decision-Making Panel must issue a written determination regarding responsibility. To reach this determination, CCSD must apply the preponderance of the evidence standard. The written determination must include:
 - (a) Identification of the allegations potentially constituting sexual harassment as defined in Section 9(d).
 - (b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the

parties, interviews with parties and witnesses, and methods used to gather evidence.

- (c) Findings of fact supporting the determination.
- (d) Conclusions regarding the application of CCSD's policies, regulations, and codes of conduct to the facts.
- (e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions CCSD imposes on the respondent, and whether remedies designed to restore or preserve equal access to CCSD's education program or activity will be provided by CCSD to the complainant.
- (f) CCSD's procedures and permissible bases for the complaint and respondent to appeal.
- (g) CCSD must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date CCSD 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 the appeal would no longer be considered timely. An appeal is no longer considered timely if it is submitted more than ten (10) business days after a determination of responsibility.

(7) **Effective Implementation of Remedies.** After a determination of responsibility is made, the Title IX Coordinator will work with the complainant to determine if further supportive measures are necessary. The Title IX Coordinator will also determine whether any other actions are necessary to prevent reoccurrence of the harassment.

(8) **Disciplinary Action.** A substantiated charge against a student may result in corrective or disciplinary action up to and including expulsion. A substantiated charge against an employee may result in disciplinary action up to and including termination, and/or, depending upon the circumstances, a referral for additional investigation and action by local law enforcement.

I. Appeals

- (1) Either party may only appeal from a determination of responsibility based on the following:
 - (a) A procedural irregularity that affected the outcome;
 - (b) New evidence that was not reasonably available at the time of the determination that could affect the outcome; or
 - (c) An alleged conflict of interest on the part of the Title IX Coordinator or any personnel chosen to facilitate the grievance process.

- (2) Appeals must be submitted to the Title IX Coordinator within ten (10) business days of a determination of responsibility.
- (3) Upon receipt of an appeal, the Title IX Coordinator will:
 - (a) Notify the parties in writing when an appeal is filed, and implement appeals procedures equally for both parties.
 - (b) **Appeals Panel.** The Title IX Coordinator will select three (3) individuals from the Grievance Process Pool to comprise the Appeals Panel who will decide the appeal. The Title IX Coordinator will ensure that the decision-makers for the appeal are not the same person(s) as the decision-maker(s) who reached the initial determination regarding responsibility. The Title IX Coordinator and the investigators may not be on the Appeals Panel.
- (4) Both parties will be given a reasonable, equal opportunity to submit written statements in support of, or challenging, the outcome.
- (5) The Appeals Panel will issue a written decision describing the result of the appeal and rationale for the result. The written decision must be provided simultaneously to both parties.

m. **Informal Resolution**

- (1) If a formal complaint of sexual harassment is filed, at any time prior to reaching a determination regarding responsibility, CCSD may offer the parties the option of informal resolution and may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that CCSD:
 - (a) Provides to the parties a written notice disclosing the allegations; setting forth the requirements of the informal resolution process, including the circumstances under which the process's agreed-upon resolution precludes the parties from resuming a formal complaint arising from the same allegations; and explaining that any statements made or documentation or information provided by a party during the informal resolution process shall not be used or relied upon in a subsequent grievance process without the permission of the party who made the statement or provided the documentation or information.
 - (b) Obtains the parties' voluntary, informed written consent to the informal resolution process.
 - (c) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- (2) CCSD will provide the parties with a written notice explaining that, at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal

complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

- (3) CCSD will not require the parties to participate in an informal resolution process for any reason, and will not require waiver of the right to an investigation and adjudication of formal complaints of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.
- (4) An individual serving as a facilitator of an informal resolution process will not be the Title IX Coordinator, Title IX investigator, member of the Decision-Making Panel, member of the Appeals Panel, witness, or other CCSD employee who has a duty to disclose allegations of sexual harassment to CCSD.

11. Recordkeeping

In accordance with Title IX, CCSD will maintain, for a period of at least seven (7) years, records of:

- a. Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to CCSD's education program or activity.
- b. Any appeal and the result therefrom.
- c. Any informal resolution and the result therefrom.
- d. All materials used to train Title IX Coordinators, investigators, decision-makers, appeals decision-makers, and any person who facilitates an informal resolution process. CCSD will make these training materials publicly available on its website. Due to copyright considerations, some training documents may be cited to by reference and may be inspected by scheduling an appointment with the Office of Diversity and Affirmative Action/ADA and Title IX Programs.
- e. CCSD will create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, CCSD will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to CCSD's education program or activity. If CCSD does not provide a party with supportive measures, then CCSD must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit CCSD in the future from providing additional explanations or detailing additional measures taken.

12. False Reports

Because discrimination and sexual harassment frequently involve interactions between persons that are not witnessed by others, reports of discrimination or sexual harassment cannot always be substantiated by additional evidence. Lack of corroborating evidence or "proof" should not discourage individuals from reporting discrimination or sexual harassment. However, individuals who knowingly make false reports or

submit false information during the grievance process may be subject to disciplinary action under CCSD's applicable policies and regulations. This provision does not apply to reports made in good faith, even if the facts alleged in the report cannot be substantiated by subsequent investigation.

13. Retaliation Prohibited

- a. CCSD will not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation or proceeding. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, may constitute retaliation.
- b. CCSD must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to have engaged in sex discrimination, any respondent, and any witness, except as may be permitted by FERPA, or as required by law, or to carry out the purposes of 34 CFR Part 106, including the conduct of any investigation or adjudicative proceeding arising thereunder. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination.
- c. The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.
- d. Charging an individual with a code of conduct violation for making a materially false statement in bad faith during the course of a grievance proceeding under this part, does not constitute prohibited retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.