

**TITLE IX SEXUAL HARASSMENT POLICY  
FOR STUDENTS**

It is the policy of this school district to prohibit sexual harassment involving students in the schools, at school activities and at events sponsored by the school district. To that end, all officers, supervisory personnel, employees, and students of the school district shall be given a copy of this policy and training regarding its terms, procedures, protections and penalties.

**Definitions**

Sexual Harassment is defined as discrimination against a person on the basis of sex and is prohibited by both federal and state law.

Under federal regulations, sexual harassment is defined as conduct on the basis of sex that is one or more of the following:

1. When an employee conditioning the provision of an aid, benefit, or service of the school district on an individual's participation in unwelcome sexual conduct (*quid pro quo*, which is sexual harassment *per se*), or
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 school district's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking, which is sexual harassment *per se*.

**Jurisdiction**

Title IX Complaints will be processed as such where alleged conduct occurs in a location over which the District exercises substantial control over both the alleged harasser and the context in which the alleged harassment occurred.

**Notice of Sexual Harassment**

The District shall post on its website a notice of nondiscrimination which explains how reports of sexual harassment may be made by any person through mail, telephone or email to a Title IX Coordinator. The District shall be deemed to be on notice of sexual harassment when any employee of the District has actual knowledge of the allegations. Once the District is on notice of allegations of sexual harassment there shall be a reasonably prompt and equitable response in light of the presenting circumstances.

## **Procedure**

Any student who believes that he or she has been subjected to sexual harassment by an officer, employee, student, business invitee, volunteer, or visitor is encouraged to address the matter with any district Title IX Coordinator\* who shall promptly conduct an intake interview in order to determine whether the matter should be referred to a formal grievance process as a Title IX matter and to explain the following possible options for resolution, where appropriate:

1. Registering an informal complaint verbally or in writing;
2. Registering a formal complaint verbally or in writing;
3. Engaging in an informal resolution process such as mediation to arrive at a resolution of the matter; and/or
4. Placing the district on notice of the objectionable conduct without seeking a resolution through the complaint process or mediation.

Only a Complainant or a legal parent/guardian acting on behalf of a minor child may file a formal complaint based upon the individual having been the alleged victim of conduct that could be found to constitute sexual harassment. The Complainant must be enrolled in the District and participating in or seeking to participate in the activity or program at the time when the Complaint is being presented for the Complaint to be acted upon. A Title IX Coordinator may file a formal complaint at his or her initiative.

The Title IX Coordinator is authorized to proceed with any reported allegations as if they had been filed as an informal complaint or a formal complaint, at his/her discretion. The Title IX Coordinator will provide an initial review of all reports of alleged sexual harassment for a determination as to whether, if proven, alleged conduct would constitute a Title IX violation, and may file a formal complaint on behalf of the Complainant at his/her discretion. All formal complaints pursuant to Title IX shall be processed in accordance with federal regulations, which require a mandatory grievance process and permit informal resolution upon consent of the parties, so long as the Respondent is not an employee if the Complainant is a student. The grievance process is set forth in the regulation issued pursuant to this policy.

The Title IX Coordinator will ensure that appropriate supportive measures are provided and assure due process as described in regulations. The Title IX Coordinator will also explain that the parties (Complainants and Respondents) and any third-party witnesses may not be subjected to retaliation or retribution, and that confidentiality shall be maintained throughout the process, except as necessary to assure fair and due process.

## **Informal Complaints**

When the District has knowledge of an alleged act of sexual harassment or when a Complainant does not file a formal Title IX complaint, or files an informal complaint (not alleging a violation of Title IX) there will be a prompt review by a Title IX Coordinator, who shall issue a written report to the Superintendent of Schools, within ten (10) days. The Superintendent shall take such further action necessary to reasonably deter any further act prohibited by this policy if corrective action is warranted. Such further action may include referring the matter to a Title IX investigator as if it had been filed as a formal complaint.

## **Formal Complaints**

All formal complaints shall be received in writing or reduced to writing by a Title IX Coordinator, who shall personally, or by reference to a trained designee on the Board of Education's approval list, conduct a full and fair investigation of the complaint, in accordance with applicable regulations. Disciplinary action or other punitive remedies against a Respondent shall not be imposed until the investigation is completed, although enforcement of the Code of Conduct or discipline for other misconduct may be effectuated, even if arising from the same facts and circumstances that gave rise to the sexual harassment complaint, so long as no retaliatory basis for such discipline may be imputed. The burden of proof in determining a finding of sexual harassment is upon the District and requires a preponderance of credible and relevant evidence to establish a violation.

The Complainant and the Respondent shall be advised in writing of the disposition of the complaint, which may include:

1. A finding that this policy has not been violated; or
2. A finding that this policy has been violated and corrective measures have been implemented; or
3. That disciplinary action will be taken or, where pre-disciplinary charges must be preferred, that they have been preferred in order to convene a disciplinary hearing.

## **Alternates**

The Board of Education shall appoint more than one Title IX Coordinator and several designated Title IX formal complaint investigators. A Complainant will have a choice of which Title IX Officer to approach regarding a Title IX complaint. If the complaint is about the Superintendent of Schools, the Board may stand in the Superintendent's place for review or may engage independent counsel.

## **Decision Maker**

At the conclusion of the investigatory process, a report shall be conveyed by the Investigator to the school's decision maker, a central office administrator as designated by the Board of Education. The Decision Maker shall review the report and any rebuttals by the parties, determine the relevance of presented evidence, and make findings of fact and a determination whether there has been a violation of this policy, applying the preponderance of credible evidence standard. The Decision Maker shall prepare a report stating these findings and the basis thereof, and any determination as to appropriate remedies, and shall furnish all parties with such report, in accordance with regulations.

## **Appeal of Formal Complaints**

An appeal of the Decision Maker's determination may be brought to the District's appellate authority, the Superintendent of Schools, submitted in writing within thirty (30) calendar days of the determination, based upon the following:

1. A procedural irregularity affecting the outcome;
2. New evidence that was reasonably not available at the time of the determination becomes available and could affect the outcome; or
3. A conflict of interest on the part of the Title IX Coordinator, Investigator, or Decision Maker affected the outcome.

A party may appeal the Title IX Coordinator's dismissal of a complaint or any allegation therein within thirty calendar days of such dismissal by written submission to the Superintendent.

## **Confidentiality**

The district's Title IX Coordinators, investigators, the Superintendent of Schools, and the Board of Education shall, to the maximum extent possible, maintain as confidential the transaction(s) underlying complaint and the proceedings as well as the outcome of any mediated agreement and action taken, other than formal discipline. The Respondent, however, must be informed of the identity of the person who commenced the proceedings or complaint in order to provide fair and due process. Both the Complainant and the Respondent shall be given written notice of the findings in the matter of a formal complaint.

## **Consequences**

Any officer, supervisor, or employee who violates this policy shall be subject to corrective action up to and including termination of office or employment, with due process provided, as necessary. Students who violate this policy shall be subject to disciplinary or other corrective action, consistent with the Code of Conduct and applicable laws and regulations.

Any complaint that is determined to have been processed maliciously or in bad faith shall be deemed to be in violation of this policy and may give rise to disciplinary consequences against the complainant.

**\*District Title IX Officers**

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**Adopted: September 22, 2021**

## **TITLE IX STUDENT SEXUAL HARASSMENT REGULATIONS**

### **Mandatory Grievance Process**

Federal regulations promulgated to address instances of sexual harassment as defined at 34 CFR Part 104 and District Policy 0113 mandate a grievance process in response to the filing of a Formal Title IX Complaint. In accordance with these regulations, the following processes and rights for the parties to the complaint (the Complainant and the Respondent) shall be required.

#### **Commencing a Formal Complaint**

A formal complaint may be initiated by a complainant (a student alleges harassment), by a legal parent or guardian on behalf of a minor child, or by a Title IX Coordinator and shall be in writing, which in the case of a student complainant may be reduced to writing by a parent/guardian or a Title IX Coordinator. The formal complaint must be signed by the Complainant, his/her parent/guardian, or a Title IX Coordinator. Upon receipt of such a complaint, the Title IX Coordinator is obligated to determine whether or not the allegations contained therein, if proven, would meet the definition of sexual harassment as prohibited by Title IX. If the Title IX Coordinator determines that the allegations are not within the scope of Title IX, the Complainant will be so notified in writing. A determination that allegations do not qualify as a Title IX matter does not preclude further action to investigate the matter and/or enforce the Code of Conduct and other District policies as warranted.

#### **Dismissal of Complaints**

Pursuant to federal Title IX regulations, the Title IX Coordinator must dismiss allegations that, even if proven, would not constitute sexual harassment as defined under Title IX regulations; did not occur within the school's program or activity over which the District had substantial control; or did not occur within the United States. A complaint may be dismissed at the Title IX Coordinator's discretion if the complainant notifies the Title IX Coordinator at any time that s/he wishes to withdraw the complaint, the respondent's employment or enrollment at the District ends, or specific circumstances prevent the District from gathering evidence sufficient to reach a determination.

#### **Written Notice of Formal Complaint**

If the Title IX Coordinator determines that the formal complaint alleges conduct that may, if proven, constitute a violation of Title IX, a Notice of Title IX Formal Complaint shall be issued to the Complainant and the Respondent setting forth the following information:

1. Notice of the Grievance Process (see Exhibit A).
2. Description of the alleged violation(s) of Title IX.
3. A statement regarding the presumption of the Respondent's innocence.
4. The right of both parties to representation during the Grievance Process, including a right to legal counsel.
5. Both parties' right to inspect, review, and rebut all evidence.
6. Both parties' right to a written determination upon conclusion of the Grievance Process.
7. That the Code of Conduct and District Policy prohibit false statements made knowingly or maliciously at any stage of the Grievance Process.
8. That any newly asserted allegations will be processed under the Grievance Procedure, whether as a separate matter or through consolidation as determined by the Title IX Coordinator.
9. The right of both parties and their respective representatives to present evidence and discuss evidence with the investigator.
10. That the District has the burden of proof in making findings of sexual harassment based of the standard of "*a preponderance of the credible evidence.*"

### **Rights to Review Evidence**

Each party shall have reasonable opportunity to review all evidence directly related to a formal complaint, including evidence possessed by the District that it doesn't intend to use in determining the outcome of a formal complaint, as well as any exculpatory information. The right to review will be offered at least ten (10) days before the date of the completion of the Title IX Investigator's final report. Upon completion of the report, each party shall be provided a copy and shall have at least ten (10) days to submit responses, prior to submission of the report to the decision maker. The parties' response shall be incorporated into the Investigator's submission to an impartial decision maker.

### **Supportive Measures**

Supportive measures shall be available to both the Complainant and the Respondent upon the filing of a complaint. Supportive measures may include (but are not limited to): [1] counseling; [2] monitoring or supervision; [3] schedule changes; and/or [4] additional academic support. Supportive measures shall be offered to the Complainant upon notice of allegations and will be designed to restore or preserve equal access to the school's educational programs and activities, but may not be punitive or "unduly burdensome" as against the Respondent during the pendency of the Grievance Process.

### **Removal of Respondent**

A student respondent to a complaint of sexual harassment shall not be removed from attendance upon instruction based upon the filing of a Title IX Complaint where supportive efforts are adequate to preserve or restore equal access to the educational environment for the Complainant. Removal will not be effectuated where the complaint

claims that the threat posed by the Respondent is to the Complainant's emotional or mental health, in which cases supportive measures shall be offered.

Where, upon an individualized safety and risk analysis, it is determined that the Respondent poses an immediate threat to the physical health or safety of the Complainant or others, an immediate suspension may be invoked pursuant to Education Law §3214 or, where the Respondent is an employee, an immediate suspension or consensual leave implemented by the Superintendent of Schools in accordance with applicable laws and regulations may be effectuated.

### **Conflicts of Interest**

In the interest of due process, any Title IX Coordinator, Investigator, or designated decision made with any conflict of interest shall recuse him or herself from participation in the formal Title IX Grievance Process. Title IX Coordinators, Investigators, and Decision Makers shall proceed without bias toward any party, and shall maintain the due process principle of “innocent until proven guilty” during the pendency of proceedings. If a party believes that a Title IX Coordinator has a conflict of interest, s/he should address such concerns, in writing if possible, to the Superintendent of Schools as early as possible during the Grievance Process, to request reassignment of the matter. Any concerns regarding the impartiality of an investigator (other than the Title IX Coordinator) or the Decision Maker should be immediately made known to the Title IX Coordinator.

### **Determinations**

Upon conclusion of the ten-day report response period described above, the designated Decision Maker (who may NOT be the Title IX Coordinator or the Investigator) shall receive and review the final investigation report and any responses submitted by the parties or their advisors. The Decision Maker must apply the preponderance of evidence standard to the relevant, permissible evidence and issue a written determination of responsibility that:

1. Identifies the allegations that potentially constitute sexual harassment;
2. Describes the procedural steps taken from the receipt of the complaint to the determination;
3. Includes findings of fact supporting the determination;
4. Includes conclusions regarding application of district policy to the facts;
5. Includes a statement of, and a rationale for, the result as to each allegation, including:
  - a. determination of responsibility;
  - b. any disciplinary sanctions to be imposed;
  - c. whether remedies to restore or preserve equal access will be provided to the Complainant.
6. Explains procedures, timelines, and permissible bases for appeals; and
7. Reminds the parties of the prohibition on retaliation.



## **Record-Keeping**

The report and all documentation related to a Title IX complaint and investigation shall be kept in a sealed file for a minimum of seven (7) years.

## **Informal Resolution**

At any time during the Title IX Grievance Process, a grievance may be referred to an informal resolution process instead of a full investigation. An informal process may be implemented if both parties provide written, voluntary consent and are provided a written notice of rights, but would not be available in a case in which harassment is alleged on the part of an employee.

Informal resolution may involve conflict resolution strategies such as (but not limited to) arbitration, mediation, or restorative justice.

## **Appeals**

The Complainant and/or the Respondent (or their parents/guardians, if a minor) may appeal the findings and/or recommendations of the investigation, as contained in the summary report. Dismissal of a Formal Complaint or any allegations within the Formal Complaint may also be appealed

An appeal must be made in writing within 30 calendar days from the date of receipt of the written results of the final determination. The appeal must be submitted to the Superintendent of Schools, unless the Superintendent was the decision maker, in which case the appeal should be submitted to the President of the Board of Education. The Superintendent or Board President shall review all relevant information within 30 calendar days of the date of the filing of the appeal.



**Title IX Notice of Complaint Form Letter to Respondent<sup>1</sup>**

**Delivered by Hand/Overnight Delivery**

Date: \_\_\_\_\_

Name of Respondent or Parent/Guardian Respondent

Address

Town, NY, ZIP Code

Dear \_\_\_\_\_:

This letter is to advise you that the Putnam Valley Central School District is in receipt of a formal complaint against you, alleging conduct that, if proven, may be in violation of Title IX of the Educational Amendments of 1972 and district policy. Under the law and pursuant to district policy, we are required to investigate these allegations, which are as follows:

Complainant (*Insert First and Last Names*) has alleged that, on or about (*Insert Date(s)*), at (*Location*), you (*describe the conduct alleged to be sexual harassment with sufficient detail to allow the respondent to prepare a response*). \_\_\_\_\_

In accordance with the law and district policy, you are presumed not responsible for this alleged conduct at this time. A determination about these allegations may be issued only upon completion of a grievance process, which includes a full investigation. You may be found responsible if a preponderance of evidence<sup>2</sup> supports a finding that the conduct alleged against you did occur.

Toward a full and fair investigation, you are hereby directed to meet with me [or name of other investigator] on Day, Month XX, 202\_ at XX:XX a.m./p.m. at \_\_\_\_(location)\_\_\_\_\_,<sup>3</sup> at which time you will \_\_\_\_\_

<sup>1</sup> This letter may be modified for usage regarding complaints made under other civil rights laws or policies, but that is neither required nor necessarily recommended, as only Title IX requires that a respondent be allowed to have an attorney present at an investigation meeting.

<sup>2</sup> The regulations permit the higher burden of proof of “clear and convincing evidence.” This letter should reflect whichever standard is adopted by the Board of Education

<sup>3</sup> If anyone else will be present at the interview, this must be disclosed



be asked questions, permitted to inspect and review any evidence, and given the opportunity to present any information you believe to be relevant, including your version of events. You have the right to be accompanied by an advisor, who may be but need not be an attorney, at this investigatory meeting.

<sup>4</sup>Please note that the Code of Conduct prohibits you from knowingly making false statements or providing false information during this investigation. Failure to abide by the Code of Conduct could give rise to disciplinary action against you, whether or not you are found responsible for any of the conduct alleged in this complaint against you.

Please see the enclosed documents, including the district's sexual harassment prevention policy and regulation describing the grievance process, and a Notice of Rights. If you have any questions at any time regarding this notice or the grievance process, please contact me without delay, as it is the district's goal to resolve this matter as quickly and fairly as possible.

Sincerely,

Dr. Natalie Doherty  
Title IX Coordinator

Enclosures: District Policy No. XXXX  
District Regulation No. XXXX (or Grievance Process Statement)  
Notice of Rights

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<sup>4</sup> Optional paragraph – Should be modified to ensure that the language matches that in the District's Code of Conduct, and may be omitted if the Code of Conduct does not contain any such prohibition.



## NOTICE OF RIGHTS UNDER TITLE IX

In accordance with state and federal law, it is the policy of the Putnam Valley Central School District to prohibit discrimination in any form, including discrimination on the basis of sex, which includes sexual harassment. As required by Title IX<sup>5</sup> and its regulations,<sup>6</sup> parties to a formal complaint alleging sexual harassment have the following rights:

- **A Right to Equitable Treatment**

The grievance process does not favor either the complainant or the respondent. While interim supportive measures may be offered to a complainant during the pendency of the grievance process, these may not be punitive or unduly burdensome to a respondent, except if an emergency removal is warranted by an immediate threat to physical health or safety of any individual or group. Any disciplinary sanctions may be imposed only after completion of the grievance process and a determination regarding responsibility for alleged conduct.

- **A Right to Due Process**

The law requires a presumption of innocence, and no respondent may be deemed guilty of allegations prior to the completion of a full and fair investigation and review of the evidence by a neutral decision-maker. The burden of proof rests with the investigator, not either party, and requires a preponderance of evidence to establish any allegation. A preponderance of evidence means that credible testimony and evidence supports a finding that it is more likely than not that an allegation is true.

- **A Right to Objectivity and Fairness**

All parties have a right to have their side of the story heard by an impartial investigator who is free from conflicts of interest. District personnel and contractors who are engaged to fulfill duties attendant to the Title IX grievance process shall be trained about bias and the need to recuse one's self from any matter in which s/he has a conflict of interest.

All parties have a right to an equal opportunity to present all **relevant** evidence, both inculpatory and exculpatory, for objective consideration, and to review any evidence submitted, even if it will not be relied upon for a determination, prior to the issuance of a final investigative report to the decision maker. According to the regulations, evidence or questions regarding a complainant's prior sexual behavior or sexual predisposition is relevant and may be considered **only if** it could establish that the specific alleged conduct was consensual or another person committed the alleged specific conduct.

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<sup>5</sup> Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681 et seq.

<sup>6</sup> 34 C.F.R. Part 106.



- **A Right to Transparency**

All parties should be made aware of supportive measures available during the pendency of the grievance process, possible remedies and outcomes, and expected timelines. Any changes to or dismissal of allegations, requires that all parties be promptly notified in writing. The parties will be provided with written notice regarding any investigative interview, hearing, or other meeting, with sufficient notice to allow time to prepare.

- **A Right to Confidentiality**

Transparency regarding the grievance process for the parties involved does not mean that the parties' privacy rights may be disregarded. District policy requires all aspects of the grievance process be maintained with confidentiality to the extent possible, balanced against a respondent's due process rights and any need to share information on a *need-to-know* basis in order to provide supportive measures or, in the event of a finding of responsibility, remedies. All parties and third-party witnesses are asked to maintain confidentiality. This shall not be deemed as a restriction upon either party to discuss the allegations or gather and present evidence.

- **A Right to Timely Resolution**

The district is required to carry out its response to allegations of sexual harassment in a reasonably prompt timeframe, and endeavors to conduct the grievance process expediently, without sacrificing thoroughness. Parties should be advised of the expected duration of the investigation, and will receive written notice about any delays and the cause(s) thereto.

Both parties must be provided with a summary of the evidence and will have ten (10) days to prepare and submit a written response to such evidence for consideration by the investigator prior to completion of the final investigative report. Upon completion of the final investigation report, both parties and their advisors will receive a copy of the investigation report and will have ten (10) days to review the report and submit a written response, prior to any determination of responsibility. These regulatory requirements necessarily protract the time frame for completion of the grievance process.

- **A Right to Counsel**

All parties have the right – but are not required – to have an advisor, including an attorney, present at any interview, hearing, or other meeting related to the grievance process.



- **A Right to be Safe from Retaliation**

The law, regulations, and district policy expressly prohibit retaliation against any party or non-party witness involved in a grievance process. Any concerns regarding retaliation must be reported to the Title IX Coordinator and may give rise to further investigation and disciplinary action.

- **A Right to Appeal**

Either party to a formal complaint has the right to appeal either a dismissal or a final determination, if a procedural irregularity affected the outcome, if there was a conflict of interest on the part of the Title IX coordinator, investigator, or decision-maker, or if new evidence that was not reasonably available at the time of the determination could affect the outcome. If an appeal is submitted, both parties shall receive written notice and will have equal opportunity to submit a written statement about the determination. A written decision on the appeal will be issued to both parties.