Note: This policy addresses student complaints of sexual discrimination, sexual harassment, sexual assault, dating violence, domestic violence, and stalking perpetrated by students, employees, or third parties under the control of the College District. For legally referenced material relating to this subject matter, see FFDA(LEGAL). For discrimination, harassment, and retaliation involving students based on race, color, national origin, religion, disability, age, veteran status, or genetic information, see FFDB. Complaints by College District employees are addressed in DIAA and DIAB.

The College District prohibits discrimination and harassment of any student on the basis of sex in the education programs and activities of the College District. This policy also prohibits retaliation against any student who in good faith reports a violation of this policy or who cooperates in an investigation, disciplinary process, or judicial proceeding arising from such a report. This policy applies to sexual harassment, sexual assault, dating violence, domestic violence, and stalking on the basis of sex, which this policy refers to collectively as “sexual misconduct.”

Board members, the College President, administrators, faculty, staff, students, and other individuals subject to the control of the College District shall comply with this policy. This policy applies regardless of the sex, sexual identity, or sexual orientation of the parties. Individuals who violate this policy are subject to discipline up to and including expulsion for students and termination for employees.

As used in this policy, “student” and “complainant” refer to an individual who was participating in or attempting to participate in the education programs or activities of the College District at the time of the incident, including individuals enrolled in courses provided by the College District, whether for credit or noncredit, including but not limited to, courses through dual enrollment programs, workforce education, the center for business and industry training, and community education. An individual who is both a student and an employee shall be treated as a student under this policy.

This policy applies to conduct that occurs on campus or on College District-owned or College District-leased property; during a College District activity or event sponsored by the College District whether on campus or off campus; in a building owned or controlled by a student organization that is officially recognized by the College District; in College District vehicles; or in other instances in which the
College District exercised substantial control over the alleged perpetrator and the context in which the conduct occurred. This policy applies to off-campus conduct that deprives another student of equal access to the College District’s education programs or activities.

This policy requires the prompt and thorough investigation of complaints by personnel who are impartial, neutral, and trained on investigations and applicable laws pertaining to sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

The College District Administration shall take action to ensure that the College District provides training and educational materials to students and employees as may be required by law and as may be required to ensure compliance with this policy, including providing training to all Title IX Coordinators, investigators, decision-makers, and other individuals involved in the processing of reports and complaints under this policy.

College District personnel involved in implementing this policy (including the Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate the process) shall not have a conflict of interest or bias against complainants or respondents generally or with respect to the parties in a specific case.

This policy implements legal requirements found in Title IX of the Education Amendments of 1972 and its implementing regulations; the Clery Act and its implementing regulations; and the Texas Education Code, Chapter 51, Subchapter E-2.

**Title IX Coordinators**

Reports of discrimination based on sex, including sexual harassment and gender-based harassment, may be directed to the Title IX Coordinator. The College District designates the following people to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

- **Title IX Coordinator:** Mareille Rolon, Human Resources Coordinator
- **Address:** 500 College Drive, Lake Jackson, TX 77566
- **Telephone:** (979) 230-3303
- **Email:** Title IX Coordinator email
- **Webpage:** Title IX/Sexual Misconduct webpage
Definitions

The following definitions apply to this policy.

Complainant

In this policy, the term “complainant” refers to an individual who is alleged to be the victim of conduct prohibited by this policy.

Respondent

In this policy, the term “respondent” refers to an individual who allegedly engaged in conduct prohibited by this policy.

Formal Complaint

In this policy, the term “formal complaint” refers to a document filed by a complainant or signed by the Title IX Coordinator alleging sexual misconduct against a respondent and requesting an investigation of the allegations.

Sexual Discrimination

“Sexual discrimination” is the act of treating students disparately based on their sex, sexual orientation, gender identity, and/or gender expression. Disparate treatment is the act of treating similarly situated persons differently, such as applying a different academic standard to students based on their sex or denying a student participation in an activity because of the student’s sexual orientation. This prohibition applies to College District programs and activities such as admission, academic programs, discipline, counseling, scholarship and loan programs, cocurricular activities, and extracurricular activities sponsored by the College District.

Sexual Misconduct

“Sexual misconduct”, as used in this policy, collectively refers to sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

Sexual Harassment (Title IX)

“Sexual harassment” includes the following:

1. Physical, verbal, or nonverbal conduct by a College District employee based on the student’s sex, sexual orientation, gender identity, and/or gender expression in which the employee conditions the provision of an aid, benefit, or service of the College District on an individual’s participation in unwelcome sexual conduct (“quid pro quo” harassment);

2. Unwelcome conduct directed toward a student by an employee, student, or third party that is so severe, pervasive, and objectively offensive that it effectively denies a person...
equal access to the College District’s education program or activity; or

3. Conduct that constitutes “sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in this policy.

Sexual Assault

“Sexual assault” is forcible and nonforcible sex offenses as defined under the uniform crime reporting system of the Federal Bureau of Investigation. Forcible sex offenses are any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and fondling. Nonforcible sex offenses include incest and statutory rape.

Sexual assault may include any intentional sexual touching, however slight, including with any object. It may also include intentional contact with the breasts, groin, genitals, mouth, or touching another with any of these body parts, or making another touch the respondent or themselves with or on any of these body parts.

Dating Violence

“Dating violence” means violence that is committed against a victim with whom the person is or has been in a social relationship of a romantic or intimate nature, and where the existence of the relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;
2. The type of relationship; and
3. The frequency of interaction between the persons involved in the relationship.

Domestic Violence

“Domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse, a current or past intimate partner, a person who the victim shares a child with, or a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Texas. In Texas, a person commits an assault against a family member, household member, or a current or past dating partner. An assault consists of:

1. Intentionally, knowingly, or recklessly causing bodily injury to another person;
2. Intentionally or knowingly threatening another person with imminent bodily injury; or
3. Intentionally or knowingly causing physical contact with another that the offender knows or reasonably should know the victim will find provocative or offensive.
A person commits aggravated domestic assault if that person intentionally, knowingly, or recklessly causes serious bodily injury to a family member, household member, or a current or past dating partner, or uses or exhibits a deadly weapon in the course of committing the assault crime.

Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Other Inappropriate Conduct

“Other inappropriate conduct” means conduct on the basis of sex that may not meet the Title IX regulatory definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking but that adversely impacts the educational environment. The term includes the following:

1. “Sexual harassment” as defined under the Texas Education Code, Section 51.251(5), which prohibits unwelcome, sex-based verbal or physical conduct that:
   a. In the employment context, unreasonably interferes with a person’s work performance or creates an intimidating, hostile, or offensive work environment; or
   b. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student’s ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

2. Unwelcome sexual advances or requests for sexual favors; unwelcome physical contact or touching of a sexual nature; persistent and unwanted sexual attention; sexual voyeurism (such as watching a person disrobing, using the restroom, or engaging in sexual acts, without the consent of the person observed); unwelcome sexual gestures; public exposure of one’s sexual organs on campus or at an event under the control of the College District; displaying obscene materials in a public place on campus; forwarding pornographic or obscene material via email or text message to nonconsenting recipients; recording or photographing sexual activity or a person’s genital area or breast area or from a vantage point that a reasonable person would view as an invasion of personal privacy; knowingly administering a controlled substance to a person for the purpose of incapacitating that person and performing a sexual act with or against the person; and allowing a third party to view consensual sex without the knowledge of the other participant(s).
3. Unwelcome comments of a sexual nature that a reasonable person would view as gratuitous, intimidating, offensive, and/or degrading and that adversely impacts an individual’s educational environment. In the academic context, including the context of a classroom discussion or preparation of a course assignment, a relevant factor is whether the comments are reasonably related to course content or serve a legitimate pedagogical function. The College District’s definitions are not intended to restrict constitutionally protected speech.

4. A consensual sexual or amorous relationship between a student and employee when the student is enrolled in a course being taught or supervised by the employee; when the student is being supervised, coached, or advised by the employee in connection with a College District-related activity; and/or when the student is enrolled or working in a program in which the employee has direct or indirect supervisory authority. If such a relationship exists or develops, the employee has the professional and ethical responsibility to remove himself or herself from any decision-making that may reward or penalize the student involved. Accordingly, in the event of such a relationship, the employee shall promptly notify his or her administrative leader of the relationship.

5. Conduct of a sexual nature that is consensual between two or more parties but that is nonetheless inappropriate in an educational environment, such as engaging in sexual acts in a campus building.

Consent

Affirmative consent is a clear, unambiguous, knowing, informed, and voluntary agreement between all participants to engage in sexual activity. Silence or lack of resistance does not constitute consent. Obtaining consent is the responsibility of the person(s) initiating each specific sexual act regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent to any sexual act or prior consensual sexual activity between or with any party does not constitute consent to any other sexual act. The definition of consent does not vary based on a participant’s sex, sexual orientation, gender identity, or gender expression. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is mentally disabled or incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness, being asleep, or being involuntarily restrained. Consent does not exist when it is the result of any coercion, intimidation, force, or
threat of harm. Consent does not exist when the respondent mis-represents his or her true identity to the victim.

Under the Texas Penal Code, victims under the age of 17 cannot give consent as a matter of law. However, it is an affirmative defense to criminal prosecution that the offender was not more than three years older than the victim and of the opposite sex; did not use duress, force, or a threat against the victim at the time of the offense; and was not a registered sex offender.

**Retaliation**

A student who reports a violation of this policy, opposes conduct prohibited by this policy, or files a complaint under this policy shall not be subjected to retaliation. Witnesses and other individuals who participate in the investigation process or related proceedings likewise are protected from unlawful retaliation. The College District may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by law because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Prohibited retaliation includes an unwarranted grade reduction, exclusion from a school activity, destruction of property, and cyberbullying. Retaliation is a decision or action that is materially adverse to the reporting party and is of the type that would dissuade a reasonable person from exercising his or her rights to file a complaint or to participate in an investigation. Unlawful retaliation does not include petty slights or annoyances.

Retaliation does not include:

1. Exercising First Amendment rights; or

2. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding.

This policy prohibits charges against an individual for code of conduct violations that do not involve sex discrimination or sexual misconduct but arise out of the same facts or circumstances as a report or complaint of sex discrimination or sexual misconduct when the purpose of the charge is to interfere with any right or privilege secured by this policy or Title IX and its implementing regulations. Students who believe that they have been subjected to retaliation may file a complaint in accordance with this policy. Employees who believe that they have been subjected to retaliation may file a complaint as stated in policy DIAA(LOCAL).
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

**Reporting Procedures**

**Administrative Reports**
Any student or other individual may report sexual misconduct or other violations of this policy whether or not the person reporting is the alleged victim. Reports may be submitted to the College District’s Title IX Coordinator in person or by mail, telephone, email, or online portal. Submitting a report does not obligate a student to file a formal complaint or to participate in an investigation.

When a student (or someone on his or her behalf) makes a report to the Title IX Coordinator, the Title IX Coordinator will notify the student in writing of the student’s rights and options, including how to file a formal complaint if desired and how to request support services or supportive measures. A student may request support services or supportive measures without filing a formal complaint.

The submission of an anonymous report is permissible but may impair the College District’s ability to investigate and address the prohibited conduct.

No student shall be required to report prohibited conduct to the person who allegedly committed the conduct.

An allegation against the Title IX Coordinator should be reported to the College President. This policy and the College District’s grievance process shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The College President may appoint another administrator or external attorney as may be appropriate to fulfill the duties of the Title IX Coordinator in the event such a complaint is filed.

**Reports to the Police**
The complainant may report a crime in progress by calling 911. If the incident occurred on campus, the complainant may make a report to the College District police department at (979) 230-3030 or to another police agency in the jurisdiction where the incident occurred. Prompt reporting will aid in the preservation of evidence.

The decision whether to report to law enforcement belongs to the alleged victim. Crime victims may choose to report an offense to law enforcement or to decline to report a crime to law enforcement. Additionally, regardless of whether the alleged victim files a police report, the alleged victim has a right to file an administrative complaint with the College District or to seek support services or supportive measures from the College District. A student may request the assistance of the Title IX Coordinator in making a police report.

**Amnesty**
College District policy prohibits charges against an individual for code of conduct or disciplinary violations that do not involve sex discrimination or sexual misconduct but arise out of the same facts or circumstances as a report or complaint of sex discrimination or sexual misconduct when the purpose of the charge is to interfere...
with any right or privilege secured by this policy or Title IX and its implementing regulations.

To encourage reporting of sexual misconduct and other inappropriate conduct, the College District may grant immunity (also known as amnesty) from disciplinary action to a student or employee who acts in good faith in reporting an alleged violation, filing a formal complaint, or participating in a grievance process under this policy. For example, students who report that they were a victim of sexual assault will not face disciplinary charges for other code of conduct violations, such as underage drinking, that occurred in conjunction with the alleged sexual assault. A person who allegedly engaged in sexual misconduct or other inappropriate conduct may not avoid discipline by reporting his or her own acts of sexual misconduct or other inappropriate conduct.

When the College District receives notice or an allegation of conduct that, if true, would meet the definition of sexual misconduct under this policy, the Title IX Coordinator shall promptly contact the complainant to:

1. Discuss the availability of supportive measures (also known as interim measures) and inform the complainant that such measures are available without the filing of a formal complaint;

2. Consider the complainant’s wishes with respect to supportive measures; and

3. Explain to the complainant the option and process for filing a formal complaint.

The complainant shall receive a list of community and campus resources, including medical services, mental health services, legal services, victim advocacy, academic support, counseling, and disability services as may be applicable.

Complainants and respondents are both entitled to request supportive measures. Supportive measures are non-disciplinary, non-punitive individualized services offered when appropriate and reasonably available. Supportive measures are designed to restore or preserve access to the individual’s education program or activity without unreasonably burdening the other party; protect the safety of all parties and the educational environment; and deter sexual harassment and other sexual misconduct. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence,
increased security and monitoring of certain areas of the campus, and other similar measures. The complainant and respondent are entitled to drop a course in which both parties are enrolled, without an academic penalty.

**Emergency Removal or Administrative Leave of Respondent**

A student-respondent may be removed from the College District’s education program or activity on an emergency basis. The College District must undertake an individualized safety and risk analysis and determine whether an immediate threat to the physical health or safety of any student or another individual arising from the allegations of sexual harassment justifies removal. The respondent must be provided with notice of the removal and an opportunity to challenge the decision immediately following the removal. The administration shall send written notice to the student via hand-delivery or electronic mail and first-class U.S. mail. A student who is notified of an emergency removal is entitled to a hearing at his or her request, which ordinarily will be held within five business days. An emergency removal will take effect immediately even if the affected student requests a hearing. The purpose of the hearing is not to resolve the underlying charge of misconduct but to determine if removal is justified pending a hearing on the underlying charge.

In some circumstances, the College District may determine that removal of an employee-respondent from campus would be appropriate prior to a determination of responsibility. Administrative leave can include a temporary reassignment, restrictions on access to a part of campus, or suspension from campus. Administrative leave must be approved by the College President. The terms and conditions of the leave, including the employee’s pay status, shall be in accordance with the employee’s contract, if any, and the College District’s personnel policies.

The provisions relating to emergency removal and administrative leave may not be construed to modify any rights that a student or employee may have under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973.

**Mandatory Employee Reporting**

Any employee who, in the course and scope of his or her employment, observes or receives information regarding an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, domestic violence, or stalking that was committed by or against a College District student or employee must promptly report the incident or allegation to the College District’s Title IX Coordinator or Deputy unless an express exception applies. The duty to report applies if the student was enrolled at the College District at the time of the incident or if the employee was employed by the College District at the time of the incident. The employee shall report all known information regarding
the incident, including, if available, the name of the alleged victim, respondent, location, and nature of the incident. If the alleged victim has expressed a desire for confidentiality, the employee shall provide this information to the Title IX Coordinator.

“Course and scope of employment” means an employee performing duties in the furtherance of the College District’s interests.

Employees who fail to make a mandatory report are subject to termination in accordance with College District termination procedures. Additionally, an employee is subject to criminal prosecution as stated in Section 21.255 of the Texas Education Code.

An employee who makes a report under this policy may have additional reporting obligations under other law. Employees who are campus security authorities under the Clery Act will have an obligation to report incidents to the College District police department in accordance with the Clery Act. Additionally, any employee who has cause to believe that a child’s physical or mental health or welfare has been adversely affected by sexual abuse, child abuse, or neglect by any person must report the suspicion as required by Chapter 261 of the Texas Family Code. A child is a person who is 17 years old or younger. An employee who suspects abuse or neglect of a child must within 48 hours report the suspicion to the Texas Abuse Hotline (1-800-252-5400) at the Texas Department of Family and Protective Services (DFPS). If the child is in immediate danger, the employee should first call 911 and then the Texas Abuse Hotline.

Some employees have the authority and duty to institute corrective measures when they have actual knowledge of alleged violations of Title IX. Responsible employees are those who serve at or above the level of dean or director.

Victims of an alleged incident are not required to report their own incidents.

Absent the student’s consent, employees with a legal duty of confidentiality – such as a licensed professional counselor providing therapeutic services – are required to report only the type of incident (e.g., sexual assault or stalking) but are not required to provide any other details, such as the names of the individuals involved in the incident. This exception also applies to persons who are supervised by such a person and persons who serve as a non-professional counselor or advocate designated in administrative procedures as a confidential source. This exception does not apply to persons who hold professional licenses, such as a licensed professional counselor, but whose job responsibilities for the College
District do not include the provision of mental health and/or therapeutic services. The exception does not apply to academic and testing counselors providing academic and personal support in education, life, and career planning.

### Confidentiality

To the greatest extent possible, the College District shall maintain the confidentiality of records related to reports and complaints under this policy. Limited disclosures may be necessary in order to conduct a fair and thorough investigation. The College District will share information only as necessary, which may include investigators, witnesses, the complainant, the respondent, parties’ advisors, decision-makers, appellate officers, College District attorneys, and others who have a responsibility to ensure compliance with applicable law.

### Complainant’s Request Not to Investigate

In some instances, a complainant might decline to pursue a complaint or participate in an investigation, or he or she may wish to keep the matter completely confidential or to withdraw a formal complaint after it is filed. In such circumstances, the College District must weigh the rights, interests, and safety of all parties and the larger campus community. In weighing a request not to investigate, the College District will evaluate:

1. The seriousness of the alleged conduct;
2. Whether the College District has received other reports of a Title IX incident involving the same respondent(s);
3. Whether there is a risk of harm to others; and
4. Any other evidence that the College District determines to be relevant to the analysis.

The Title IX Coordinator must inform the complainant in writing of the decision whether or not to investigate. If the Title IX Coordinator decides not to investigate based on the complainant’s request not to investigate, the College District shall take any steps necessary to protect the health and safety of the College District community in relation to the alleged incident.

If the Title IX Coordinator determines that an investigation is necessary, the complainant is not required to participate.

### Initial Assessment and Response to the Complaint

Upon receipt of a formal complaint, the College District must evaluate whether the allegations, if proven to be true:

1. Describe sexual misconduct as defined in this policy;
2. Do not describe sexual misconduct but do describe other inappropriate conduct or other violations of College District policy; or
3. Do not describe a violation of College District policy.

The College District will dismiss a formal complaint if the allegations, even if true, do not describe a violation of this policy, did not occur in a College District program or activity, or did not occur in the United States. The College District official may refer the complaint for possible investigation and discipline under other College District policy or the Student Code of Conduct.

Before dismissing a formal complaint, the Title IX Coordinator will evaluate whether it is still possible to grant the relief requested by the complainant if the complaint were sustained. For example, even if the respondent is no longer employed by the College District, the College District may have the authority and ability to restore educational benefits or opportunities.

The College District may dismiss a formal complaint for any of the following reasons:

1. The employee-respondent is no longer employed by the College District;
2. The reporting party requests dismissal in writing;
3. The student-respondent is no longer enrolled at the College District;
4. The conduct alleged does not describe a violation of College District policy; or
5. Other circumstances exist that prevent the College District from gathering evidence sufficient to reach a determination as to the allegations in the formal complaint.

The Title IX Coordinator will provide written notice to the parties regarding filing of the formal complaint. The notice will contain the following information:

1. A description of the support services and supportive measures available to complainants and respondents;
2. A copy of the applicable College District’s sexual misconduct policies and procedures;
3. A statement of the allegations of misconduct with sufficient detail known at the time of the filing of the complaint, including the identity of the parties and the date(s), time(s), and location(s) of the alleged conduct (if known);
4. Identification of the alleged policy violations or Code of Conduct violations being investigated;
5. A statement that the respondent is presumed not responsible and that a determination regarding responsibility will be made at the conclusion of the grievance process;

6. A statement regarding the parties’ right to inspect and review the evidence gathered during the investigation that is directly related to the allegations in the formal complaint; and

7. A statement regarding the prohibition on knowingly making false statements during the grievance process.

The complainant and respondent must be provided notice of their right to an advisor of their choice, who may be, but is not required to be, an attorney. The advisor may accompany a party to any related meeting or grievance proceeding, may inspect and review evidence, and may receive the investigative report. Students must provide the name and contact information of their advisors, if any, to the Title IX Coordinator and state whether the advisor is authorized by the student to receive confidential information on behalf of the student.

Investigation and Hearing Processes

The College President shall prepare a grievance process that complies with Title IX and its implementing regulations, see FFDA(LEGAL). That process shall be known as the “Title IX Grievance Process.” In addition, the College President shall prepare a grievance process to address complaints of other inappropriate conduct that do not fall under the Title IX Grievance Process.

The College District’s grievance processes shall provide for the prompt and equitable resolution of complaints through timely investigations, hearings, and appeals. A grievance ordinarily will be completed within 150 calendar days from the filing of the formal complaint, with the investigation phase taking approximately 60 to 90 calendar days and the hearing and appeal phase taking approximately 45 to 60 calendar days. Most cases should be resolved in less than 150 calendar days, while some cases may take additional time due to extenuating circumstances such as a party’s illness, a concurrent law enforcement proceeding, witness unavailability, a public health emergency, or the need to arrange for language assistance or technology or disability-related accommodations. The College District may extend the timeframes for good cause and with written notice to the parties of the delay, the reason for the delay, and the length of the extension of time.

A complainant’s sexual predisposition or prior sexual behavior are not relevant in any investigation or hearing format under the College District’s grievance processes except where questions and evidence about a complainant’s prior sexual behavior are offered to
prove that someone other than the respondent committed the alleged conduct charged by the complainant or if the questions or evidence concern specific incidents of the complainant’s prior sexual behavior with the respondent and are offered to prove the complainant’s consent of the alleged conduct.

The grievance processes shall be posted on the College District’s website.

Title IX Grievance Process

The Title IX Grievance Process shall address and require the following elements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence by unbiased investigators and decision-makers;
3. A presumption that the respondent is not responsible for the alleged violation until a determination is made at the conclusion of the Title IX Grievance Process;
4. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
5. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
6. A description of the supportive measures available to the complainant and respondent;
7. A prohibition on using or seeking information protected under a legally recognized privilege (such as the attorney-client privilege) unless the individual holding the privilege has waived the privilege;
8. Compliance with the requirements stated in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, investigation procedures, and access to evidence gathered during the investigation; and
9. Other local procedures reasonably necessary to facilitate a fair and equitable process, including a process for resolving complaints in which the Title IX Coordinator is the respondent.

The College District must provide a hearing and the opportunity for both parties to present their case in accordance with 34 C.F.R.
106.45(b). The grievance process shall describe the method for appointing individuals to serve as decision-makers. The decision-maker(s) must:

1. Conduct a fair and equitable hearing;

2. Permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including questions challenging credibility;

3. Permit the party’s advisor (but not a party) to conduct cross-examination, which must be conducted directly, orally, and in real time;

4. At the request of either party, provide the live hearing with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions;

5. Permit only relevant cross-examination and other questions to be asked of a party or a witness and decide prior to the party or witness answering a question if it is relevant; and

6. Not rely on any statement of a party or witness who did not submit to cross-examination at the live hearing in the determination regarding responsibility. The decision-maker(s) cannot draw an inference about determination regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions. However, this policy does not preclude the hearing board from considering a party’s testimony about statements made by the other party that constitute prohibited conduct. For example, if the reporting party alleges that the respondent made sexually harassing statements, the hearing board may consider the reporting party’s testimony about the alleged statements even if the respondent declines to submit to cross-examination.

To the extent needed and reasonable, the parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

The College District shall create an audio or audiovisual recording, or transcript, of the live hearing and make it available to the parties for inspection and review.

If a party does not have an advisor, the College District must provide an advisor of the College District’s choice, without fee or
charge to that party, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

The standard of evidence for investigating and adjudicating a complaint is a preponderance of the evidence. This standard shall be met if the evidence shows that the allegation is more likely than not to have occurred.

A written determination must be provided to the parties and be in accordance with 34 C.F.R. 106.45(b). The College District must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the recipient 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 an appeal would no longer be considered timely.

Withdrawal of Student-Respondent While Charges are Pending

If a student-respondent withdraws or graduates from the College District after a student files a formal complaint, the College District may not end the grievance process or issue a transcript to the respondent until the College District makes a final determination of responsibility. In such instances, the College District shall expedite the College District’s disciplinary process as necessary to accommodate both the student-respondent’s and student-complainant’s interest in a speedy resolution.

If a respondent student withdraws from the College District prior to the final determination, and upon making a determination of responsibility, the College District will also determine whether the respondent will be ineligible to reenroll. If the respondent is ineligible to reenroll for a non-academic or non-financial reason, the College District shall include on the respondent’s transcript the notation required under 19 Administrative Code 3.30(b).

Concurrent Criminal or Civil Investigation or Proceedings

The College District will not, as a matter of course, wait for the outcome of a concurrent criminal or civil justice proceeding to take action on a formal complaint. The College District has an independent duty to respond to formal complaints. At the College District’s discretion, and in consultation with the relevant police agency or District Attorney’s Office, the College District may temporarily delay the investigation or grievance hearing so as not to interfere with criminal justice activities. This determination will be made on a case-by-case basis and will balance the interests of the complainant, the respondent, and the College District. The Title IX Coordinator or designee shall inform the complainant and respondent in writing of any anticipated delays due to a concurrent criminal investigation.
The Title IX Coordinator is responsible for effective implementation of any remedies. Remedies may include, but are not limited to:

1. Suspending or expelling a student or revoking privileges;
2. Terminating or suspending an employee or not renewing a contract;
3. Reprimanding, reassigning, or demoting an employee;
4. Changing a policy, procedure, program, or service;
5. Providing an effective escort to ensure that the complainant can move safely between classes and activities;
6. Ensuring the complainant and respondent do not share classes or extracurricular activities;
7. Arranging comprehensive, holistic victim services including counseling and academic support services, such as tutoring;
8. Arranging for the complainant to have extra time to complete or retake a class or withdraw from a class without an academic or financial penalty;
9. Reviewing and determining whether to set aside any disciplinary actions previously taken against the complainant;
10. Issuing a no-trespass order to a third party;
11. Providing counseling, training, and learning opportunities for the respondent to eliminate the inappropriate behavior and hostile environment; and
12. Taking other action appropriate to the circumstances as informed by the evidence.

The following sanctions may be imposed on any students found to have violated this policy. Sanctions may include, but are not limited to:

1. Educational Sanctions: While any sanction shall be punitive by nature, educational sanctions are those designed to educate students.
2. Written Warning: A written warning is a formal notice of a violation and indicates that continuation or repetition of such conduct may be cause for more severe disciplinary action. The written warning shall be placed in the permanent file of the student and may be used in any future conduct proceedings.
3. Disciplinary Probation: A student on disciplinary probation is excluded from participation in all extracurricular activities set
forth in the notice for a specific period of time. Further violations of any kind during this disciplinary probationary period may result in suspension or expulsion.

4. Suspension: Suspension is the revocation of a student’s privilege to enroll and to be physically present on campus for a specific period of time. The conditions for reinstatement of these privileges shall be stated in the formal decision of suspension sent to the student.

5. Expulsion: Expulsion is the permanent revocation of a student’s privilege to enroll in the College District. This effectively ends an academic career at the College District. The student may not register for any classes or take part in any academic programs associated with the College District. Likewise, expulsion is a revocation of a person’s privilege to be physically present on the campus.

Right of Appeal

The College President shall ensure the development of a Title IX appeal process that complies with applicable legal requirements [see FFDA(LEGAL)]. The complainant and respondent have a right to appeal from a determination regarding responsibility or from the College District’s dismissal of a formal complaint or any allegation therein, on the following bases:

1. A procedural irregularity that affected the outcome of the matter;

2. New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

The Title IX Coordinator shall notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. The decision-maker(s) on appeal may not be the same decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator. The appeal must be conducted in a fair and equitable manner. Both parties must be given reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The decision-maker(s) must issue a written decision describing the result and rationale and provide the written decision simultaneously to both parties.
All deadlines in this policy may be extended by mutual agreement or for good cause.

A formal complaint against the College President should be submitted to the Chairperson of the Board of Trustees of the College District. This policy and the College District’s grievance process shall apply to the extent practicable; avoidance of any conflict of interest is paramount. The Chairperson shall appoint an external investigator, who may be an attorney, to conduct an investigation that complies with 34 C.F.R. 106.45. The Chairperson shall appoint an external attorney to conduct any live hearing required by 34 C.F.R. 106.45. Any investigators or hearing officers shall be neutral and impartial and possess the training required by law. Any appeals shall be heard by the Board of Trustees.

This paragraph applies to retaliation complaints, complaints of other inappropriate conduct, and sexual discrimination complaints that do not meet the Title IX regulatory definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. Individuals with these concerns should direct their complaints in writing to the Title IX Coordinator. A written complaint may be delivered in person or submitted by mail, electronic mail, or via the College District’s website. The complaint must contain the complainant’s physical or digital signature or otherwise indicate that the complainant is the person filing the complaint. The Title IX Coordinator will promptly evaluate whether the allegation, assumed to be true, describes a violation of this policy.

The Title IX Coordinator will provide written notice to the parties regarding receipt of a complaint alleging retaliation, other inappropriate conduct, or sexual discrimination that does not meet the Title IX regulatory definitions of sexual harassment, sexual assault, dating violence, domestic violence, or stalking. An impartial investigator shall conduct the investigation. The investigator shall conduct a thorough investigation in light of the allegations and the availability of witnesses. The investigator shall prepare a written report with findings of fact.

If the respondent is a student, the report shall be submitted to the Dean of Student Services or designee. The Dean or designee will follow the disciplinary procedures in FMA(LOCAL). If the investigation does not establish a violation of policy or the Code of Conduct, the Dean shall dismiss the complaint. If the Dean or designee determines that reasonable grounds establish a violation of policy or the Code of Conduct, the Dean or designee shall inform the respondent in writing, describing the allegations and the charge, the proposed penalty, and the student’s procedural rights under FMA(LOCAL).
If the respondent is a third party, the investigation report shall be submitted to the Vice President of Human Resources or designee. If the investigation does not establish a violation of policy, the Vice President of Human Resources shall dismiss the complaint. If the Vice President of Human Resources or designee determines that reasonable grounds establish a violation of policy by an employee, the Vice President of Human Resources or designee shall inform the third party in writing of the sanction. Any appeal must be in writing and submitted to the College President within ten calendar days. The College President will issue a final written determination within 25 calendar days. The decision of the College President is final, but nothing in this policy precludes any person from appearing before the Board of Trustees at a Board meeting during the hearing of citizens.

If the respondent is an employee, the investigation report shall be submitted to the Title IX Coordinator, the parties, the Vice President of Human Resources or designee, and the respondent’s dean, director, or next level supervisor who was not involved in the underlying dispute. The investigator shall submit the written report to the Title IX Coordinator, the parties to the dispute, the Vice President of Human Resources, and the respondent’s dean, director, or next level supervisor who was not involved in the underlying dispute. If the investigation does not establish a violation of policy, the Vice President of Human Resources shall dismiss the complaint. If the investigation demonstrates a violation of policy, the Vice President of Human Resources shall determine an appropriate sanction, discipline, or remedy commensurate with the violation, and the parties shall be notified in writing. The respondent shall be notified of the respondent’s procedural rights under applicable policy [see DGBA, DM, DMAA, or DMAB, or other policy].

Information regarding this policy and any accompanying procedures shall be distributed annually to College District employees and students in a manner calculated to provide easy access and wide distribution, including through electronic distribution and inclusion in major College District publications. Information regarding the policy and procedures shall also be prominently published on the College District’s website. Copies of the policy and procedures shall be readily available at the College District’s administrative offices.

The College District shall ensure that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person facilitating the informal resolution process, does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complaint or respondent.
The College District will develop and implement procedures to train Title IX Coordinators, investigators, decision-makers, appellate officers, and any person facilitating the informal resolution process. This training will include, but is not limited to, the definition of sexual harassment under the law, the scope of the College District’s education programs or activities, how to conduct an investigation process, including hearings, appeals, and informal resolution processes, as applicable, and serving impartially. Decision-maker(s) shall also be trained on technology to be used at live hearings required by this policy. Decision-maker(s), investigators, and appellate officers shall be trained on issues of relevance of questions and evidence. Investigators shall be trained on how to create an investigative report that fairly summarizes relevant evidence. The training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

All materials used to train Title IX personnel must be made publicly available on the College District’s website.

**False Claims**

Investigations of allegations of sexual discrimination, sexual harassment, or sexual misconduct are serious and often time-consuming endeavors. The College District recognizes that the expenditure of time and resources is necessary to ensure the fair and equitable resolution of complaints. Any person, who in bad faith, knowingly files a false complaint under this policy or provides materially false information is subject to disciplinary action up to and including dismissal or separation. A determination that a respondent is not responsible for allegations of sexual misconduct does not establish the falsity of a report, formal complaint, or evidence. Similarly, a determination that a respondent is responsible for a policy violation does not imply that a respondent’s statements disclaiming responsibility were false.

**Recordkeeping**

The College District must maintain records of each sexual harassment or sexual misconduct investigation, appeal, informal resolution, and all training materials for Title IX personnel in accordance with the law and for a period of at least seven years.

AMENDED: 05/17/2021

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1 Title IX Coordinator email: mailto:mareille.rolon@brazosport.edu
2 Title IX/Sexual Misconduct webpage: https://brazosport.edu/students/for-students/student-services/sexual-misconduct/
3 Title IX Coordinator email: mailto:mareille.rolon@brazosport.edu
4 Online Portal: https://www.brazosport.edu/students/for-students/student-services/sexual-misconduct/reporting/