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Monitoring: Review: Annually, in March	Descriptor Term: Title IX & Sexual Harassment	Descriptor Code: 6.3041	Issued Date:
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1 *General*

2 In order to maintain a safe, civil, and supportive learning environment, all forms of sexual harassment
3 and discrimination on the basis of sex are prohibited.¹ This policy shall cover employees, employees'
4 behaviors, students, and students' behaviors while on school property, at any school-sponsored activity,
5 on school-provided equipment or transportation, or at any official school bus stop in accordance with
6 federal law. This policy shall be disseminated annually to all school staff, students, and
7 parent(s)/guardian(s).² The Title IX Coordinator as well as any personnel chosen to facilitate the
8 grievance process shall not have a conflict of interest against any party of the complaint.³ These
9 individuals shall receive training as to how to promptly and equitably resolve student and employee
10 complaints.³

11 All employees shall receive training on complying with this policy and federal law.⁴

12 **TITLE IX COORDINATOR**⁵

13 The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints of
14 sexual harassment. He/she shall be kept informed by school-level personnel of all investigations and
15 shall provide input on an ongoing basis as appropriate.

16 Any individual may contact the Title IX Coordinator at any time using the information below:

17 **Title:**

18 **Mailing address:**

19 **Phone number:**

20 **Email:**

21 **DEFINITIONS**⁴

22 “Complainant” is an individual who is alleged to be the victim of conduct that could constitute sexual
23 harassment.

24 “Respondent” is an individual who is reported to be the perpetrator of conduct that could constitute
25 sexual harassment.

26 “Sexual harassment” is conduct on the basis of sex that satisfies one or more of the following:³

- 1 1. A school district employee conditioning an aid, benefit, or service of an education program or
2 activity on an individual's participation in unwelcome sexual conduct;
- 3
- 4 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and
5 objectively offensive that it effectively denies a person equal access to the education program
6 or activity; or
- 7 3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state and federal
8 law.

9 Behaviors that constitute sexual harassment may include, but are not limited to:

- 10 1. Sexually suggestive remarks;
- 11
- 12 2. Verbal harassment or abuse;
- 13
- 14 3. Sexually suggestive pictures;
- 15
- 16 4. Sexually suggestive gesturing;
- 17
- 18 5. Harassing or sexually suggestive or offensive messages that are written or electronic;
- 19
- 20 6. Subtle or direct propositions for sexual favors; and
- 21
- 22 7. Touching of a sexual nature.

23 Sexual harassment may be directed against a particular person or persons, or a group, whether of the
24 opposite sex or the same sex.

25 "Supportive measures" are non-disciplinary, non-punitive, individualized services and shall be offered
26 to the complainant and the respondent, as appropriate. These measures may include, but are not limited
27 to, the following:

- 28 1. Counseling;
- 29
- 30 2. Course modifications;
- 31
- 32 3. Schedule changes; and
- 33
- 34 4. Increased monitoring or supervision.

35 The measures offered to the complainant and the respondent shall remain confidential to the extent that
36 maintaining such confidentiality would not impair the ability of the school district to provide the
37 supportive measures.

38 **GRIEVANCE PROCESS**

1 Upon learning of an instance of alleged sexual harassment, even if no formal complaint is filed, the
2 Title IX Coordinator shall:

- 3 1. Promptly contact the complainant to discuss the availability of supportive measures;
- 4
- 5 2. Consider the complainant's wishes with respect to supportive measures;
- 6
- 7 3. Inform the complainant of the availability of supportive measures; and
- 8
- 9 4. Explain the process for filing a formal complaint.¹⁰

10 While the school district will respect the confidentiality of the complainant and the respondent as much
11 as possible, some information may need to be disclosed to appropriate individuals. All disclosures shall
12 be consistent with the school district's legal obligations and the necessity to investigate allegations of
13 harassment and take disciplinary action.

14 Disciplinary consequences or sanctions shall not be initiated against the respondent until the grievance
15 process has been completed. Unless there is an immediate threat to the physical health or safety of any
16 student arising from the allegation of sexual harassment that justifies removal, the respondent's
17 placement shall not be changed.¹¹ If the respondent is an employee, he/she may be placed on
18 administrative leave during the pendency of the grievance process.¹² The Title IX Coordinator shall
19 keep the Director of Schools informed of any employee respondents so that he/she can make any
20 necessary reports to the State Board of Education in compliance with state law.¹³

21 **Complaints**

22 Any individual who has knowledge of behaviors that may constitute a violation of this policy shall
23 immediately report such information to the Title IX Coordinator, however, nothing in this policy requires
24 a complainant to either report or file a formal complaint within a certain timeframe. If the complaint
25 involves the Title IX Coordinator, the complaint shall be filed with the Director of Schools.

26 If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate
27 notification shall be made per the board policy on reporting child abuse.

28 Upon receipt of a formal complaint, the Title IX Coordinator shall promptly:¹⁴

- 29 1. Provide written notice of the allegations, and the grievance process to all known parties to give
30 the respondent time to prepare a response before an initial interview;
- 31
- 32 2. Inform the parties of the prohibition against making false statement or knowingly submitting
33 false information;
- 34
- 35 3. Inform the parties that they may have an advisor present during any subsequent meetings; and
- 36
- 37 4. Offer supportive measures in an equitable manner to both parties.

1 If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for dismissal,
2 shall be provided to both parties simultaneously.¹⁵

3 **Investigations**¹⁶

4 **[NOTE: While the Title IX Coordinator may serve as the investigator, the investigator, decision-**
5 **maker, and the entity that hears appeals must all be separate persons/entities. If the Title IX**
6 **Coordinator serves as the investigator in your district, modify the language accordingly.]**

7 The [**insert title of employee**] shall serve as the investigator and be responsible for investigating
8 complaints in an equitable manner that involves an objective evaluation of all relevant evidence. The
9 burden for obtaining evidence sufficient to reach a determination regarding responsibility rests on the
10 school district and not the complainant or respondent.

11 Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48) hours
12 of receipt of the complaint. If an investigation is not initiated within forty-eight (48) hours, the
13 investigator shall provide the Title IX Coordinator with appropriate documentation detailing the reasons
14 why the investigation was not initiated within the required timeframe.

15 All investigations shall be completed within twenty (20) calendar days from the receipt of the initial
16 complaint. If the investigation is not complete within twenty (20) calendar days, the investigator shall
17 provide the Title IX Coordinator with appropriate documentation detailing the reasons why the
18 investigation has not been completed.

19 All investigations shall:

- 20 1. Provide an equal opportunity for the parties to present witnesses and evidence;
- 21
- 22 2. Not restrict the ability of either party to discuss the allegations under investigation or gather
23 and present relevant evidence;
- 24
- 25 3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that
26 seek disclosure of information protected under a legally recognized privilege unless such
27 privilege has been waived;¹⁷
- 28
- 29 4. Provide the parties with the same opportunities to have others present during any grievance
30 proceeding;
- 31
- 32 5. Provide to parties whose participation is requested written notice of the date, time, location,
33 participants, and purpose of all investigative interviews, or other meetings, with sufficient time
34 for the party to prepare to participate;
- 35
- 36 6. Provide both parties an equal opportunity to inspect and review any evidence directly related to
37 the allegations in the formal complaint; and
- 38
- 39 7. Result in the creation of an investigative report that fairly summarizes relevant evidence.
- 40

- 1 a. Prior to the completion of the investigative report, the investigator shall send to each
2 party the evidence subject to inspection and review. All parties shall have at least ten
3 (10) days to submit a written response which shall be taken into consideration in
4 creating the final report.

5 Within the parameters of the federal Family Educational Rights and Privacy Act,¹⁸ the Title IX
6 Coordinator shall keep the complainant and the respondent informed of the status of the investigation
7 process. At the close of the investigation, a written final report on the investigation will be delivered to
8 the parent(s)/guardian(s) of the complainant, parent(s)/guardian(s) of the respondent, and to the
9 Director of Schools.

10 **Determination of Responsibility**¹⁹

11 The respondent is presumed not responsible for the alleged conduct until a determination regarding
12 responsibility is made at the conclusion of the grievance process.²⁰ The [insert either the
13 preponderance of the evidence standard OR the clear and convincing evidence standard] shall be
14 used in making this determination.²¹

15 [Insert title of employee] shall act as the decision-maker. He/she shall receive the final report of the
16 investigation and allow each party the opportunity to submit written questions that he/she wants asked
17 of any party or witness prior to the determining responsibility.

18 The decision-maker shall make a determination regarding responsibility and provide the written
19 determination to the parties simultaneously along with information about how to file an appeal.

20 A substantiated charge against a student may result in corrective or disciplinary action up to and
21 including expulsion. A substantiated charge against an employee shall result in disciplinary action up to
22 and including termination.

23 After a determination of responsibility is made, the Title IX Coordinator shall work with the complainant
24 to determine if further supportive measures are necessary. The Title IX Coordinator shall also determine
25 whether any other actions are necessary to prevent reoccurrence of the harassment.

26 **APPEALS**²²

27 Either party may appeal from a determination of responsibility based on a procedural irregularity that
28 affected the outcome, new evidence that was not reasonably available at the time of the determination
29 that could affect the outcome, or an alleged conflict of interest on the part of the Title IX Coordinator or
30 any personnel chosen to facilitate the grievance process. Appeals shall be submitted to the Title IX
31 Coordinator within ten (10) days of a determination of responsibility.

32 Upon receipt of an appeal, the Title IX Coordinator shall:

- 33 1. Assign an impartial hearing officer [or insert other entity that may hear the appeal] within
34 five (5) days of receipt of the appeal; and
35
36 2. Notify the parties in writing.

1 During the appeal process, the parties shall have a reasonable, equal opportunity to submit written
 2 statements. Within ten (10) calendar days, the hearing officer shall issue a written decision describing
 3 the result of the appeal and the rationale for the result. The written decision shall be provided
 4 simultaneously to both parties.

5 **RETALIATION**^{r23}

6 Retaliation against any person who makes a report or complaint or assists, participates, or refuses to
 7 participate in any investigation of an act alleged in this policy is prohibited.

Legal References

1. 34 CFR § 106.1
2. 34 CFR § 106.8(b),(c)
3. 34 CFR § 106.45(b)(1)(iii); 34 CFR § 106.45(b)(10)(D)
4. 34 CFR § 106.30(a)
5. 34 CFR § 106.8(a)
6. 20 USCA 1092(f)(6)(A)(v); TCA 36-3-601(10); TCA 71-6-302
7. 34 USCA 12291(a)(10)
8. 34 USCA 12291(a)(8); TCA 40-14-109
9. 34 USCA 12291(a)(30); TCA 39-17-315; TCA 36-3-601(11)
10. 34 CFR § 106.44(a)
11. 34 CFR § 106.44(c)
12. 34 CFR § 106.44(d)
13. TRR/MS 0520-02-03-.09(2); TCA 49-5-417(c)
14. 34 CFR § 106.45(b)(2)
15. 34 CFR § 106.45(b)(3)
16. 34 CFR § 106.45(b)(5); 34 CFR § 106.45(b)(1)(v)
17. 34 CFR § 106.45(b)(1)(x)
18. 20 USCA § 1232g
19. 34 CFR § 106.45(b)(7)
20. 34 CFR § 106.45(b)(1)(iv)
21. 34 CFR § 106.45(b)(1)(vii)
22. 34 CFR § 106.45(b)(8)
23. 34 CFR § 106.71

Cross References

Section 504 and ADA Grievance Procedures 1.802
 Discrimination/Harassment of Employees (Sexual, Racial,
 Ethnic, Religious) 5.500
 Staff-Student Relations 5.610
 Code of Conduct 6.300
 Student Discrimination, Harassment, Bullying, Cyber-
 bullying, and Intimidation 6.304
 Reporting Child Abuse 6.409