



# The Maryland School for the Blind

## TITLE IX SEXUAL HARASSMENT POLICY

Policy # 2103(a)

### I. GENERAL STATEMENT OF POLICY

- A. The Maryland School for the Blind (MSB) prohibits discrimination on the basis of sex in its educational program, activities, or employment as required by Title IX of the 1972 Education Amendments, and recognizes sexual harassment as a form of sexual discrimination.
- B. It is the policy of MSB to maintain a learning and working environment that is free from sexual harassment. MSB believes that sexual harassment is offensive and morally wrong. Therefore, MSB prohibits sexual harassment of, or by, employees, students, volunteers, vendors, or others having business or contacts with MSB. MSB will investigate all complaints of sexual harassment and take appropriate action to end the harassment in accordance with the Title IX regulations, 34 CFR Part 106.
- C. Sexual harassment of a student may also constitute child abuse. Such cases must be handled in accordance with MSB Policy 2305.
- D. It is a violation of this policy to engage in retaliation in response to a Title IX complaint.
- E. MSB conducts Title IX training for employees in accordance with the Title IX Regulations, 34 CFR Part 106.

### II. DEFINITIONS

- A. **Complainant** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- B. **Education Program or Activity** – includes locations, events, or circumstances over which MSB exhibits substantial control over both the respondent and the context in which the sexual harassment occurred.
- C. **Formal Complaint** – means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that MSB investigate the allegation of sexual harassment. Formal complaints may be filed with the Title IX Coordinator by mail or by electronic mail. A “document filed by a complainant” means a document or electronic submission (such as electronic mail) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Although third parties may not file formal complaints, the Title IX Coordinator may sign a formal complaint based upon a third party complaint or based upon an informal complaint by a complainant. A formal complaint signed by the Title IX Coordinator does not make the Title IX Coordinator a party in the grievance process described below. The Title IX Coordinator may sign a formal complaint over a complainant’s objections in order to ensure that MSB does not respond with deliberate indifference to sex discrimination, including sexual harassment, in its programs and activities.
- D. **Preponderance of the evidence** – means evidence which is of greater weight or more convincing than the evidence to the contrary; evidence which shows that something is more likely than not to be true or 50.1% likely to have occurred.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

- E. **Respondent** – means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- F. **Retaliation** – The act or process of threatening or otherwise penalizing a person for reporting an alleged violation of policy or for participating in an investigation of an alleged violation.
- G. **Sexual Harassment** – means conduct on the basis of sex that satisfies one or more of the following:
1. An employee of MSB conditioning the provision of an aid, benefit, or service of MSB on an individual’s participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to MSB’s education program or activity;<sup>1</sup> or
  3. “Sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. § 12291(a)(10), “domestic violence” as defined in 34 U.S.C. § 12291(a)(8), or “stalking” as defined in 34 U.S.C. § 12291(a)(30).
  4. Sexual harassment can be committed by a student, employee, or third party.
- H. **Supportive Measures** - means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to MSB’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or MSB’s educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of schools or other buildings operated by MSB, and other similar measures. MSB will maintain as confidential any supportive measures provided to complainants and respondents, to the extent that maintaining such confidentiality would not impair the ability of MSB to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

### III. IDENTIFICATION OF TITLE IX COORDINATORS

- A. The Title IX Coordinators have been designated to and authorized by MSB to coordinate efforts to comply with and carry out responsibilities under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*, and its related regulations, 34 C.F.R. 106 *et seq.* (collectively referred to as “Title IX”) and this Policy.
- B. The Director of Education serves as the Title IX Coordinator for complaints of sexual harassment related to students.

---

<sup>1</sup> Examples of sexual harassment include, but are not limited to:

- a. Offensive language (epithets, dirty jokes, derogatory comments, or slurs of a sexual nature) communicated verbally or in writing, including electronic formats
- b. Visual harassment such as derogatory posters, photography, cartoons, drawings, clothing or gestures
- c. Offensive touching, including inappropriate patting or pinching, or impeding or blocking a person’s physical movement
- d. Making unwelcome sexual contact
- e. Engaging in unwelcome sexual contact
- f. Spreading rumors about or evaluating someone for their sexual behavior
- g. Taunting or ridiculing someone because of perceived or actual sexual orientation
- h. Pressuring someone for sexual activity

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

Students, parents and community members may report allegations of harassment to:

Joshua Irzyk, Ed.D.  
 Director of Education  
 The Maryland School for the Blind  
 3501 Taylor Avenue  
 Baltimore, Maryland 21236  
 410.444.5000 x1410  
[joshuai@mdschblind.org](mailto:joshuai@mdschblind.org)

- C. The Director of Human Resources is the Title IX Coordinator for complaints of sexual harassment related to employees. Employees may report allegations of harassment to:

Lauren Pappas, SPHR, SHRM-SCP  
 Director of Human Resources  
 The Maryland School for the Blind  
 3501 Taylor Avenue  
 Baltimore, Maryland 21236  
 410-444-5000 x 1469  
[lauren@mdschblind.org](mailto:lauren@mdschblind.org)

- D. Reports of alleged sexual harassment may be made to the Title IX Coordinator at any time, including during non-business hours.

#### IV. REPORTING PROCEDURES

##### A. In General

1. All members of the MSB community should promptly report sexual harassment in order to maximize the ability of MSB to obtain evidence, identify potential witnesses, conduct a thorough, prompt, and impartial investigation, and take prompt corrective action. A delay in reporting may result in the loss of relevant evidence and witness testimony, impairing the ability of MSB to respond and take appropriate action.
2. Any person who believes they have been a victim of sexual harassment, or any person who has observed or learned about an incident of sexual harassment, should report the incident immediately to the applicable Title IX Coordinator or any employee of MSB.
3. Any MSB employee who either (1) receives a report of alleged sex discrimination, including sexual harassment, or (2) observes an incident of sex discrimination, including sexual harassment, shall promptly notify the Title IX Coordinator in writing, including as much detail about the alleged incident as possible.
4. If any person believes a crime has been committed, it should also be reported to law enforcement.

##### B. Complaints against students

1. Any person, including a student, who believes they have been subjected to sexual harassment by a student is encouraged to report the alleged acts immediately to the student's principal, who will promptly notify the Title IX Coordinator for Students in writing.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

2. Complaints may also be submitted directly to the Title IX Coordinator for Students.

**B. Complaints against employees, volunteers, etc.**

1. Any person, including a student, who believes they have been subjected to sexual harassment by an employee, volunteer, vendor, etc. is encouraged to report the alleged acts immediately to the immediate supervisor, who will promptly notify the Title IX Coordinator for Employees in writing.
2. Complaints may also be submitted directly to the Title IX Coordinator for Employees.

**C. Reports by witness**

1. Any person with knowledge that an individual has violated or is violating this policy or Title IX is encouraged to report that information to the appropriate school official, who will promptly notify the appropriate Title IX Coordinator in writing.
2. Any person who believes or suspects that an individual has violated or is violating this policy or Title IX is required to report that information to the appropriate school official, who will promptly notify the appropriate Title IX Coordinator in writing.
3. Complaints may also be submitted directly to the Title IX Coordinator for Students or Employees, as applicable.

- D. Malicious report:** An individual who maliciously and knowingly files a false report or statement may be disciplined.

**V. GENERAL RESPONSE TO REPORTS OF SEXUAL HARASSMENT.**

- A. Equitable treatment.** MSB will treat complainants and respondents equitably by offering supportive measures to complainants and by adhering to the formal grievance process outlined below before imposing any disciplinary sanctions or other sanctions that are not supportive measures against respondents.

- B. Emergency removal.** Nothing in this procedure shall preclude MSB from removing a student respondent from an education program or activity on an emergency basis, provided MSB: (1) undertakes an individualized safety and risk analysis, (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and (3) provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. Emergency removals are not an appropriate action to address emotional or mental health needs, which should instead be addressed by supportive measures. All such removals must be made in accordance with other applicable laws, including but not limited to the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act.

- C. Administrative Leave.** Nothing in this Procedure shall preclude MSB from placing a non-student employee respondent on administrative leave during the pendency of the grievance process described below. Placement of any employee on such administrative leave must be made in accordance with other applicable laws, including but not limited to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

- D. Title IX Coordinator's Response to Report of Sex Discrimination or Sexual Harassment.** Upon receiving a report of alleged sex discrimination, including sexual harassment, regardless of whether a formal complaint is filed, the Title IX Coordinator shall promptly contact the complainant to discuss the availability of supportive

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. If the complainant does not wish to file a formal complaint and the Title IX Coordinator concludes that misconduct has occurred that does not meet the definition of sexual harassment as defined in Section II of this Procedure, the Title IX Coordinator shall refer the matter to: (a) the employee's immediate supervisor if the alleged perpetrator is an employee; or (b) the principal if the alleged perpetrator is a student.

The Grievance Process outlined in Section VI below shall be utilized for the immediate assessment, investigation, and resolution of all Title IX sexual harassment formal complaints. With or without a formal complaint, MSB will respond promptly and in the manner described in this subsection V.D.

- E. Confidentiality:** MSB will respect the confidentiality of the complainant, witnesses, and the respondent is filed as much as possible, consistent with MSB's legal obligations and the necessity to investigate allegations of harassment and to take disciplinary action when harassment has occurred.

The complainant, the accused, and witnesses must refrain from talking about the complaint during its investigation, other than as part of MSB's official investigation and disposition.

## **VI. FORMAL GRIEVANCE PROCESS**

- A. General Principles.** Upon receiving a formal complaint, the Title IX Coordinator shall initiate the following grievance process, which shall at all times be guided by the following basic principles:

- (1) **Equitable treatment of the parties** by providing remedies to a complainant after a determination of responsibility against a respondent has been made and by following the grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to MSB's education program or activity. Remedies may include the same actions described as supportive measures, but remedies need not avoid punishing or burdening the respondent.
- (2) **Objective evaluation of all relevant evidence**, including both inculpatory and exculpatory evidence, and prohibit credibility determinations depending on a party's status as complainant, respondent, or witness.
- (3) **Requirement that any person designated as a Title IX Coordinator, investigator, decision maker, or any person designated to facilitate an informal process not have a conflict of interest against complainants and respondents generally or an individual complainant and respondent.** MSB will ensure that all persons serving as Title IX Coordinators, investigators, decision makers, and informal resolution facilitators will receive training on: (a) the definition of sexual harassment set forth above; (b) the scope of MSB's education program or activity; (c) how to conduct an investigation and grievance process; and (d) how to serve impartially. MSB will ensure that investigators also receive training on to prepare an investigation report. MSB will ensure that decision makers also receive training on issues of evidence and questioning, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant. Training shall not rely on sex stereotypes and shall promote impartial investigations and adjudication of formal complaints.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

- (4) **Presumption that the respondent is not responsible for the alleged conduct until a determination has been made at the conclusion of the grievance process.**
- (5) **Prompt resolution of the grievance process**, provided, however, that delays may be permissible for good cause such as law enforcement involvement, absence of a party, witness, or advisor, or translation or other accommodation needs.
- (6) **Description of the range of possible disciplinary sanctions** and remedies MSB may implement following any determination of responsibility.
- (7) Application of the **preponderance of the evidence standard** for formal complaints against students and employees.
- (8) Providing of an avenue and permissible bases for the parties to **appeal**.
- (9) Provision of a range of **supportive measures** to the parties.
- (10) Unless waived, the process will not allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected by a **legally recognized privilege**.

**B. Written Notice of Allegations.** Upon receiving a formal complaint, the Title IX Coordinator shall promptly, and in no event more than three (3) business days thereafter, provide written notice to all known parties which shall contain:

- (1) **Notice of the grievance process**, including the informal resolution process;
- (2) **Notice of the allegations**, including sufficient details known at the time (i.e., names of known parties, the conduct alleged to be sexual harassment, the date and location of the conduct, if known) and a deadline (which shall be no fewer than five (5) business days and no greater than ten (10) business days) by which the respondent shall provide a written response to the allegations to both the Title IX Coordinator and the investigator, whom the Title IX Coordinator shall identify;
- (3) **A statement that the respondent is presumed not responsible for the alleged conduct and that responsibility will be determined at the conclusion of the grievance process;**
- (4) **Notice of the parties' right to have any advisor**, who may be, but is not required to be, an attorney;
- (5) **Notice of the parties' right to inspect and review evidence;** and
- (6) **Notice of any provision in the code of conduct that prohibits knowingly making false statements or providing false information during the grievance process.**

If in the course of investigation MSB decides to investigate allegations about the complainant or respondent that are not included in the original written notice, notice of the additional allegations must also be provided in writing to the known parties.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

The Title IX Coordinator shall simultaneously provide a copy of the written notice described above to the investigator who shall have received the training described above. The Title IX Coordinator may serve as the investigator, or may appoint an investigator who is free from conflict of interest and bias and has received all trainings required by this Policy.

### C. Dismissal of Formal Complaint.

- (1) **Mandatory.** The investigator must dismiss a formal complaint if the conduct alleged in the formal complaint:
- a. Would not constitute sexual harassment as defined in Section II of this Procedure even if proved;
  - b. Did not occur in the recipient's education program or activity; or
  - c. Did not occur against a person in the United States of America.

Such a dismissal shall not preclude action by MSB under another provision of MSB's code of conduct.

Upon dismissing any formal complaint, the investigator shall promptly inform the Title IX Coordinator, who shall promptly refer the matter to: (a) the employee's immediate supervisor if the alleged perpetrator is an employee; or (b) the principal if the alleged perpetrator is a student.

- (2) **Permissive.** The investigator or decision maker may dismiss a formal complaint or any allegations therein if at any time during the investigation or other proceeding:
- a. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - b. The respondent is no longer enrolled or employed by MSB; or
  - c. Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- (3) **Notice Required.** Upon a dismissal required or permitted under this subsection, the Title IX Coordinator, investigator, or decision maker must promptly send written notice of the dismissal and reasons therefor simultaneously to the parties.

**D. Consolidation of Formal Complaints.** MSB may consolidate formal complaints against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### E. Investigation of Formal Complaint.

The applicable Title IX Coordinator, or a designee, will serve as the investigator.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

Upon receiving the respondent's written response to the allegations contained in the written notice described above, the investigator shall:

- (1) Promptly:
  - a. Interview the complainant and respondent within five (5) business days of the investigator receiving the respondent's written response (barring extenuating circumstances); and
  - b. Interview any individuals identified in the Title IX Coordinator's written notice, the respondent's written response, and/or the interviews with the complainant and respondent within ten (10) business days following the interviews of the complainant and respondent (barring extenuating circumstances);
- (2) Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- (3) Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
- (4) Provide the parties with the same opportunities to have others present during any meetings or proceedings, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney, provided, however, that the investigator and/or decision maker may establish restrictions regarding the extent to which the advisor may participate in the meetings or proceedings, as long as the restrictions apply equally to both parties;
- (5) Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings, with sufficient time for the party to prepare to participate;
- (6) Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege;
- (7) Provide both parties:
  - a. An equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including evidence upon which the investigator does not intend to rely; and
  - b. At least ten (10) business days from the provision of such evidence to submit a written response to such evidence; and
- (8) Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) business days prior to a time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021



(9) If the matter is referred to the Department of Social Services (DSS) or the Police, MSB will not investigate until DSS or the Police have completed the evidence gathering process, but will promptly resume the investigation thereafter. MSB will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the school community and the avoidance of retaliation.

(10) The burden of proof and of gathering evidence rests on MSB rather than the parties, except that certain treatment records cannot be obtained without the voluntary, written consent from the party or parent.

**F. Informal Resolution.** After the filing of a formal complaint but before a determination regarding responsibility has been issued, MSB may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that MSB:

(1) Provides the parties written notice disclosing:

- a. The allegations;
- b. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and
- c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

(2) Obtains the parties' voluntary, written consent to the informal resolution process; and

(3) Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

**G. Range of Disciplinary Sanctions and Remedies.** Sanctions and remedies may only be implemented following issuance of a determination regarding responsibility and should be implemented in a measured way based upon the totality of the circumstances. The following are examples of possible sanctions and remedies:

- (1) As to students, change of student educational placement, suspension, and expulsion; and
- (2) As to employees, suspension without pay and termination of employment.

**H. Determination Regarding Responsibility.**

The decision maker for complaints against students and staff is the Superintendent of MSB.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

After the investigative report is sent to the parties, and before reaching a determination, regarding responsibility, the decision maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow additional, limited follow-up questions from each party. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence 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. The decision maker must explain to the party proposing the questions any decision to exclude a question as not relevant.

The decision maker, who shall not be the same person as the investigator, shall issue a written a determination regarding responsibility, which shall apply the preponderance of the evidence standard, and which shall contain:

- (1) **Identification of the allegations potentially constituting sexual harassment** as defined in Section II of this Procedure;
- (2) **A description of the procedural steps taken from receipt of the formal complaint through the determination**, including any notifications to the parties, interviews with the parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- (3) **Findings of fact supporting the determination**;
- (4) **Conclusions regarding the application of MSB's code of conduct to the facts**;
- (5) **A statement of, and rationale for, the result as to each allegation**, including a determination regarding responsibility, any disciplinary sanctions MSB imposes on the respondent, and whether remedies designed to restore or preserve equal access to MSB's education program or activity will be provided by MSB to the complainant; and
- (6) **MSB's procedures and permissible bases for the complainant and respondent to appeal**.

The decision maker shall provide the written determination to the parties simultaneously and shall also provide a copy to the Title IX Coordinator. The determination regarding responsibility becomes final either on the date that MSB provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

If the respondent is a student, disciplinary action shall be taken in accordance with the Student Handbook.

If the respondent is a tenured certificated employee and the disciplinary sanction is suspension without pay or termination of employment, the decision maker shall follow the procedure set forth in MSB Policies 2212 and 2270, as applicable.

The Title IX Coordinator is responsible for overseeing the effective implementation of any remedies.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

If the final determination is that the alleged conduct occurred but did not meet the definition of sexual harassment as defined in Section II of this Procedure, the Title IX Coordinator shall refer the matter to: (a) the employee's immediate supervisor if the alleged perpetrator is an employee; or (b) the principal if the alleged perpetrator is a student.

**I. Appeals.** Either party may appeal a determination regarding responsibility or a dismissal of a formal complaint or any allegations therein on the following bases:

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
- (3) 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 affected the outcome of the matter.

Such appeal must be made in writing to the Title IX Coordinator within ten (10) business days of the issuance of the decision being appealed and shall provide in detail the grounds supporting the appeal. The Title IX Coordinator shall promptly notify the other party in writing when an appeal is filed and simultaneously provide a copy of the appeal materials.

The Title IX Coordinator shall also notify both parties regarding the identity of the decision-maker who will preside over the appeal.

The decision maker in student and employee appeals is the Director of Residential and Related Services.

The decision maker who presides over the appeal shall not be the same person as the decision maker who reached the decision being appealed, the investigator, or the Title IX Coordinator. Each party shall have the opportunity to submit a written response to any appeal no more than ten (10) business days after the Title IX Coordinator provides a copy of the appeal materials. The decision maker presiding over the appeal shall issue a written decision simultaneously to both parties and to the Title IX Coordinator describing the result of the appeal and the rationale for the result.

**J. Recordkeeping.** MSB shall maintain for a period of seven (7) years records of:

- (1) Each sexual harassment investigation, including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to MSB's education program or activity;
- (2) Any appeal and the result therefrom;
- (3) Any informal resolution and the result therefrom; and

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

- (4) All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process. MSB shall make these training materials publicly available on its website.

For each response required under Section V of this Procedure, MSB shall create and maintain for a period of seven (7) years records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, MSB shall document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to MSB's education program or activity. If MSB does not provide a complainant with supportive measures, then MSB shall document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

## VII. RETALIATION

- A. Retaliation Prohibited.** MSB shall not, and shall not permit any of its employees, agents, or students, to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX and its regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding.

MSB shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted or required by law.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination described above.

- B. Conduct Not Constituting Retaliation.** The exercise of rights protected under the First Amendment does not constitute retaliation under this Procedure. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation under this Procedure.

## VIII. CONDUCT NOT RISING TO THE LEVEL OF SEXUAL HARASSMENT AS DEFINED IN SECTION II OF THIS PROCEDURE.

MSB acknowledges that there may be instances when a student or employee exhibits harassing behavior of a sexual nature that nevertheless does not meet the definition of "sexual harassment" as defined by Section II of this Procedure (which is based upon the definition "sexual harassment" set forth in the Title IX regulations, *see* 34 C.F.R. § 106.30). Such conduct is nevertheless prohibited and may be the subject of discipline pursuant to other MSB Policies and Procedures as well as codes of employee and student conduct.

APPROVED:

*W. Robert Hair*

DATE: 8/13/2021

**Notification, Training and Posting:** To ensure compliance with this policy and consistent application of procedures, the Superintendent's direct reports shall provide annual notice of this policy to employees to include initial and annual training.

The HR Department shall post this Policy and Procedure on the MSB Intranet.

APPROVED:

*W. Robert Blair*

DATE: 8/13/2021