

Francis Howell School District

Building Administrator 1300/1301 Training

Tom Smith & Emily Omohundro



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Roadmap

- Reporting Requirements
- "Talking Points" Resources
- Informal Resolution Process
- Discipline under 1300/1301
- Case Study



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Applicable Policies

Equal Opportunity

Policy 1300	Contains general prohibition against harassment, discrimination, and retaliation.
Regulation 1300	Describes the reporting and investigation process.

Prohibition against Sexual Harassment & Retaliation under Title IX

Policy 1301	Prohibits sexual harassment under Title IX.
Regulation 1301	Describes the reporting and investigation process.

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1300 – Responsibilities & Duties

“Unless a concern is informally resolved, staff and students shall report all incidents of discrimination, harassment and retaliation to the Compliance Officer as set forth in this Regulation. When a formal complaint is filed with the Compliance Officer, the investigation and complaint process detailed below will be used, including a possible determination by the Compliance Officer that the incident has been appropriately addressed through the informal process. Reports of discrimination, harassment and/or related retaliation must contain as much specific information as possible to allow for proper assessment of the nature, extent, and urgency of preliminary investigative procedures.”

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1301 – Responsibilities & Duties

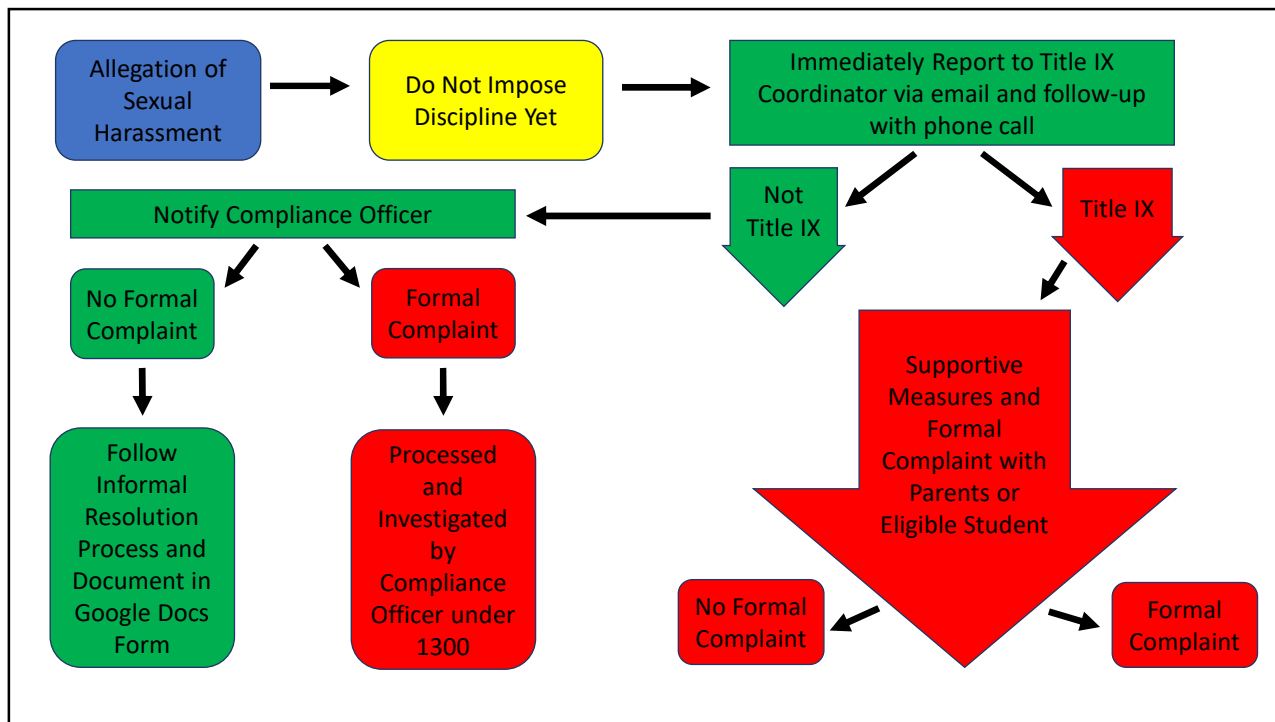
“Staff with actual knowledge of behaviors that may constitute sexual harassment under Title IX and related retaliation as defined in this Regulation shall immediately report it to the Title IX Coordinator. When a formal complaint is filed with the Title IX Coordinator, the grievance process detailed below will be used. Reports of sexual harassment under Title IX and/or related retaliation must contain as much specific information as possible to allow for proper assessment of the nature and extent of the investigative procedures.”

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1300 – Responsibilities & Duties

- What does this mean on the building level?
- Reporting Process:
 - Incident is reported to or witnessed by you and does not involve sexual harassment.
↓
 - Contact a Compliance Officer. If Mark Delaney unavailable, contact another Compliance Officer.
↓
 - If determined to be a 1300 incident, work with Compliance Officer to contact parents.
↓
 - Unless directed otherwise by a Compliance Officer, proceed with informal resolution if available.
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 - Log the informal resolution into the shared Google Docs form for review by the Compliance Officers OR refer back to the Compliance Officers for formal investigation if an informal resolution cannot be reached.

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- Not limited to conduct by norms – for example, in cases of sexual harassment males toward females.
- May occur between any or all of the following, for example:
 - Student to student
 - Staff to student
 - Student to staff
 - Between opposite genders
 - Within the same gender

DISCRIMINATION

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1300 – Prohibited Conduct (cont.)

- Encompasses a wide range of allegations:
 - Racial Slurs
 - Gender-specific name-calling
 - Failure to Promote
 - Teacher transfers to “less desirable buildings or positions”
 - Transgender rights
 - Name calling, slurs, acts of physical aggression, comments about an individual’s body, theft, graffiti, written material, sexual advances, etc.
 - Harassing conduct so severe or pervasive that it: affects ability to participate in or benefit from education program/activity; and creates an intimidating, threatening, abusive hostile or offensive environment; or has the purpose or effect of substantially or unreasonably altering the work or educational environment.



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Important Takeaways

- Building-Level Administrators are the gatekeepers.
 - Generally they will receive the initial allegations, then evaluate the allegations to determine appropriate next steps.
 - Allegations involving sexual harassment should be reported to the Title IX Coordinator (Mark Delaney) immediately by email and followed up with a phone call.
 - If Mark Delaney unavailable, contact another Compliance Officer.
 - No discipline should be taken on allegations of sexual harassment without speaking to the Title IX Coordinator or a Compliance Officer first.
- The Title IX Coordinator will further evaluate the allegations to determine if the 1301 process is required.
 - If so, the Building-Level Administrators will take no further action unless directed.
 - If not, the matter will be referred to the Compliance Officers for processing under 1300.

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Scenario #1

- Pierre is an exchange student from France. One day in the hallway, Brennan bumps into Pierre, causing Brennan to fall. Brennan gets up, shoves Pierre, and says "why don't you run away, Frenchie, like the rest of the men in your country." Pierre pushes Brennan back before the two students are separated by teachers. As Brennan is led away, he yells "go back to your country!"

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Scenario #2

- Kim and Jimmy are in the same 4th grade class. Their teacher sends Jimmy to see you because of an incident at recess. While Jimmy and other boys were playing football, Kim asked if she could play too. Jimmy pushed Kim and said "no, you're a girl, and girls belong in the kitchen instead of on the football field."

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Scenario #3

- Sarah comes to see you in your office. She says that Natalie is harassing her. When you ask more questions, she tells you that Natalie is upset because Sarah is dating Natalie's ex.

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Revised Talking Points

- Two separate resources:
 - One is for incidents involving potential sexual harassment, whether under 1300 or 1301.
 - The other is for all other instances of alleged discrimination, harassment, or retaliation under 1300.
- Which one is used depends on the situation.
 - The Compliance Officer can assist in deciding which one to use.

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Revised Talking Points – 1300 Generally

- The following talking points are meant to assist administrators when speaking to parents/guardians of students (or to adult students) who are potentially the victim of prohibited discrimination, harassment, or retaliation under Board Policy and Regulation 1300. This is not intended for use in situations involving sexual misconduct or sexual harassment. Please refer to the “Administrator Talking Points for Parent Communications Regarding Sexual Harassment” in those situations. Please also note that the District’s Compliance Officers should be contacted prior to having this conversation with the adult student or parents/guardians.

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Revised Talking Points – 1300 Generally

- Provide the parent/guardian with information about the incident, if applicable.
 - This includes telling the parent/guardian if law enforcement was notified.
 - Do not tell the parent/guardian if a hotline call was made.
- Assure the parent/guardian (or adult student) that the District will be taking action to address the situation (without disclosing FERPA-protected information about the alleged perpetrator, such as discipline information).
- Offer interim measures (e.g., a safety plan) for the student.
- Explain to the parent/guardian (or adult student) that they also have the option to file a formal complaint under Board Policy 1300, but the District will address the matter appropriately even if they choose not to file a formal complaint.

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Revised Talking Points – 1300 Generally

- Explain the major highlights of 1300:
 - The District may proceed with an investigation even if they do not file a formal complaint.
 - Interim measures will be put in place to immediately address and stop the conduct, which may be similar to what the District will do anyway even if they do not file a formal complaint.
 - The District will investigate the matter further as needed.
 - Both parties will be notified of the outcome of the investigation – whether it was determined if it was more likely than not that Policy 1300 was violated.
 - They will not be notified of any disciplinary measures taken against the respondent(s).
 - Complaints may be resolved informally without a formal complaint being filed.
 - The District will still take action to address the situation even if they do not file a formal 1300 complaint.
 - It is possible that even if a violation of Policy 1300 is found to have been committed, that any actions already taken or discipline imposed will be deemed sufficient to address the matter.

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Revised Talking Points – 1300 Generally

- Reiterate that the District will be taking action to address the situation regardless of whether they choose to file a formal complaint.
- Inform the parent/guardian (or adult student) that if they do not file a formal complaint under Policy 1300, then the District's actions to address the matter will be documented as an informal resolution under Policy 1300.
- Ask the parent/guardian (or adult student) if they would like to proceed without filing a formal complaint under Policy 1300, and instead have the building address the matter as an informal resolution under Policy 1300.
 - If yes, follow up by email confirming that was their decision.

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Revised Talking Points – 1300 Generally

- If the parents (or adult student) want to file a formal complaint, provide them with the District's 1300 Harassment/Discrimination Grievance Form or complete the form for the complainant, and provide them with a copy of Regulation 1300.
- Provide the parents/guardians (or adult student) with the contact information for the District's Compliance Officer if they would like to discuss the 1300 process in more detail.

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Revised Talking Points – Sexual Harassment

- The following talking points are meant to assist administrators when speaking to parents/guardians of students who are potentially the victim of "sexual harassment" as that term is defined in Board Policy and Regulation 1300, and/or "sexual harassment under Title IX" as that term is defined in Board Policy and Regulation 1301. Please note that if an incident could qualify as "sexual harassment" or "sexual harassment under Title IX", the District's Compliance Officers/Title IX Coordinators should be contacted prior to having this conversation with the parents. Please also note that if a student is 18 or older, then these talking points will apply to the student rather than the parent. If the student desires for their parents to be contacted or otherwise participate in the conversation, then that is permissible, but the student will ultimately determine whether to file a formal complaint.

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Revised Talking Points – Sexual Harassment

- Provide the parent/guardian with information about the incident.
 - This includes telling the parent/guardian if law enforcement was notified.
 - Do not tell the parent/guardian if a hotline call was made.
- Assure the parent/guardian that the District will be taking action to address the situation (without disclosing FERPA-protected information about the alleged perpetrator, such as discipline imposed).
- Explain to the parent/guardian that they also have the option to file a formal complaint under one of the two Board Policies dealing with sexual harassment (1300 and 1301), that each has its own applicable process, and that the District will address the matter appropriately even if they choose not to file a formal complaint.

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Revised Talking Points – Sexual Harassment

- Explain the major highlights/differences between 1300 and 1301. For 1300:
 - The District can proceed with an investigation even if they do not file a formal complaint.
 - Interim measures may be put in place to immediately address and stop any sexual harassment.
 - The District will investigate the matter further as necessary.
 - Both parties will be notified of the outcome of the investigation – whether it was determined if it was more likely than not that Policy 1300 was violated.
 - They will not be notified of any disciplinary measures taken against the respondent(s).
 - Complaints may be resolved informally without a formal complaint being filed.
 - The entire process is usually completed faster than the 1301 process.
 - The District will still take action to address the situation even if they do not file a formal 1300 complaint.
 - It is possible that even if a violation of Policy 1300 is found to have been committed, that any actions already taken or discipline imposed will be deemed sufficient to address the matter.

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Revised Talking Points – Sexual Harassment

- For 1301:
 - A formal complaint must be filed by them.
 - Discipline generally cannot be imposed for “sexual harassment under Title IX” until the investigation process is concluded.
 - Informal resolution is not available unless they file a formal complaint first and both parties agree to it.
 - Supportive measures can be put in place before or after the filing of the formal complaint, but they must be equal for both parties. They do not have to file a formal complaint to receive supportive measures.
 - Both parties are able to discuss the allegations under investigation and gather and present relevant evidence.
 - Both parties may have an advisor present during any meetings/interviews, and that advisor can be an attorney.
 - Prior written notice of the date, time, location, participants, and purpose of all investigative interviews or other meetings must be provided to the party whose presence is requested.
 - Both parties will be given an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint, and submit written questions to the other party.
 - Both parties will be provided a copy of the investigative report and final written decision.
 - The entire process can take weeks to complete.
 - It’s possible that the complaint will be dismissed by the Title IX Coordinator for a variety of reasons.

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Revised Talking Points – Sexual Harassment

- Reiterate that the District will be taking action to address the situation regardless of whether they choose to file a formal complaint under Policy 1300 or Policy 1301.
- Inform the parent/guardian that if they do not file a formal complaint under Policy 1300 or Policy 1301, then the District’s actions to address the matter will be documented as an informal resolution under Policy 1300.
- Ask the parent/guardian if they would like to proceed without filing a formal complaint under Policy 1300 or Policy 1301, and instead have the building address the matter as an informal resolution under Policy 1300.
 - If yes, ask the parent/guardian to complete follow up with the parent/guardian by email confirming that was their decision.

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Revised Talking Points – Sexual Harassment

- Discuss any interim/supportive measures the parents (or adult student) may want to be put in place.
- Provide the parents/guardians with the contact information for the District's Compliance Officer/Title IX Coordinator (Mark Delaney) if they would like to discuss the 1300 or 1301 processes in more detail or are interested in filing a formal complaint.

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Scenario #4

- Two students are playing basketball at recess. Sam has the ball and Dean is playing defense. Both students get into a shoving match. When asked why, Sam says that Dean was "dry-humping" and groping Sam. Dean denies this and says it was just tough defense.

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Informal Resolution under 1300

- Any staff member can attempt to resolve a complaint informally. However, the Compliance Officers should still be notified prior to engaging in the informal resolution process.
- Building administrators/supervisors will report informal resolutions to the Compliance Officers on a regular basis. This will be done through the Google Spreadsheet.
 - Note that the spreadsheet should not be populated until after the conversation with the parents/student occurs and an informal resolution is chosen instead of a formal complaint.
- Informal complaints may become formal complaints at the request of the complainant, parent/guardian, or the District.
- During the course of the informal complaint process, the District will take prompt and effective steps reasonably calculated to end the harassment, discrimination, and retaliation and to correct any effects on the complainant.
- The District will inform the complainant how to report any subsequent problems and may conduct follow-up inquiries.

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Informal Resolution under 1300

- Informal remedies may include, but are not limited to:
 - If the complainant so desires, an opportunity for the complainant to explain to the alleged harasser that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
 - A statement from a staff member to the alleged harasser that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
 - A general public statement from an administrator in a building reviewing the District's nondiscrimination and harassment policy without identifying the complainant;
 - Developing a safety plan;
 - Separating students; or
 - Providing staff and/or student training.

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Informal Resolution under 1301

- Not available for formal complaints of employee on student sexual harassment.
- Can be used any time after a formal complaint is filed – not before.
- Voluntary and both complainant and respondent must agree to it in writing.
- All timeframes and deadlines suspended during process.

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Informal Resolution under 1301

- Upon initiation of the informal resolution process, the District shall provide a written notice to the parties, which includes the following:
 - The allegations;
 - A statement explaining that a resolution of the complaint precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that either party may withdraw from the informal process at any time prior to agreeing to a resolution; and,
 - A statement explaining that the District will maintain, and may disclose, in accordance with Board Policy and the law, all investigative records gathered as a result of the complaint.

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Informal Resolution under 1301

- An informal resolution may include, but is not limited to the following:
 - If the complainant so desires, an opportunity for the complainant to explain to the respondent that his or her conduct is unwelcome, offensive or inappropriate, either in writing or face-to-face;
 - A statement from a staff member to the respondent that the alleged conduct is not appropriate and could lead to discipline if proven or repeated;
 - Developing a safety plan;
 - Separating students; or
 - Providing staff and/or student training.

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Scenario #5

- During lunch, Larry sneaks a "fart machine" into Suzie's backpack and proceeds to use a remote to trigger several flatulent sounds.
- Suzie is on an IEP and has severe learning disabilities. She doesn't understand why the other students are laughing at her.
- This continues all day, and eventually Suzie breaks down crying.
- The next day her dad comes in with the machine.

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Discipline under 1300

- Discipline can be imposed prior to the filing of a formal complaint or the conclusion of an investigation.
 - May be the product of an informal resolution if respondent agrees to it.
- Do not discipline for discrimination, harassment, or retaliation until there is a finding through the formal process or the respondent agrees to it as part of an informal resolution.
 - Discipline should be for any other infractions related to the conduct.
 - The District's student conduct code allows for a wide range of disciplinary consequences for many types of misconduct that could also be related to claims of prohibited discrimination, harassment, or retaliation.
 - Improper use of technology, bullying, disruptive conduct, etc.

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Discipline under 1301

Disciplinary measures when there is an allegation of sexual harassment

- The District **can** discipline students for violations of the student conduct code that are **not** related to sexual harassment under Title IX.
 - For instance, if Student A takes pictures of Student B at school in the bathroom and then uses those pictures to sexually harass Student B, then we can discipline Student A for improper cell phone use and/or disruptive conduct, possibly even bullying.
- The District's student conduct code allows for a wide range of disciplinary consequences for the types of misconduct that could arise related to claims of sexual harassment (cell phone use, bullying/cyber bullying, disruptive conduct, etc.) so the District has the ability to impose the proper level of discipline, which could include suspension, for the conduct.

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Removal of Respondent

- Schools must conduct a threat assessment before removing a student from campus pending a decision in the case,
 - and there must be a mechanism for the student to immediately challenge the removal.
- The District is not precluded from removing a Respondent from the education program or activity on an emergency basis.
- The requirement of supportive measures does not preclude the District from placing an employee on administrative leave during the grievance process.

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Scenario #6

- Donny finds out that Amber is a lesbian. At lunch, Amber walks past Donny on the way to the bathroom. Donny tells Amber that he is going to follow her into the bathroom to "show her what she is missing" and that he will "straighten her out."

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Scenario #7 (Case Study)

- Revisiting Scenario #3
 - Sarah comes to see you in your office. She says that Natalie is harassing her. When you ask more questions, she tells you that Natalie is upset because Sarah is dating Natalie's ex.

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Scenario #7 (Case Study)

- Sarah tells you that Natalie has been sending her texts and Snapchats throughout the school day, at night, and over the weekend. Sarah calls Natalie derogatory terms and says she is going to find her in the locker room where there are no teachers.

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Scenario #7 (Case Study)

- After speaking with Sarah's parents, they decide to file a formal 1300 complaint. You've been asked by the Compliance Officer to assist with the investigation. Where do you start?

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Scenario #7 (Case Study)

- As the investigation continues, Sarah's parents tell you that they want to try an informal resolution. What are the next steps?

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Scenario #7 (Case Study)

- The informal resolution process fails. The investigation continues, and you get a report from Natalie that Sarah saw her in the hallway and said "You should have taken the deal. Now I'm going to make sure you're expelled."

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Scenario #7 (Case Study)

- The investigation of both complaints is completed, and it is determined that both girls violated 1300. What are next steps?

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