
Note: This regulation addresses sexual harassment involving District students under Title IX. For procedures to address allegations of prohibited conduct *other than* allegations of sexual harassment prohibited by Title IX, see FFH (REGULATION 1). For other types of sex discrimination involving students, such as equitable opportunities for athletics or pregnancy-related claims, see FFH(LOCAL) and FNE(LOCAL). 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.

Title IX Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any student on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) A school employee conditioning an educational benefit or service upon a student's participation in sexual conduct (often called "quid pro quo" harassment);
- (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 District's education programs or activities; or
- (3) Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a)).

**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 that effectively denies a student equal access to the District's education program of activity.

Necessary or permissible physical contact such as assisting a child by taking a 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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However, romantic or inappropriate social relationships between students and District employees are strictly 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 includes harassment committed by another student, unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct when the conduct is severe, pervasive, and objectively offensive to the point it denies a student equal access to the District's education programs or activities.

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 sexual harassment if the conduct is so severe, pervasive, and objectively offensive that the conduct effectively denies a student equal access to the District's education programs or activities.

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, pervasive, and objectively offensive that the conduct effectively denies a student equal access to the District's education program or activity.

Dating violence is defined as "an act, other than a defensive measure to protect oneself, by an actor that:

(1) is committed against a victim or applicant for a protective order:

(A) with whom the actor has or has had a dating relationship; or

(B) because of the victim's or applicant's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and

(2) is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim

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or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault.

Tex. Family Code section 71.0021.

Retaliation

The District prohibits retaliation by a student or District employee against a student alleged to have experienced sexual harassment, a student who makes a good faith report of sexual harassment, serves as a witness, or participates or refuses to participate in an investigation.

Any person who believes he or she has been retaliated against may file a complaint in accordance with the grievance process described in this regulation.

False Claim

A student or employee who intentionally makes a false claim or provides a materially false statement shall be subject to appropriate disciplinary action as defined in this regulation.

Prohibited Conduct

The term "prohibited conduct" includes sex discrimination, harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation as defined by this regulation, 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, assistant principal, or the Title IX Coordinator/designee.**

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 promptly notify a **campus/department administrator** or the **Title IX Coordinator.**

Definition of District Officials

For the purposes of this regulation, **District officials are the Title IX Coordinator/designee and campus and department administrators.**

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)]

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Definition of Complainant	A complainant is a student who is alleged to be the victim of prohibited conduct under this policy.
Definition of Respondent	A respondent is the person who has been reported to be the perpetrator of prohibited conduct under this policy.
Definition of Formal Complaint	A formal complaint means a document filed by a complainant (or complainant's parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegation of sexual harassment.
Alternate 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, 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 promptly report may impair the District's ability to investigate and address the prohibited conduct.
Notice to Parents	<p>Upon receipt of a formal complaint, the District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct and the parents of a student who is alleged to have engaged in prohibited conduct with notice in compliance with the Written Notice section below.</p> <p>[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]</p>
Supportive Measures	The District shall offer the parties supportive measures. Supportive measures may include individualized services that are non-punitive, non-disciplinary, and do not unreasonably burden the other party yet are designed to restore or preserve a student's equal access to education. Supportive measures may include but are not limited to counseling, extensions of deadlines or other class-related adjustments, modifications of class schedules, campus escort services, mutual restrictions on contact between the parties, increased monitoring of certain areas of the campus, and other similar measures. The District must maintain as confidential any supportive measures provided to the parties to the extent this would not impair the ability of the District to provide supportive measures.

**Grievance
Procedure:**

A formal complaint alleging prohibited conduct under this policy shall be in writing. A formal complaint may be made by the complainant-student, a parent, or legal guardian. In cases where an alleged victim doesn't file a formal complaint, the Title IX Coordinator may initiate grievance procedures where warranted (e.g., allegations of sexual assault or abuse, improper relationship between employee and student). The grievance process shall be engaged with all deliberate speed for resolving formal complaints of sexual harassment. Temporary delays shall be permitted only for good cause. Good cause can include but is not limited to law enforcement activities, the absence of a party or witness, the absence of a party's advisor of choice, or the need to provide language assistance or accommodation of disabilities.

Equitability and
Objectivity

Both the complainant and the respondent are to be treated equitably in the grievance process. The District must ensure an objective evaluation of all relevant evidence including inculpatory and exculpatory evidence.

Credibility and
Presumption of
Innocence

Credibility determinations shall not be made on the basis of a person's status as a complainant, respondent, or witness. The respondent is presumed not responsible, and any finding of responsibility comes only at the conclusion of a grievance process.

No Conflicts of
Interest

The individuals directly involved in the grievance process (Title IX Coordinator or designee, investigator, decision-maker, and facilitator of informal resolution efforts) must not have any bias or conflict of interest. These individuals shall also be trained. The materials used to train Title IX personnel may not rely on sex stereotypes, must promote impartial investigations and adjudications, and must be posted on the District's website.

Standard of
Evidence

The standard of evidence the District will use to reach a determination regarding responsibility shall be the **preponderance of the evidence standard**.

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Privileges	No information protected by a legal privilege, such as the attorney-client privilege or the doctor-patient privilege, can be used during an investigation unless the person holding that privilege has waived it. Neither a party nor the District is allowed to seek, permit questions about, or allow the introduction of evidence that is protected by a recognized privilege. Individuals can always opt to waive their own privileges.
Emergency Removals	<p>The District may remove a respondent from the District's education programs or activities on an emergency basis if the District undertakes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment, to anyone's physical health or safety justifies removal. The District must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision does not override or modify the rights of individuals under the Individuals with Disabilities Education Act, Section 504, or the Americans with Disabilities Act.</p> <p>If the respondent is a District employee, the employee may be placed on administrative or other district initiated leave during the investigation.</p>
Initial Assessment Dismissal Option	<p>Upon receipt of a formal complaint, the District official or designee shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. The District official/designee must dismiss a complaint:</p> <ol style="list-style-type: none">(1) that does not describe conduct that meets the definition of sexual harassment;(2) that alleges sexual harassment that did not occur in the District's education program or activity;(3) that alleges sexual harassment that did not occur in the United States. <p>Such dismissal does not preclude the District taking disciplinary action under the Student Code of conduct for non-sexual harassment misconduct.</p> <p>The District may dismiss a complaint:</p> <ol style="list-style-type: none">(1) if the complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the formal complaint or any allegations therein;(2) if the respondent is no longer enrolled in the District; or(3) if circumstances prevent the District from gathering evidence sufficient to reach a determination about the allegations.

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Such dismissal does not preclude the District taking disciplinary action under the Student Code of conduct for non-sexual harassment misconduct.

If the District official dismisses a formal complaint or any allegations in it, the District official shall promptly send written notice of the dismissal and the reasons to the parties. Both parties have the right to appeal a dismissal decision.

The District will not dismiss a complaint involving an alleged improper relationship between an employee and student.

If the District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but might constitute bullying, the District official shall refer the complaint for consideration under FFI.

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Written Notice

When an investigation begins, the parties will receive written notice. Included in the notice shall be a copy of this regulation and policy FFH. Written notice shall also include:

- (1) The actual allegations and facts that would constitute sexual harassment, including the date and location of the alleged incident(s), if known.
- (2) A statement that the respondent is presumed to be innocent and that a determination regarding responsibility is made at the conclusion of the grievance process.
- (3) A statement that the parties are entitled to an advisor of their choice who may be a parent/guardian or who may be, but is not required to be, an attorney.
- (4) A statement that the parties can inspect and review relevant evidence
- (5) Information from the District's code of conduct about making false statements.
- (6) *Information about the opportunity to engage in informal resolution.*

This written notice must be provided to allow the parties sufficient time to prepare a response before any initial interview.

If, in the course of the investigation, the District decides to investigate allegations about the complainant or respondent that were not included in the original notice, the District must provide notice of the additional allegations to the parties.

Informal Resolution

The District may offer informal resolution in appropriate cases except where the respondent is an employee of the District. Informal resolution may be attempted only if each party enters the process completely voluntarily. The District shall never force, threaten, or require any party to participate in an informal resolution process.

The District shall provide a specially trained facilitator who is free from conflicts of interest or bias. All parties shall be provided with notice of the allegations, notice of their rights, information about whether an informal process is confidential, and about withdrawing from the process.

District Investigation
The Investigator

The District may abate the investigation for two weeks for the parties to engage in informal resolution or longer if by agreement of the parties.

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The investigation may be conducted by a trained District official or a designee, such as a principal, an assistant principal, a central administrator, 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.

The District shall provide an equal opportunity for the parties to present witnesses to be interviewed and evidence to be considered, including information from fact and expert witnesses, as well as inculpatory or exculpatory evidence.

The District cannot restrict the ability of a party to discuss the allegations under investigation or to gather and present relevant evidence.

Representation

Both parties shall have the opportunity to have an advisor of choice accompany them to any meetings throughout the grievance process. A parent/guardian may serve as a student's advisor. A student may also have an advisor in addition to his/her parent present at meetings in the grievance process. However, parents and advisors cannot interfere with interviews. Advisors may only observe.

The Investigation

The District shall provide written notice of the date, time, location, participants, and purpose of all interviews, or other meetings with sufficient time for the party to prepare.

The District shall provide equal opportunities for the parties and their advisors to inspect and review the evidence obtained as part of its investigation, if the information is directly related to the allegations raised in the formal complaint.

Every party has the right to choose to participate, or not participate, in any part of a grievance process. No party shall be forced, threatened, coerced, discriminated against, or retaliated against for choosing not to be part of the grievance process.

The investigation may consist of personal interviews with the person making the report, the complainant, the respondent, 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.

Prior to the completion of the investigative report, the District shall send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The District may use an electronic format that prevents the parties from being able to download or copy the evidence in order to ensure confidentiality. The parties must have at least 10 days to submit a written response, which the investigator will consider prior to completing the investigative report.

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If a response is submitted, the investigator shall consider that response before finalizing the investigative report. The investigative report can then be finalized and provided to the parties.

That report shall be circulated to the parties at least another 10 days before any determination of responsibility.

Before making a determination of responsibility, the parties shall be given an opportunity to submit relevant, written questions to each other. The decision maker may establish a deadline for a party to respond to questions posed by another party. Responses may be verbal or written at the decision-maker's discretion. Parents/guardians may respond in writing for their children. The decision maker may ask additional questions of the parties and witnesses before making a determination of responsibility.

Questions and evidence about a complainant's prior sexual history are not relevant with two limited exceptions: to prove someone other than the respondent committed the alleged misconduct or to prove consent.

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.

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*Disability
Accommodations*

The District shall ensure that individuals with disabilities who participate in a District grievance process are appropriately accommodated, including with respect to the use of technology and reliance on visual, auditory, or written modes of communication.

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 with all deliberate speed from the date of the formal complaint; the investigator shall take the time necessary to complete a thorough investigation.

*Written
Determination of
Responsibility
and Notification of
Outcome*

The investigator shall prepare a final written report of the investigation. The report shall not include a determination of whether prohibited conduct occurred but may include recommended findings of fact. The report shall be filed with the Title IX Coordinator and the decision-maker.

*Concluding the
Investigation*

Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.

Decision-maker

The decision-maker shall objectively evaluate the relevant evidence and reach conclusions about whether the respondent is responsible for the alleged sexual harassment. The decision-maker shall use independent judgment and shall not be the same person who conducted the investigations or the Title IX Coordinator.

Decision-makers shall be free from conflicts of interest or bias for or against complainants or respondents and shall have received special training about how to be impartial and how to decide what evidence is relevant. The decision-maker will weigh the relevant evidence and decide whether it meets the District's standard of evidence for sexual harassment allegations.

After the evidence has been weighed, the decision-maker shall issue a written decision. It shall include:

- (1) Identification of the allegations potentially constituting sexual harassment.
- (2) A description of the procedural steps taken from the formal complaint through determination of responsibility, including notifications to parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held, if any.
- (3) Findings of fact supporting the determination.
- (4) Conclusions regarding the application of the District's code of conduct to the facts.

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- (5) A statement and rationale for the ultimate determination of responsibility.
- (6) Any disciplinary sanctions that will be imposed on the respondent and state whether the District will provide remedies to the complainant.
- (7) A statement and rationale for any remedies for the complainant, addressing how those remedies will restore or preserve equal access to District activities.
- (8) A statement of the District's procedures, a statement that the parties have a right to appeal the initial determination regarding responsibility, and the permissible bases for appeal.

The District shall send the written determination to the parties simultaneously, along with information about how to appeal the determination.

The Title IX coordinator is responsible for implementing the remedies contained in the written decision if there is no timely appeal or once the appeal process is completed.

*Corrective
Action/Remedies*

The District's remedies are to be designed to restore or preserve equal access to the District's education programs or activities. Disciplinary sanctions for students will range from a verbal warning to expulsion. 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 complainant and the respondent 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. Respondents who are employees may be subject to a range of discipline from a written warning up to and including termination of employment.

Bullying

If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate 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, if it has not already done so.

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Confidentiality

To the greatest extent possible, the District shall respect the privacy of the complainant, respondent, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation, comply with applicable law, and to implement supportive measures. The District shall maintain the identities of parties and witnesses as confidential, unless disclosure of someone's identity is required under other laws or is necessary in order to conduct the grievance process, including the implementation of supportive measures.

Appeal

An appeal must be in writing (on a form provided by the District) and filed with the Title IX Coordinator within ten calendar days of issuance of the determination of responsibility. Appeals can be taken from two different points in the process: after a dismissal of a complaint (whether mandatory or discretionary) or after the issuance of the determination of responsibility. Grounds for appeal are limited to:

- (1) A procedural irregularity that affected the outcome of the matter.
- (2) New evidence was discovered that was not reasonably available at the time of the determination of responsibility or dismissal.
- (3) A conflict of interest on the part of a Title IX Coordinator, an investigator, or a decision-maker that affected the outcome.

The person who decides the appeal shall not be the same person who reached the determination regarding responsibility, the investigator, or the Title IX Coordinator.

After considering the parties' written statements, the decision-maker on appeal shall issue a written decision and send it to the parties simultaneously.

The District's determination about whether the respondent is responsible for the sexual harassment allegations becomes final after appeal. A respondent who is an employee may be subject to disciplinary actions pursuant to the District's employment policies.

A student or parent/guardian shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

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SBEC and Do Not Hire Registry

Respondent employees who are found to have engaged in Reportable Misconduct under DFB shall be reported to the State Board of Educator Certification or the Texas Education Agency for the Do Not Hire Registry consistent with state regulations.

Records Retention

The District shall retain copies of each sexual harassment investigation, including the allegations; witness statements; relevant evidence relied upon; investigation reports; any appeal and the materials associated with an appeal; records of any informal resolution process; all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution; records of the supportive measures taken in response to a report or complaint of sexual harassment; and related records regarding any prohibited conduct in accordance with the District's records retention schedules for **no less than 7 years**. [See CPC]

Access to Procedures

Information regarding this regulation shall be included in the employee and student handbooks.

Adopted by: [Signature on File]

Dr. Burnie L. Roper, Superintendent

Date: 8/13/2020