

School Board

Administrative Procedure – Title IX Sexual Harassment Response

The District responds to all reports of alleged Title IX Sex Discrimination regardless of whether the Complainant is filed. Use this procedure to implement the District’s response to reports of Title IX Sex Discrimination, as that term is defined in 34 C.F.R. §106.10.

The response steps outlined in this procedure include: Notice of Nondiscrimination, Training, Notification of Information, Response to Allegations, Supportive Measures, Title IX Complaint Initiation, Consideration of Removal of the Respondent, and Recordkeeping. Title IX Complaints are processed using the District’s Title IX Complaint Grievance Process (Grievance Process) under administrative procedure 2:265-AP2, *Formal Title IX Complaint Grievance Process*.

Glossary of Terms

Use exhibit 2:265-E, *Title IX Glossary of Terms*, in conjunction with this procedure.

Notice of Nondiscrimination

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| <p>Superintendent or Designee</p> | <p>Develops a notice of nondiscrimination that includes the following elements (34 C.F.R. §106.8 (c)(1)(i):</p> <ol style="list-style-type: none"> 1. A statement that the District 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 employment; 2. A statement that inquiries about the application of the Title IX to the District may be referred to the District’s Title IX Coordinator, the U.S. Dept. of Education’s Office for Civil Rights, or both; 3. The name, office address, email address, and telephone number of the District’s Title IX Coordinator; 4. How to locate Board policy 2:265, Title IX Grievance Procedure, and the Grievance Process; and 5. How to report information about conduct that may constitute sex discrimination under Title IX and how to make a complaint of sex discrimination. <p>The following sample notice of nondiscrimination meets the minimum requirements of Title IX regulations:</p> <p>The District does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that operates, as required by Title IX and its regulations, including in employment. Inquiries about Title IX may be referred to the District’s Title IX Coordinator, the U.S. Dept. of Education’s Office for Civil Rights, or both. The District’s Title IX Coordinator is Ray Chung address; 7700 Gross Point Rd. Skokie, IL 60077 Email; raychu@d219.org Office Tel; (847) 626-3982. The District’s nondiscrimination policy and grievance procedures can be located at https://www.niles219.org/about/board-of-educations. To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to https://www.niles219.org/about/contact-us-district/title-ii-and-title-ix-contacts.</p> |

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| | <p>Provides the notice of nondiscrimination to students, parents/guardians/ or other authorized legal representatives of students, employees, applicants for employment, and all union and professional organizations holding collective bargaining or professional agreements with the District. 34 C.F.R. §106.8 (c).</p> <p>Ensures that all elements of the notice of nondiscrimination are prominently included on the District’s website and in each handbook, catalog, announcement, bulletin, and application from that the District makes available to persons entitled to receive the notice, or which are otherwise used in connection with the recruitment of employees. Alternatively, where necessary due to the format or size of a particular publication, a publication may include a statement that the District prohibits sex discrimination in any education program or activity that it operates and that individuals may report concerns or questions to the Title IX Coordinator, and provide the location of the notice on the District’s website. 34 C.F.R. §106.8 (c)(2)(i)-(ii)</p> <p>The following sample abbreviated nondiscrimination statement meets the minimum requirements of the Title IX regulations:</p> <p>The District prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at https://www.niles219.org/about/contact-us-district/title-ii-and-title-ix-contacts.</p> <p>Ensures that the District does not use or distribute a publication stating that the District treats applicants, students, or employees differently on the basis of sex, except as such treatment is permitted by Title IX. 34 C.F.R. §106.8 (c)(2)(iii)</p> |

Training

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| <p>Superintendent or Designee</p> | <p>Ensures that upon hiring or a change of position that alters a below identified person’s duties under Title IX, and annually thereafter (34 C.F.R. §106.8(d)):</p> <ol style="list-style-type: none"> 1. Tier 1: all District employees receive training on: <ol style="list-style-type: none"> a. The District’s obligation to address Title IX Sex Discrimination in its education program or activity; b. The scope of conduct that constitutes Title IX Sex Discrimination, including the definition of sex-based harassment; and c. All applicable notification and information requirements under the Notification and Information subhead, below (34 C.F.R. §§106.40(b)(2) and 106.44). 2. Tier 2: in addition to Tier 1 training, above all designated Investigators, Decision makers, Appeal Decision makers, and other persons responsible for implementing the Grievance Process, or who have the authority to |

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| | <p>modify or terminate supportive measures under 34 C.F.R. §106.44(g)(4) receive training on, to the extent related to their responsibilities:</p> <ol style="list-style-type: none"> a. The District’s obligation under 34 C.F.R. §106.44 (see this administrative procedure, 2:265-AP1, <i>Title IX Response</i>); b. The District’s Grievance Process under 34 C.F.R. §106.45 (see administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i>); c. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and d. The meaning and application of the term <i>relevant</i> in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under 34 C.F.R. §106.45 (see exhibit 2:265-E, <i>Title IX Glossary of Terms</i>). <p>3. Tier 3: in addition to Tier 1 training, above, all facilitators of an informal resolution process under 34 C.F.R. §106.44(k) receive training on:</p> <ol style="list-style-type: none"> a. The rules and practices associated with the District’s informal resolution process; and b. How to serve impartially, including by avoiding conflicts of interest and bias. <p>4. Tier 4: in addition to Tier 1-3 training, above, the Title IX Coordinator and any designees receive training on:</p> <ol style="list-style-type: none"> a. Their specific responsibilities under Title IX (see 34 C.F.R. §§106.8(a), 106.40(b)(3), 106.44(f) and (g)); b. The District’s recordkeeping system and the recordkeeping requirements under 34 C.F.R. §106.44(f); and c. Any other training necessary to coordinate the District’s compliance with Title IX and its implementing regulations. <p>5. All materials used to provide the training outlined in Nos. 1-4 are made available upon request for inspection by members of the public. See exhibit 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>.</p> |
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Notification and Information

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| <p>All District employees who are not <i>confidential employees</i> (see below)</p> | <p>Upon receiving information about conduct that reasonably may constitute Title IX Sex Discrimination:</p> <ol style="list-style-type: none"> 1. Immediately report a suspicion of child abuse or neglect to the Ill. Dept. of Children and Family Services on its Child Abuse Hotline 1-800-25-Abuse (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside of Illinois); or 1-800-3358-5117 (TTY)). 2. Promptly notify the Title IX Coordinator. 34 C.F.R. § 106.44 (c)(1). |

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| | <p>Upon receiving information of a student’s pregnancy or related conditions from the student or a person who has a legal right to act on behalf of the student, promptly (34 C.F.R. § 1106.40(b)(2)):</p> <ol style="list-style-type: none"> 1. Provide that person with the Title IX Coordinator’s contact information; and 2. Inform that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to the District’s program or activity. |
| <p><i>Confidential employees, if any.</i></p> | <p>Upon receiving information about conduct that reasonably may constitute Title IX Sex Discrimination:</p> <ol style="list-style-type: none"> 1. Immediately report a suspicion of child abuse or neglect to the Ill. Dept. of Children and Family Services on its Child Abuse Hotline 1-800-25-Abuse (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside of Illinois); or 1-800-3358-5117 (TTY)). 2. Explain the following to the person who informs the confidential employee of conduct that reasonably may constitute Title IX Sex Discrimination (34 C.F.R. § 106.44(d)(2)): <ol style="list-style-type: none"> a. The employee’s status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination; b. How to contact the District’s Title IX Coordinator and how to make a Complaint of sex discrimination; and c. That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the Grievance Process. See Section F. Informal Resolution of Title IX Complaint in administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i>. |

Response to Allegations

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| <p>Title IX Coordinator or Designee</p> | <p>Upon being notified of conduct that the notifying party believes reasonably may constitute Title IX Sex Discrimination, analyzes the allegation(s) to determine whether the conduct as alleged could constitute Title IX Sex Discrimination. When the Title IX Coordinator reasonable determines that the conduct as alleged could constitute Title IX Sex Discrimination, takes the following actions to promptly and effectively end any Title IX Sex Discrimination in the Districts education program or activity, prevent its recurrence, and remedy its effects:</p> <ol style="list-style-type: none"> 1. Treats the Complaint and Respond equitably. 34 C.F.R. §106.44(f)(1)(i). 2. Offers and coordinates supportive measurements, as appropriate, for the Complainant. 34 C.F.R. §106.44(f)(1)(ii). See Supportive Measures below. |

3. If the District has initiated the Grievance Process or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent. Id. See **Supportive Measures**, below.
4. Notifies the Complainant or, if the Complainant is unknown, the individual who reported the conduct, of: the Grievance Process; and the informal resolutions process, if available and appropriate. 34 C.F.R. §106.44(f)(1)(iii)(A).

Note: The U.S. Dept. of Education anticipates that during such whether the individual reporting the alleged discrimination wants the District to conduct an investigation, and notes that “nothing” in the final regulations would preclude the Title IX Coordinator from memorializing in writing the outcome of that conversation to help avoid any possible confusion about agreed upon next steps. “89 Fed. Reg. 33487.
5. If a complaint is made, notifies the Responded of: the Grievance Process; and the informal resolution process, if available and appropriate. 34 C.F.R. §106.44(f)(1)(iii)(B).
6. In response to a Complaint, initiates: the Grievance Process; or the informal resolution process, if available and appropriate and requested by all parties. 34 C.F.R. §106.44(f)(1)(iv).
7. In the absence of a Complaint of the withdrawals of any or all of the allegations in a Complaint, and in the absences or termination of an informal resolution process, determines whether to initiate a Complaint of the Title IX Sex Discrimination under the Grievance Process, considering the factors outlined in **Initiation of a Title IX Complaint**, below. 34 C.F.R. §106.44(f)(1)(v).
8. If initiating a Complaint under No. 7 above, notifies the Complainant prior to doing so and appropriately addresses reasonable concerns about the Complainant’s safety or the safety of others, including by providing supportive measures. 34 C.F.R. §106.44(f)(1)(vi).
9. Regardless of whether a Complaint is initiated, takes other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual Complainant, if any, to ensure that Title IX Sex Discrimination does not continue or reoccur within the District’s education program or activity. 34 C.F.R. §106.44(f)(1)(vii).

Regardless of whether the Title IX Coordinator reasonably determines that the conduct as alleged could constitute Title IX Sex Discrimination, considers whether action under any of the following policies is required, either in lieu of or in addition to any action under Board policy 2:265, *Title IX Grievance Procedure*:

2:260, Uniform Grievance Procedure

5:10, Employment Opportunity and Black, Indigenous, and People of Color Recruitment

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| | <p>5:20, <i>Workplace Harassment Prohibited</i> 5:90, <i>Abused and Neglected Child Reporting</i> 5:120, <i>Employee Ethics; Conduct; and Conflict of Interest</i> 7:10, <i>Equal Educational Opportunities</i> 7:20, <i>Harassment of Students Prohibited</i> 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i> 7:185, <i>Teen Dating Violence Prohibited</i> 7:190, <i>Student Behavior</i></p> <p>Answers the following questions:</p> <ol style="list-style-type: none"> 1. Does another appropriate method exist for processing and reviewing the sexual harassment allegation? 2. If yes, does that other method govern the District’s response in addition to or at the exclusion of policy 2:265, <i>Title Grievance Procedure</i>? <p>See 2:265-E, <i>Title Glossary of Terms</i>, for a discussion of sex discrimination governed by laws other than Title IX. Consult the board attorney for guidance.</p> |
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Supportive Measures

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| <p>Title IX Coordinator or Designee</p> | <p>Where the Title IX Coordinator has knowledge of conduct that reasonably may constitute Title IX Sex Discrimination in the District’s education program or activity, offers and coordinates supportive measures, as appropriate, for the Complainant. 34 C.F.R. §106.44(g). Where the District has initiated the Grievance Process or offered an informal resolution process to the Respondent, offers and coordinates supportive measures, as appropriate, for the Respondent. <u>Id.</u></p> <p>Note: For allegations of Title IX Sex Discrimination other than sex based harassment or retaliation, the District is not required to alter the alleged discriminatory conduct for the purposes of providing a supportive measure. This is because “such discrimination will likely relate to either sex discrimination allegations arising out of alleged unequal access to resources or facilities or allegations arising out of alleged sex discrimination in an educational setting such as different treatment on the basis of sex ”an there” will be few appropriate supportive measures for such discrimination, other than eliminating the source of the “discrimination” but eliminating the source of the discrimination “may only be provided as a remedy.” 89 Fed. Reg. 33863.</p> <p>When determining appropriate supportive measures, considers relevant factors, including the following:</p> <ol style="list-style-type: none"> 1. Supportive measures may vary depending on what the District deems reasonable available. These measures may include, but are not limited to: counseling; extensions of deadlines and other course related adjustments; campus escort services; increased security and |

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| | <p>monitoring of certain areas of school grounds; restrictions on contact applied to one or more 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; and training and education programs related to sex-based harassment. 34 C.F.R. §106.44(g)(1).</p> <p>Note: Many actions taken by school personnel to quickly intervene and correct behavior, i.e., having educational conversation with students or changing student seating, may be considered reasonable supportive measures. 89 Fed. Reg. 33608.</p> <p>2. Supportive measures must not unreasonable burden either party and must be designed to protect the safety of the parties or the District’s educational environment, or to provide support during the Grievance Process or during the informal resolution process. Supportive measures may not be imposed for punitive or disciplinary reasons. 34 C.F.R. §106.44(g)(2).</p> <p>If the Complainant or Respondent is a student with a disability, consults with one or more members, as appropriate, of the student’s Individualized Education Program (IEP) team (34 C.F.R. §300.21), if any, or oen or more members, as appropriate, of the group of persons responsible for the student’s placement decision under 34 C.F.R. §104.35(c), if any. This consultation is needed to determine how to comply with the requirements of the Individuals with Disabilities Education Act (20 U.S.C. §1400 <u>et seq.</u>) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) in the implementation of supportive measures. 34 C.F.R. §106.44(g)(6).</p> <p>At the conclusion of the Grievance Process or at the conclusion of the informal resolution process, determines whether to modify or terminate, as appropriate, any supportive measures previously implemented, or whether to continue such measures beyond that point. 34 C.F.R. §106.44(g)(3).</p> <p>Provides a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them in circumstances change materially. 34 C.F.R. §106.44(g)(4).</p> <p>Provides parties with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the decision to provide, deny, modify, or terminate supportive measures applicable to them. 34 C.F.R. §106.44(g)(4).</p> <p>The impartial employee must be someone other than the employee who made the challenged supportive 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 under Title IX. <u>Id.</u></p> <p>The impartial employee must receive Tier 2 training (see the Training subhead, above.)</p> |
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| | <p>If a party requests modification or reversal of a decision regarding a supportive measure by submitting a written request to the Title IX Coordinator, identifies an impartial employee who will:</p> <ol style="list-style-type: none"> 1. Review the request and other relevant information to determine: whether the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures under the Title IX; and if so, whether modification or reversal of the supportive measures decision is appropriate; 2. Upon conclusion of the review, notify the requesting party and the Title IX Coordinator of the outcome of the review; and 3. As appropriate, notify the other party of any modifications to a supportive measure applicable to that party that results from the review. <p>Ensures that information about supportive measures is not disclosed to persons other than the person to whom they apply, including informing one party of supportive measure or restore or preserve a party’s access to the education program or activity, or when an exception in 34 C.F.R. §106.44(j)(1) through (5) applies, in conjunction with any response required by this procedure. 34 C.F.R. §106.44(g)(5).</p> |
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Title IX Complaint Initiation

A Complaint for purposes of Board policy 2:265, *Title IX Grievance Procedure*, and this procedure, means an oral or written request to the District that can objectively be understood as a request for the District to investigate and make a determination about alleged discrimination under Title IX.

The following persons have a right to make a Complaint (34 C.F.R. §106.45(a)(2)):

1. A Complainant (see Board policy 2:265, *Title IX Grievance Procedure*, and exhibit 2:26-E, *Title IX Glossary of Terms*);
2. A parent/guardian, or other legal representative with the legal right to act on behalf of a Complainant;
3. The Title IX Coordinator, after making the determination specified in No. 7 under the **Response to Allegations** subhead, above; and
4. For complaints of Title IX Sex Discrimination other than sex-based harassment, in addition to the persons listed under Nos. 1-3, above:
 - a. Any student or employee; or
 - b. Any person other than a student or employee who was participating or attempting to participate in the District’s education program or activity at the time of the alleged Title IX Sex Discrimination.

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| Title IX Coordinator or Designee | <p>In the absence of a Complaint or the withdrawal of any or all of the allegations in a Complaint, and in the absence or termination of an informal resolution process:</p> <p>Determines whether to initiate a Complaint of Title IX Sex Discrimination under the Grievance Process, considering, at a minimum, the following factors (34 C.F.R. §106.44(f)(1)(v)(A)):</p> |

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| | <ol style="list-style-type: none"> 1. The Complainant’s request not to proceed with initiation of a Complaint; 2. The Complainant’s reasonable safety concerns regarding initiation of a Complaint; 3. The risk that additional acts of sex discrimination would occur if a Complaint is not initiated; 4. The severity of the alleged Title IX Sex Discrimination, including whether the discrimination, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; 5. The age and relationship of the parties, including whether the Respondent is an employee of the District; 6. The scope of the alleged discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals; 7. The availability of evidence to assist a Decisionmaker in determining whether Title IX Sex Discrimination occurred; and 8. Whether the District could end the alleged discrimination and prevent its recurrence without initiating the Grievance Process. <p>When a Complaint is filed by an eligible person or initiated by the Title IX Coordinator:</p> <p>Proceeds to an follows the Grievance Process (34 C.F.R. §106.44(f)(1)(iv) in conjunction with any response required by this procedure and other applicable District policies, See administrative procedure 2:265-AP2, <i>Formal Title IX Complaint Grievance Process</i>.</p> |
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Consideration of Removal of the Respondent

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| Title IX Coordinator | <p>Emergency Removal of Respondent-Student:</p> <p>If the Respondent is an identified student, considers whether the student-Respondent-student should be removed from the District’s education program or activity on an emergency basis in accordance with 34 C.F.R. §106.44(h).</p> <p>Before removing a student-Respondent-student on an emergency basis, conducts an individualized safety and risk analysis to determine whether removal is justified by an immediate and serious threat to the health or safety of a Complainant or any student, employee, or other persons arising from the allegations of sex discrimination. If the student-Respondent is removed on an emergency basis:</p> <ol style="list-style-type: none"> 1. Provides the student-Respondent with written notice and an opportunity to challenge the decision immediately following the removal; and 2. Follows requirements set forth in 105 ILCS 5/10-22.6. See Board policies 7:200, <i>Suspension Procedures</i>, and 7:210, <i>Expulsion Procedures</i>. <p>Administrative Leave for Employee-Respondent:</p> |

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| | <p>If the Respondent is identified and is a non-student employee, in conjunction with the District’s human resources administrator, considers whether the employee-Respondent should be placed on administrative leave in accordance with 34 C.F.R. §106.44(i), relevant District policies and procedures, and any applicable collective bargaining agreements. See Board policies 5:240, <i>Suspension</i>, and 5:290, <i>Employment Termination and Suspensions</i>.</p> <p>Note: While Title IX regulations do not impose a time limit on the duration of an emergency removal, time limits may apply based upon District policies and procedures, any applicable collective bargaining agreements, and other laws and regulations, e.g., the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and 105 LCS 5/10-22.6.</p> |
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Recordkeeping

| Actor | Action |
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| Title IX Coordinator or Designee | <p>Maintains, for a period of at least seven (7) years (34 C.F.R. §106.8(f):</p> <ol style="list-style-type: none"> 1. For each Complaint of Title IX Sex Discrimination, records documenting the informal resolution process or the Grievance Process, and the resulting outcome. Records should include: complaints (formal and informal), supportive measures, the informal resolution process, investigations, final determinations, appeals, remedies, and any other relevant information related to allegations of Title IX Sex Discrimination. 2. For each notification the Title IX Coordinator receives about conduct that reasonably may constitute Title IX sex discrimination, records documenting the actions the District took to meet its obligations under 34 C.F.R. §106.44. 3. All materials used to provide the training outlined in Nos. 1-4 under the Training subhead, above. <p>See Board policy 5:150, <i>Personnel Records</i>, and administrative procedure 5:150-AP, <i>Personnel Records</i>, addressing the identification, storage, and access to personnel records.</p> <p>See Board policy 7:340, <i>Student Records</i>, along with administrative procedures 7:340-AP1, <i>School Student Records</i>, and 7:340-AP2, <i>Storage and Destruction of School Student Records</i>, addressing the District’s legal obligations regarding the identification, confidentiality, safeguarding, access, and disposal of school student records.</p> |

Admin. Review: September 10, 2024