



**INFORMAL RESOLUTION PROCESS**  
**DISCRIMINATORY HARASSMENT & TITLE IX COMPLAINTS**  
**Effective August 14, 2020**

Hampton City Schools will act on any formal or informal allegation or notice of violation of policy GBAB/JHGB (Discriminatory Harassment and Retaliation) that is received by the Title IX Coordinator or a member of the Title IX Team. If the allegation is within the scope of Title IX sexual harassment, a formal written complaint must be filed. Technology-facilitated Informal Resolution can be made available, should the parties not be able or willing to meet in person.

Policy GBAB/JHGB permits informal resolution if the following procedural elements are met:

- A complaint must be filed.
- The Title IX Coordinator has determined that the complaint is amenable to the Informal Resolution Process.
- The process may be used at any point prior to reaching a determination of responsibility.
- The parties provide voluntary, written consent to use the informal process.
- The parties are provided with a written notice that includes:
  - The reported misconduct/allegations;
  - The requirements of the informal resolution process, including the circumstances under which, once completed, it precludes the parties from changing their minds and reverting to a formal grievance process;
  - The right of the parties to withdraw from the informal resolution process and resume the formal grievance process;
  - Any consequences resulting from participating in the process, including what sanctions could result, as well as any records that will be maintained and/or could be shared; and
  - Whether the resolution would be binding on the parties.

**I. Title IX Coordinator Determination**

Upon receipt of a complaint or notice of an alleged violation of policy GBAB/JHGB, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Supportive measures because the Complainant does not want to proceed formally; and/or
- 2) An Informal Resolution Process; and/or
- 3) A Formal Resolution Process including an investigation.

The principles to be considered for determining whether informal resolution is appropriate include:

- Informal resolution can be applied in any sex/gender-based interpersonal conflict but should only be cautiously considered for violent incidents. Situations involving dangerous patterns or significant ongoing threat to the HCS community should not be resolved by informal resolution.
- Some approaches require a reasonable gesture toward accountability (this could be more than an acknowledgement of harm) and some acceptance, or at least recognition, by the Respondent that catharsis is of value and likely the primary goal of the Complainant. A full admission by the Respondent is not a prerequisite. This willingness needs to be vetted carefully in advance by the Title IX Coordinator.

When it is determined that an Informal Resolution Process is appropriate, the procedures described below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, employees, or third parties. These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical abuse of another).

## **II. Informal Resolution**

Informal Resolution can include three different approaches:

1. When the parties agree to resolve the matter through an alternate resolution mechanism (e.g., mediation, restorative practices);
2. When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
3. When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Resolution Process, and any party participating in Informal Resolution can stop the

process at any time and begin or resume the Formal Resolution Process.

Prior to implementing Informal Resolution, HCS will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the division.

The Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

- **Informal Resolution** can result in an accord or agreement between the parties (Complainant, Respondent, Recipient) which is summarized in writing by and enforced by the Recipient. This is the primary goal of the process.
- As a secondary goal, **Informal Resolution** can result in the voluntary acceptance of "sanctions," meaning that a Respondent could agree to withdraw, self-suspend (by taking a leave of absence), or undertake other restrictions/transfers/online course options that would help to ensure the safety/educational access of the Complainant, in lieu of formal sanctions that would create a formal record for the Respondent. These are enforceable by the Recipient as part of the accord/agreement, as may be terms of mutual release, non-disparagement, and/or non-disclosure.
- **Informal Resolution** can result in the voluntary imposition of safety measures, remedies, and/or agreed-upon resolutions by the parties, that are enforceable by the Recipient. These can be part of the accord/agreement.
- While a non-disclosure agreement (NDA) could result from Informal Resolution, it would have to be mutually agreed-upon by the parties in an environment of non-coercion verified by the Title IX Coordinator.

## 1. Alternate Resolution

Alternate Resolution is an informal process (e.g., mediation or restorative practices) by which a mutually agreed upon resolution of an allegation is reached. All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;

- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Alternative approaches can inform formal resolution, as in a formal resolution model infused with restorative practices. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

Alternate Resolution approaches to Informal Resolution must be facilitated by the recipient or a third-party. There may be value in creating clearly agreed-upon ground rules, which the parties must sign in advance and agree to abide by, otherwise the informal resolution process will be deemed to have failed.

## **2. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the division are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of policy GBAB/JHGB and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal resolution Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **3. Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the division. Negotiated Resolutions are not appealable.

### **Concluding the Informal Resolution Process**

Successful Informal Resolution agreements are not appealable. If Informal Resolution fails, a formal resolution can take place thereafter. Evidence elicited within the “safe space” of the Informal Resolution facilitation may be later admissible in the formal resolution process.

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