

TITLE IX GRIEVANCE PROCEDURES ADMINISTRATION REGULATION

The Missoula County Public Schools (MCPS) has adopted internal grievance procedures providing for prompt and equitable resolution of complaints alleging any action prohibited by Title IX of the Education Amendments of 1972 ACT (Title IX). Title IX prohibits discrimination on the basis of sex in education programs or activities operated by public school districts. Sexual harassment is a form of sex discrimination. MCPS does not discriminate on the basis of sex in its education programs and activities.

All references to sex discrimination throughout these procedures include gender-based harassment and sexual harassment. Gender-based harassment may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct or a sexual nature. Sexual harassment can occur whenever an individual makes sexual advances, requests sexual favors, and engages in other verbal or physical conduct of a sexual or sex-based nature, imposed on the basis of sex, that:

- In the case of a student, denies or limits the provisions of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or in the case of an employee denies or limits the employment, recruitment, consideration, or selection or treatment, or that makes such conduct a condition of the employee's employment status; OR

Has the purpose or effect of:

- Substantially interfering with a student's educational environment or employee's work environment;
- Creating an intimidating, hostile, or offensive educational or work environment; depriving a student of educational aid, benefits, services, or treatment; or depriving an employee of the benefits of or deprives that employee of employment opportunities; or
- Making submission to or rejection of such conduct the basis for academic decisions affecting a student or employment decisions affecting an employee.

Sexual harassment includes sexual violence. Sexual violence refers to 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 is unable to give consent due to an intellectual or other disability. Sexually violent acts include rape, sexual assault, sexual battery, and sexual coercion.

Title IX Coordinator:

Inquiries concerning the application of the Title IX may be referred to the District's Title IX Coordinator:

David Rott
Executive Director of Human Resources and Labor Relations
215 South 6th Street West
Missoula, MT 59801
(406)728-2400, ext. 1038
drott@mcps.k12.mt.us

Inquiries may also be referred to the Office of Civil Rights, United States Department of Education.

Filing a Complaint:

An individual believing that he or she has been the victim of sex discrimination should file a complaint with the Building Level Principal or Title IX Coordinator within 30 days of the incident(s) giving rise to the allegations. If the individual wishes to invoke the formal complaint procedures (see formal complaint procedures section), the complaint should be made in writing. An individual wishing to invoke the informal resolution process may make a complaint in writing or verbally.

An individual wishing to make a complaint will be provided with a copy of these procedures.

Informal Resolution:

An individual alleging sex discrimination by an employee, student, or third party may access an informal mechanism to attempt to resolve the situation. The individual making the complaint is not required to invoke any informal mechanisms to resolve the situation. The decision to invoke the informal resolution process is voluntary.

If the individual wishes to attempt to work out the problem directly with the alleged perpetrator, a school representative will be available to assist. The individual may also request mediation with a designated mediator present to assist the individual and alleged perpetrator reach a resolution.

The individual has the right to end the informal resolution process at any time. If the individual wishes to end the informal process prior to reaching a resolution or is not satisfied with the resolution reached, the individual has the right to commence a formal complaint at any time.

The informal process, including mediation, will not be available to individuals alleging sexual assault.

Formal Complaints:

An individual may make a formal complaint of sex discrimination in accordance with the procedures described above. The complaint should be in writing and should specify the allegations which the individual believes constitute sex discrimination. The individual has the right to contact law enforcement to determine if criminal activity occurred.

Investigation

The District shall conduct an adequate, reliable, and impartial investigation into the allegations. Even if no formal complaint has been filed, the District may still conduct an investigation to determine whether sex discrimination has occurred when it has knowledge of allegations of sex discrimination. Any investigation by the District shall be in addition to any criminal investigation that may occur. Determinations resulting from the investigation shall be made on a preponderance of the evidence standard (i.e., it is more likely than not that sex discrimination occurred).

Parties (the alleged victim and alleged perpetrator(s)) will have an equal opportunity to present relevant witnesses and other evidence. The investigation shall allow for both the alleged victim and alleged perpetrator to provide information separately. If written statements are provided, each party shall have the opportunity to review such statements, subject to the disclosure of such information under the Family Educational Rights Privacy Act (FERPA) and Montana law.

Either party may have a representative or lawyer present during the investigations; however, the representative or lawyer is not allowed to speak for a party or ask questions during any investigatory interviews. The representative or lawyer may request clarification of any questions, but may not answer, advise his or her client how to answer, or ask any substantive questions.

Notice of Outcome

Both the alleged victim and alleged perpetrator shall be notified in writing regarding the outcome of the investigation. Subject to FERPA and Montana law, an alleged victim may notified about sanctions imposed on another individual found to have engaged in harassment when that sanction directly relates to the individual. This may include an order that the harasser stay away from the victim.

Time Frames

The District shall complete the investigation within 60 days of receipt of the complaint or knowledge of allegations of sex discrimination. With the consent of the parties and the Superintendent, the investigation may be extended for an additional 15 days in extenuating circumstances. The investigator shall contact both parties once it appears that the investigation will require a longer period of time. The Notice of the Outcome of the investigation will be sent within that 60-day period, unless extended as described herein.

Appeals

Any party who is not satisfied with the findings from the investigation may appeal to the Executive Regional Director as designated by the Notice of Outcome. The appeal must be made within ten (10) days of receipt of the Notice of Outcome. Within three (3) days of receipt of any appeal by either party, the Executive Regional Director shall notify the non-appealing party regarding the appeal. Within five (5) days of receipt of notice of any appeal, the non-appealing party may present argument opposing the appeal in writing. Within twenty (20) days of receipt of the initial appeal, the Executive Regional Director shall issue a written decision to both parties affirming or rejecting the investigation findings.

Remedies:

The District shall take all reasonable and necessary measures to prevent the recurrence of any harassment and to correct its discriminatory effects on the individual and others. Any individual participating in a sex discrimination investigation shall notify the Title IX Coordinator if he or she believes that he or she is being retaliating against for participating in the investigation. The District prohibits retaliation against individuals making complaints under these procedures and participating in any investigation that may ensue.

Complaint Procedures for Administrators:

When a complaint or a report of discrimination or sexual harassment is received, it shall be given immediate attention. Described below are informal and formal methods of responding to discrimination and sexual harassment complaints.

- A. **Informal Process:** Informal resolutions of student/employee discrimination and sexual harassment complaints should be addressed at the school site. The informal process shall be bypassed if the complainant names a Principal as a respondent or the complaint alleges school-wide discriminatory practices. In those circumstances, the complainant may initiate a formal complaint and file directly with the Title IX Coordinator.
- B. **Formal Process:** Formal resolutions of student/employee discrimination and sexual harassment complaints will be addressed by the Title IX Coordinator and/or Building Level Principal.
- C. **The following steps may be followed to reach complaint resolutions:**
 1. Any written or oral report of discrimination or sexual harassment is to be considered a discrimination/sexual harassment complaint and must be addressed.
 2. The Building Level Principal will provide the complainant with a written acknowledgment of receipt of the complaint within five days which:
 - a) Advises and assures the complainant the confidentiality of the facts will be observed to the fullest extent possible.
 - b) Advises and assures the complainant that the District prohibits retaliation against anyone who files a complaint or participates in a complaint investigation.
 - c) Advises the complainant that he/she should feel free to call or send any additional information relevant to the complaint.
 - d) Informs the complainant that a written report of findings will be provided to the complainant at the conclusion of the investigation. Specific corrective actions with regard to employees or students are to be kept confidential.
 3. The Building Level Principal will provide the respondent with a similar letter giving notice of the complaint and an outline of the process, including the confidentiality requirements and no retaliation requirements.
 4. The investigator will conduct an impartial investigation and work to resolve the matter by recommending/taking appropriate action, which may include the use of disciplinary or other remedial measures. A written Notice of Outcome should be provided to the complainant and the respondent which reiterates the confidentiality and non-retaliation provisions, as well as advises either party of his or her right to appeal the investigator's recommendations/actions.
 5. Any party who is not satisfied with the findings from the investigation may appeal to the Executive Regional Director as designed by the Notice of Outcome. The appeal must be made with ten (10) days of receipt of the Notice of Outcome. Within three (3) days of receipt of any appeal by either party, the Executive Regional Director shall notify the non-appealing party regarding the appeal. Within five (5) days of receipt of notice of any appeal, the non-appealing party may present argument opposing the appeal in writing. Within twenty (20) days of receipt of the initial appeal, regardless of whether the non-appealing party has submitted any opposition to the appeal, the Executive Regional Director shall issue a written decision to both parties affirming or rejecting the investigation findings and recommendations.
- D. **How does the investigation work?**
 - Assure the target of the discrimination or sexual harassment that the District takes allegations of discrimination and sexual harassment seriously, will not tolerate such treatment, and has strong policies against discrimination and sexual harassment.
 - Obtain specific information relevant to the complaint such as where, when, and the frequency with which the incident(s) occurred, as well as the identities of the alleged perpetrator(s) and any witnesses. If age appropriate, request that the complainant provide a written statement.
 - Provide the target of the discrimination/harassment with assurance regarding confidentiality and non-retaliation.
 - Assure the target of the discrimination/harassment that he/she will not be required to confront the accused person and that steps will be taken to monitor that the alleged harassing behavior does not continue. Provide the individual with the names of school personnel who can help if the situation/incident continues, escalates, or occurs again.
 - Interview the accused person(s) and provide assurances regarding confidentiality and non-retaliation. If age appropriate, request that the accused person(s) provide a written statement.

- Interview any witnesses identified by the target of the discrimination/harassment and the accused person(s) and provide assurances regarding confidentiality and non-retaliation. If age appropriate, request that any witnesses provide a written statement.
- **If the complaint alleges sex discrimination**, carefully consider all available information in determining whether the conduct described in the complaint violates the District's non-discrimination policy. The following three questions should be asked:
 1. Was the student/employee treated differently in a way that interfered with or limited the ability of the student/employee to participate in or benefit from a District program of activity?
 2. Was the different treatment based on sex, sexual orientation, or gender?
 3. Did the context or circumstances of the incident(s) provide a legitimate and non-discriminatory basis for the different treatment pursuant to District policy?

When based on the evidence obtained as part of the investigation, the answers to questions #1 and #2 are "yes" and the answer to question #3 is "no", the incident/situation may be considered sex discrimination. However, conduct that does not rise to the level of sex discrimination may still be considered inappropriate behavior and may require that corrective actions be taken.

- **If the complaint alleges sexual harassment**, carefully consider all available information in determining whether the conduct described in the complaint violates the District's sexual harassment policy. The following five questions you be asked:
 1. Was the conduct of sexual nature?
 2. Was the conduct unwelcome?
 3. Did the conduct create a hostile environment for the alleged target of the harassment?
 4. Was the conduct severe, persistent, or pervasive?
 5. Did the conduct limit the individual's ability to participate in or benefit from an educational program, district program, or activity?

When based on the evidence obtained as part of the investigation, the answers to questions #1 - #5 are "yes", the conduct may be considered sexual harassment. However, conduct that does not rise to the level of sexual harassment may still be considered inappropriate behavior and may require that corrective actions be taken.

- E. **What if there is harassment or discrimination?** Appropriate administrative steps in response to discrimination and/or sexual harassment might include action to end the harassment, monitor that it does not reoccur, and address any hostile environment that may have been created for the student(s)/employees who had been the target(s) of the conduct. Response might also involve the initiation of disciplinary proceedings.
- Inform the complainant in general terms that corrective actions have been or will be required to resolve the complaint. Specific corrective actions with regard to employees or students are to be kept confidential, except that Title IX says you can tell the complainant of remedial action that directly affects the complainant, i.e., student has been moved.
 - Unless prohibited by FERPA, parents/guardians of the complainant shall be informed of the filing, as well as the resolution of any complaint of discrimination/sexual harassment. As appropriate, parents/guardians should be kept informed of the status of the investigation and resolution of the complaint. Care must be taken to protect the identity of the accused person(s) and any witnesses.
 - If a student has been a target of harassment based on sexual orientation or gender identity, consult with the student to determine an appropriate way to inform the student's parents or guardians of the harassing conduct. Student sexual orientation and/or gender identity cannot be divulged without permission of the student.
 - Monitor with the target of the harassment that the harassment has ceased.

Forms:

1. Sample Acknowledgment of Receipt of Complaint ([Title IX Regulations](#))
2. Sample Notice of Receipt of Complaint
3. Sample Notice of Outcome of Complainant
4. Notice of Outcome to the Respondent
5. MCPS Title XI Sex Discrimination/Sexual Harassment Complaint Form ([Incident-Harassment](#))
6. MCPS Incident Report Form – Complaint/Investigation Record ([Incident-Report-Investigation Form](#))
7. Complaint/Investigation Record-Discrimination/Harassment and/or Hate-Motivated Incident/Crime ([Incident-Investigation-Harassment-Hate-Motivated Crime](#))