

Gender-Based Violence, Discrimination, Harassment and Your Rights

How Can I File A Complaint or Concern? Who Can I Speak With?

⇒ You can file a complaint online at <https://www.k12espanola.org/>. You may also fill out a complaint form available at any school office or speak to any Administrator. In addition, you may report a concern verbally or by email to Title IX Director, Fanny Castillo at:

fanny.castillo@k12espanola.org. PHONE: 505-901-2549 or 505-367-3351

⇒ Students may also contact the Department of Education Office for Civil Rights to report sexual harassment by writing a letter or filing a complaint form, available at www.ed.gov/about/offices/list/ocr/complaintro.html.

What Happens After I File A Complaint? What Qualifies for An Inquiry?

⇒ Complaints will be screened by the Title IX Coordinator to determine if the complaint meets mandated Title IX criteria. If the complaint does not meet Title IX criteria, the issue will be referred to student conduct code for review and discipline.

⇒ In order for a complaint to qualify for a Title IX inquiry the District must have Substantial Control over both the Accused and Context in which the alleged incident (s) occurred. The accused must be a student or staff member. The Context, or location, in which the incident (s) occurred must have occurred on campus or in the classroom, at an off campus sponsored event, or at an off campus building or field owned by the District.

⇒ The alleged harassment must be considered severe, pervasive, AND objectionably offensive (all three) by a reasonable person OR a crime (even a one-time offense) as defined by the Clery Act including: Rape, Sex Assault, Dating Violence, Domestic Violence, or Stalking.

⇒ There are two options regarding Title IX inquiries. If a complaint qualifies as a Title IX issue, the school or district may conduct an Informal Resolution or a Formal Investigation.

⇒ Both parties, the Complainant and the Accused, may agree to an informal resolution. An Informal Resolution may include mediation, agreed separation, student discipline, or ongoing support measures. Informal resolutions can be individualized, but must be signed.

What are the Title IX Investigation Procedures?

A complainant may withdraw their complaint or agree to an Informal Resolution at any time. (Note: Identities of the complainant and witnesses cannot be kept confidential per new OCR requirements.)

⇒ A Formal Investigation must include the following steps and will take a minimum of 30 days to complete. Investigations may take longer due to work loads and availabilities. The procedures are as follows:

1. A signed complaint is received. Support measures enacted if needed.
2. Decision on complaint jurisdiction will be made by the Title IX Coordinator.
3. Decision between an Informal Resolution and a Formal Investigation must be made.
4. Notice of formal investigation will be sent to both parties if informal inquiry is not agreed upon. Parties may retain Advisors which may include: Attorneys, parents, advocates, etc.
5. Review and collection of evidence: Notice of all interviews will be sent to both parties.
6. Both parties will be given 10 days to inspect evidence and provide written responses.
7. A draft report is prepared by the Investigation Officer. A draft of the investigative report will be sent to both parties for review. Both parties will have 10 days for review and have the chance to provide additional written responses.
8. Final report: The investigative report will be sent to the Decision Maker for review.
9. Both parties may submit written questions to the other party, through the Decision Maker, as a cross examination. Certain questions may be screened out if they concern a party's sexual history or are not considered relevant by the Decision Maker.
10. Decision of violation or no violation will be made by the Decision Maker. Notice of decision and consequences, if applicable, will be sent to both parties in writing.
11. Appeal request may be filed by either party within 5 days of the written determination.
12. Appeals may be filed on specific terms including; procedural irregularity, new evidence availability, or bias on the part of the investigator or Decision Maker.
13. Appeal review and determination will be conducted by the Appellate Officer who will make a final determination and final action.

What Are My Rights During an Investigation?

⇒ You have the right to an Advisor and have them present with you during questioning. Advisors for both parties can be: Attorneys, Parents, Advocates, or any person of choosing.

⇒ You may request Support Measures during the course of the investigation. Support measures must not be punitive. Measures that may be requested by either party include: safety escorts, class re-assignment, locker re-assignment, counseling, mediation, assigned entrances and exits, assigned parking spots, assigned lunch tables, staff check-ins, no contact orders, modified hallway passing periods, etc.

⇒ Every complainant and accused have the right to be notified, in writing, of the outcome of the complaint and their right to appeal the outcome. Even though privacy laws limit disclosure of certain information in disciplinary proceedings, schools must disclose to the complainant information about any sanctions imposed on the accused when the sanction directly relates to the complainant.

⇒ You may withdraw your school-based Title IX complaint at any time. However, if a crime is alleged, it still must be reported to police. All EPS Employees are mandated reporters.

⇒ Accused students and staff have the right to know who is filing a complaint against them and the names of all identified witnesses. Both parties will have access to all evidence