

Overview

The District is committed to creating and maintaining education programs and activities which are free from discrimination and harassment. This policy addresses complaints of sex discrimination, including sex-based discrimination and harassment, made under Title IX of the Education Amendments Act of 1972 and its implementing regulations (Title IX). It is just one component of the District's overall commitment to maintaining a discrimination and harassment-free educational and work environment.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a district that receives federal financial assistance. As required by Title IX, the District does not discriminate on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation or gender identity in its education programs and activities or when making employment decisions.

The District adopts this policy as part of its effort to provide for the prompt and equitable resolution of complaints of sex discrimination, including sexual and sex-based harassment. The District will promptly respond to reports of sex discrimination, ensure that all investigations are conducted within a reasonably prompt time frame and under a predictable fair grievance process that provides due process protections to Complainants and Respondents, and impose sanctions and implement remedies when warranted.

Inquiries about this policy or the application of Title IX may be directed to the District's Title IX Coordinator(s), the Assistant Secretary for Civil Rights of the United States Department of Education, or both.

Scope and Application of Policy

This policy is limited to addressing complaints of sex discrimination, including sex-based harassment, that fall within the scope of Title IX which, among other things, has a specific definition of sexual harassment. This policy applies to any individual participating in or attempting to participate in the District's education programs or activities including students and employees.

Other District policies and documents address sex-based misconduct and may have different definitions, standards of review, and grievance procedures. These documents must be read in conjunction with this policy as they may cover incidents of sex-based misconduct not addressed by Title IX.

If the allegations forming the basis of a formal complaint of sexual harassment, if proven, would constitute prohibited conduct under Title IX, then the grievance process outlined in this policy would be applied to the investigation and adjudication of all the allegations. Depending on the allegations, additional grievance procedures may apply.

The dismissal of a formal complaint of sexual harassment under Title IX does not preclude action under another related District policy, procedure, collective bargaining agreement, or other document such as the District's Code of Conduct.

What Constitutes Sex Discrimination and Harassment, Including Sexual Harassment

Title IX prohibits various types of sex discrimination including, but not limited to: sexual harassment; the failure to provide equal athletic opportunity; sex-based discrimination in a District's science, technology, engineering, and math (STEM) courses and programs; and discrimination based on pregnancy.

Under Title IX, sexual harassment includes conduct on the basis of sex that satisfies one or more of the following:

- a. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome conduct determined by a reasonable person to be so severe or pervasive, and subjectively and objectively offensive that it effectively limits or denies a person equal access to the District's education program or activity;
- c. Sexual assault, meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- d. Dating violence, meaning violence committed by a person:
 1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship;
 - c. The frequency of interaction between the persons involved in the relationship;
- e. Domestic violence, meaning felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction; or
- f. Stalking, meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress.

Pregnant Students

The District does not discriminate against students based on the student's current, potential, or past pregnancy or related conditions. If a student, or a person who has a legal right to act on behalf of the student, informs any employee of the student's pregnancy or related conditions, unless the employee reasonably believes the Title IX Coordinator has been notified, the employee will promptly notify the school nurse. The school nurse will provide the person with the Title IX Coordinator's contact information and inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the District's education program or activities. The District will consider requests for reasonable modifications to the District's policies, practices or procedures as necessary to prevent sex discrimination and ensure equal access. Students will have access to lactation space where appropriate.

Title IX Coordinator

The District has designated and authorized District employee(s) to serve as its Title IX Coordinator. This information can be found on the District website.

The Title IX Coordinator, who must be referred to as such, will coordinate the District's efforts to comply with its responsibilities under Title IX. However, the responsibilities of the Title IX Coordinator may be delegated to other personnel.

Where appropriate, the Title IX Coordinator may seek the assistance of other appropriately trained individuals in investigating, responding to, and remedying complaints of sex-based discrimination, including sexual harassment.

Complaints of Sex Discrimination That Do Not Fall Under Title IX

The District will provide for the prompt and equitable resolution of reports of sex discrimination other than sexual harassment. In responding to these reports, the Title IX Coordinator will utilize, as applicable, the grievance process set forth in Policies 0100 and any other applicable District policy, procedure, collective bargaining agreement, or other document such as the District's Code of Conduct.

Title IX Grievance Process

The following people have a right to make a complaint of sex discrimination to the Title IX Coordinator, including complaints of sex-based harassment, requesting that the District investigate and make a determination about alleged discrimination under Title IX:

- A "complainant," which includes:
 - a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or

- a person other than a student or employee of the District who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the District's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- the District's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of the District; or
- Any person other than a student or employee who was participating or attempting to participate in the District's education program or activity at the time of the alleged sex discrimination.

The District may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

In the absence of a complaint or the withdrawal of any allegations in a complaint, the Title IX Coordinator shall determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures. This is a fact specific determination and the Title IX Coordinator shall consider at a minimum:

- The complainant's request not to proceed with initiation of a complaint;
- The complainant's reasonable safety concerns regarding initiation of a complaint;
- The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
- The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its reoccurrence;
- The age and relationship of the parties, including whether the respondent is an employee of the District;

- The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
- The availability of evidence to assist a decision maker in determining whether sex discrimination occurred; and
- Whether the District could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedure.

Basic Requirements of Title IX Grievance Procedures:

The District will treat complainants and respondents equitably. The District requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A decisionmaker may be the same person as the Title IX Coordinator or investigator.

The District presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

The District has established the following timeframes for the major stages of the grievance procedures:

- The investigation and decision making phase shall be complete with sixty (60) calendar days of receipt of the complaint. If the investigator and/or the decisionmaker require a reasonable extension of time for good cause, they shall notify both parties as to the reason and the approximate date by which they anticipate being able to complete the process.
- The appeals process shall be completed within thirty (30.) calendar days of receipt of the appeal. If the appeals decisionmaker require a reasonable extension of time for good cause, they shall notify both parties as to the reason and the approximate date by which they anticipate being able to complete the process.

The District will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

If a party is a student with a disability, the Title IX Coordinator shall consult with a member of the Student’s CSE team or 504 team to determine how to comply with the requirements of the IDEA or Section 504 in the implementation of supportive measures.

The District will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the District to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used),

regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the District obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

Title IX Team

The Title IX team shall include the Title IX Coordinator, an investigator, decisionmaker, appeals decision maker and the informal resolution facilitator. Each member shall be trained on an annual basis.

Notice of Allegations:

Upon initiation of the District's Title IX grievance procedures, the District will notify the parties of the following:

- the District's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited; and
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, the District decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the District will notify the parties of the additional allegations.

Dismissal of a Complaint:

The District may dismiss a complaint of sex discrimination if:

- The District is unable to identify the respondent after taking reasonable steps to do so;

- The respondent is not participating in the District’s education program or activity and is not employed by the District;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the District determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- the District determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the District will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the District will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

The District will notify the complainant that a dismissal may be appealed in accordance with the appeal procedure set forth below and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the District will also notify the respondent that the dismissal may be appealed.

When a complaint is dismissed, the District will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within the District’s education program or activity.

Investigation:

The District will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the District—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The District will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The District will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The District will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- the District will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the District provides a description of the evidence: the District will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- the District will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- the District will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

Questioning the Parties and Witnesses:

The District will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. The decisionmaker shall arrange to meet individually with parties and witnesses and shall afford employees any applicable rights under the relevant collective bargaining agreement. The parties will not be permitted to ask questions of the other party.

Determination Whether Sex Discrimination Occurred:

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the District will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a complainant and other people the District identifies as having had equal access to the District's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and

- Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the District's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

Appeal of Determinations:

The District permits a complainant or respondent to appeal a dismissal of a complaint or the findings of a complaint to the appeals decisionmaker on the following limited grounds:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Appeals should be filed in writing with the Title IX Coordinator within ten (10) days of the date of the decision letter. If an appeal is filed with the Title IX Coordinator, the District will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a written statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

The appeals decisionmaker shall make their decision within fifteen (15) calendar days of receipt of the appeal. If the appeals decisionmaker require a reasonable extension of time for good cause, they shall notify both parties as to the reason and the approximate date by which they anticipate being able to complete the process.

Informal Resolution:

In lieu of resolving a complaint through the District's Title IX grievance procedures, the parties may instead elect by providing voluntary, written consent a request to participate in an informal resolution process. The District does not offer informal resolution to resolve a complaint that

includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or when such a process would conflict with Federal, State, or local law.

Supportive Measures:

The District will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the District's education program or activity or provide support during the District's Title IX grievance procedures or during the informal resolution process. The District retains final authority over determining what supportive measures will be put into place. For complaints of sex-based harassment, these supportive measures may include, but are not limited to:

- For students;
 - Access to counseling, mentoring and other support during the school day;
 - Flexibility in movement between classes;
 - Alternative locations;
 - Stay away orders;
 - Frequent check-ins;
 - Leave early pass;
 - No retaliation clauses;
 - Safety plan;
 - Hall restriction; or
 - Schedule changes or removal from activities.
- For employees:
 - Access to the District's Employee Assistance Program;
 - Evaluation of specific workplace safety issues relating to the complaint; or
 - Work assignment modifications.

Disciplinary Sanctions and Remedies:

Following a determination that sex-based harassment occurred, the District may impose disciplinary sanctions, which may include, for students, discipline as set forth in the Code of Conduct; and for employees, discipline up to and including discharge.

The District may also provide remedies, which may include additional training or education, as well as many of the same options listed as supportive measures.

District's Title IX Nondiscrimination Statement

The District shall post a nondiscrimination statement readily on its website, at the time of admissions or employment application and in required handbooks/contracts. The statement shall be as follows:

Valley Central School District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment.

Inquiries about Title IX may be referred to the District's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both. The District's Title IX Coordinator is [name, title, office address, email address, telephone number] and the contact information for OCR is <https://ocras.ed.gov/contact-ocr>.

The District's nondiscrimination policy and grievance procedures can be located at <https://www.vcsd.k12.ny.us/>.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to [provide website link].

20 USC § 1092(f)(6)(A)(v)
20 USC § 1681, et. seq.
34 USC § 12291(a)(8, 10, and 30)
34 CFR Part 106
Education Law § 13
8 NYCRR § 100.2(kk)

Adoption Date: October 23, 2023
Revised: July 22, 2024