

## **CIVIL RIGHTS GRIEVANCE PROCEDURE**

### **Overview**

Mohawk Trail Regional School District (MTRSD) is committed to maintaining school environments free of discrimination, harassment or retaliation based on race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, age, or disability.

Harassment, discrimination, and retaliation in any form or for any reason is prohibited. This includes harassment or discrimination by administrators, personnel, students, vendors and other individuals in school or at school related events. Retaliation against any individual who has brought harassment or discrimination to the attention of school officials or who has cooperated in an investigation of a complaint under this Procedure is unlawful and will not be tolerated by the Mohawk Trail Regional School District.

Persons who engage in harassment, discrimination or retaliation may be subject to disciplinary action, including, but not limited to reprimand, suspension, termination/expulsion or other sanctions as determined by the school district administration, subject to applicable procedural requirements.

### **Non-Applicability of This Procedure to Title IX Sexual Discrimination Allegations**

The *Civil Rights Grievance Procedure* shall not apply to reports of sexual discrimination as defined under Title IX of the Education Amendment of 1972 and its implementing regulations (“Title IX”) effective August of 2024.

Allegations of conduct that could, if proven, meet the definition of sexual harassment and/or discrimination under Title IX shall be addressed through the District’s *Title IX Sexual Discrimination Grievance Procedure*. Similarly, allegations of conduct that meet the definition of sex-based harassment under Title IX, and simultaneously meet the definitions of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will also be addressed through the *Title IX Sexual Discrimination Grievance Procedure*.

Allegations of conduct that do not meet the definition of sex-based harassment under Title IX, but could, if proven, meet the definition(s) of sexual harassment under Title VII (employees), M.G.L. c. 151B (employees), and/or M.G.L. c. 151C (students), will be addressed through the *Civil Rights Grievance Procedure*.

## Definitions

For the purposes of this Procedure:

- A. “Discrimination” means discrimination or harassment on the basis of race, age, color, national origin, sex, sexual orientation, gender identity, disability or religion by which an individual is excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity of the school district.
- B. “Harassment” means unwelcome conduct on the basis of race, age, color, national origin, sex, sexual orientation, gender identity disability, or religion that is sufficiently severe, persistent or pervasive to create or contribute to a hostile environment for the individual at school. Harassment may include insults, name-calling, off-color jokes, threats, comments, innuendoes, notes, display of pictures or symbols, gestures or other conduct which rises to the level of a hostile environment. A hostile environment is one which unreasonably interfered with an individual’s participation in, denied the individual the benefits of, or otherwise subjected the individual to discrimination under any program or activity of the District.
- C. Non-Title IX Sexual Harassment
  - M.G.L. c. 151B, § 1 – the term “sexual harassment” is defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. Discrimination on the basis of sex shall include, but not be limited to, sexual harassment.
  - M.G.L. c. 151C, § 1 – the term “sexual harassment” is defined as sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when: (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the provision of the benefits, privileges or placement services or as a basis for the evaluation of academic achievement; or (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s education by creating an intimidating, hostile, humiliating or sexually offensive educational environment.
  - Title VII of the Civil Rights Act of 1964 – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual

harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile environment on the basis of sex is created when the conduct is sufficiently severe or pervasive to alter the conditions of employment.

When determining whether an environment is hostile, the District shall consider the context, nature, frequency, and location of the incidents as well as the credibility of witnesses and the identity, number and relationships of the persons involved. The District must consider whether the alleged harassment was sufficient to have created such an environment for a reasonable person of the same age, gender, and experience as the Complainant, and under similar circumstances. Off-campus conduct may constitute harassment if it creates a hostile environment at school for the victim; however, conduct does not constitute harassment where the incident occurs off-campus at a non-school sponsored activity and does not create a hostile environment at school for the victim.

- D. Retaliation: Retaliatory acts against any individual who exercises his or her rights under the civil rights statutes covered by this Procedure or the Title IX Sexual Discrimination Grievance Procedure are considered to be discrimination and are unlawful. Individuals are prohibited from coercing, intimidating, threatening, or interfering with an individual because the individual exercised any right granted or protected under these procedures and/or the Title IX Sexual Discrimination Grievance Procedure.
- E. Complainant: An individual who is alleged to be the victim of conduct that could constitute discrimination, harassment, or retaliation under this Procedure. Parents and/or legal guardians of a complainant are not considered a complainant but may file formal complaints on behalf of a minor child and act on behalf of the minor child in any civil rights matter.
- F. Party or Parties: The complainant and/or respondent.
- G. Principal: The Principal or Principal's designee.
- H. Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute discrimination, harassment, or retaliation under this Procedure.

### **How to make a complaint**

Any student or employee who believes that they have been discriminated against or harassed should report their concern promptly to the Principal or Civil Rights Coordinator. Students may also report incidents of harassing conduct to a teacher, administrator, or guidance counselor. Any complaint received by a school personnel shall be promptly reported to the Principal and/or Civil Rights Coordinator. A complaint will not be dismissed because it was reported to the incorrect school personnel. Students or employees who are unsure whether discrimination, harassment, or retaliation has occurred are encouraged to discuss the situation with the Principal. There may be instances where another third-party, who has not experienced but is aware of the occurrence of prohibited conduct, may bring a complaint under this Procedure. In such circumstances, that person is referred to as the “reporter.”

- A. Any District employee who observes or receives a report of discrimination, harassment or retaliation shall promptly notify the Principal or Civil Rights Coordinator, identified below. Any District employee who observes discrimination, harassment or retaliation against a student should intervene to stop the conduct and report it to the Principal. Upon receipt of a report of discrimination, harassment or retaliation, the Principal shall promptly inform the relevant Civil Rights Coordinator of the report, and the District will respond in a manner consistent with this Procedure. If the report involves an accusation against the Principal or Civil Rights Coordinator, the employee shall report the incident to the Superintendent or designee.
- B. Informal Reports: Individuals may wish to file a formal complaint of discrimination, harassment or retaliation, or to report informally (i.e., without initiating a formal complaint). Such informal reports may be made to the Principal or Civil Rights Coordinator. The District shall inform anyone making an informal report that they may initiate a formal complaint at any time, regardless of what steps are being or have been taken in response to an informal report.
- C. Anonymous Reports: Complainants and reporters should be aware that the District may sometimes be required to take actions to protect the safety of the school community that may result in the identity of the reporting person being disclosed (to the police, for example). When reporters or Complainants seek to remain anonymous or have their identities kept confidential, they will be informed that honoring such a request may limit the ability of the District to respond fully to any reported event, including limitations on the ability to take disciplinary action against a Respondent.
- D. Informal Process: If the District concludes that it is possible to resolve a matter, whether after formal complaint or an informal report, in a prompt, fair and adequate manner through an informal process involving, and with the consent of, the Complainant and Respondent,

the District may seek to do so. The informal process is voluntary, and the Complainant and/or Respondent may terminate or decline any informal process at any time, without penalty.

- E. Formal Process: A formal complaint shall state (if known to the reporter or Complainant) the name(s) of the persons involved and witnesses to the conduct, describe the conduct, and identify, to the extent possible, the dates and locations of the conduct. The complaint shall be signed and dated by the reporter and/or Complainant. Complaints will be investigated promptly and equitably by the Civil Rights Coordinator or Principal. Investigations may be initiated whenever warranted, in the absence of a formal complaint, or after a formal complaint has been withdrawn.
- F. Initial Assessments: The Civil Rights Coordinator or Principal will make an initial assessment following a complaint. Based on that assessment, the Civil Rights Coordinator or Principal may: (a) if the conduct, even if substantiated, would not constitute harassment, discrimination or retaliation, dismiss the complaint; (b) if the alleged conduct (or complaint) could not, even if true, constitute discrimination, harassment or retaliation, but is within the scope of another procedure, the Civil Rights Coordinator shall refer the matter to the appropriate personnel; (c) if the Civil Rights Coordinator or Principal concludes that it is possible to resolve the complaint in a prompt, fair and adequate manner through an informal process involving and with the consent of both parties, the Civil Rights Coordinator or Principal may seek to do so in accordance with Section D, above; or (d) if the alleged conduct, if substantiated, would constitute discrimination, harassment or retaliation, the Civil Rights Coordinator or Principal will initiate an investigation. The Civil Rights Coordinator or Principal may also identify and initiate any interim measures. See Section G.
- G. Interim Measures: The District will provide prompt and reasonable interim measures during the pendency of the investigation, if appropriate, to support and protect the safety of the parties, the educational environment, and the District and/or school community; to deter retaliation; and to preserve the integrity of the investigation and resolution process. Any interim measures will be monitored to ensure they are effective based on the evolving needs of the parties. Violations of the restrictions imposed by interim measures could be considered a violation of school rules and may be considered in determining whether discrimination, harassment or retaliation has occurred.
- H. Timeframes: The District will seek to complete any investigation within twenty (20) school days after receipt of a complaint and provide the written notice of the outcome of the investigation within twenty-five (25) school days. The investigator may impose reasonable timeframes on all parties to facilitate the timely completion of the investigation. The

investigator may extend the investigation period beyond the time period identified due to extenuating circumstances, including but not limited to availability and cooperation of witnesses, complexity of the investigation, school vacation periods, and the involvement of law enforcement and other outside agency investigations. If a complaint or report of discrimination, harassment or retaliation is received within three (3) weeks of the end of the academic school year, the investigator will attempt to complete the investigation by the end of the school year. In the event that the investigation extends beyond the last day of school, the District will make reasonable efforts to complete the investigation within the above-referenced timeframe, but may extend the investigation period to account for the availability of witnesses during the summer vacation period. If the investigator extends the investigation, he or she will notify the Complainant and Respondent of the extension. A report to the law enforcement will not automatically delay an investigation; however, a request from law enforcement to delay the investigation may require a temporary suspension of an investigation, and the District will promptly resume its investigation upon being advised that law enforcement's evidence gathering is completed. Any interim measures provided to the parties may continue during the period of postponement. See Section G.

- I. Under the formal resolution procedure, the complaint will be investigated by the Principal, Civil Rights Coordinator or other individual designated by the Principal or Civil Rights Coordinator who has responsibility for seeking and gathering evidence relative to the investigation. A formal complaint against an employee who holds a supervisory position shall be investigated by a person who is not subject to that supervisor's authority. During the formal resolution procedure:
  1. The Complainant shall be provided with an opportunity to be heard and have the opportunity to identify witnesses and other relevant evidence to the investigator.
  2. The Respondent will be provided with an opportunity to be heard as part of the investigation including the opportunity to provide relevant information and identify witnesses for the investigator's consideration.
  3. The privacy rights of the parties shall be maintained in accordance with applicable state and federal laws.
  4. The investigator will keep a written record of the investigation process.
  5. The investigation will be completed within twenty (20) school days of the date of receipt of the complaint.
  6. The notification of the outcome of the investigation, including, if appropriate, a description of the remedies taken, will be provided to the parties within twenty-five (25) school days of the receipt of the complaint, unless extended for good cause.
  7. Nothing in this Procedure will preclude the investigator, in their discretion, from completing the investigation sooner than the time period described above.

- J. Standard of Proof: The investigation shall made factual findings based on a preponderance of the evidence standard.
- K. If the investigator determines that discrimination, harassment or retaliation has occurred, the District shall take steps to eliminate the discriminatory or harassing environment, which shall include but not be limited to:
1. Identifying what steps are necessary to prevent recurrence of any discriminatory behavior, including but not limited to harassment or retaliation, and to correct its discriminatory effects if appropriate; and
  2. Informing the Complainant and Respondent or, in the case of minor children, the parties' parent(s)/legal guardian(s) of the results of the investigation (in accordance with applicable state and federal privacy laws) in accordance with the above timelines. The notification will include the notice of the opportunity for appeal; however, failure to provide notice of appeal shall not constitute a violation of this policy.

The school district administration may also refer the offender for disciplinary procedures to be conducted in accordance with federal and state law. Nothing in the Civil Rights Grievance Procedure shall be interpreted as limiting or prohibiting the District's ability to take appropriate disciplinary action against the offender in accordance with the applicable code(s) of conduct or employment contracts or policies, where appropriate, prior to completion of the investigation, in accordance with the due process rights of employees and students, as applicable. When informing the parties' parent(s)/legal guardian(s) about the results of the investigation, the school district may consider appropriate notification processes when special circumstances may apply (e.g., disclosure of sexual orientation or gender identity/expression).

- L. Appeal: If the Complainant or the Respondent is dissatisfied with the results of the investigation, an appeal may be made to the Superintendent or designee within seven (7) calendar days after receiving notice of the outcome of the investigation, except for circumstances in which the Respondent is subject to long-term suspension as a result of a finding of discrimination, harassment or retaliation or discipline under M.G.L. c. 71 §42 and 42D. In such instances, the appeal rights of the Respondent will be provided in a manner consistent with the due process requirements applicable to the circumstances (e.g., M.G.L. c. 71, 37H, 37H ½ or 37H ¾ or M.G.L. c. 71 §42 and 42D).
- M. Appeals must be made in writing (email is sufficient) to the Superintendent, Mohawk Trail Regional School District, 24 Ashfield Road, Shelburne Falls, Massachusetts 01370. The Superintendent will decide the appeal within thirty (30) calendar days of the date of receipt of the written appeal.

N. Identification of Civil Rights Coordinator for complaints of discrimination, harassment, and retaliation under this Procedure is:

Sheryl Stanton, Superintendent  
24 Ashfield Road, Shelburne Falls, MA 01370  
(413) 625-0192 ext. 1  
sstanton@mtrsd.org

O. Employment Agencies: The contact information for state and federal employment discrimination enforcement agencies is as follows:

- (1) Federal: United States Equal Employment Opportunity Commission (EEOC), John F. Kennedy Federal Building, 15 New Sudbury Street, Room 475, Boston, MA 02203-0506, 1-800-669-4000; EEOC Boston Area Office Website: <https://www.eeoc.gov/field-office/boston/location>; and
- (2) State: Massachusetts Commission Against Discrimination (MCAD) Boston Headquarters, One Ashburton Place, Sixth Floor, Room 601, Boston, MA 02108, (617)994-6000; MCAD Website: <https://www.mass.gov/orgs/massachusetts-commission-against-discrimination>.



## **GRIEVANCE PROCESS FOR TITLE IX COMPLAINTS**

### **Title IX Coordinator:**

Julia Lignori, Director of Pupil Personnel Services and Title IX Coordinator  
24 Ashfield Road, Shelburne Falls, MA 01370  
(413) 625-0192 ext. 1025  
[jlignori@mtrsd.org](mailto:jlignori@mtrsd.org)

### **Overview**

The Mohawk Trail Regional School District (MTRSD) is committed to maintaining school environments free of sexual discrimination harassment. Sexual discrimination harassment in any form or for any reason is prohibited. This includes sexual discrimination harassment by administrators, personnel, students, vendors, and other individuals in school or at school related events. The School Committee, in accordance with Title IX of the Education Amendments of 1972, declares that the school district does not and will not discriminate on the basis of sex, sexual orientation, gender identity, sex stereotypes, sex characteristics, marital status, familial status, pregnancy or pregnancy-related conditions and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX, including in admission and employment.

MTRSD has adopted these grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

### **General Information:**

- Practices within these grievance procedures will be applied equally to both complainants and respondents.
- The respondent is presumed innocent and can only be found responsible for the alleged conduct at the conclusion of this grievance process.
- MTRSD 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.
- All parties are entitled to an advisor of their choice at their own expense to assist them in this process. The advisor may, but does not have to be, an attorney.
- Schools may, in their discretion, consolidate formal complaints where the allegations arise out of the same facts.
- MTRSD allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay as set forth below.
- MTRSD will take reasonable steps to protect the privacy of the parties and witnesses and

keep the identity of complainants, respondents, and witnesses confidential, except as permitted by the Family Educational Rights and Privacy Act (FERPA), as otherwise required by law, and/or as necessary during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the grievance procedures. The parties cannot engage in retaliation, including against witnesses. MTRSD 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.

- In the course implementing supportive measures, informal resolution, and/or a grievance procedure, and throughout the same, if either a complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator must consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

### **Important Terms**

- **Complaint:** An oral or written request to an employee of the School that objectively can be understood as a request for the School to investigate and make a determination about alleged discrimination under Title IX.
- **Complainant:** (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; 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 and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.
- **Relevant:** Related to the allegations of sex discrimination under investigation as part of the grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- **Remedies:** Measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

- **Respondent:** An individual who is alleged to have violated the School's prohibition on sex discrimination.
- **Retaliation:** Any intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, including in an informal resolution process. Nothing in this definition or this part precludes a School from requiring an employee or other person authorized to provide aid, benefit, or service under the School's education program or activity to participate as a witness in, or otherwise assist with, an investigation. Retaliation is strictly prohibited.
- **Title IX Coordinator:** The person responsible for coordinating the School's compliance with its obligations under Title IX. (The Title IX Coordinator may also serve as the Investigator or the Decision Maker.)
- **Investigator:** The person conducting the investigation into the allegations of sex discrimination and/or harassment.
- **Decision Maker:** The person who reviews all the information/evidence gathered by the investigator and decides whether or not the sex discrimination and/or harassment occurred. This person can also be the Title IX Coordinator or the Investigator.
- **Appeals Decision Maker:** The person who makes the final determination in the event an appeal is filed. This person is not the Title IX Coordinator, the Investigator, or the original Decision Maker.
- **Sex-Based Discrimination:** Discrimination based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- **Sex-Based Harassment:** Harassment on the basis of sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex-based harassment includes:
  - *Quid pro quo harassment.* An employee, agent, or other person authorized by the School to provide an aid, benefit, or service under the School's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.
  - *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 that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment).

- *Specific offenses.* An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation such as sexual assault, dating violence, domestic violence, stalking, *etc.*

While it is not possible to list all those additional circumstances that may constitute sex-based harassment, the following are some examples of conduct, which if unwelcome, may constitute sex-based harassment, depending on the totality of the circumstances, including the severity of the conduct or its pervasiveness:

- *Unwelcome sexual advances - whether they involve physical touching or not;*
- *Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity and/or sexual orientation and/or gender identity, deficiencies, or prowess;*
- *Displaying sexually suggestive objects, pictures, cartoons;*
- *Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;*
- *Inquiries into one's sexual experiences; and,*
- *Discussion of one's sexual activities.*

The definition of sex-based harassment is broad and in addition to the above examples, other conduct, whether it is intended or not, that is unwelcome and has the effect of creating an environment that is hostile, offensive, intimidating, to male, female, or gender non-conforming students or employees may also constitute sexual harassment.

## **Supportive Measures**

Supportive measures are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

When the school becomes aware of alleged sexual harassment, the Title IX Coordinator must inform the complainant to their right of supportive measures even if no formal complaint is filed. When a formal complaint is filed, the Title IX Coordinator must inform the respondent of their right to supportive measures. The school must consider the complainant and respondent wishes with respect to supportive measures. Supportive measures for those involved in the sexual harassment complaint process may include, but are not limited to, counseling, extending deadlines, modifications of work and/or class schedules, school escort services, increased school security and/or monitoring, and mutual restrictions on contact between the individuals involved through a safety plan.

Supportive measures will be kept confidential to the extent the confidentiality will not interfere with the supportive measure offered.

If either party is a student with a disability, the Title IX Coordinator will consult with one or more members of the student's IEP or 504 Team, as appropriate, to assure the supportive measures being offered align with the students' accommodations.

### **The Process:**

#### ***Filing a Complaint***

Any person may file a report of sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), at any time either 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. There is no time limit or statute of limitations on a complainant's decision to file a formal complaint. However, if a person files a false complaint in bad faith, knowingly and intentionally, they may be subject to discipline.

If a complainant chooses not to file a Formal Complaint, the complainant's choice to not initiate an investigation will generally be respected, unless the Title IX Coordinator determines that signing a Formal Complaint to initiate an investigation over the wishes of the complainant is not clearly unreasonable in light of the known circumstances. The Title IX Coordinator will take into account concerns articulated by the parties, the best interests of the community, fairness to all concerned, and the District's legal obligations under applicable state and federal laws.

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

At the time of filing a complaint, a complainant must be participating in or attempting to participate in the education program or activity of the school with which the complaint is filed.

#### ***Dismissals of Complaints:***

The Title IX Coordinator may dismiss a sex-based harassment complaint under the following circumstances:

1. The recipient is unable to identify the respondent after taking reasonable steps to do so; or
2. The respondent is not participating in the recipient's education program or activity and is not employed by the recipient; or
3. The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the recipient 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 or this part even if proven; or

4. The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Prior to dismissing the complaint under this paragraph, the Title IX Coordinator must make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator must 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 Title IX Coordinator must 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 Parties must be notified of their rights to appeal the dismissal. If the dismissal is appealed, the Title IX Coordinator must:

1. Notify the parties of any appeal, including notice of the allegations consistent with notice requirements if notice was not previously provided to the respondent;
2. Implement appeal procedures equally for the parties;
3. Ensure that the decision maker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
4. Ensure that the decisionmaker for the appeal has been trained;
5. Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
6. Notify the parties of the result of the appeal and the rationale for the result.

The Complainant is still entitled to supportive measures should a dismissal occur.

### ***Initial Notice***

Upon the filing of a formal complaint, both parties will be provided with written notice of the complaint. The notice will include:

1. The District's Title IX grievance procedures and any informal resolution process;
2. 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);
3. A statement prohibiting retaliation.
4. A statement prohibiting knowingly submitting false information;
5. A statement that the respondent is presumed not responsible for the alleged conduct;
6. A statement that a determination regarding responsibility is made at the conclusion of the grievance process;
7. A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney; and

8. A statement that the parties/advisors may inspect and review evidence in accordance with this Procedure. The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

This written notice will be sent to the parties within three business days of the filing of a formal complaint.

If, in the course of the investigation, the District decides to investigate allegations of sexual harassment that are not included in the initial written notice of allegations, the District shall provide notice of the additional allegations to the parties whose identities are known.

*\*Interviews with a respondent may not occur until this notice has been provided and the respondent is provided reasonable time to prepare before an initial interview.*

### ***Informal Resolution:***

The informal resolution process can be offered by the Title IX Coordinator.

If both parties wish to proceed through the informal resolution process and provide informed, voluntary, written consent, this process may be pursued. This process may not be used when the allegation of sexual harassment and/or sex-based harassment involves an employee of the school or when the Title IX Coordinator believes the allegations could present a future risk of harm. **At any time prior to agreeing to a resolution, any party has the right to withdraw from informal resolution and resume the grievance process with respect to the formal complaint.** The facilitator of the informal process will be free from conflicts of interest or bias and will have received special training regarding how to conduct this informal process.

Parties who wish to proceed using informal resolution can withdraw from this process by notifying the Title IX Coordinator in writing either via mail, email, or providing a written document to the Title IX Coordinator in person. A party can inform the Title IX Coordinator they wish to withdraw from the process verbally, but written withdrawal will be needed as well. Parties may withdraw from the informal process at any time before a decision has been reached.

### ***Mediation***

The Title IX Coordinator can offer a mediation process between the parties after written consent has been provided. Facilitators of the mediation will be specially trained in Title IX and will be selected by the Title IX Coordinator. The Facilitator(s) must not be biased against any of the parties or have a conflict of interest. If the parties mutually and voluntarily agree that the Title IX Complaint has been sufficiently addressed using the informal process, then no further action need be taken. The results of the informal resolution shall be maintained by the facilitator in writing.

The informal resolution is permitted to include terms such as: restrictions on contact, restrictions on the Respondent's participation in programs and/or activities, attendance at specific events, restrictions that could have been imposed in the disciplinary process such as suspensions and loss of certain privileges.

### ***Gathering Evidence***

Should a Title IX investigation occur, the burden of gathering evidence rests on the School.

During the collection of evidence, the school is not allowed to access a party's personal records if they are maintained by a physician, attorney, psychologist, psychiatrist or other professional with whom the student shares privileged information unless the student provides written consent.

Evidence about the complainant's sexual predisposition or prior sexual behavior are not permissible and/or relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Equal opportunity will be provided for all parties to provide witnesses and evidence, including written expert testimony and inculpatory and exculpatory evidence. Parties cannot be prevented from discussing the allegations or collecting relevant evidence. The school will use the preponderance of the evidence standard for all complaints of sex-based harassment regardless of whether the complaint is against students or school employees.

- Interviews: Persons alleged to have violated the school's sex-based discrimination/harassment policy will be provided with written notice prior to any interviews or meeting involving the Title IX complaint. The notice will include the date, time, location, participants, and purpose of the interview/meeting and will allow the respondent enough time to properly prepare for the meeting.
- Inspection of Evidence/Investigative Report: The school will send the parties, and their advisors, evidence directly related to the allegations, along with an investigative report outlining the investigative process.

Prior to providing evidence to the parties, the investigator may redact confidential information that is not directly related to the allegations or that is otherwise barred from use under Title IX or by privilege (e.g., treatment records), the Family Educational Rights and Privacy Act and/or 603 CMR 23.00. Information that is directly related to the investigation, and that is not expressly barred from disclosure under Title IX (e.g., treatment records), the Family Educational Rights and Privacy Act, and/or 603 CMR 23.00, must be made available for review by both parties.



The parties and their advisors shall be prohibited from dissemination of any of the evidence for any purpose not directly related to this grievance procedure.

- Opportunity to Respond: Parties will have 10 calendar days to inspect, review, and respond to the evidence and report.
- Opportunity to Request an Extension: The parties can submit a request for an extension to the response period to the Title IX Coordinator if they need more time to review the evidence and report and provide a response. The Title IX Coordinator will review the request and can determine whether or not the request is reasonable and appropriate.

The investigator will attempt to conclude the evidentiary process within three weeks. This may be extended if more time is necessary to appropriately investigate the matter.

### ***Consolidation of Complaints***

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 may be consolidated at the discretion of the Title IX Coordinator.

If, in the course of an investigation, the School decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the original notice, the School must provide notice of the additional allegations to the parties whose identities are known.

### ***The Determination***

After the conclusion of the investigation, all relevant evidence will be reviewed and the Decision Maker will reach conclusions about whether the respondent engaged in the alleged harassment.

The Investigator may also be the Decision Maker. In cases where the Decision Maker was not the Investigator, the Decision Maker is permitted 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 Decision Maker must consider the following information:
  1. The school's policy/policies that were alleged to be violated;
  2. A description of the procedural steps that were taken (including notices sent, interviews conducted, evidence gathered);
  3. The Decisions Maker's findings of fact;
  4. Whether the determined facts equal a violation of school policy and/or code of conduct;

5. Any disciplinary sanctions the school should consider imposing and any remedies to the complainant if applicable.

The Decision Maker will 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, if applicable.

The determination will be sent to the parties simultaneously along with the appeals information.

### ***The Appeals Process***

Parties may appeal after a dismissal occurs, or a determination is issued. Parties will have five (5) days to appeal the dismissal or determination.

#### **Grounds for Appeals**

1. If a party believes that procedural irregularity altered the outcome of the determination or dismissal.
2. New evidence has been discovered that was not reasonably available at the time of the determination or dismissal. An appeal for this reason may occur after the five-day appeal requirement but not after one year.
3. A conflict of interest on the part of a Title IX Coordinator, investigator who compiled evidence, or the decision maker existed, and that conflict of interest affected the determination or dismissal.

To file an appeal, a party must notify the Title IX Coordinator in writing that they wish to appeal the determination. All parties will have an equal opportunity to submit a written statement supporting or challenging the determination. The Title IX Coordinator will inform the parties that they have 7 days to submit their written statements.

The person who will decide the appeal cannot be the Decision Maker, the Investigator, or the Title IX Coordinator. Upon review of the parties' written statements (if they so choose to provide them), and review the determination, the appeals decision maker will issue a written decision and send it to the parties simultaneously. The determination becomes final after the appeals process.

### ***Remedies:***

If the school makes a determination that sex discrimination/harassment did occur, the school will help effectively implement remedies for a complainant.

### ***Retaliation is prohibited.***

*Retaliation* against a complainant, witness, or any other participant in an investigation because they have filed a harassment or sex-based harassment complaint or assisted or participated in a harassment or sexual harassment investigation or proceeding, is strictly prohibited. Anyone

found to have retaliated against another in violation of Mohawk Trail Regional School District's policy will be subject to disciplinary action.

*Retaliation* is any intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, including in an informal resolution process.

Any person who experiences retaliation for exercising their rights under Title IX can file a retaliation complaint with the Title IX Coordinator.

***If the Grievance Process may Result in Discipline:***

If upon the conclusion of this grievance process, discipline appears warranted, the school will follow the usual disciplinary process for students outlined within the student handbook. The school will also follow the required disciplinary process for school employees.

***Recordkeeping:***

Records related to this Procedure will be maintained for a period of seven (7) years:

1. For each complaint of sex discrimination, records documenting the informal resolution process and/or the grievance procedures and the resulting outcome.
2. For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under Title IX or records documenting the actions the District took to meet its obligations under Title IX.
3. For all training all materials used to provide training to meet its obligations under Title IX. A District must make these training materials available upon request for inspection by members **of the public.**