

## 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 3<sup>rd</sup> parties

\_\_\_ restrict discussion of evidence and investigative summaries with 3<sup>rd</sup> 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 fo 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 DecisionMaker
- \_\_\_ 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