

ADMINISTRATIVE PROCEDURE 5.451A & 7.335A

**METROPOLITAN SCHOOL DISTRICT OF LAWRENCE TOWNSHIP
TITLE IX SEXUAL HARASSMENT AND SEXUAL VIOLENCE PROCEDURES**

These Administrative Procedures have been developed in conjunction with Board Policies 5.451 and 7.335, Title IX Sexual Harassment and Sexual Violence

Administrator and Staff Member Responsibilities

Every administrator and staff member employed by the Metropolitan School District of Lawrence Township has responsibility to take reasonable steps intended to prevent acts of sexual harassment or sexual violence, including inappropriate touching, including, but not limited to:

- A. Monitoring the work and school environment for signs that sexual harassment or sexual violence may be occurring;
- B. Refraining from participation in, or encouragement of actions that could be perceived as sexual harassment or sexual violence (verbal or otherwise);
- C. Stopping any observed acts that may be considered sexual harassment or sexual violence, and taking appropriate steps to intervene, whether or not the involved individuals are within his/her line of supervision; and
- D. Taking immediate action to minimize or eliminate the work and/or school contact between the two individuals where there has been a complaint of sexual harassment or sexual violence, pending investigation.
- E. Documenting and reporting all incidents of sexual harassment and/or sexual violence to the Title IX Coordinator.

If an administrator or staff member receives a complaint of alleged sexual harassment or sexual violence, or observes or becomes aware of conduct that may constitute sexual harassment or sexual violence, the administrator or staff member must immediately contact one of the individuals identified above to forward the complaint, to discuss it and/or to report the action taken. Failure to take the above action to prevent the occurrence of or stop known sexual harassment or sexual violence may be grounds for disciplinary action.

Complaint and Investigation Procedure

The Metropolitan School District of Lawrence Township takes complaints of sexual harassment seriously and will deal with such complaints promptly, thoroughly, impartially, and equitably. Where sexual harassment or sexual violence is found to have occurred, the Metropolitan School District of Lawrence Township will act to stop the sexual harassment or sexual violence, prevent its recurrence, remedy its effects, if any, and to discipline those responsible.

This section provides the complaint and investigation procedure used by the Metropolitan School District of Lawrence to investigate complaints of sex discrimination or sexual harassment, including sexual violence. In addition, complaints against students may be referred to student disciplinary processes. All allegations of sexual harassment or sexual violence must be investigated. The Title IX Coordinator and each building principal or his/her designee shall receive complaints. All complaints received by any staff member must immediately be reported to the building principal and the Title IX Coordinator.

Interim Measures

After a report is made, the School District will provide interim support and reasonable protection against further acts of misconduct, harassment or retaliation as well as provide services and resources to provide a safe educational and employment environment. After the initial review of the report, the School District will determine the necessity and scope of any interim measures. All individuals are required to report instances of another individual's failure to abide by any restrictions imposed by an interim measure. The School District will take action to enforce a previously implemented interim measure.

The range of interim measures includes:

1. No contact order: The complainant or respondent may request, or the School District may impose, communication and contact restrictions to prevent further potentially harmful interaction.
2. Academic or Employment Arrangements: The School District may initiate a change in academic or employment arrangements after a report of sexual misconduct or harassment. Upon request, the School District will inform the complainant or respondent of the options and will accommodate the request if those changes are reasonably available. In some cases the School District may initiate these changes without a request. These may include, but are not limited to:
 - a. Changing class or work schedule, including the ability to stop a course without penalty.
 - b. Limiting an individual's or employee's access to certain School District facilities or activities pending resolution of the matter.
 - c. Granting a voluntary leave of absence.
 - d. Providing an escort to ensure safe movement between classes and activities.
 - e. Providing academic support services
3. Emotional Support: The School District will provide counseling services. Counseling and emotional support is available to any member of the School District community.

Informal Complaint Procedure

The Informal Complaint Procedure (mediation) is designed to resolve complaints quickly, efficiently, and to the mutual satisfaction of all parties involved. Where circumstances allow, and both parties agree to participate, the Informal Complaint Procedure will be initiated as soon as possible and within five (5) school days of the date the complaint is reported to the building principal or the Title IX Coordinator, absent any unusual circumstances. A complainant may elect to terminate a formal complaint process and enter into mediation at any point, including after the commencement of the Formal Complaint Process.

Mediation is a voluntary process intended to allow the parties involved in an alleged complaint of sexual harassment or sexual violence to discuss their respective understandings of the incident with each other through the assistance of a trained mediator. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Mediation is only offered as an option if both the complaining party and the accused parties are members of the M.S.D. Lawrence Township school community and voluntarily agree to participate in the mediation process. Informal mediation is not appropriate for certain cases, such as alleged sexual assaults, even on a voluntary basis.

Upon the consent of all parties to the complaint, the Title IX Coordinators, or other appropriate individuals, will seek an outcome through mediation conducted by a qualified School District mediator or an external professional engaged by the School District. All parties to the complaint must mutually agree upon any resolution reached through the mediation process. The outcome of the mediation shall be documented and maintained by the Title IX Coordinator pursuant to the recordkeeping protocols established by the School District in Article I, Section J of the Formal Complaint Procedure. Both the complainant and the accused have the right to bypass or end the Informal Complaint Procedure at any time in order to begin the formal stage of the complaint process.

The School District shall not require a student who complains of sexual harassment or sexual violence to work out the problem with the respondent, including through mediation. The student who complains of sexual harassment and/or sexual violence has the right to end the informal process at any time and begin the formal stage of the complaint process. The student shall also have the right to pursue a concurrent criminal complaint against the respondent.

Formal Complaint Procedure

I. General Rules

- A. Since it is important that complaints be filed and processed as rapidly as possible, the number of days indicated at each step is considered to be a maximum and every effort will be made to expedite the process. At any step in the complaint procedure, the time limits may be extended only when necessary under the circumstances. In no event shall these procedures be extended for more than a 90-day period.

- B. The failure of a complainant to proceed from one step to the next within the set time limits, without being granted an extension of time by the Title IX Coordinator, shall be deemed to be an acceptance of the decision previously rendered and shall eliminate any future review concerning that particular complaint.
- C. If a review of a decision at the previous step in the formal complaint procedure is not requested within the time allotted and the decision at the prior step establishes that an employee or student has engaged in any sexual misconduct or involvement with any student under the age of 18, the Title IX Coordinator shall, immediately upon the expiration of the allotted time, submit such information to the superintendent. The superintendent shall ensure that the results of the investigation at the previous step have been reported to the Indiana Department of Family and Children and the appropriate local and state authorities.
- D. Facts elicited during the complaint procedure that result in adverse disciplinary action against an employee become part of that employee's personnel file.
- E. The failure of the complaint investigator to communicate his/her decision to the complainant or respondent within the time limits shall permit the complainant or respondent to proceed to the next step.
- F. The complainant may withdraw his/her complaint at any step without reprisal. However, a complainant shall not be permitted to re-file the same complaint once withdrawn unless it is within the initial time period.
- G. No reprisal shall be invoked against the complainant for filing a complaint or against any person for participation in any way in this procedure.
- H. Throughout the investigation, including at any hearing, the complainant and respondent shall have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.
- H. The complainant may report a complaint directly to the Title IX Coordinator.
- I. To the extent consistent with the Family Education Rights and Privacy Act (FERPA), both parties will receive periodic status updates. The School District will keep the complaint and investigation confidential to the extent possible.
- J. The Principal of each building in the School District will document all reports of sexual harassment and/or sexual violence, including inappropriate touching. The School District will establish a protocol for recordkeeping of such incidents that will include:

- a. A copy of all written reports, and a narrative of all verbal reports, of incidents involving allegations of sexual harassment of any kind;
- b. A narrative of actions taken in response to the reports by School District personnel;
- c. A copy of any and all disciplinary sanctions to students or employees for violations of the sexual harassment policies and procedures;
- d. Documentation demonstrating any interim and/or remedial efforts offered and provided to the complainant, the accused and/or witnesses to the incident(s), such as counseling or other appropriate services; and
- e. A narrative of all action taken to prevent recurrence of any harassing incident(s), including any written documentation.

K. For purposes of this procedure, a “day” is defined as a school day.

II. Procedures for Processing a Complaint

The building level principal will immediately investigate a complaint. Upon receipt of a complaint, the procedures below will be followed.

	Party/Parties Involved	Action Required
A.	Complainant	Within five (5) days from the time a complaint becomes known, the complainant must complete and submit to the building principal and the Title IX Coordinator a written “Title IX Report” form. The report must state the respondent’s name, the nature and date of the alleged violation, the names of any witnesses to such alleged violation and requested action. Forms shall be available from all principals’ offices and from the Title IX Coordinator and the School District’s website.
B.	Title IX Coordinator	Within four (4) days from receipt of the written complaint, the Title IX Coordinator shall notify the respondent that a complaint has been filed and provide the respondent with a written summary of the allegations set forth in the complaint.

C.	Respondent	<p>Within five (5) days, the respondent shall be required to respond in writing to the Title IX Coordinator, as follows:</p> <ol style="list-style-type: none"> 1. Confirm or deny the facts as alleged; 2. Indicate acceptance or rejection of the complainant's requested action; or 3. Outline alternative actions. <p>The respondent will also identify potential witnesses for the Title IX Coordinator.</p>
D.	Title IX Coordinator	<p>Within ten (10) days from receipt of the respondent's response, the Title IX Coordinator shall meet individually with the complainant and respondent, and share his or her initial conclusions of fact and proposed action(s), if any.</p>
E.	Complainant or Respondent	<p>Within five (5) days of receiving the initial response, the complainant or respondent may request, in writing, a hearing on the matter.</p>
F.	Title IX Coordinator	<p>Upon receipt of a written request for hearing, the Title IX Coordinator shall schedule a hearing to be held within 5-10 days before an Independent Hearing Officer selected from a panel established by the School District. The Independent Hearing Officer shall have no personal or professional interest that would conflict with the person's objectivity in the hearing. The Title IX Coordinator shall give written notice of such hearing to the complainant, respondent, the student, the student's parent, the student's principal or employee's supervisor, superintendent and other appropriate witnesses if applicable.</p>
G.	Title IX Coordinator, Complainant, Respondent, Title IX Independent Hearing Officer	<p>Within 5-10 days of the receipt of the written request for a hearing by the Title IX Coordinator, a hearing shall be scheduled before the Independent Hearing Officer. The Independent Hearing Officer shall facilitate the hearing, at which the following rules shall apply:</p>

		<ol style="list-style-type: none"> 1. The hearing shall be informal and the legal rules of evidence and procedure shall not apply. 2. The complainant and respondent shall be given an equal opportunity to submit written evidence and to bring witnesses before the Independent Hearing Officer. 3. The Title IX Independent Hearing Officer may question any witnesses brought before him/her. 4. The complainant and respondent shall be permitted to make a statement before the Independent Hearing Officer and may be permitted to examine their witnesses and to cross-examine witnesses actually presented by the other parties. While the complainant and respondent may not personally question or cross-examine each other during the hearing, but may do so through their representative. 5. The complainant and the respondent may be accompanied by representation, including legal counsel, at the hearing. 6. The Independent Hearing Officer shall create and maintain a record of the hearing which shall include the names of all witnesses, all investigation reports, a summary of all witness testimony and all documentary evidence. 7. The student victim has the right not to appear in the same hearing room as the accused.
H.	Title IX Independent Hearing Officer	Within five (5) days after the hearing, the Title IX Hearing Independent Hearing Officer shall issue a written decision which shall include findings of fact

		and recommended action.
I.	Title IX Coordinator	Upon receipt of the decision of the Title IX Independent Hearing Officer, the Title IX Coordinator shall provide a copy of such decision to the complainant, respondent, principal or supervisor and superintendent.
J.	Complainant or Respondent	If the complainant or respondent is not satisfied with the decision, he/she may request a review by the superintendent. The request for such review must be made in writing to the Title IX Coordinator within five (5) days of receipt of the Panel's decision.
K.	Title IX Coordinator	Upon receipt of a request for review by the superintendent, the Title IX Coordinator shall notify the superintendent of such request and submit to the superintendent the record of the hearing, the Independent Hearing Officer's decision and all related documents.
L.	Superintendent	Within ten (10) days of notice of request for review, the superintendent shall review the record and Independent Hearing Officer's decision and shall issue a decision. The superintendent may concur in the findings and recommendations of the Independent Hearing Officer or may make alternate findings and recommendations. The superintendent shall have his/her decision provided to the Title IX Coordinator, complainant, respondent and the principal or supervisor within the ten (10) day period.
M.	Complainant or Respondent	Within five (5) days of the receipt of the superintendent's decision, if dissatisfied with the decision, the complainant or respondent must submit a written request for review by the School Board to the Title IX Coordinator.
N.	Title IX Coordinator, School Board	Upon receipt of the request for review, the Title IX Coordinator must schedule a review before the Board

		of Education to be held at the Board’s next regular or special meeting, but in no event more than six (6) weeks from such request. The Title IX Coordinator shall provide the Board members with copies of the hearing record, all investigation reports, the Independent Hearing Officer’s decision, the superintendent’s decision and all related documents.
O.	School Board, Title IX Coordinator, Complainant, Respondent	Within 30 days of the request for review, the Board shall review the hearing record, all investigation, all reports, the panel decision, the superintendent’s decision and all related records. The review is not a hearing and no party has the right to present further witnesses or other evidence or to examine any witness or party. However, the Board may, in its discretion, permit statements of limited duration from the complainant or his/her representative and the respondent or his/her representative. All usual rules of Board procedure shall apply.
P.	School Board	Within ten (10) days of the review, the Board shall issue a final written decision. The Board may concur in the findings of the superintendent and direct that the recommended actions be taken or may make alternate findings and direct appropriate the superintendent or other appropriate administrator take actions. The decision of the Board is final.

Non-Employee and Non-Student Complaints

Individuals who are neither Metropolitan School District of Lawrence Township employees nor Metropolitan School District of Lawrence Township students who believe they have been subjected to sexual harassment or sexual violence by a School District employee during the employee's work hours or by a School District student on campus or at a School District-sponsored event may utilize any of the complaint processes set forth above.

III. Legal Standards for Evaluating Complaints

The School District shall not require a student who files a complaint to appear in the same hearing room as the accused perpetrator or to participate in mediation with the alleged perpetrator. The person filing the complaint and the person who is the subject of the complaint shall have equal rights to be interviewed, identify witnesses and provide documentation pertaining to the complaint.

- A. The standard for evaluating complaints shall be a preponderance of the evidence (i.e., it is more likely than not that sexual harassment and/or sexual violence occurred).
- B. In determining whether the alleged sexual harassment or sexual violence has created a hostile environment, the complaint investigator and/or the Board of Education will consider the following factors:
 - 1. Whether a sexually harassing environment has been created by the conduct of an employee, a student, or a third party that is sufficiently serious and denies or limits a student's ability to participate in or benefit from the School's program based on sex.
 - 2. Whether the sexually harassing conduct is sufficiently serious to create a hostile environment when considered from both a subjective and objective perspective.
 - 3. Whether the conduct is severe and pervasive, including:
 - a. The degree to which the conduct affected one or more students' education and whether it has limited the students' ability to participate in or benefit from the School District's program.
 - b. The type, frequency and duration of the conduct. In most cases, a hostile environment will exist if there is a pattern or practice of harassment or the harassment is sustained or nontrivial. However, the more severe the conduct, the less the need to show a repetitive series of incidents. A single isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.
 - c. The identity and relationship between the alleged harasser and the subject or subjects of the harassment. For example, is the harasser in a position of power over the subject of the harassment?
 - d. The age and sex of the alleged harasser and the subject or subjects of the harassment.
 - e. The size of the school, the location of the incidents, and the context in which they occurred.

- f. Other incidents at the school. A series of incidents at the school, not involving the same students, could – taken together, create a hostile environment, even if each by itself would not be sufficient.
- g. Incidents of gender-based but nonsexual harassment. Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment.

IV. Remedies

- A. The School Corporation will take appropriate disciplinary action against students and staff who violate the School Corporation policy and procedures addressing sexual harassment, up to and including involuntary termination or expulsion. Any such disciplinary action shall be taken, as applicable, in accordance with the Metropolitan School District of Lawrence Township’s Student Code of Conduct, School Board policies and Indiana law. Other appropriate actions will be taken to correct problems and remedy effects, if any, caused by the conduct.
- B. Both parties shall be informed concurrently of the decision of the resolution of the matter adopted by the Board of Education.
- C. When sexual harassment involves a crime of violence or a non-forcible sex offense, FERPA permits the School Corporation to disclose to the alleged victim the final results (limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed) of a disciplinary proceeding against the alleged perpetrator, regardless of whether the School Corporation strictly concluded that a violation was committed. The victim may also file criminal charges with the appropriate authorities.
- D. In the event a student is found to have engaged in sexual harassment of another student, the School Corporation shall disclose to the student who was harassed, information about the sanction imposed on the student who was found to have engaged in harassment when the sanction directly relates to the harassed student.
- E. The School Corporation will, where appropriate, take reasonable steps to remedy the harm to affected student(s) of the sexual harassment. Remedies may include, but are not limited to, the provision of counseling to students who been subjected to or who have engaged in sexual harassment or sexual violence, including inappropriate touching, and the provision of academic support, including recalculating any course grades if necessary.

Confidentiality

The Metropolitan School District of Lawrence Township recognizes that confidentiality is important. However, confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing this policy will respect the privacy of individuals reporting or accused of sexual harassment or sexual violence to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the School Corporation is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way.

Retaliation

Retaliation against an individual who in good faith complains of alleged sexual harassment or sexual violence or provides information in an investigation about behavior that may violate this policy is against the law, will not be tolerated, and may be grounds for discipline. Retaliation in violation of this policy may result in discipline up to and including termination and/or expulsion. The Metropolitan School District of Lawrence Township's primary concern when dealing with complaints of sexual harassment or sexual violence against students, staff, or third parties is the safety of the student, staff member, or third party. Any employee or student bringing a sexual harassment or sexual violence complaint or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.

An employee who believes that he or she has been subjected to retaliation may file a retaliation complaint with his or her immediate supervisor, who will in turn immediately contact one of the officials listed above. If the employee feels uncomfortable about discussing the alleged retaliation with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with the Title IX Coordinator or the superintendent. After receiving any employee's complaint of an incident of alleged retaliation, the supervisor will immediately contact the Title IX Coordinator to forward the complaint, to discuss it and/or to report the action taken. The supervisor has a responsibility to act even if the individuals involved do not report to that supervisor.

A student who believes that he or she has been subjected to retaliation may file a retaliation complaint with the Title IX Coordinator or his or her building principal. If the student feels uncomfortable about discussing the alleged retaliation with the Title IX Coordinator or the building principal, the student should feel free to bypass these persons and file a complaint with the Superintendent of Schools, who will in turn immediately contact the Title IX Coordinator to forward the complaint, to discuss it and/or to report the action taken. Complaints of retaliation under Title IX must be immediately provided to the Title IX Coordinator.

False Reports

Because sexual harassment and sexual violence complaints frequently involve interactions between persons that are not witnessed by others, reports of sexual harassment or sexual violence cannot always be substantiated by additional evidence. Lack of corroborating evidence or

"proof" should not discourage individuals from reporting discrimination or sexual harassment under this policy. However, individuals who make reports that are later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action under the Metropolitan School District of Lawrence Township's applicable disciplinary procedures. 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.