

FDN3 - Anti-Harassment and Anti-Discrimination

F - Foundation

SEXUAL HARASSMENT

All individuals associated with this District, including, but not necessarily limited to, the Governing Board, the administration, the staff, and students, are expected to conduct themselves at all times so as to provide an atmosphere free from sexual harassment.

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. The Equal Employment Opportunity Commission defines "sexual harassment" as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; or
- B. Submission to or rejection of such conduct is used as a basis for employment decisions affecting such individual; or
- C. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include, but is not limited to:

- A. Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assault, touching, impeding or blocking movement, leering, gestures, or display of sexually suggestive objects, pictures, or cartoons.
- B. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction between peers is not considered sexual harassment.)
- C. Implying or withholding support for an appointment, promotion, or change of assignment; suggesting that a poor performance report will be prepared; suggesting that probation will be failed.
- D. Coercive sexual behavior used to control, influence, or affect the career, salary, and/or work environment of another employee.
- E. Offering or granting favors or employment benefits, such as promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, et cetera, in exchange for sexual favors.

Anyone who is subject to sexual harassment, or who knows of the occurrence of such conduct, should inform the compliance officer, as provided in ACA-R.

A substantiated charge against a staff member in the District shall subject such staff member to disciplinary action.

All matters involving sexual harassment complaints will remain confidential to the extent possible.

LEGAL

A.R.S.

41-1461 et seq.

20 U.S.C. 1681, Education Amendments of 1972, Title IX

20 U.S.C. 1703, Equal Employment Opportunity Act of 1972

42 U.S.C. 2000, Civil Rights Act of 1964 as amended, Title

VII

NONDISCRIMINATION/ EQUAL OPPORTUNITY

Compliance Officer

The Superintendent shall be the compliance officer. Any person who feels unlawfully discriminated against or to have been the victim of unlawful discrimination by an agent or employee of the District or who knows of such discrimination against another person should file a complaint with the Superintendent. If the Superintendent is the one alleged to have unlawfully discriminated, the complaint shall be filed with the President of the Board.

Complaint Procedure

The District is committed to investigating each complaint and to taking appropriate action on all confirmed

violations of policy. The Superintendent shall investigate and document complaints filed pursuant to this regulation as soon as reasonable, within the established timelines. In investigating the complaint, the Superintendent will maintain confidentiality to the extent reasonably possible. The Superintendent shall also investigate incidents of policy violation that are raised by the Governing Board, even though no complaint has been made.

If after the initial investigation the Superintendent has reason to believe that a violation of policy has occurred, the Superintendent shall determine whether or not to hold an administrative hearing and/or to recommend bringing the matter before the Board.

If the person alleged to have violated policy is a teacher or an administrator, due process provisions shall apply, except that the supervising administrator may be assigned to conduct the hearing. In cases of serious misconduct, dismissal or suspension proceedings in accordance with A.R.S. 15-539 et seq., may be initiated.

If the person alleged to have violated policy is a support staff employee, the Superintendent may follow due process and impose discipline if the evidence so warrants. The Superintendent also may recommend a suspension without pay, recommend dismissal, or impose other appropriate discipline.

If the person alleged to have violated policy is a student, the Superintendent may impose discipline. If the Superintendent's investigation reveals no reasonable cause to believe policy has been violated, the Superintendent shall so inform the complaining party in writing.

Timelines

The complaint must be filed within thirty (30) calendar days after the complaining party knew or should have known that there were grounds for a complaint/grievance.

Once the written complaint has been filed using the forms provided by the District, the Superintendent shall require the immediate supervisor or site administrator to investigate and respond in writing to the complaining party within five (5) working days.

If the immediate supervisor or site administrator does not respond, the Superintendent will have ten (10) additional working days to respond in writing to the complaining party.

If the Superintendent does not respond within the established time, then the complaining party may request in writing that the issue be brought before the Board. The Board will then review the record of the investigation and have thirty (30) days to respond to the complaining party in writing.

SEXUAL HARASSMENT

LOCAL

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- A. Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; or
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TITLE IX SEX DISCRIMINATION

This Policy is adopted to comply with the Title IX Rule and Regulations, codified as 34 CFR Part 106 and effective

August 1, 2024. If any legal challenge to the Title IX Rule and Regulations affects the ability of the United States

Department of Education to enforce those rules and regulations against the District or any of its schools, this Policy

will automatically revert back to the prior policy that aligned with the Title IX Rule and Regulations in effect as of July

31, 2024 without any further motion by this Board.

Title IX Coordinator

The Superintendent shall appoint an employee as the "Title IX Coordinator." If the Title IX Coordinator is the respondent, the complaint shall be filed with the Superintendent.

Title IX Coordinator:

Name/Title: Dr. Joel Laurin

Address: 2702 E Flower Street, Phoenix AZ 85016

E-mail: jlaurin@creightonschools.org

Telephone: 602-381-6000

Response to Sex Discrimination

When the District has notice of conduct that reasonable may constitute sex discrimination in an education program or activity of the District against a person in the United States, it shall respond promptly and effectively.

A. An "education program or activity" includes locations, events, or circumstances over which the District exercised substantial control over both the respondent and the context in which the sex discrimination occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the District.

The District's initial response to any report of sex discrimination must treat complainants and respondents equally by offering supportive measures to both and must follow the established grievance process before disciplining a respondent.

When notified of conduct that may constitute sex discrimination, the Title IX Coordinator shall promptly:

A. Contact the complainant to discuss the availability of supportive measures;

B. Consider the complainant's wishes with respect to supportive measures;

C. Inform the complainant of the availability of supportive measures with or without the filing of a complaint; and

D. Explain to the complainant the process for filing a complaint.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a complaint or where no complaint has been filed. Such measures are designed to restore or preserve equal access to the District's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the District's educational

environment, or deter sex discrimination. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, and other similar measures. The District shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the District to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

The District may remove a respondent from the District's education program or activity on an emergency basis, provided that the District undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of any student or other individual arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Response to a Complaint

"Complaint" means an oral or written request to the recipient that objectively can be understood as a request to investigate and make a determination about alleged sex discrimination.. At the time of the complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District., or have been participating in or attempting to participate in the education program or activity of the District at the time the alleged conduct occurred.. A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed above, and by any additional method designated by the District that results in the Title IX Coordinator receiving the complaint.

The District may place a non-student employee respondent on administrative leave during the pendency of a grievance process in response to a formal complaint. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. For the purpose of addressing complaints of sex discrimination or sex-based harassment, this grievance process shall comply with the following basic elements:

- A. Provide written notice to all parties upon receipt of complaint, which must include:
 1. Notice of the District's formal grievance process, including any informal resolution process;
 2. Notice of the allegations, including sufficient details to allow respondent to prepare a response (such as the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident);
 3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
 4. Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence; and
 5. Notice of any provision in the District's code of conduct that prohibits knowingly making false statements or providing false information in the grievance process.
 6. A statement that retaliation for making a complaint, or participating in the investigation of a complaint, is prohibited.
- B. Treat complainants and respondents equitably;
- C. Require an objective evaluation of all relevant evidence;
- D. Require that the Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process, be properly trained and not have a conflict of interest against complainants and respondents generally or against the particular complainant and respondent;
- E. Include a presumption that the respondent is not responsible for the alleged conduct until a determination has been made at the conclusion of the grievance process;
- F. Include reasonably prompt timeframes for the conclusion of the grievance process;
- G. Describe or list the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility;
- H. State that the District uses a preponderance of evidence standard to determine responsibility;
- I. Include the procedures and permissible reasons for appeal by a respondent or a complainant;
- J. Describe and offer the range of supportive measures available to complainants and respondents; and
- K. Not require, allow, or use evidence or questions that constitute or seek legally privileged information, unless the privilege is waived.
- L. Consult a member of the 504/IEP team if the complainant or respondent is a student with a disability.

If the conduct alleged in a formal complaint does not meet the Title IX definition of sexual harassment as established in Governing Board policy, did not occur in the District's education program or activity, or did

not occur against a person in the United States, then the District may dismiss the allegations for purposes of Title IX but may still address the allegations in any manner the District deems appropriate under other

District policies.

The District may dismiss a formal complaint or any allegations therein, if at any time:

- A. The complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- B. The respondent is no longer enrolled or employed by the District; or
- C. Specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- D. The recipient is unable to identify the respondent after taking reasonable steps to do so.
- E. The conduct, even if proven, would not constitute sex discrimination under Title IX.

Upon dismissal of a complaint or any allegations therein, the District shall promptly send written notice of the dismissal, including the reasons for the dismissal and information regarding an appeal simultaneously to the parties.

When investigating a complaint and throughout the grievance process, the District shall:

- A. Ensure that the burden of proof and the burden of gathering evidence rests on the District and not on the parties, except that certain treatment records cannot be obtained without voluntary, written consent of a party;
- B. Provide an equal opportunity for the parties to present witnesses and evidence;
- C. Not restrict the ability of either party to discuss the allegations or to gather and present evidence;
- D. Provide the parties with the same opportunities to have others present during any meeting or grievance proceeding;
- E. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of any meeting or grievance proceeding, with sufficient time for the party to prepare to participate;
- F. Review all evidence and determine what is relevant and what is impermissible;
- G. Provide both parties an equal opportunity to inspect and review any evidence so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation (prior to completion of the investigative report, the investigator will send to each party and the party's advisor, if any, a copy of all evidence gathered during the investigation and will allow the parties at least ten (10) days to submit a written response to any of the evidence); and
- H. Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) days prior to a determination of responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or hard copy, for their review and written response.

After the District has sent the investigative report to the parties and before reaching a determination regarding responsibility, the decision-maker(s) shall afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence are offered to prove consent. The decisionmaker may question parties and witnesses to assess credibility.

The decision-maker(s) shall apply the preponderance of the evidence standard of evidence and shall issue a written determination regarding responsibility that includes:

- A. Identification of the allegations potentially constituting sexual harassment;
- B. A description of the procedural steps taken from the receipt of the complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- C. Findings of fact supporting the determination;

- D. Conclusions regarding the application of the District's code of conduct to the facts;
- E. A statement of and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the District imposes on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity shall be provided by the District to the complainant; and
- F. The District's procedures and permissible bases for the complainant and respondent to appeal.

The District shall provide the written determination to the parties simultaneously. The Title IX Coordinator is responsible for effective implementation of any remedies.

The District shall offer both parties the right to appeal from a determination regarding responsibility and from a dismissal of a complaint or any allegations therein, on the following bases:

- A. Procedural irregularity that affected the outcome of the matter;

- B. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- C. The Title IX Coordinator, investigator(s), or decision-makers(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affect the outcome of the matter.

As to all appeals, the District shall:

- A. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- B. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
- C. Ensure that the decision-maker(s) for the appeal does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent;
- D. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- E. Issue a written decision describing the result of the appeal and the rational for the result; and
- F. Provide the written decision simultaneously to both parties.

The District may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of complaints of sex discrimination . Similarly, the District may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility during a formal complaint process, the District may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the District:

- A. Provides to the parties a written notice disclosing:
 - 1. The allegations;
 - 2. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
 - 3. Any consequences resulting from participating in the informal resolution process, including the records that shall be maintained or could be shared;
- B. Obtains the parties' voluntary, written consent to the informal resolution process; and
- C. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

The District shall maintain for a period of seven (7) years records of:

- A. Each sex discrimination investigation including:
 - 1. Any determination regarding responsibility;
 - 2. Any disciplinary sanctions imposed on the respondent; and
 - 3. Any remedies provided to the complainant designed to restore or preserve equal access to the District's education program or activity.
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. The District shall make these training materials available upon request for inspection by members of the public.

The District shall create and maintain for a period of seven (7) years, records of any actions, including supportive measures taken in response to a report or formal complaint of sexual harassment. In each instance, the District shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the District's education program or activity. If a District does not provide a complainant with supportive measures, then the District shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the District in the future from providing additional explanations or detailing additional measures taken.

TITLE IX SEX-BASED HARASSMENT

Title IX of the Federal Education Amendments Act protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. The District does not discriminate on the basis of sex and is required by Title IX not to discriminate in such a manner. The District adheres to all conditions established by Title IX by recognizing the right of every student who

attends school in the District and every employee who works in the District to do so without the fear of sexual harassment.

The District accepts and shall employ the definition of sex-based harassment as established by the Title IX regulations. Sex-based harassment means conduct on the basis of sex that satisfies one (1) or more of the following:

A. Quid pro quo harassment. An employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of an aid, benefit, or service of on an individual's participation in unwelcome sexual conduct;

B. Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive, or that it limits or denies a person's ability to participate in or benefit from the District's education program or activity. Whether a hostile environment has been created is a fact-specific inquiry that includes several factors outlined in Title IX. ; or

C. Specific offenses as outlined in Title IX.

The District also accepts and shall employ the definition of a complainant as:

1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or

2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate

in the District's education program or activity at the time of the alleged sex discrimination. an

The District shall designate and authorize an employee as the "Title IX Coordinator" to comply with its responsibilities pertaining to sexual harassment under Title IX. Inquiries about the application of Title IX may be referred to the District's Title IX Coordinator.

Any person may report sex discrimination, including sex-based harassment, regardless of whether the person reporting is the person alleged to be the victim of the reported conduct or not. A report may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed for the

Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. The District shall notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the name or title, office address, electronic mail address, and telephone number of the Title IX Coordinator.

The District will respond promptly and effectively when any school employee has notice of sex-based harassment. Upon receipt of notice of sexual harassment, the District shall notify students, parents or legal guardians of students, employees, applicants for employment, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the District's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a complaint of sex-based harassment, and how the District shall respond. The District is committed to investigating each complaint submitted and to taking appropriate action on all confirmed violations of policy. The District shall follow grievance procedures that provide for the prompt and equitable resolution of complaints from students and employees alleging sexual harassment.

The District shall, to the extent reasonably feasible, keep confidential the identity of any individual who has made a report or filed a complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as is necessary to carry out the grievance process and as may otherwise be permitted by law.

Title IX sex-based harassment complaints may include violations covered by Arizona's mandatory reporting statute, A.R.S. §13-3620. Any abuses classified by statute as "reportable offenses" must be reported as such to the authorities because not reporting a reportable offense is classified as a Class 6 Felony.

Retaliation Prohibited

Neither the 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 Title IX, or because the individual has in good faith made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for violations that do not involve sex discrimination or sex-based

harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Adopted: August 20, 2024

LEGAL

A.R.S.

13-3620

20 u.s.c. 1092

20 U.S.C. 1681, Education Amendments of 1972, Title IX

34 u.s.c. 12291