



Fannett Independent School District
P.O. Box 223, Hamshire, Texas 77622

Longhorns



(409) 243-2133
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TITLE IX TRAINING REQUIREMENT NOTIFICATION

Hamshire-Fannett's Title IX personnel have attended training provided by Karczewski, Bradshaw, Spalding Law firm in compliance with 34 C.F.R. §105.45(b)(10)(i)(D). Materials from this training are available here: . Materials include training slides as well as the district's non-discrimination policies DIA (LOCAL) and FFH/FFI (LOCAL), which identifies the district's Title IX coordinator and contact information.

EMPLOYEE WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

DIA
(LOCAL)

Note: This policy addresses discrimination, harassment, and retaliation involving District employees. For discrimination, harassment, and retaliation involving students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Definitions

Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

**Statement of
Nondiscrimination**

The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law, that adversely affects the employee’s employment.

Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee’s race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or
3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

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1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Examples

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, communication, or contact.

Retaliation

The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

Examples

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Reporting Procedures

An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal.

Alternatively, the employee may report the alleged acts to one of the District officials below.

Definition of District Officials

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment, may be directed to the designated Title IX coordinator. [See DIA(EXHIBIT)]

ADA / Section 504 Coordinator

Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator. [See DIA(EXHIBIT)]

Superintendent

The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.

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(LOCAL)

**Alternative
Reporting
Procedures**

An employee shall not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Timely Reporting

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the District's ability to investigate and address the prohibited conduct.

Notice of Report

Any District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate District official listed above and take any other steps required by this policy.

**Investigation of the
Report**

The District may request, but shall not insist upon, a written report. If a report is made orally, the District official shall reduce the report to written form.

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District official shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If appropriate, the District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the campus principal or supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

**Concluding the
Investigation**

Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

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(LOCAL)

The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the investigation.

District Action

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

Confidentiality

To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant may have a right to file a complaint with appropriate state or federal agencies.

Records Retention

Copies of reports alleging prohibited conduct, investigation reports, and related records shall be maintained by the District for a period of at least three years. [See CPC]

Access to Policy

This policy shall be distributed annually to District employees. Copies of the policy shall be readily available at each campus and the District administrative offices.

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for employees:

Name: Jon Burris
Position: Assistant Superintendent
Address: 12702 2nd Street, Hamshire, TX 77622
Email: [Title IX coordinator](mailto:jburriss@hfhorns.net) (jburriss@hfhorns.net)
Telephone: (409) 243-2133

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for employees:

Name: Stephen Edwards
Position: Assistant Superintendent
Address: 12702 2nd Street, Hamshire, TX 77622
Email: [ADA/Section 504 coordinator](mailto:sfe@hfhorns.net) (sfe@hfhorns.net)
Telephone: (409) 243-2133

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH
(LOCAL)

Note: This policy addresses discrimination, harassment, and retaliation involving District students. For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

**Statement of
Nondiscrimination**

The District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law. The District prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

**Prohibited
Harassment**

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Prohibited harassment includes dating violence as defined by this policy.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

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FFH
(LOCAL)

Sexual Harassment

By an Employee

Sexual harassment of a student by a District employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:
 - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - b. Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or inappropriate social relationships between students and District employees are prohibited. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See DH]

By Others

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other physical contact not reasonably construed as sexual in nature is not sexual harassment.

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Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

Dating Violence

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the

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student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.

Retaliation

The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

False Claim

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

**Reporting
Procedures**

Student Report

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal, other District employee, or the appropriate District official listed in this policy.

Employee Report

Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.

*Definition of
District Officials*

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

*Title IX
Coordinator*

Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the designated Title IX coordinator for students. [See FFH(EXHIBIT)]

*ADA /
Section 504
Coordinator*

Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator for students. [See FFH(EXHIBIT)]

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FFH
(LOCAL)

<i>Superintendent</i>	The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws.
Alternative Reporting Procedures	<p>A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
Timely Reporting	Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.
Notice to Parents	<p>The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.</p> <p>[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]</p>
Investigation of the Report	The District may request, but shall not require, a written report. If a report is made orally, the District official shall reduce the report to written form.
Initial Assessment	<p>Upon receipt or notice of a report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District shall immediately undertake an investigation, except as provided below at Criminal Investigation.</p> <p>If the District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the District official shall refer the complaint for consideration under FFI.</p>
Interim Action	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of the District's investigation.
District Investigation	The investigation may be conducted by the District official or a designee, such as the principal, or by a third party designated by the District, such as an attorney. When appropriate, the principal shall be involved in or informed of the investigation.

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	<p>The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p>
<p>Criminal Investigation</p>	<p>If a law enforcement or regulatory agency notifies the District that a criminal or regulatory investigation has been initiated, the District shall confer with the agency to determine if the District investigation would impede the criminal or regulatory investigation. The District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, the District shall promptly resume its investigation.</p>
<p>Concluding the Investigation</p>	<p>Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the District to delay its investigation, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.</p> <p>The investigator shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct or bullying occurred. The report shall be filed with the District official overseeing the investigation.</p>
<p><i>Notification of Outcome</i></p>	<p>Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.</p>
<p>District Action</p>	
<p>Prohibited Conduct</p>	<p>If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.</p>
<p><i>Corrective Action</i></p>	<p>Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the District's policy against discrimination and harassment.</p>
<p>Bullying</p>	<p>If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate</p>

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notice to parents and District action. The District official shall refer to FDB for transfer provisions.

Improper Conduct

If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.

Confidentiality

To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A student or parent who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level. A student or parent shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

Records Retention

The District shall retain copies of allegations, investigation reports, and related records regarding any prohibited conduct in accordance with the District's records retention schedules, but for no less than the minimum amount of time required by law. [See CPC]

Access to Policy and Procedures

Information regarding this policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and readily available at each campus and the District's administrative offices.

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for students:

Name: Jon Burris
Position: Assistant Superintendent
Address: 12702 2nd Street, Hamshire, TX 77622
Email: [Title IX coordinator](mailto:jburris@hfhorns.net) (jburris@hfhorns.net)
Telephone: (409) 243-2133

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for students:

Name: Stephen Edwards
Position: Assistant Superintendent
Address: 12702 2nd Street, Hamshire, TX 77622
Email: [ADA/Section 504 coordinator](mailto:sfe@hfhorns.net) (sfe@hfhorns.net)
Telephone: (409) 243-2133

STUDENT WELFARE
FREEDOM FROM BULLYING

FFI
(LOCAL)

Note: This policy addresses bullying of District students. For purposes of this policy, the term bullying includes cyber-bullying.

For provisions regarding discrimination and harassment involving District students, see FFH. Note that FFI shall be used in conjunction with FFH for certain prohibited conduct. For reporting requirements related to child abuse and neglect, see FFG.

Bullying Prohibited

The District prohibits bullying, including cyberbullying, as defined by state law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Examples

Bullying of a student could occur by physical contact or through electronic means and may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name calling, rumor spreading, or ostracism.

Retaliation

The District prohibits retaliation by a student or District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

False Claim

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding bullying shall be subject to appropriate disciplinary action.

Timely Reporting

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.

**Reporting
Procedures**

Student Report

To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, school counselor, principal, or other District employee. The Superintendent shall develop procedures allowing a student to anonymously report an alleged incident of bullying.

Employee Report

Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee.

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FREEDOM FROM BULLYING

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(LOCAL)

Report Format	A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.
Notice of Report	When an allegation of bullying is reported, the principal or designee shall notify a parent of the alleged victim on or before the third business day after the incident is reported. The principal or designee shall also notify a parent of the student alleged to have engaged in the conduct within a reasonable amount of time after the incident is reported.
Prohibited Conduct	The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, sex, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.
Investigation of Report	The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.
Concluding the Investigation	<p>Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the initial report alleging bullying; however, the principal or designee shall take additional time if necessary to complete a thorough investigation.</p> <p>The principal or designee shall prepare a final, written report of the investigation. The report shall include a determination of whether bullying occurred, and if so, whether the victim used reasonable self-defense. A copy of the report shall be sent to the Superintendent or designee.</p>
Notice to Parents	If an incident of bullying is confirmed, the principal or designee shall promptly notify the parents of the victim and of the student who engaged in bullying.
District Action	If the results of an investigation indicate that bullying occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the District's Student Code of Conduct and may take corrective action reasonably calculated to address the conduct. The District may notify law enforcement in certain circumstances.
<i>Discipline</i>	A student who is a victim of bullying and who used reasonable self-defense in response to the bullying shall not be subject to disciplinary action.

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FREEDOM FROM BULLYING

FFI
(LOCAL)

	The discipline of a student with a disability is subject to applicable state and federal law in addition to the Student Code of Conduct.
<i>Corrective Action</i>	Examples of corrective action may include a training program for the individuals involved in the complaint, a comprehensive education program for the school community, follow-up inquiries to determine whether any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where bullying has occurred, and reaffirming the District's policy against bullying.
<i>Transfers</i>	The principal or designee shall refer to FDB for transfer provisions.
<i>Counseling</i>	The principal or designee shall notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.
Improper Conduct	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the Student Code of Conduct or any other appropriate corrective action.
Confidentiality	To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.
Appeal	A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level.
Records Retention	Retention of records shall be in accordance with CPC(LOCAL).
Access to Policy and Procedures	This policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and shall be readily available at each campus and the District's administrative offices.



TITLE IX 2020 REGULATIONS

August 11, 2020

Sierra D. Fisher

KARCZEWSKI | BRADSHAW | SPALDING



Line Up

- Brief History of TITLE IX
- Compliance with Mandatory Training Provisions

... “receive training on the definition of sexual harassment in § 106.30, the scope of the recipient’s education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of this section. A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.”

What is Title IX?

- Title IX of the Educational Amendments of 1972
- Prohibits discrimination on the basis of sex in education programs and activities that receive federal funds
 - *School Districts!*
- Began as enforcement mechanism for gender equity in athletics, then broadened to sexual discrimination
- Until recently, neither Title IX nor its implementing regulations referred to sexual harassment
- Updates become effective August 14, 2020

Sexual Harassment Defined

- Conduct on the basis of sex that is one or more of the following:
 - *Quid pro quo harassment by a district employee*
 - *Hostile environment (newly defined)*
 - *A type of sexual violence defined by federal law*

Quid Pro Quo Sexual Harassment

- Definition: An employee making an aid, service, or benefit of the district conditional on an individual's participation in unwelcome sexual conduct
- **NEW**: ONLY APPLIES TO EMPLOYEE CONDUCT (not volunteer, another student, etc.)
- Unwelcomeness and severity of conduct is presumed

Hostile Environment Sexual Harassment

■ OLD DEFINITION

- Unwelcome conduct
- Determined by a reasonable person
- To be severe, pervasive, or persistent, and to interfere with or limit a student's ability to participate in or benefit from school services, activities, or opportunities

■ NEW DEFINITION

- Unwelcome conduct
- Determined by a reasonable person
- To be so severe, pervasive, AND objectively offensive that it effectively denies a person's equal access to the recipient's education program or activity

Violence Against Women Act (VAWA) Big 4

- Sexual Assault (20 U.S.C. § 1092(f)(6)(A)(v))
- Domestic Violence (34 U.S.C. § 12291(a)(8))
- Dating Violence (34 U.S.C. § 12291(a)(10))
- Stalking (34 U.S.C. § 12291(a)(3))

- *There is no severe and pervasive requirement for these!*

Required Response

- A recipient (the District)
 - *With actual knowledge of sexual harassment*
 - *In an education program or activity of the recipient*
 - *Against a person in the United States*
 - *Must respond promptly in a manner that is not deliberately indifferent*

❖ 34 C.F.R. § 106.44(a)

Actual Knowledge

- Notice of sexual harassment or allegations of sexual harassment to:
 - *Title IX Coordinator*
 - *An official with authority to institute corrective measures*
 - **ANY EMPLOYEE** *of an elementary or secondary school*
 - ❖ This could be a custodian, teacher, bus driver, etc.

What's considered “education program or activity?”

- Location, events, or circumstance where the district exhibits substantial control over both the alleged harasser and the “context” in which the harassment occurred
 - Must be in the United States
- Might include cyberharassment
- This is going to be fact intensive for each case
- Doesn't negate David's Law requirements

Deliberate Indifference

■ OLD DEFINITION (OCR Guidance)

- *The school must take immediate action to eliminate the sexual harassment or sexual violence, prevent its recurrence, and address its effects*

■ NEW DEFINITION (Final Rule)

- *Failure to respond reasonably in light of known circumstances*



RESPONDING TO A REPORT/COMPLAINT

2 PART RESPONSE

Response after actual knowledge (“report”)

- Even if no formal, written complaint, MUST document response

Response after
“Formal Complaint”

New Terminology

■ Complainant

- Person alleged to be the victim of sexual harassment
- Not necessarily the person reporting
- Parent may act on behalf of minor student

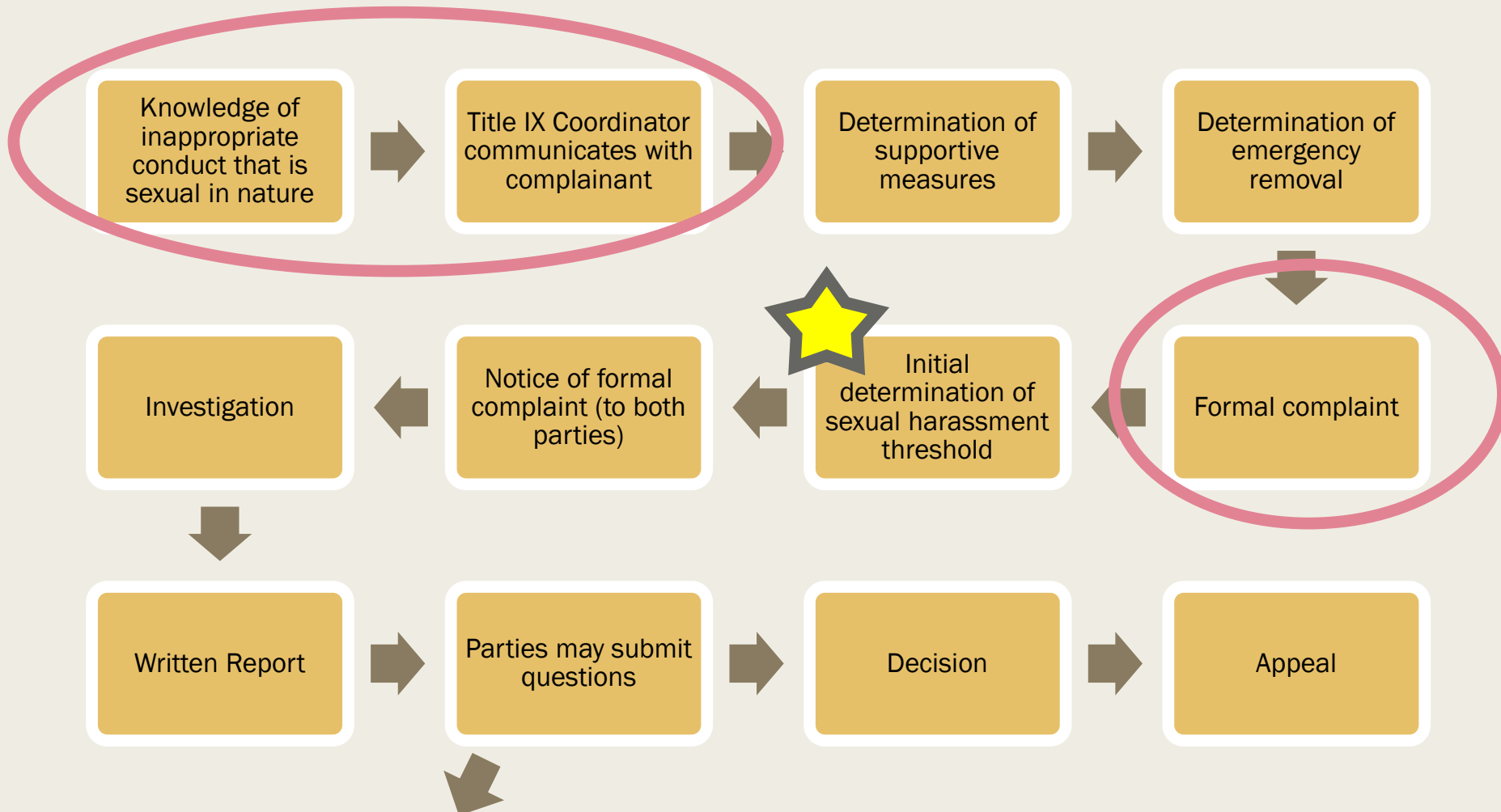
■ Respondent

- Person alleged to be the perpetrator of sexual harassment



New Basic Title IX Process

Much Lengthier Process!



10 days between report and decision to submit questions

Who's involved?



Title IX Coordinator



Investigator




Decision-Maker




Appeal
Decision-Maker



Informal Resolution Facilitator



TITLE IX COORDINATOR



Title IX Coordinator

- Main point of contact regarding Title IX
- Must designate on website and handbooks with name, number, email
- Can have more than one
- Can have deputy Title IX Coordinators
- Supervises the process
 - Assigns investigators
 - Assigns decision-makers, appeal decisions makers
 - Assigns facilitators
 - Ensures compliance with final sanctions

Title IX Coordinator

When a report comes in...

- Contact complainant and respondent to discuss supportive measures
 - To both parties
 - Available with or without a formal complaint
- Use to be called “interim measures”
- Non-punitive
- Individualized services to preserve and restore equal access to education programs/activities

Title IX Coordinator

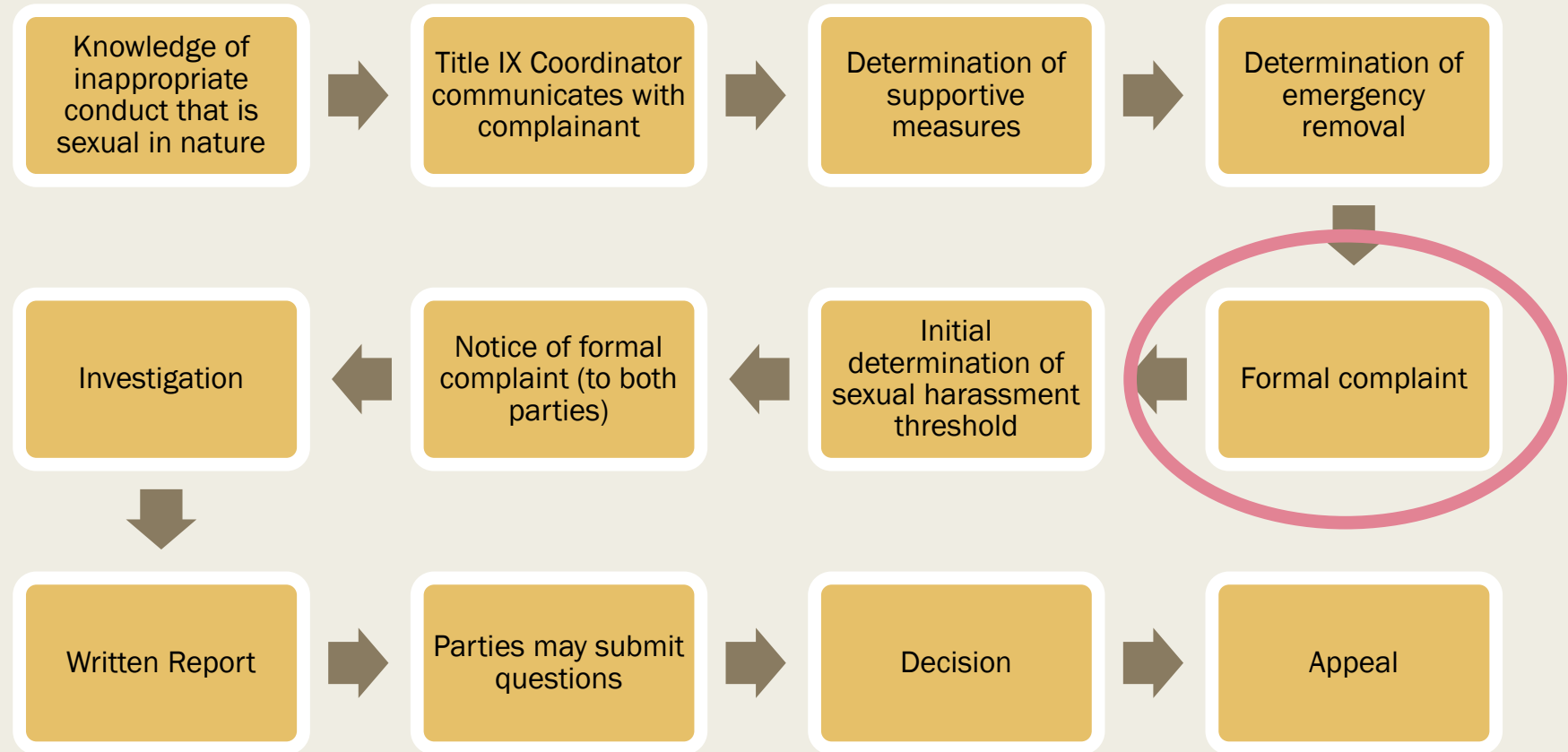
-Responding to report, cont'd

- Examples (include)
 - Stay away agreements; mutual restrictions
 - Increased monitoring; escort
 - Counseling
 - Extensions of deadlines/course changes
 - Schedule changes
- Explain the complaint process
- Ensure no disciplinary sanctions are put in place against respondent until grievance process is complete
 - However, can take emergency measures
 - Can recommend placing an employee on administrative leave with pay (only the Superintendent can make that placement)

Discipline

- A district's response must treat complainants and respondents equitably by offering supportive measures to a complainant and by following a grievance process that complies with Title IX regulations BEFORE the imposition of any disciplinary sanctions that are not supportive measures against a respondent

❖ 34 CFR § 106.44(a)



What is a Formal Complaint?

- A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient (District) investigate the allegation of sexual harassment
 - Can only be submitted by the alleged victim (complainant), the minor victim's parent, or the Title IX coordinator

Formal Complaint Process

12 Basic Requirements

1. Equitable treatment of Complainants and Respondents
2. Objective evaluation of all relevant evidence
3. Requirement that Title IX Coordinator, investigator, decision-maker, or informal resolution facilitator not have a conflict of interest or bias
4. Presumption that the Respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process

5. Timeframes that provide a reasonably prompt conclusion of the Title IX formal complaint process, including time frames for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law.
6. Description of the possible disciplinary sanctions that may be implemented following a determination of sexual harassment
7. A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegation therein

9. A description of the supportive measures available to the Complainant and Respondent
10. Prohibition on using or seeking information under a legally recognized privilege unless the individual holding the privilege has waived the privilege.
11. Additional formal complaint procedures required by law including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures
12. Other local procedures as determined by the Superintendent.

Complaint Form

- Require inclusion of the following elements in the written report
 - *Detailed description of allegations*
 - *Statement that victim believes he/she has experienced sexual harassment*
 - *Statement that victim wishes to institute formal Title IX grievance process*
 - *Signature/date of:*
 - Victim/parent
 - Title IX Coordinator (evidencing date of receipt of grievance)

Title IX Coordinator

Complainant does not wish to file

- Even if a formal complaint is not filed, the school district can investigate and respond to prohibited conduct in accordance with Policy and Student Code of Conduct
 - *Except when threat to community → must investigate*
 - *As long as we can respond to prevent future harassment of Complainant and others, do not have to investigate if Complainant does not want*
 - *And must explain the consequences to the Complainant of not filing a formal complaint*
 - *Document if Complainant does not follow through*

Title IX Coordinator

Complainant does not wish to file, cont.

- Can sign a formal complaint on behalf of complainant
 - *A Complainant's wishes with respect to whether the school investigates should be respected unless the Title IX Coordinator determines that signing the formal complaint is not clearly unreasonable in light of the known circumstances*
 - *Can also initiate grievance procedures where discipline is appropriate*

Title IX Coordinator

What to do when a complaint is made

- Complaint received
 - Unlike Board Policy FNG, there is no deadline to file
 - Can consolidate
- Must provide written notice to the parties



- ✓ Allegations of sexual harassment
- ✓ Statement that the respondent is presumed NOT responsible for the alleged conduct until a determination is made at the conclusion of the grievance process
- ✓ Inform parties that they may have an advisor of their choice
- ✓ Inform of policy/student code of conduct that prohibits knowingly making false statements/submitting false information during an investigation

Title IX Coordinator

Procedures to Dismiss the Complaint

■ Mandatory Dismissal

- Allegations do not constitute sexual harassment as defined, if true
- Did not occur in District program or activity
 - Consider in person effects of out of activity/program conduct
- Did not occur in the United States

■ Discretionary Dismissal

- Complainant no longer wants to pursue (wants to withdraw)
- Respondent is no longer in the District (enrolled or employed)
- The investigation cannot be completed (e.g., passage of time, lack of cooperation by complainant)

- ❖ Must provide written notice of dismissal and subject to appeal
- ❖ Dismissal does not prohibit addressing issues under non-Title IX policies

After determining viable complaint

Title IX Coordinator is the complaint process over-seer

From Formal Complaint to Completion - approximately 60 days

But things may slow it down

- Law enforcement investigation
- Complexity
- Availability of Evidence
- Global Pandemic
- Other temporary delays for good cause

Title IX Coordinator

Record Keeping

- District must maintain records of each response to report or complaint for 7 years and includes:
 - Investigation records
 - Disciplinary sanctions
 - Remedies
 - Appeals
 - Records of any action taken, including supportive measures
 - Records of informal resolution process

Title IX Coordinator

Record Keeping, cont.

- Must document for every instance:
 - How response was not deliberately indifferent
 - That measures were taken to restore or preserve equal access to the educational program or activity
 - If no supportive measures provided, how that was not deliberately indifferent
- Must also post documentation of training compliance on District's website.



IMPARTIALITY, BIAS AND **CONFLICT OF INTEREST**



Roles

- Can use District employees in roles or can outsource
- Certain roles are exclusive and individuals in those roles cannot wear multiple hats

Title IX Coordinator



Title IX Coordinator



Investigator



Decision-Maker



Appeal
Decision-Maker



Informal Resolution Facilitator

Investigator



Title IX Coordinator



Investigator



Decision-Maker



Appeal
Decision-Maker



Informal Resolution Facilitator

Decision Maker



Title IX Coordinator



Investigator



Decision-Maker



Appeal
Decision-Maker



Informal Resolution Facilitator

Appeal Decision-Maker



Title IX Coordinator



Investigator



Decision-Maker



Appeal
Decision-Maker



Informal Resolution Facilitator

Informal Resolution Facilitator



Title IX Coordinator



Investigator



Decision-Maker



Appeal
Decision-Maker



Informal Resolution Facilitator

All Roles

- Investigators, Decision-Makers, Appeal Decision-Makers, and Informal Resolution Facilitators must be:
 - *Impartial*
 - *Free from Bias*
 - *Free from Conflict of Interest*

Impartial

- This means being free from bias
- “Treating all rivals and disputants equally; fair and just”
- Neutral
- Nondiscriminatory
 - *Example: Avoid sex stereotyping*
- Decisions based on objective criteria rather than bias, prejudice

Bias

- Concern about “cover-ups” or protection of one person or institution based on who the investigator/decision-maker is and their role
- “Prejudice in favor of or against one thing, person, or group compared with another, usually in a way that is considered to be unfair”
- Perceived does not mean actual

Conflict of Interest

- Aligned interests
- Conflicting interests
- Perceived does not mean actual

Bottom Line

- Go in with an open mind
- Go in with a clean slate
 - *Example: Avoid prejudgment of facts, witnesses, and parties*
- Be free from stereotypes based on anything, including sex stereotypes
- Do you have a conflict of interest? Perceived or real?
- Keep out all personal beliefs
- If you don't think you can do it or should do it... say something!
 - To Title IX Coordinator



INVESTIGATORS

Investigator

- As the title suggests, your job is to investigate the complaint
- However, you are not the Decision-Maker!
- The District has the burden of proof and burden to gather evidence

Investigator: Prepare

- Review the evidence that has been provided
- What are you researching/What are the allegations
- Review allegations within the context of the definition of sexual harassment
- What do you need to know?
- Create a list of needed evidence (changes along the way)
- Create a list of anticipated witnesses (changes along the way)
- Create an outline of questions for witnesses (but listen and adjust as necessary)

**Notes may be discoverable*

- Make sure witnesses have space to share information you may not have asked about specifically

Investigator: Parameters of Investigation

- Procedure
 - Must provide both parties the opportunity to have an advisor
 - Require a party's written consent before using the party's medical, psychological, or similar treatment records
- Interviews
 - Both parties are guaranteed the right to advance notice, in writing, whenever they are invited or expected to participate in an interview, meeting, or hearing
 - Can't restrict the ability of either party to discuss allegations or to gather and present relevant evidence

Investigator: Parameters of Investigation, cont.

- Written Evidence
 - Must give both parties equal opportunities to inspect and review the evidence obtained in the investigation, if the information is directly related to the allegations
 - Must give both parties equal opportunity to present the relevant evidence that they gather
 - Parties must be allowed to submit written questions to be provided to other party
 - Must give both parties a meaningful opportunity to respond to evidence

Investigator: Interviews

- Best practices in questioning the Complainant, Respondent, and Witnesses:
 - Explain the groundwork for conducting the interview and hold all interviewees to the same standards of conduct and decorum
 - Maintain control of the interview, both in the substance of the questions and answers and in the conduct of those in the room (interviewees and their advisors)

Investigator: Interviews, cont.

- Begin with general, more open-ended questions and work your way to more specific questions
 - Generalized questions can go to the elements of the alleged offense
 - Specific questions should be built off documentary evidence evaluated before the interview, information obtained from prior interviews, and other known facts
- Keep in-mind that interviews are meant to determine disputed issues of fact, and questions should be directed at solving the disputed fact questions

Investigator: Findings

- Investigative Reports
 - After gathering evidence, prepare an investigative report on the allegations
 - DO NOT reach a conclusion
- Give both parties at least 10 days to respond to evidence in writing
 - *If response submitted, must consider that response before finalizing investigative report*
- Finalize the investigative report and provided to both parties
 - Still do not reach a conclusion
 - Must fairly summarize relevant evidence

Notes on Evidentiary Standards: Evidence

- What is “inculpatory” and “exculpatory” evidence?
 - Inculpatory evidence shows or tends to show Respondent’s responsibility
 - Exculpatory evidence shows or tends to show the Respondent is not responsible

Notes of Evidentiary Standards: Relevance

- OCR's Title IX Guidance provides, "The final regulations do not define relevance, and the ordinary meaning of the word should be understood and applied."
- Federal Rule of Civil Procedure 401 provides a commonly understood definition of relevance:
 - Evidence is relevant if:
 - (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
 - (b) the fact is of consequence in determining the action.

Notes on Evidentiary Standards: Evidence

- Evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless:
 - *such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant;*
 - *if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.*

Investigative Report Final Note

- The investigator MUST NOT reach any conclusions—REMEMBER, conclusions in a sexual harassment complaint are reserved for the Decision-Maker
- The purpose of the investigative report is to put the Decision-Maker in the best position to make a thorough, well-reasoned, and supported decision
- Organization and clarity are key in the investigative report
 - The most natural way for a neutral third-party to understand a story is to present it to them chronologically
 - Show your work! Cite to the sources of information gathered in your investigation
 - Proofread to ensure that the investigative report meets the District's standards of professionalism and propriety



DECISION-MAKERS

Decision-Maker

- Can NOT be the person who received the formal complaint or investigated it, including the Title IX Coordinator
- May not issue written determination of responsibility until investigative report has been circulated to parties for 10 days
- Review evidence
- Assess credibility of evidence/witnesses
 - Be objective in the evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a Complainant, Respondent, or Witness

Decision-Maker

- Is there a policy violation?
- Cite reasons for conclusion
- Consider punishments/sanctioning
- Responsibilities
 - Must be free from conflicts of interest or bias for or against Complainants or Respondents
 - Must be impartial
 - Needs to use independent judgment
 - Weigh the relevant evidence, and decide whether it meets the school's standard of evidence for sexual harassment allegations

Decision-Maker

- How to determine relevant evidence
 - Does it help to answer the allegations?
 - Is it about the individuals involved?
 - Is it allowable?
 - NO: sexual behavior or predisposition
 - EXCEPT to determine someone other than respondent committed the behavior
 - EXCEPT specific incidents related to complainant and respondent offered to prove consent
 - NO: information protected by legal privilege
 - NO: party's treatment records (absent voluntary consent)

Decision-Maker

- Presumption of innocence
- Standard of evidence (school decides) (must be consistent)
 - Clear and convincing
 - Sufficient evidence has been presented to make it highly probably to be true that the Respondent engaged in the alleged sexual harassment
 - Preponderance of evidence, in TASB's Model Policy
 - More likely than not that the Respondent committed the alleged sexual harassment

■ Written Decision must include:

- Identification of the allegations potentially constituting sexual harassment
- Description of the procedural steps that were taken by the school on the way to getting to that point (notifications to parties, methods used to gather other evidence, etc.)
- Findings of fact supporting the determination
- Conclusions regarding the application of the Code of Conduct to the facts
- Statement of and rationale for the ultimate determination of responsibility for each allegation and any disciplinary sanctions imposed on the respondent
- Statement of and rationale for any remedies for the Complainant, addressing how those remedies will restore or preserve equal access
- Statement of the District's procedures and basis for appeal
 - Can set deadlines for appeal (put in decision)

***Must be sent to the parties simultaneously*



APPEAL DECISION-MAKER



Appeal Decision-Maker

- Grounds for appeal
 - Dismissal
 - Procedural irregularity affected outcome of the matter
 - New evidence has been discovered that was not reasonably available at the time of the determination on responsibility or dismissal
 - Conflict of Interest of Title IX Coordinator, Investigator, or Decision-Maker, and the conflict of interest affected the outcome
 - Schools can offer additional grounds for appeal, so long as the grounds apply on an equal basis to the parties

Appeal Decision-Maker

- Can NOT be the Decision-Maker, Investigator, or Title IX Coordinator
- Notify parties in writing and implement appeal procedures equally
- Both parties have equal opportunity to submit written statement supporting or challenging the outcome
- After considering parties' written statements, the appeal decision-maker issues a written decision and sends it to the parties simultaneously
- Determination about whether the Respondent is responsible for the sexual harassment **becomes final** after the appeal decision

Retaliation Reminder

- District or any person may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX because the individual has:
 - *Made a report or complaint*
 - *Testified*
 - *Assisted*
 - *Participated in or refused to participate in any manner in an investigation, proceeding, or appeals*



INFORMAL RESOLUTION FACILITATORS



Informal Resolution Process

- Only applies after a formal complaint is filed
- Both parties must give voluntary, informed, written consent
- Cannot use if employee – student
- At any time prior to resolution agreement, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint

Facilitators

- If an agreement is reached
 - Put in writing
 - Be specific with the terms so there is not room for misinterpretation
 - Require confidentiality, as permitted by law
 - Insert consequences for breach of terms or breach of confidentiality
- Student Code of Conduct
 - Have check-in provisions?

Additional Title XI resources

- OCR's Title IX Blog will provide updates on an ongoing basis
 - <https://www2.ed.gov/about/offices/list/ocr/blog/index.html>
- Summary of Major Provisions of the Department of Education's Title IX Final Rule
 - <https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>
- TASB's Title IX Basics
 - <https://www.tasb.org/services/legal-services/tasb-school-law-resource/students/documents/title-ix-basics.pdf>
- TASB Policy Update 115

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