



Training Material for New Title IX Regulations

Title IX Sexual Harassment

- **Conduct on the basis of sex that satisfies one or more of the following:**
 1. An employee of the District conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct (Quid Pro Quo);
 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity; or
 3. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined under Federal Law.
 4. Applies to any Education program or activity

REPORTING

- School Employees who have reason to believe that another employee, student, or visitor has been subjected to Title IX Sexual Harassment are required to promptly make a report to the Title IX Coordinator.
- Once there is an identified ‘Complainant’ (i.e. the person who was subjected to the harassment), the Coordinator will meet to discuss available supportive measures and explain process of filing a formal complaint.

REPORTING

- The Coordinator must report all reports and formal complaints to the Superintendent.
- Once any employee of the District has received a report, the District can be 'deemed' to have actual knowledge of the report.

Reporting

- Once Report is made, Coordinator must meet with Complainant to advise of supportive measures and to make Complainant aware of options.
- Coordinator will need to determine if potential violations of other District Policies occurred and may need to investigate those violations pursuant to applicable Board Policy.
- Investigation may also serve as a preliminary Title IX investigation (if Complainant doesn't file a Formal Complaint) to determine if Coordinator should file Complaint.

Reporting

- School must “reasonably respond” to every report.
- After report, both parties are entitled to “supportive measures”

Supportive Measures

- Designed to restore or preserve equal access to educational program or activity, and to protect safety.
- Measures will be tailored to specific circumstances.
- May include counseling, extensions of deadlines, modification of work/class schedules, etc.,

Formal Complaint

- Complainant or legal guardian may file formal written complaint (draft form in District's Procedures).
- Coordinator must dismiss the formal complaint if the allegations, taken as true, do not constitute Title IX sexual harassment, or if they did not occur within the District's scope.
- Coordinator may dismiss a formal complaint in certain other circumstances, such as at a Complainant's request.

Formal Complaint

- Coordinator may file a formal complaint in certain circumstances, such as when the Respondent poses a safety threat within the District, or is a repeat offender.
- The formal complaint is not exclusive, and the alleged behavior may be addressed pursuant to other laws and/or Board policies.

Emergency Removal

- If the Complainant's safety is at risk, the Superintendent may remove a Respondent student from educational programs, on an emergency basis, after a Threat Assessment, notice of the action, and an opportunity to challenge the action (using the same procedure applicable to suspensions), or may suspend, with pay, an employee pursuant to the District's disciplinary policy.

After a Formal Complaint

- Coordinator must provide detailed written notice of the formal complaint and allegations.
- (Procedure 09.428111AP.11)
- Must wait ten (10) days before interviews
- Supportive measures offered to all parties
- Informal resolution is an option if all parties agree.

Informal Resolution Process

- Can only occur after a formal complaint has been filed.
- Cannot be used where Complainant is student and Respondent is an employee.
- Must be signed by all parties.

Investigation Process

- Formal Complaint must be investigated by a trained investigator designated by the Superintendent, and may consult with District legal counsel.
- Investigator may consult with Title IX Coordinator.
- Investigator will interview each party and interview/question them to ascertain facts and obtain relevant evidence.
- Procedure 09.428111AP.11

Investigation Process

- Follow detailed step-by-step guide in District's Procedures.
- Parties may have advisors present, and have a right to review evidence obtained in the investigation.
- Provide parties with an investigation report. Parties have ten days to file a response. (Can use file-sharing software).

Investigation Process

- Consider parties' responses.
- Create a report that fully summarizes the evidence and include a recommendation on whether a violation occurred. Send report to parties, and they have another ten (10) days to respond.
- The Report and responses are sent to the Decision Maker (designated by the Superintendent).

Investigation Process

- Report must be made within 40 days of Notice of Formal Complaint.
- Each party may have an advisor of choice present at any meeting

Decision Making Process

- Decision Maker cannot be the Investigator or the Title IX Coordinator.
- Parties have five (5) days to submit questions they want asked of the other Party.
- Decision Maker may limit or exclude questions, but must provide a written basis for doing so.

Decision Making Process

- Parties are permitted to review report and response of other party.
- Can submit follow-up questions within five (5) days of receiving the answers.
- Decision Maker shall review all material and issue a written determination using the Preponderance of the Evidence Standard (“more likely than not”).

Decision Making Process

- Written Determination must be provided to all parties simultaneously, and must be issued within thirty (30) days of receipt of the Investigator's report and recommendation.
- (Approx. 70 from Notice of Formal Complaint).
- Appeal must be filed within five (5) days.

Appeal Process

- Written appeal filed with Superintendent must state grounds and arguments for reversal or modification of the determination.
- Allowable grounds include a procedural irregularity, new evidence, and conflict of interest or bias.
- Appellate Decision Maker can be the Superintendent, if haven't served as Decision Maker.
- Appellate Decision Maker shall notify other parties of appeal and provide copies of same.

Appeal Process

- Parties have five (5) days to submit written response to appeal.
- Appellate Decision Maker shall review appeal, response, and the record of the matter, and issue a written decision.

Results of Ruling

- Wide range of remedial and/or disciplinary options available.
- Can include both sanctions against Respondent, and supportive measures for Complainant.

Miscellaneous

- Records must be kept for seven (7) years.
- Board Policy and Procedure is your guide.
- Absolutely no Retaliation.
- Complainant and Respondent to be treated equally and fairly throughout process.

Retaliation

- No employee may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because an individual made a report or formal complaint, or participated, or refused to participate, in any Title IX investigation, proceeding, or hearing.

Questions

- Questions??
- Review Board Policy and Procedures
- Board Counsel may be involved throughout entire process.
- <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>