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**Note:** This policy addresses complaints of dating violence, domestic violence, gender-based harassment, sex discrimination, sexual violence, sexual harassment, and stalking, targeting students participating in the College District's education program or activity. For legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL) and FFDB(LOCAL). For sex discrimination, sexual harassment, sexual violence, and retaliation targeting employees, see DIAA.

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**Statement of  
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

**College District's  
Education Program  
or Activity**

The College District's education program or activity includes locations, events, or circumstances over which the institution exercises substantial control over both the respondent and the context in which the sexual harassment occurred. This policy applies to all of the College District's education programs and activities, whether such programs or activities occur on campus or off campus. The College District may address sexual harassment affecting its students that falls outside the jurisdiction of this policy in any manner it chooses, including, but not limited to, providing supportive measures or pursuing disciplinary action.

**Sex Discrimination**

Sex discrimination against a student is defined as conduct directed at a student on the basis of sex or gender that adversely affects the student.

**Sexual Harassment  
By an Employee**

For purposes of this policy, sexual harassment of a student by a College District employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A College District employee causes the student to believe that the student must submit to the conduct in order to participate in a College District program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct (i.e., quid pro quo harassment);
2. It is based on unwelcome conduct that a reasonable person would determine is so severe, persistent, pervasive, and objectively offensive that it limits or denies the student's educational access and/or ability to participate in or benefit from the College District's educational program; or

3. Any instance of sexual assault, as defined in the Jeanne Clery Disclosure of Campus Security Policy Campus Crime Statistics Act (Clery Act), and dating violence, domestic violence, or stalking, as defined in the Violence Against Women Act (VAWA).

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**Note:** Quid pro quo harassment, Clery Act, and VAWA offenses are not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access because such misconduct is considered sufficiently serious to deprive a student of equal access.

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By Others

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive, and objectively offensive that it limits or denies a student's ability to participate in or benefit from the College District's educational program. Physical contact not reasonably construed as sexual in nature is not sexual harassment.

Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.

College District's  
Definition of  
Consent to Sexual  
Activity

For purposes of this policy, sexual activity requires consent, which is defined as an informed, voluntary, affirmative, and mutual agreement between the participants to engage in a specific sexual act. The following guidelines will be used to determine whether consent was obtained:

1. Consent to sexual activity can be communicated in a variety of ways, but one should not presume consent has been given in the absence of a clear, positive agreement.
2. Consent can only be accurately gauged through direct communication about the decision to engage in sexual activity. The absence of the word "no" or the like (e.g., "stop") does not imply consent.
3. Although consent can be nonverbal, verbal communication is the most reliable form of asking for and obtaining consent. Discussing desires, needs, and limitations with sexual partners provides a basis for positive sexual experiences shaped by mutual willingness and respect.

4. Presumptions based upon contextual factors (e.g., provocative clothing or dancing, etc.) are unwarranted, and should not be considered grounds for consent.
5. As defined in the State of Texas Penal Code 22.011 Sexual Assault, the age of sexual consent is 17. Therefore, consent cannot be obtained from someone who is under the age of 17, as that person is legally considered to be a minor.
6. Consent cannot be obtained from someone who is asleep, unconscious, or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition (e.g., an intellectual or other disability). A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know – or reasonably should know – to be incapacitated constitutes sexual violence.
7. Consent to some sexual acts does not constitute consent to other sexual acts.
8. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. If you proceed despite your partner's verbal and/or nonverbal communication to stop, you have committed sexual violence.
9. Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent.
10. A prior sexual encounter or pre-existing relationship does not indicate consent to current or future sexual activity.

**Gender-Based Harassment**

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, pervasive, and objectively offensive that the conduct limits or denies a student's ability to participate in or benefit from the College District's educational program.

Acts of gender-based harassment may also be considered sex discrimination or sexual harassment.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes,

name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property. Examples may also include forms of dating violence, domestic violence, or stalking. Specific examples may be found in the College District's *Title IX Complaint Resolution Process Handbook for Students and Employees*.

### **Dating Violence**

The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship will 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.

(Office on Violence Against Women, United States Department of Justice: <https://www.justice.gov/ovw/dating-violence>)

### **Domestic Violence**

The term "domestic violence" includes felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- Any other member of the victim's family as defined by state law;
- Any other current or former member of the victim's household as defined by state law;
- Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.

### **Stalking**

The term "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.

For the purposes of this definition:

1. "Course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. "Reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim.

**False Claims**

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding dating violence, domestic violence, gender-based harassment, sex discrimination, sexual violence, sexual harassment, and/or stalking will be subject to appropriate disciplinary action.

**Prohibited Conduct**

In this policy, the term "prohibited conduct" includes dating violence, domestic violence, sexual or gender-based harassment, sex discrimination, sexual violence, stalking, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

**College District's  
Mandatory Response  
Obligations**

Deliberate  
Indifference  
Standard

The College District will respond promptly to sexual harassment, as defined in this policy, in a manner that is not deliberately indifferent, which means a response that is not clearly unreasonable in light of known circumstances, or as otherwise required by applicable Title IX regulations. The College District's response obligations include, but are not limited to:

1. The College District must offer supportive measures to the person making the allegations (hereafter referred to as the "complainant").
2. The Title IX coordinator or designee must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of supportive measures available with or without filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.
3. The College District must follow a grievance process that complies with applicable federal Title IX regulations before the imposition of any disciplinary sanctions (or other actions that are not supportive measures) against a respondent.
4. The College District must not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment, when complying with applicable federal Title IX regulations and this policy.

5. Under applicable federal Title IX regulations, the College District is required to investigate allegations of prohibited conduct as defined in this policy in any formal complaint, which can be filed by a complainant or submitted by a Title IX coordinator.
6. The federal Title IX regulations affirm that a complainant's wishes with respect to whether the institution investigates the complaint should be respected, unless the Title IX coordinator determines that submitting a formal complaint to initiate an investigation against the wishes of the complainant is not clearly unreasonable in light of the known circumstances.
7. The College District will dismiss the allegations in a formal complaint if such allegations do not meet the definitions of prohibited conduct outlined in this policy or did not occur in the institution's education program or activity. However, the College District may still address the allegations in any manner it deems appropriate (e.g., general investigation for violation of the Student Code of Conduct in the Student Handbook).

#### Definitions

When responding to prohibited conduct, applicable federal Title IX regulations provide clear definitions of a "complainant," "respondent," "formal complaint," and "supportive measures" so that recipients, students, and employees clearly understand how the College District must respond to incidents of prohibited conduct in a way that supports the alleged victim and treats both parties fairly. The College District adopts those definitions as outlined in applicable federal Title IX regulations which are listed in the College District's *Title IX Complaint Resolution Process Handbook for Students and Employees*.

#### *Formal Complaint*

In accordance with applicable federal Title IX regulations, a "formal complaint" is a document filed by a complainant or submitted by the Title IX coordinator that alleges prohibited conduct against a respondent and requests that the College District investigate the allegation of prohibited conduct, and meets the following requirements:

1. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in a College District education program or activity as defined in this policy.
2. A formal complaint may be filed with the Title IX coordinator in person, by mail, or by email by using the contact information required to be listed for the Title IX coordinator and by any additional method designated by the College District.
3. The phrase "document filed by a complainant" means a document or electronic submission (e.g., by email or through an

online portal provided by the College District specifically for this purpose) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

4. Where the Title IX coordinator submits a formal complaint, the Title IX coordinator is not a complainant or a party during the grievance process and must comply with the requirements for Title IX personnel to be free from conflicts and bias.

**Reporting  
Procedures**

In accordance with applicable federal Title IX regulations, the College District utilizes a consistent, transparent grievance process for resolving formal complaints of prohibited conduct.

Student Report

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to the appropriate Title IX coordinator, deputy Title IX coordinator, another employee, or, alternatively, submit the report electronically through the College District's website.

Employee Report

Any College District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct will immediately notify the Title IX coordinator or deputy Title IX coordinator and take any other steps required by this policy. Additionally, an employee may submit the report electronically via the College District's website or report it to the District President or designee.

**Mandatory Reporting  
Under State Law for  
Incidents of Dating  
Violence, Sexual  
Violence, Sexual  
Harassment, and  
Stalking**

In accordance with Education Code Section 51.252, an employee who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual violence, dating violence, or stalking as defined in this policy, and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the College District at the time of the incident, will promptly report the incident to the College District's Title IX coordinator or deputy Title IX coordinator. The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

An employee who is designated by the College District as a person with whom students may speak confidentially concerning sexual harassment, sexual violence, dating violence, or stalking as defined in this policy, or who receives information regarding such an

incident under circumstances that render the employee's communications confidential or privileged under other law will, in making a report under this section, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This requirement does not affect the employee's duty to report an incident under any other law.

*Exceptions*

An employee is not required to make a report concerning:

1. An incident in which the employee was a victim of dating violence, sexual violence, sexual harassment, or stalking; or
2. An incident in which the employee received information due to a disclosure made at a dating violence, sexual violence, sexual harassment, or stalking public awareness event sponsored by the College District or by a student organization affiliated with the College District.

Anonymous  
Reports

In accordance with Education Code Section 51.9365, College District students and employees can report prohibited conduct anonymously as provided on the Dean of Students page on the College District's website. However, the submission of an anonymous report may impair the College District's ability to investigate and address the prohibited conduct.

**Designated Title IX  
Coordinators**

For the purposes of this policy, the following are designated as the College District's Title IX coordinators.

Title IX  
Coordinators

Reports of dating violence, domestic violence, sex discrimination, sexual violence, sexual or gender-based harassment, and stalking may be directed to the Title IX coordinators. The College District designates the following persons to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

*Title IX  
Coordinator for  
Students*

Title IX Coordinator: Terrence Brennan, District Dean of Students

Address: 3452 Spur 399, McKinney, TX 75069

Telephone: (972) 881-5734

Email: [Title IX Coordinator email<sup>1</sup>](#)

Webpage: [Title IX/Sexual Misconduct webpage<sup>2</sup>](#)

*Deputy Title IX  
Coordinator for  
Students*

Name: Amy Throop

Position: Associate Dean of Students

Address: 2200 W University Drive, McKinney, TX 75071

Telephone: (972) 881-5667



	Email	<a href="#">Deputy Title IX Coordinator for Students</a> <sup>3</sup>
<i>Title IX Coordinator for Employees</i>	Name:	Floyd Nickerson
	Position:	Chief Human Resources Officer
	Address:	3452 Spur 399, McKinney, TX 75069
	Telephone:	(972) 599-3159
<i>Deputy Title IX Coordinator for Employees</i>	Name:	Tonya Jacobson
	Position:	Manager, HR/Employee Relations
	Address:	3452 Spur 399, McKinney, TX 75069
	Telephone:	(972) 758-3856
<b>Alternative Reporting Procedures</b>	<p>A student will not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinators, may be directed to the District President.</p> <p>A report under this policy against the District President may be made directly to the Board. If a report is made directly to the Board, the Board will appoint an appropriate person to conduct an investigation.</p>	
<b>Timely Reporting</b>	<p>Reports of prohibited conduct will be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District's ability to investigate and address the prohibited conduct.</p>	
<b>Amnesty</b>	<p>In accordance with Education Code Section 51.9366, the College District will give amnesty to (i.e., not take disciplinary action against) a student who reports, in good faith, that the student was the victim of or a witness to an incident of prohibited conduct as defined by this policy. This amnesty policy applies regardless of the location at which the incident occurred or the outcome of the College District's disciplinary process regarding the incident, if any. This amnesty policy does not apply to a student who reports his or her own commission or assistance in the commission of prohibited conduct as defined by this policy.</p>	
<b>Consolidation of Reports and Other Requirements</b>	<p>When the allegations underlying two or more complaints arise out of the same facts or circumstances, the College District may consolidate the complaints.</p> <p>The College District will also provide other measures required by Title IX and applicable law, including, but not limited to, assistance by advisors, supportive measures, and notices to parties. Such re-</p>	

quired measures are described in detail in the College District's *Title IX Complaint Resolution Process Handbook for Students and Employees*.

**Notice of Rights and Options**

In accordance with requirements under federal law, the College District will provide victims with written notification of their rights and options, which will outline appropriate on- and off-campus resources as well as steps a victim may want to take depending on the services the victim needs.

**Investigation of the Report**

The College District may request, but will not require, a written report of prohibited conduct. If a report is made orally, the College District official will reduce the report to written form.

Initial Assessment

Upon receipt or notice of a report, the College District official will determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official will immediately notify the parties to the complaint of the allegations and the formal and informal options for resolution of the complaint in writing.

*Request Not to Investigate*

A complainant may request that the College District not investigate allegations or prohibited conduct. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.

The College District will promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District will take reasonable steps to protect the health and safety of the College District community.

Formal Resolution

If any of the parties decline to participate in informal resolution of the complaint or the College District official finds informal resolution of the complaint to be inappropriate, the College District official will authorize or undertake an investigation, except as provided below at Criminal Investigation.

Interim Action

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District will promptly take interim action calculated to address prohibited conduct prior to the completion of the College District's investigation.

If, after engaging in an individualized safety and risk analysis, the College District determines that an immediate threat to the physical health or safety of any student or other individual, arising from the

College District  
Investigation

allegation of prohibited conduct, justifies the removal of the respondent, the College District will provide the respondent with written notice of this interim action and afford the respondent an opportunity to challenge the decision immediately after the removal.

The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator will have received appropriate training regarding the issues related to the complaint and the relevant College District's policy and procedures. The investigator will conduct a prompt, fair, and impartial process from the initial investigation to the final result. Investigation and resolution procedures and guidelines are also detailed in the College District's *Title IX Complaint Resolution Process Handbook for Students and Employees*.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations. Both the victim and student respondent may have an observer(s) present during any meeting with the investigator.

During the investigation:

1. The burden of gathering evidence and burden of proof must remain on the College District, not on the parties.
2. The College District must provide equal opportunity for the parties to present facts and expert witnesses and other inculpatory and exculpatory evidence.
3. The College District must not restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no "gag orders").
4. The parties must have the same opportunity to select an advisor of the party's choice who may be, but need not be, an attorney.
5. The College District must send written notice of any investigative interviews, meetings, or hearings to the parties. This written notice must include a statement that the respondent is presumed not responsible and that a determination will not be made until the conclusion of the grievance process. If the scope of the investigation expands, the College District must issue a supplemental written notice to the parties providing additional details that also meet this standard.

6. The College District must send the parties and their advisors evidence directly related to the allegations, in electronic format or hard copy, and provide at least ten days for the parties to inspect, review, and respond to the evidence.
7. The College District must dismiss allegations of conduct that do not meet the federal Title IX definition of prohibited conduct or did not occur in the institution's education program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude the College District from addressing the conduct in any manner the institution deems appropriate (e.g., general discrimination or harassment complaint, Student Code of Conduct violation).
8. The College District may, at its discretion, dismiss a formal complaint or allegations contained therein, if:
  - a. The complainant informs the Title IX coordinator in writing that the complainant desired to withdraw the formal complaint or allegations contained therein;
  - b. The respondent is no longer enrolled at or employed by the College District; or
  - c. Specific circumstances prevent the College District from gathering sufficient evidence to reach a determination.
9. The College District must give the parties written notice of a dismissal, whether mandatory or discretionary, and the reasons for the dismissal.

Privacy Rights

Federal Title IX regulations protect the privacy of a party's medical, psychological, and similar treatment records by stating that the College District cannot access or use such records unless the College District obtains the party's voluntary, written consent to do so.

Criminal or  
Regulatory  
Investigation

If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District will confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District will proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation and in compliance with applicable federal Title IX regulations. After the law enforcement or regulatory agency has completed gathering its evidence, the College District will promptly resume its investigation. Any delay under this provision will constitute good cause for an extension of timelines established by this policy and associated procedures.

**Concluding the Investigation and Hearing**

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation and hearing should be completed within 60 College District business days from the date of the report; however, the investigator will take additional time if necessary to complete a thorough investigation.

The investigator will prepare a written report of the investigation. The report will be filed with the College District official overseeing the investigation. The investigation must result in an investigation report that fairly summarizes the investigation, and the report must be completed at least ten College District business days prior to the hearing. Access to this report must be given so that the complainant, respondent, and their respective advisors can meaningfully respond to the evidence prior to the conclusion of the investigation. The College District must send the evidence to each party and their advisors in electronic form and provide at least ten College District business days for them to submit a written response, which the investigator must consider before finalizing the investigation. The College District must make the evidence available again at any hearing, including for use in cross-examination.

**Hearings**

In accordance with applicable federal Title IX regulations, the College District will provide for a live hearing. During this live hearing:

1. A decision-maker must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those bearing on credibility.
2. Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice, and never by a party personally.
3. If a party is unable to obtain an advisor, the College District must provide one, free of charge, for the purpose of conducting cross-examination for the party. The advisor provided does not have to be, but may be, an attorney.
4. While the hearing must be "live," at either party's request, the College District must provide the parties with separate rooms and use technology so the decision-maker and parties may simultaneously see and hear the questions.
5. At the hearing, the decision-maker has the responsibility to determine the relevancy of questions and explain in real time any decision not to permit a certain line of questioning.
6. During the investigation or hearing, questioning concerning a complainant's sexual history is generally not permitted, unless allowed by Title IX regulations.

7. If a party or witness refuses to submit to cross-examination, the College District is required to ignore that person's statement and reach a decision based on the remaining body of relevant evidence. The College District is not, however, permitted to draw an adverse inference based on the mere fact that an individual refused to submit to cross-examination.
8. During the hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior will be considered irrelevant, unless offered to prove that someone other than the respondent committed the alleged misconduct or to prove consent.
9. The College District must make an audio or video recording of the hearing, or a transcript, and make it available to the parties for inspection and review.
10. The decision-maker(s) facilitating the live hearing must not be the same person(s) as the Title IX coordinator or investigator(s).
11. After the hearing, the decision-maker(s) must issue a written determination of responsibility applying the preponderance of the evidence standard (i.e., more likely than not to have occurred). The written determination must include the following elements:
  - a. Identification of the allegations at issue;
  - b. A description of the procedural steps taken throughout the case;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding application of the College District's Title IX policy;
  - e. A statement and rationale as to the determination for each allegation;
  - f. A statement of any disciplinary sanction and whether any remedies will be provided to the complainant; and
  - g. A description of the procedures and permissible ground for appeal.
12. The decision-maker's written determination must be sent simultaneously to the parties along with information about how to file an appeal.

Notification of the  
Outcome

The College District will provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed. The parties will be given the opportunity to respond to the report.

Upon written request, the College District will disclose to the alleged victim of a crime of violence, as defined in Title 18 Section 16, United States Code, or non-forcible sex offense (i.e., incest or statutory rape) the report on the results of any disciplinary proceeding conducted by the College District against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the College District will treat the victim's next of kin as the alleged victim.

**College District  
Action**

Prohibited Conduct

The College District will determine, based on the results of the investigation, whether each individual allegation of misconduct occurred using the preponderance of the evidence standard (i.e., more likely than not to have occurred). If the results of an investigation and live hearing indicate that prohibited conduct occurred, the College District will promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct, in accordance with College District policy and procedures. [See FM and FMA]

*Corrective Action*

Examples of corrective action may include, but are not limited to, the following:

1. Implementing the disciplinary measures or penalties described in FM(Local) for students;
2. Providing a training program for those involved in the complaint;
3. Providing a comprehensive education program for the College District community;
4. Providing counseling for the complainant and respondent;
5. Permitting the complainant or respondent to drop a course in which they both are enrolled without penalty;
6. Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
7. Involving students in efforts to identify problems and improve the College District climate;
8. Increasing staff monitoring of areas where prohibited conduct has occurred;

9. Reaffirming the College District's policy against dating violence, domestic violence, gender-based harassment, sex discrimination, sexual violence, sexual harassment, and stalking;
10. Taking other actions allowed by Board policy.

Exception

The College District will minimize attempts to require a student who complains of prohibited conduct as defined by this policy to resolve the problem directly with the person who engaged in the prohibited conduct; however, if that is the most appropriate resolution method, the College District will be involved in an appropriate manner.

Improper Conduct

If the College District determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the College District may take other appropriate disciplinary action in accordance with College District policy and procedures or other corrective action calculated to address the conduct.

**Dismissal of  
Complaint**

Mandatory  
Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law. Mandatory dismissal provisions include the following:

1. The alleged conduct is determined to not constitute sexual harassment, as defined in this policy;
2. The alleged conduct is determined not to have occurred within a College District's education program or activity; or
3. The alleged conduct is determined not to have occurred against a person in the United States.

Permissive  
Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

Permissive or discretionary dismissal provisions include the following:

1. The complainant would like to withdraw the complaint;
2. The respondent is no longer enrolled at or employed by the College District; or
3. Specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.



**Notice of Dismissal** Upon dismissal of a complaint, the designated Title IX coordinator or the deputy Title IX coordinator will provide the parties written notice of the dismissal.

**Confidentiality** To the greatest extent possible, the College District will respect the privacy of the complainant, respondent, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

**Appeal** Either the complainant or respondent may appeal the determination rendered as a result of the investigation and live hearing, or any discretionary dismissal of the complaint, on the following permissible grounds:

1. Procedural irregularity that affected the outcome;
2. New evidence not reasonably available that could affect the outcome; and/or
3. Conflict of interest or bias by the College District's participants that affected the outcome.

The College District will ensure that the following elements are present during the course of the appeal:

1. The non-appealing party will be notified of the appeal and allowed to submit a written statement in response.
2. The appeal decision-maker(s) cannot be the same individuals as the hearing decision-maker(s). Nor can the appeal decision-maker(s) be the Title IX coordinator or the investigator(s) on the case.
3. The appeal must conclude with a written decision describing the appeal and the rationale for the result that is provided to the complainant and respondent simultaneously.

Appeals under this policy will be submitted to the appeals officer or administrator designated by the College District. The applicable appeal deadlines and guidelines detailed in the College District's *Title IX Complaint Resolution Process Handbook for Students and Employees* will be followed. The College District will provide written notice of the outcome of any appeal, within the extent permitted by FERPA or other law, to the complainant and the respondent.

Upon written request, the College District will disclose to the alleged victim of a crime of violence, as defined in Title 18, Section 16, United States Code, or non-forcible sex offense (i.e., incest or statutory rape) the report on the results of any disciplinary proceeding conducted by the College District against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is

deceased as a result of such crime or offense, the College District will treat the victim's next of kin as the alleged victim.

### **Informal Resolution**

After a formal complaint is filed, the College District may permit the voluntary use of an informal resolution process at any time prior to a final determination. The parties must provide their voluntary consent in writing to participate in such a process.

Prior to commencing an informal resolution process, the College District will provide the parties with the required written notice of the allegations and a description of the parameters of the informal resolution process. The notice will include a statement that a party is permitted to withdraw from the informal resolution process and resume the formal process at any time prior to a resolution being reached.

Informal resolution is prohibited in any case where a College District employee is accused of committing prohibited conduct against a student.

The College District will not require the parties to waive their rights to a formal process and agree to informal resolution as a condition of enrollment or employment.

### **Retaliation**

Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited. Neither the College District nor any person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by applicable federal Title IX regulation; this policy; or because the individual has made a report or complaint, testified, assisted with, participated in, or refused to participate in a Title IX investigation, proceeding, or hearing.

Charging an individual with a violation(s) that does not involve sexual harassment, but arises out of the same facts or circumstances as a formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by applicable federal Title IX regulations, constitutes retaliation.

In an effort to prevent acts of retaliation, the College District will keep confidential and not disclose the identities of complainants, respondents, and witnesses, except as permitted by FERPA, required by law, or necessary to investigate and resolve a Title IX complaint.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a violation(s) for making a materially false statement in bad faith during the course of a Title IX grievance proceeding does not constitute retaliation. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a bad faith materially false statement.

Complaints alleging retaliation in connection with a complaint or investigation of prohibited conduct will be addressed in accordance with this policy. Complaints alleging retaliation in connection with other policies or laws may be filed in accordance with the College District's prompt and equitable grievance procedures. [See FFDB and FLD]

### **Other Appeals**

Appeals for complaints of prohibited conduct or Title IX violations will be processed as detailed in the College District's Title IX Complaint Resolution Process Handbook for Students and Employees. All other appeals outside of this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FMA(LOCAL) for students, and GB(LOCAL) for community members]

The College District will provide written notice of the outcome of any appeal(s), within the extent permitted by FERPA or other law, to the victim and the person against whom the complaint is filed. The parties will be given the opportunity to respond to the report.

Complaints Filed  
with OCR

A party will also be informed of his or her right to file a complaint with the U.S. Department of Education Office for Civil Rights (OCR).

### **Records Retention**

Retention of records will be in accordance with the College District's records retention procedures. [See CIA]

Records of formal complaint resolutions and informal resolutions will be retained by the College District for a period of seven years. The College District will retain all materials used to train institutional participants in the various phases of the resolution process, including the Title IX coordinators and decision-makers. All materials utilized to train Title IX coordinators, investigators, hearing panel participants, and decision-makers will be made available in accordance with applicable federal Title IX regulation requirements.

In instances where the College District receives a report of prohibited conduct, but a formal complaint is not filed, the institution will maintain a record of all actions taken, including supportive measures, for a period of seven years. In these instances, the College District will include a written rationale explaining why a formal complaint was not filed.

**Access to Policy,  
Procedures, and  
Related Materials**

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, will be distributed annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials will also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures will be readily available at the College District's administrative offices and will be distributed to a student or employee who makes a report.

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<sup>1</sup> Title IX Coordinator email: <mailto:tbrennan@collin.edu>

<sup>2</sup> Title IX/Sexual Misconduct webpage: <https://www.collin.edu/titleix>

<sup>3</sup> Deputy Title IX Coordinator for Students email: <mailto:athroop@collin.edu>