

Title IX Sexual Harassment Investigation Process

___ Report of Sexual Harassment

___ Report of Sexual harassment to Title IX Coordinator

___ any person may report

___ in person, by mail, email or telephone

___ need not be during business hours

___ Receipt of Report - Title IX Coordinator's Obligations:

___ determine facts from complainant

___ discuss availability of supportive measures and provide as appropriate

___ inform of right to file formal complaint

___ inform of procedure to file formal complaint

___ if refusal to file formal complaint:

___ Option A - close without action

___ provide supportive measures as appropriate

___ document measures taken to preserve and restore equal access

___ document reasons response not clearly unreasonable

___ maintain confidential report for 7 years

___ Option B - Title IX Coordinator signs and opens investigation

___ report sufficient to impart actual knowledge of sexual harassment or assault against student

___ report implies pattern of sexual harassment by person in position of authority

___ **Formal Complaint of Sexual Harassment**

___ **Initiation of Investigation**

- ___ Initiate investigation immediately upon receipt of complaint - either by Complainant or Title IX Coordinator
- ___ Review of complaint (Title IX Coordinator)
- ___ Notice to parties (Title IX Coordinator)

Required:

- ___ Details of allegations
- ___ Presumption respondent not responsible
- ___ Right to advisor/attorney of their choosing
- ___ Right to inspect and review evidence
- ___ prohibition against false statements or submission of false information

Recommended:

- ___ prohibition against retaliation
- ___ notice of equitable treatment
- ___ notice of Title IX Coordinator's right to consolidate if appropriate
- ___ notice regarding potential emergency removals or administrative leave during pendency of investigation if necessary and appropriate

Expanded Allegations:

- ___ allegations expanded during course of investigation
- ___ subsequent notice to parties detailing new allegations
- ___ Dismissal of Complaint Before or During Investigation (Title IX Coordinator)

Mandatory:

- ___ conduct (if true) would not constitute "sexual harassment"
- ___ conduct did not occur in school district's educational program or activity
- ___ Conduct did not occur against person in U.S.

___ Potential action under other provisions of code of conduct not precluded

Discretionary:

___ Complainant wishes to withdraw complaint

___ Respondent no longer enrolled or employed

___ Specific circumstances prevent ability to gather evidence sufficient to reach determination

Notice of Dismissal:

___ simultaneous notice to parties with specific reasons (Title IX Coordinator)

___ **Investigation Procedures (Investigator)**

___ Burden of proof and to gather evidence on Title IX Coordinator and Investigator

___ No access of medical/treatment records without consent

___ Equal opportunity to both parties to present witnesses, evidence, and submit written questions to witnesses and other parties

___ no restriction of any party to disclose/discuss allegations with 3rd parties

___ restrict discussion of evidence and investigative summaries with 3rd parties (except advisor/attorney)

___ restrict redisclosure of information protected by FERPA

___ prohibition of questions/evidence about complainant's sexual predisposition or prior sexual behavior, unless offered to:

___ prove someone other than respondent committed alleged conduct

___ prior behavior with respondent offered to prove consent

___ **Advisor/Attorney**

___ both parties to have opportunity to have advisor present during procedures and interviews (may be attorney)

___ no limits on choice of advisor

- ___ may establish restrictions as to advisor's participation in proceedings, meetings, and interviews
- ___ Notice of date, time, location, participation, and purpose fo all proceedings, meetings, or interviews with sufficient time to prepare
- ___ provide copy of all evidence obtained to each party to review
 - ___ allow 10 days to respond
- ___ after response, create investigative report fairly summarizing all relevant evidence
 - ___ provide to both parties and parties' advisors for review at least ten days before goes to decision maker (or hearing if applicable)
 - ___ allow 7 days to submit written response and list of relevant questions to be answered by another party or witness
 - ___ forward to decision-maker

___ **Making a Determination of Responsibility (Decision-Maker)**

- ___ notice to parties of any irrelevant questions
- ___ obtain answers to questions posed by parties
- ___ provide answers to questions to both parties
- ___ allow additional time for follow-up questions
- ___ applying appropriate standard of evidence, evaluate from perspective of reasonable person standing in shoes of complainant
- ___ issue written determination to both parties, including:
 - ___ identification of allegations
 - ___ description of procedural steps
 - ___ findings of fact supporting determination
 - ___ conclusions regarding application of code of conduct to the facts
 - ___ statement of rationale for result as to each allegation with determination of responsibility

- ___ include list of disciplinary sanctions and remedies (as appropriate)
- ___ notice of and process for appeal

___ **Appeal**

- ___ both parties have right to appeal on following bases:
 - ___ procedural irregularity
 - ___ new evidence previously unavailable
 - ___ conflict of interest or bias
 - ___ any other bases as determined by school district
- ___ notify parties of any appeal filed
- ___ implement appeal process equally for both parties
- ___ decision-maker on appeal not title IX Coordinator, Investigator, or Decision-Maker
- ___ comply with standard of evidence
- ___ both parties opportunity to submit written statement
- ___ issue final decision simultaneously to both parties

___ **Informal Resolution (Facilitator - may be Title IX Coordinator)**

- ___ not permitted where allegations against employee toward student
- ___ notice of process, including rights and consequences
- ___ must be accomplished prior to final determination
- ___ voluntary process
- ___ obtain voluntary, written consent

___ **Record Keeping (Maintain for 7 years)**

___ each sexual harassment investigation file, including all evidence

___ ay appeals and results of appeals

___ informal resolution documents

___ information regarding supportive measures taken in response to a report or formal complaint