

MEDFORD AREA PUBLIC SCHOOL DISTRICT

DATE ADOPTED: September 23, 2024

FILE SECTOR: PERSONNEL  
POLICY TITLE: TITLE IX REGULATIONS

**Nondiscrimination policy:**

The Medford Area Public School District (MAPSD) 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, including in admission and employment.

**Notice of Nondiscrimination**

MAPSD 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 MAPSD's Title IX Coordinator, the U.S. Department of Education's Office for Civil Rights, or both.

MAPSD's Title IX Coordinators are:

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**Grievance Procedures for Complaints of Sex Discrimination (§ 106.45)**

MAPSD has adopted 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.

**Complaints:**

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that MAPSD investigate and make a determination about alleged discrimination under Title IX: A "complainant," which includes:

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

MAPSD 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.

#### **Basic Requirements of Title IX Grievance Procedures:**

MAPSD will treat complainants and respondents equitably.

MAPSD 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.

MAPSD presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures. MAPSD has established the following timeframes for the major stages of the grievance procedures:

**A. Evaluation** - The Title IX Coordinator will determine whether to dismiss a complaint or investigate it within ten (10) days of receiving the complaint.

**B. Investigation** - The Title IX Coordinator, or designated investigator, shall ordinarily complete the investigation (i.e., collect relevant evidence that is not otherwise impermissible) within 30 days of the Title IX Coordinator determining the charges require investigation. If, however, the Title IX Coordinator, or designated investigator, determines that the investigation is going to take longer, the Title IX Coordinator will so notify the parties and the Superintendent and will thereafter keep the parties and the Superintendent informed of the status of the matter on a regular basis. Once the Title IX Coordinator, or designated investigator, provides the parties with "access" to either the relevant and not otherwise impermissible evidence and/or an accurate description of the evidence, the parties will have 5 days to respond to the evidence or the description of the evidence unless the Title IX Coordinator approves a party's written request for more time. If the Title IX Coordinator approves such a request, both parties will be afforded an equal amount of time to submit their response.

**C. Determination** - After the parties either submit responses to the evidence/description of the evidence, or the deadline for submitting such responses expires, the Title IX Coordinator, or designated decision-maker, will consider the relevant and otherwise not impermissible evidence and issue a determination as to whether sex discrimination occurred. The determination shall be issued within ten (10) days of the deadline for the parties to submit responses to the evidence/description of the evidence unless the Title IX Coordinator approves an extension of

time, which must be communicated in writing to the parties.

**D. Appeal** - A party filing an appeal of the Title IX Coordinator's decision to dismiss a complaint, or the Determination, must do so within five (5) days of receiving the Dismissal or Determination.

MAPSD may allow for the reasonable extension of the preceding timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.

MAPSD 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.

MAPSD 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 MAPSD 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 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 MAPSD 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.

### **Notice of Allegations:**

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

- MAPSD'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 MAPSD provides a description of the evidence: The parties are entitled to an equal opportunity to access the relevant

and not otherwise impermissible evidence upon the request of any party.]

If, in the course of an investigation, MAPSD 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, MAPSD will notify the parties of the additional allegations.

### **Dismissal of a Complaint:**

MAPSD may dismiss a complaint of sex discrimination if:

- MAPSD is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in MAPSD's education program or activity and is not employed by MAPSD;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and MAPSD 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
- MAPSD determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, MAPSD will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, MAPSD 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 MAPSD 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.

MAPSD will notify the complainant that a dismissal may be appealed 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 MAPSD will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- 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 decision maker 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.

If the dismissal is appealed, MAPSD 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 decision maker 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 statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, MAPSD 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 MAPSD's education program or activity.

### **Investigation:**

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

MAPSD 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.

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

MAPSD 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:

- MAPSD will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. [If MAPSD provides a description of the evidence: MAPSD will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.];
- MAPSD will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- MAPSD 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:**

As part of the investigation, the investigator is encouraged to include in the investigator's notes/file the investigator's opinion about each party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one (1) or more allegations of sex discrimination.

### **Determination Whether Sex Discrimination Occurred:**

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, MAPSD 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, if applicable;
- 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 MAPSD identifies as having had equal access to MAPSD'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 MAPSD'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:**

MAPSD offers the following process for appeals from a determination whether sex discrimination occurred:

If a party disagrees with the decision-maker's determination as to whether sex discrimination occurred, the party may file an appeal. Appeals must be submitted, in writing, within five (5) days of the appealing party's receipt of the Determination.

A party may appeal a Determination on the following bases:

- A.** procedural irregularity that would change the outcome.
- B.** new evidence that would change the outcome and that was not reasonably available when the Determination was made; and
- C.** the Title IX Coordinator, investigator, or decision-maker 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.

The complainant may not challenge the ultimate disciplinary sanction/consequence that is imposed.

If a party appeals the decision-maker's determination, the Title IX Coordinator will:

- A.** notify the parties of any appeal.
- B.** implement appeal procedures equitably for the parties.
- C.** designate an appeal decision-maker, who will be a person who did not conduct the investigation or render the Determination, and is appropriately trained.
  - 1. the Title IX Coordinator will designate the Superintendent to be the appeal decision-maker, provided the Superintendent has not been otherwise involved in the grievance procedures (i.e., did not serve as the investigator, decision-maker, or informal resolution process facilitator) and is appropriately trained.
  - 2. provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the decision-maker's determination.
  - 3. provide the appeal decision-maker with the relevant and not otherwise impermissible evidence along with the accurate description of the relevant evidence (if one was prepared and shared with the parties), any responses the parties submitted to the investigator related to the evidence and/or the description of the evidence (if one was prepared), and the

- decision-maker's determination; and
4. notify the parties, in writing, of the result of the appeal and the appeal decision-maker's rationale for the outcome.

This appeal process will be, at a minimum, the same as MAPSD offers in all other comparable proceedings, including proceedings relating to other discrimination complaints.

**Informal Resolution:**

In lieu of resolving a complaint through MAPSD's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. MAPSD 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:**

MAPSD will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to MAPSD's education program or activity or provide support during MAPSD's Title IX grievance procedures or during the informal resolution process.

The Title IX Coordinator shall determine appropriate supportive measures on a case-by-case basis. Supportive measures may vary depending on what the Title IX Coordinator deems to be reasonably available. Supportive measures may include, but are not limited to counseling; extensions of deadlines or other course-related adjustments; school/campus escort services; increased security and monitoring of certain areas of the campus (including school buildings and facilities); restrictions on contact between the parties; leaves of absence; changes in class, work, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; training and education programs related to sex-based harassment; referral to Employee Assistance Program; and other similar measures.

Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties and/or the MAPSD's educational environment, or to provide support during the MAPSD's grievance procedures or the informal resolution process.

The MAPSD will not impose such measures for punitive or disciplinary reasons.

The Title IX Coordinator may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures, at the conclusion of the informal resolution process, or may continue them beyond that point.

The MAPSD will provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the Title IX Coordinator's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision. If the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures as set forth in the Key Definitions section of this policy.

A party may seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The MAPSD will not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the MAPSD's education program or activity, or as otherwise permitted pursuant to the 2024 Title IX regulations.

If the complainant or respondent is an elementary or secondary student with a disability, the Title IX Coordinator shall consult with one (1) or more members, as appropriate, of the student's Individualized Education Program (IEP) team, if any, or one (1) or more members, as appropriate, of the student's Section 504 team, if any, to determine how to comply with the requirements of the IDEA and/or Section 504, in the implementation of supportive measures.

The Superintendent may place an employee respondent on administrative leave from employment responsibilities during the pendency of the MAPSD's grievance procedures.

### **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment occurred, MAPSD may impose disciplinary sanctions, which may include:

- A. Students: Full range of discipline, including suspension or expulsion, as set forth in Student Code of Conduct, Board Policy, and state and federal laws, as applicable.
- B. Employees: Full range of discipline, including suspension or termination/contract non-renewal, as set forth in Employee Handbook, Board Policy, and state and federal laws, applicable.

MAPSD may also provide remedies, which may include disciplinary sanctions/consequences. The Title IX Coordinator will notify the Superintendent of the recommended remedies, so an authorized administrator can consider the recommendation and implement appropriate remedies in compliance with applicable due process procedures, whether statutory or contractual.

With respect to student respondents, the Title IX Coordinator will notify the Superintendent of the recommended remedies (including disciplinary sanctions/consequences), so an authorized administrator can consider the recommendation(s) and implement an appropriate remedy(ies) in compliance with Policy JGE – Student Expulsion, Policy JGD – Student Suspension. Discipline of a student respondent must comply with the applicable provisions of the Individuals with Disabilities Education Improvement Act (IDEA) and/or Section 504 of the Rehabilitation Act of 1972 ("Section 504"), and their respective implementing regulations.

Discipline of an employee will be implemented in accordance with Federal and State law, MAPSD policy, and applicable provisions of any relevant employee handbooks.

## **Appendix:**

### **Definitions (106.2)**

*Complainant* means:

- 1. A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations; or
- 2. A person other than a student or employee who is alleged to have been subjected to conduct that



could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

*Complaint* means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

*Disciplinary sanctions* means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

*Party* means a complainant or respondent.

*Pregnancy or related conditions* means pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

*Relevant* means related to the allegations of sex discrimination under investigation as part of these 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* means 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* means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

*Retaliation* means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

*Sex-based harassment* is a form of sex discrimination and means harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

1. Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient'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;
2. 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). Whether a hostile environment has been created is a

fact-specific inquiry that includes consideration of the following:

- i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
  - ii) The type, frequency, and duration of the conduct;
  - iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - iv) The location of the conduct and the context in which the conduct occurred; and
  - v) Other sex-based harassment in the recipient's education program or activity; or
3. Specific offenses.
- i) 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;
  - ii) 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 shall be determined based on a consideration of the following factors:
      - (a) The length of the relationship;
      - (b) The type of relationship; and
      - (c) The frequency of interaction between the persons involved in the relationship;
  - iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
    - (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
    - (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    - (3) Shares a child in common with the victim; or
    - (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
  - iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    - (1) Fear for the person's safety or the safety of others; or
    - (2) Suffer substantial emotional distress. Supportive measures means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:
      - (a) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
      - (b) Provide support during the recipient's grievance procedures or during an informal resolution process.

**CROSS REFERENCE: GBA, GBCBA, JBA**

**LEGAL REFERENCE: Nondiscrimination Policies, Notices of Nondiscrimination, and Grievance Procedures under 2024 Amendments to the U.S. Department of Education's Title IX Regulations**