



RISD Mandatory Training

Title IX, Harassment, Bullying, and Child
Abuse





Title IX and Harassment

Title IX

New regulations took effect on August 14, 2020 that significantly changed the reporting and investigation of Sexual Harassment claims.

Sexual Harassment: 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.

Definition of Sexual Harassment

34 CFR 106.30 (a)

Six Types of Sexual Harassment

- Quid Pro Quo - treatment conditioned upon acceptance
- Hostile Environment (defined below)
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Definition of Sexual Harassment

Quid Pro Quo - treatment conditioned upon acceptance

- When an employee conditions favorable treatment on the acceptance of unwelcome sexual attention.
- This definition applies only to actions of employees.
 - Teacher offers good grades to student . . .
 - Principal offers promotion to teacher . . .

Definition of Sexual Harassment

Hostile Environment - conduct so severe, pervasive AND objectively offensive that it DENIES a person EQUAL ACCESS to the program.

- Changed from prior guidance
 - OR changed to AND
 - LIMITS changed to DENIES
- This could be student-to-student, employee-to-student or employee-to-employee
- A lot of things happen in schools that are inappropriate and sexually oriented, but fall short of this definition.

Definition of Sexual Harassment

- Sexual assault: Forcible or non-forcible sexual offenses under the Uniform Crime Reporting System of the FBI.
- Dating violence: Violence done by a person who is, or has been, in a dating relationship with the other person.
- Domestic violence: Violence by a current or former intimate partner.
- Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for personal safety of self or others; or to suffer emotional distress.

Reporting

- Any person may report. Not just the alleged victim.
- A report can be verbal or written.
- Reports can be made by mail, by telephone, or by email at any time (business or non-business hours) to the T9C.
- If the district has “actual knowledge” of “sexual harassment” it “must respond promptly in a manner that is not deliberately indifferent.

Actual Knowledge

This term is important because the school's duty to respond arises only when it has "actual knowledge" of sexual harassment, or of allegations of conduct that, if true, would be sexual harassment.

- Under the regs, the school has "actual knowledge" when ANY employee of the school--other than the actual perpetrator of the harassment—has actual knowledge.
- What has changed?
 - Previously, actual knowledge was imputed to the school only when it was known by someone who had the authority to address it.
 - Now, it is any employee.

Why the Change?

- The standard for “actual knowledge” at the post-secondary level remains as it was—someone with authority to take corrective action.
- DOE notes that with young children in K-12 schools, an adult is an adult.
- K-12 students may not understand the distinctions between a para and a teacher, for example.
- Regulation expanded to put the school on notice if any employee has actual knowledge.
- Let’s consider some scenarios....

Scenarios - Is there “actual knowledge”?

- My fellow teacher and drinking buddy confides in me that he’s been “fooling around” with a student. Makes sure she gets an A and a college recommendation.
- Custodian witnesses an act of sexual harassment in the bathroom.
- Student confides in a teacher’s aide about what happened on the school field trip.
- An employee tells a co-worker that another employee is showing inappropriate pictures.

All of these are examples of situations that, in the past, did not put the school on notice of “actual knowledge.” Now they do.

What does “substantial control” mean?

The school is not responsible for responding to allegations of sexual harassment unless the school had “substantial control” over the harasser and the “context.”

Consider how this will be applied to:

- extracurricular activities;
- field trips;
- out of town, overnight trips;
- cyberbullying off campus.

Scenario: Student engages in cyberbullying off campus and on the weekend.

- Does the school have “substantial control”?

Duty to Respond

- If the district has “actual knowledge” of “sexual harassment” as those terms are defined here, it “must respond promptly in a manner that is not deliberately indifferent.”
- The “response must treat complainants and respondents equitably by offering supportive measures....to a complainant, and by following a grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures....against a respondent.”

Implications of That

The Respondent (student or employee) cannot be punished for “sexual harassment” unless the school first goes through the lengthy and complicated “grievance process.”

What if the reported conduct doesn't meet the definition of “sexual Harassment”?

- Most reports of sexual harassment in K-12 schools will not meet the definition of “sexual harassment” under these regulations.
- Under those circumstances, the district is required to respond promptly and equitably, and to offer “supportive measures” but is not required to provide a “grievance process.”

How does the Formal Complaint process work?

- It's important to distinguish between a Report vs. a Formal Complaint. A person (complainant or other) reports sexual harassment to an employee verbally or in writing.
- The district must respond to a Report promptly and equitably.
 - The T9C must promptly meet with the Complainant.
 - The T9C must explain the Formal Complaint Process and consider the wishes of the Complainant to pursue it or not.
 - The T9C must offer “supportive measures.”
- A Formal Complaint process may be initiated on that Report:
 - Only Complainant and the T9C can initiate.
 - T9C may initiate the process even when the Complainant chooses not to.

Summary

- These regs do not change the standard of liability for schools under Title IX.
- Liability of the district occurs only if:
 - 1) sexual harassment happened;
 - 2) the district knew about it; and
 - 3) the district responded with “deliberate indifference.”
- Remember that it’s not “sexual harassment” under Title IX unless the district had “substantial control” over the harasser, and the context.
- Make sure that teachers, coaches, bus drivers, and other employees who have regular interaction with students are setting the right tone, being good role models, and being attentive.



Bullying

What is Bullying?

- Bullying occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that
- Occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property
- Occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity.

What is Bullying?

- Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or
- Is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
- Can include a single significant act as determined on a case by case basis. (David's Law SB 179)

What is Bullying?

- Exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and
- Materially and substantially disrupts the educational process or the orderly operation of a classroom; or infringes on the rights of the victim at school. (David's Law SB 179)

What is Bullying?

- Cyberbullying - Bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.
- David's Law SB 179 expands district jurisdiction for off-campus Cyberbullying and establishes civil and criminal consequences for certain types of bullying.

Protocol for Campus Intervention

Staff members responding to a suspected bullying, harassing, or discriminatory incident between students should:

- Fulfill the state's mandatory reporting laws regarding suspected abuse or neglect of a child if necessary.
- Separate the alleged victim from the alleged perpetrator as appropriate.
- Walk the alleged victim to a campus administrator
- Provide names of any witnesses who may have been present or involved to an administrator.
- Submit a discipline referral for alleged perpetrator to the administrator if needed.
- Monitor the alleged victim's safety as directed. Increase supervision of the alleged perpetrator as needed.

Protocol for Administrative Action

Administrators will

- Conference with students involved
- Make a determination if prohibited conduct occurred
- Contact parents and provide notice of rights
- Provide needed resources
- Monitor the victim's safety
- Provide a victim safety plan as needed
- Work with perpetrator to address action plan
- Report incident to Title IX Coordinator if conduct included sexual harrassment or sexual discrimination



Child Abuse

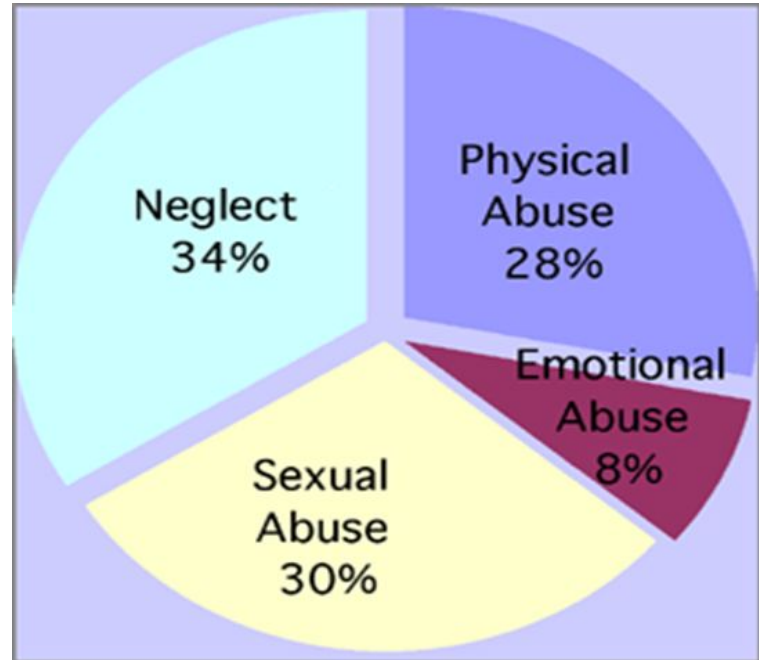
Definition of Child Abuse

“The physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child’s welfare under circumstances which indicate that the child’s health or welfare is harmed or threatened.”

“Any behavior directed toward a child that endangers or impairs a child’s physical or emotional health and development”

Types of Child Abuse

- physical abuse
- sexual abuse
- emotional abuse
- neglect



Responsibilities to Report

- **A report of suspected child abuse is a responsible attempt to protect a child, and is required by State Law.**
- **Make sure an oral report is given to CPS within 48 hours of first suspecting abuse or neglect.**
- **Do not attempt to verify information or investigate the matter until or unless given direction by law enforcement officials or CPS.**
- **Do not notify parents unless directed to do so by CPS or law enforcement.**

Information

- **Regulations Resource Manual**
www.rockdaleisd.net > About Us > Policies and Manuals > Regulations Resource Manual
- **Student Handbook**