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 of 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
- any appeals and results of appeals
- informal resolution documents
- information regarding supportive measures taken in response to a report or formal complaint