

Discrimination, Harassment and Retaliation Training for Staff

2023-2024



BOE Policies

- **AC** – Prohibition of Discrimination, Harassment, and Retaliation
 - Statement of prohibited conduct and training requirements
- **KN** – Complaints
 - Complaint process outlined for all discrimination, harassment, and retaliation.
- **GAAB** – Complaints of Discrimination
 - Statement of where to make a complaint



Discrimination

Discrimination is unequal, adverse, or negative treatments, including harassment, of a person or class of persons based on one or more protected classifications (or stereotypes) that interfere with the educational or work environment.



Common Protected Classifications

- Race
- Color
- Religion
- Sex/Gender (including orientation, identity, or expression)
- Military status
- National origin
- Disability
- Age
- Ancestry
- Marital Status
- Pregnancy
- Genetic information



Retaliation



Intimidation, threats, coercion, or discrimination against a person based on the person engaging in a protected activity. (Such as reporting a violation, or participating in an investigation)

Reporting Responsibility

ALL district employees share in the responsibility of preventing and responding to discrimination, harassment, and retaliation.

ALL employees who observe or have knowledge of conduct that **could** constitute discrimination, harassment, or retaliation are required to immediately report the conduct to their immediate supervisor, Compliance Coordinator, or Superintendent.

Dr. Josh Robinson is the District Compliance Coordinator



Complaints

Formal Complaint – Document filed by or on behalf of a complainant alleging prohibited conduct or signed by the Compliance Coordinator.

Informal Complaint – Complaint to administration or direct supervisor. Informal complaints should be resolved at the lowest possible administrative level.

Complaints of Sexual Harassment or Discrimination may NOT be informal.



Title IX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.



Title IX – Changes

Complaints of Sexual Harassment MUST be handled according to new procedures.

Offer protections for Complainant and Respondent (one accused of prohibited behavior)

No punitive actions for prohibited behavior are permitted until FULL Title IX investigative and appeal process has been completed.



Title IX

Sexual Harassment

Sexual Harassment is defined as actions which fall into one of the following three categories:

- ***Quid Pro Quo***
- ***Hostile Environment***
- ***Violence Against Women Act (VAWA)***

Definitions in Clery Act

- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking



Title IX

Sexual Harassment

Quid Pro Quo

- A district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct.
- Latin for "Something for something"
- Giving someone a favor or advantage for which an unwanted sexual act or favor is expected in return.



Title IX

Sexual Harassment

Hostile Environment

- 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 recipient's education program or activity.
- If it is unwanted sexual conduct, please don't try to determine if it is severe, pervasive, and objectively offensive. **REPORT IT.**

Title IX

Sexual Harassment

VAWA definitions (part I):

- **Sexual Assault Offenses** – Any sexual act directed against another person, without consent of the other person, including instances where the victim is incapable of giving consent.
(age/mental incapacity)
 - **Rape, Fondling, Incest, Statutory Rape**
 - **Fondling** is the touching of the body parts of another person for the purpose of sexual gratification, without consent.

Title IX

Sexual Harassment

VAWA definitions (part 2):

- **Domestic Violence**
- **Dating Violence** - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - *The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.*

Title IX

Sexual Harassment

VAWA definitions (part 3):

- **Stalking** - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to
 - Fear for the person's safety or the safety of others; **or**
 - Suffer substantial emotional distress.

For purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Jurisdiction

Educational Program or Activity

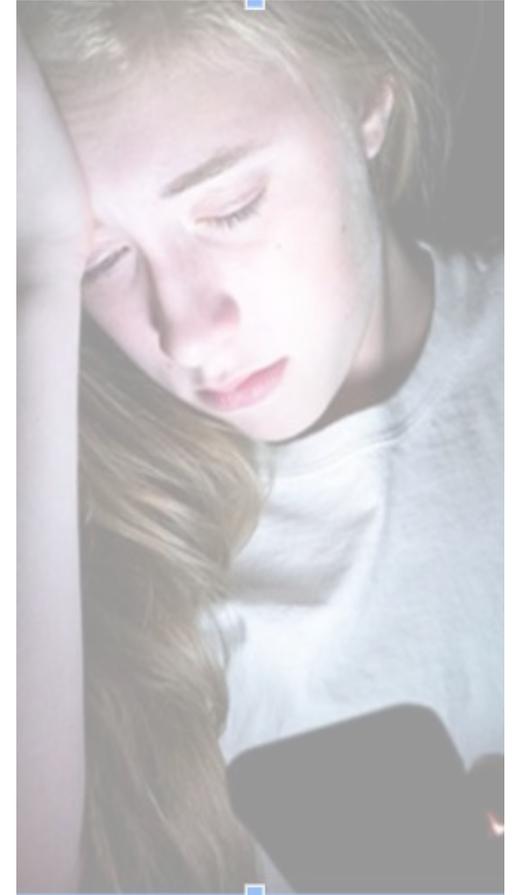
Locations, events, or circumstances over which the district exercised substantial control over both the respondent AND the context in which the sexual harassment occurs.

Does that mean only on school property?

Does that include online?

What if the “online” harassment is on a Google Doc or Blog that the teacher set up?

Must occur to someone “in United States”

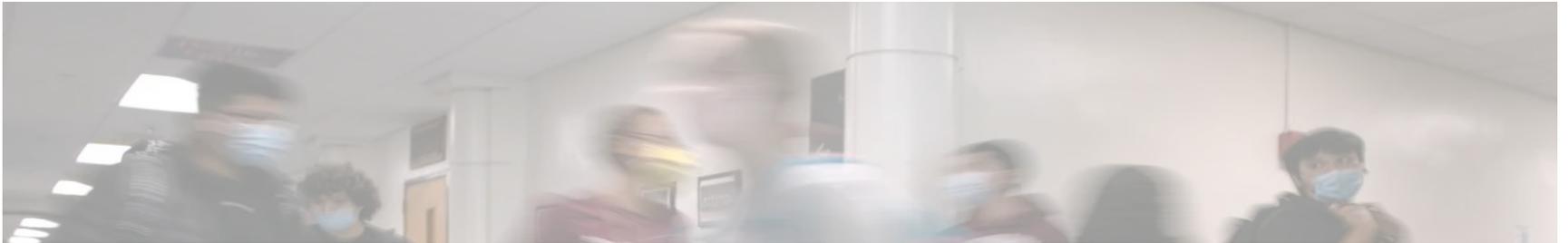


Jurisdiction

If the conduct occurred in a location or context in which the district:

- Funded, promoted, endorsed, or sponsored the event; **or**
- Owned the premises where the conduct occurred; **or**
- Exercised any oversight, supervision, or discipline.

Then it is possible that it falls under the jurisdiction of a Title IX investigation.



Duty to Report

Who? **ANY** employee of an elementary or secondary school district

- A recipient with actual knowledge of sexual harassment in an educational program or activity of the recipient against a person in the United States, **must respond promptly** in a manner that is not deliberately indifferent.
- **Actual knowledge** = notice of sexual harassment or allegations of sexual harassment
- Notice without action is ***deliberately indifferent***.

What is “Notice?”

1. A male high school student tells his wrestling coach his female high school English teacher has been sending him flirty texts late at night.

Most definitely!

2. Rumor has it that a parent is telling people in the community her daughter is being harassed by other students for being a lesbian.

Technically, not unless the parent reports it to school, but I’d check to see if the parent has something to report. School chatter is usually not enough to constitute notice, but if you have specific information and you do not follow up, it could be considered deliberately indifferent.

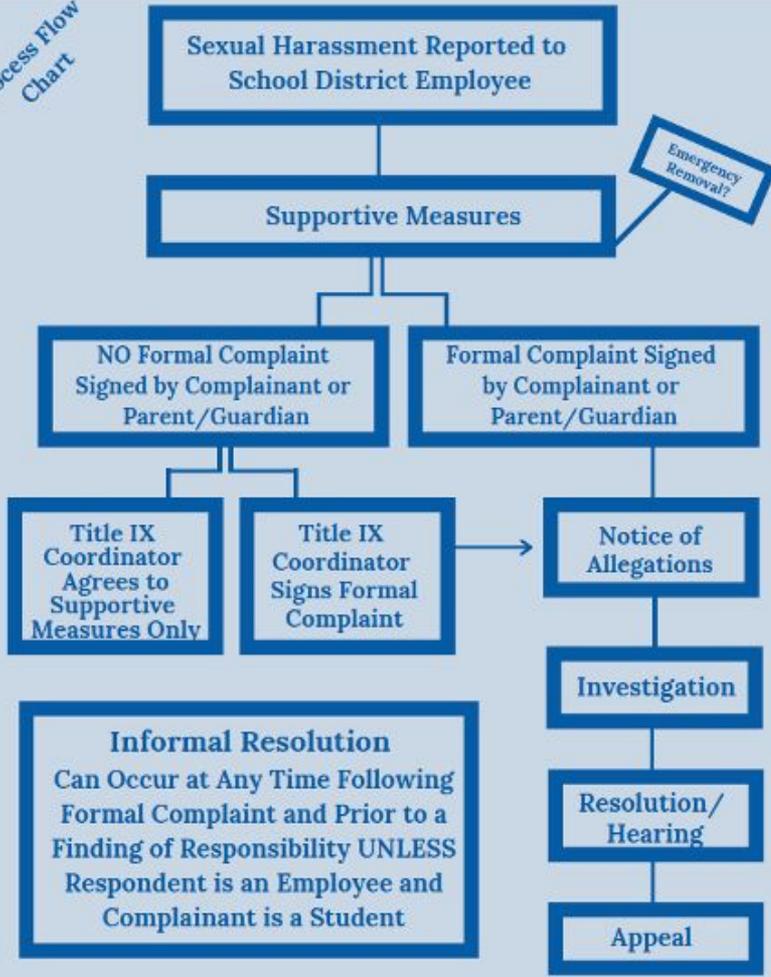
3. An anonymous letter sent to your board members alleges your high school principal is sexually harassing a building paraprofessional and teacher.

This is considered notice if there is enough specific information to follow up with the alleged victims. Otherwise, probably not.

If Notice...?

Contact District Compliance Coordinator ASAP

- Coordinator promptly contacts complainant and meets confidentially
 - Discusses availability of “supportive measures” whether a formal complaint is made or not
 - Explains the process for filing a formal, written complaint
 - Discusses the possibility of the Coordinator filing a formal complaint over the wishes of the complainant
- If a complaint is filed, provides written notice to the respondent and meet with the respondent.
 - Discusses availability of “supportive measures”
 - Discloses the written complaint
 - Explains the respondent’s rights and the investigation process.



- A Formal Complaint **MUST** be dismissed if it does NOT meet definition of Sexual Harassment, occur in education program or activity, or in the U.S.
- A Formal Complaint **MAY** be dismissed at request of Complainant, if Respondent no longer at school district or school district is prevented from gathering evidence.

Supportive Measures

- Complainant and respondent are treated equitably by offering supportive measures.
- These are non-punitive, non-disciplinary supports offered as reasonably available and without cost to the complainant or respondent (parties).
- Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party.
- Supportive Measures shall include, but not be limited to, measures designed to protect the safety of all parties, to protect the district's educational environment, or to deter sexual harassment.

Supportive Measures

- Counseling
- Extensions of deadlines or course-related adjustments
- Modification to work or class schedules
- Escort services or increased security and monitoring
- Mutual restrictions on contact between parties
- Leave of absence
- Change in work location

These measures must not burden one party more than the other.

An emergency removal of the respondent is possible with an ***individualized safety and risk analysis*** and if it is determined that an ***immediate threat to physical health or safety*** to any individual arises from the allegations. Respondent is provided with notice and opportunity to challenge decision.

Voluntary Informal Resolution

Informal resolution may occur if:

- Both parties voluntarily agree,
- District provides written notice to parties of allegations, **and**
- Either party may withdraw from informal process and resume formal process at any time.

May NOT resolve employee-student harassment allegation with informal process.

Could include mediation or restorative justice practices.

Non-Title IX

Just because behavior does not meet the Title IX definitions, it does not mean that we don't investigate and follow a process for discipline of prohibited behavior.

If a Title IX complaint is dismissed, it may still be investigated as a regular behavior issue.

Investigating complaints that are not subject to Title IX regulations will follow the same procedures we have followed in the past.

The only difference is that if it falls under the broad range of behavior considered discrimination, harassment, and/or retaliation, we will handle it as a formal complaint. It may be investigated at the district level or it could be referred to the principal for local investigation.



Although written complaints do not have to be on a specific form, the district uses this form to ensure we are gathering all of the necessary information to begin an investigation.

COMPLAINT FORM



SPRING HILL SCHOOL DISTRICT **Title IX Discrimination Complaint Form**

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is an all-encompassing federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance. The purpose of this form is to gather the essential facts regarding the allegation. When the form has been completed and signed by you, and then signed by the Title IX Coordinator, your complaint has been properly received and noted by the school district. We will provide you with a copy of this form as well as complete information about the Title IX complaint process. If you require emergency assistance, please call 911.

If you have questions about this form or the information to be provided, please contact:
Dr. Joshua Robinson, District Title IX Coordinator at (913) 592-7200 or robinsonj@usd230.org.

The Title IX Coordinator and/or designee investigate complaints by staff, and students who believe themselves to be harmed by sexual harassment or discrimination and harassment related to gender.

I am filing this complaint as a (check one):

Staff Member Student Parent/Other

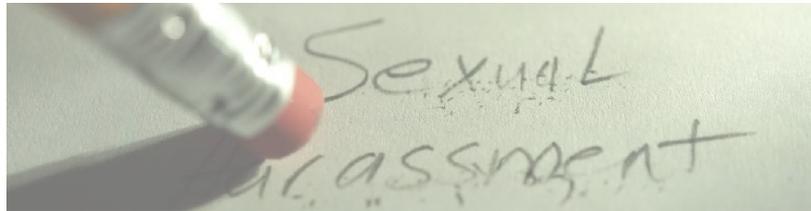
Name: _____ School (if applicable): _____

Work Phone: _____ Home Phone: _____

Home Address: _____

Conclusions

- This is a very serious and important issue.
- Rigorous Title IX procedure **MUST** be followed in allegations of sexual harassment.
- Most procedures apply for any type of discriminatory behavior.
(Some additional requirements for Title IX)
- Everyone is a mandated reporter under Title IX.
- Discrimination has **NO PLACE** in our school/work environment.



Questions