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6 Sexual Harassment of Employees

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8 The District does not discriminate on the basis of sex in any education program or activity that it operates.
9 The District is required by Title IX of the Education Amendments of 1972 and the regulations
10 promulgated through the U.S. Department of Education not to discriminate in such a manner. Inquiries
11 about the application of Title IX to the District may be referred to the District’s Title IX Coordinator, to
12 the Assistant Secretary for Civil Rights of the Department of Education, or both.

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14 The Board designates the following individual to serve as the District’s Title IX Coordinator:

15
16 Matt Porrovecchio, Special Services Director/AD
17 600 Commerce St., Bigfork, MT 59911
18 mattp@bigfork.k12.mt.us
19 406-837-7400
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21 Any person may report sex discrimination, including sexual harassment, at any time, including during
22 non-business hours. Such a report may be made using the attached form, in person, by mail, by telephone
23 or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other
24 means that results in the Title IX Coordinator receiving the person’s verbal or written report.
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26 For purposes of this policy and the grievance process, “sexual harassment” means conduct on the basis of
27 sex that satisfies one or more of the following:

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29 1. A District employee conditioning the provision of an aid, benefit, or service of the District on
30 an individual’s participation in unwelcome sexual conduct;
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32 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and
33 objectively offensive that it effectively denies a person equal access to the District’s education
34 program or activity; or
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36 3. “Sexual assault” as defined in 20 USC 1092(f)(6)(A)(v), “dating violence” as defined in 34
37 USC 12291(a)(10), “domestic violence” as defined in 34 USC 12291(a)(8) or “stalking” as
38 defined in 34 USC 12291(a)(30).
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40 When the harassment or discrimination on the basis of sex does not meet the definition of sexual
41 harassment, the Title IX Coordinator shall direct the individual to the applicable sex discrimination
42 process for investigation.
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44 An individual is not required to submit a report of sexual harassment involving the Title IX coordinator.
45 In the event the Title IX Coordinator is responsible for or a witness to the alleged harassment, the
46 individual may report the allegations to the building principal or superintendent or other unbiased school
47 official.
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4 Retaliation Prohibited
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6 The District prohibits intimidation, threats, coercion or discrimination against any individual for the
7 purpose of interfering with any right or privilege secured by Title IX or this policy, or because the
8 individual has made a report or complaint, testified, assisted, or participated or
9 refused to participate in any manner in an investigation proceeding or hearing, if applicable. Intimidation,
10 threats, coercion, or discrimination, including charges against an individual for code of conduct violations
11 that do not involve sex discrimination or sexual harassment, but arise out of the same facts or
12 circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual
13 harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part,
14 constitutes retaliation.
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16 Confidentiality
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18 The District must keep confidential the identity of any individual who has made a report or complaint of
19 sex discrimination, including any individual who has made a report or filed a formal complaint of sexual
20 harassment, any individual who has been alleged to be the victim or perpetrator of conduct that could
21 constitute sexual harassment, and any witness, except as may be permitted by Family Educational Rights
22 and Privacy Act (FERPA) or as required by law, or to carry out the purposes of the Title IX regulations,
23 including the conduct of any investigation, hearing or judicial proceeding arising thereunder.
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25 Notice Requirements
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27 The District provides notice to applicants for admission and employment, students, parents or legal
28 guardians of elementary and secondary school students, employees and the union(s) with the name or
29 title, office address, email address and telephone number of the Title IX Coordinator and notice of the
30 District grievance procedures and process, including how to report or file a complaint of sex
31 discrimination, how to file a formal complaint of sexual harassment and how the District will respond.
32 The District also posts the Title IX Coordinator's contact information and Title IX policies and
33 procedures in a prominent location on the District website and in all handbooks made available by the
34 District.
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36 Training Requirements
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38 The District ensures that Title IX Coordinators, investigators, decision-makers, and any person who
39 facilitates an informal resolution process, receives training on the definition of sexual harassment, the
40 scope of the District's education program or activity, how to conduct an investigation and grievance
41 process including hearings, appeals and informal resolution processes, when applicable, and how to serve
42 impartially including by avoiding prejudgment of the facts at issue, conflicts of interest and bias. The
43 District also ensures that decision-makers and investigators receive training on issues of relevance of
44 questions and evidence, including when questions and evidence about the complainant's sexual
45 predisposition or prior sexual behavior are not relevant as set forth in the formal procedures that follow,
46 and training on any technology to be used at a live hearing, if applicable. Investigators also receive
47 training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
48 All materials used to train individuals who receive training under this section must not rely on sex
49 stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual
50 harassment and are made publicly available on the District's website.
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Conflict of Interest and Bias

The District ensures that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process do not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

Determination of Responsibility

The individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment is presumed not responsible for alleged conduct. A determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation in accordance with the process outlined in Policy 5012P. No disciplinary sanctions will be imposed unless and until a final determination of responsibility is reached.

Cross Reference: Policy 5010 - Equal Employment and Non-Discrimination
Policy 5012P – Sexual Harassment Procedures

Legal References: Art. X, Sec. 1, Montana Constitution – Educational goals and duties
§§ 49-3-101, et seq., MCA Montana Human Rights Act
Civil Rights Act, Title VI; 42 USC 2000d et seq.
Civil Rights Act, Title VII; 42 USC 2000e et seq.
Education Amendments of 1972, Title IX; 20 USC 1681 et seq.
34 CFR Part 106 Nondiscrimination on the basis of sex in
education programs or activities receiving
Federal financial assistance
10.55.701(1)(f), ARM Board of Trustees
10.55.719, ARM Student Protection Procedures
10.55.801(1)(a), ARM School Climate

Policy History:

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