

Smith County Board of Education

Monitoring: Review: Annually, in March	Descriptor Term: Title IX & Sexual Harassment	Descriptor Code: 6.3041	Issued Date: 08/18/20
		Rescinds:	Issued:

1 *General*

2 In order to maintain a safe, civil, and supportive learning environment, all forms of sexual harassment
3 and discrimination on the basis of sex are prohibited.¹ This policy shall cover employees, employees'
4 behaviors, students, and students' behaviors while on school property, at any school-sponsored activity,
5 on school-provided equipment or transportation, or at any official school bus stop in accordance with
6 federal law. This policy shall be disseminated annually to all school staff, students, and
7 parent(s)/guardian(s).² The Title IX Coordinator as well as any personnel chosen to facilitate the
8 grievance process shall not have a conflict of interest against any party of the complaint.³ These
9 individuals shall receive training as to how to promptly and equitably resolve student and employee
10 complaints.³

11 All employees shall receive training on complying with this policy and federal law.⁴

12 **TITLE IX COORDINATOR⁵**

13 The Title IX Coordinator shall respond promptly to all general reports as well as formal complaints of
14 sexual harassment. He/she shall be kept informed by school-level personnel
15 of all investigations and shall provide input on an ongoing basis as
16 appropriate.

17 Any individual may contact the Title IX Coordinator at any time using the information below:

18 **Title:** Angel Williams

19 **Mailing address:** 126 SCMS Lane

20 **Phone number:** 615-735-9625

21 **Email:** williamsa13@smithcoedu.net

22 **DEFINITIONS⁴**

23 "Complainant" is an individual who is alleged to be the victim of
24 conduct that could constitute sexual harassment.

25 "Respondent" is an individual who is reported to be the perpetrator
26 of conduct that could constitute sexual harassment.

1 "Sexual harassment" is conduct on the basis of sex that satisfies
2 one or more of the following:³

- 3 1. A school district employee conditioning an aid, benefit, or
4 service of an education program or activity on an individual's
5 participation in unwelcome sexual conduct;
6
- 7 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and
8 objectively offensive that it effectively denies a person equal access to the education program
9 or activity; or
- 10 3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state
11 and federal law.

12 Behaviors that constitute sexual harassment may include, but are not
13 limited to:

- 14 1. Sexually suggestive remarks;
15
- 16 2. Verbal harassment or abuse;
17
- 18 3. Sexually suggestive pictures;
19
- 20 4. Sexually suggestive gesturing;
21
- 22 5. Harassing or sexually suggestive or offensive messages that are
23 written or electronic;
24
- 25 6. Subtle or direct propositions for sexual favors; and
26
- 27 7. Touching of a sexual nature.

28 Sexual harassment may be directed against a particular person or
29 persons, or a group, whether of the opposite sex or the same sex.

30 "Supportive measures" are non-disciplinary, non-punitive,
31 individualized services and shall be offered to the complainant and
32 the respondent, as appropriate. These measures may include, but are
33 not limited to, the following:

- 34 1. Counseling;
35
- 36 2. Course modifications;
37
- 38 3. Schedule changes; and
39
- 40 4. Increased monitoring or supervision.

1 The measures offered to the complainant and the respondent shall
2 remain confidential to the extent that maintaining such
3 confidentiality would not impair the ability of the school district
4 to provide the supportive measures.

5 **GRIEVANCE PROCESS**

6 Upon learning of an instance of alleged sexual harassment, even if no formal complaint is filed, the
7 Title IX Coordinator shall:

- 8 1. Promptly contact the complainant to discuss the availability of supportive measures;
9
- 10 2. Consider the complainant's wishes with respect to supportive measures;
11
- 12 3. Inform the complainant of the availability of supportive measures; and
13
- 14 4. Explain the process for filing a formal complaint.¹⁰

15 While the school district will respect the confidentiality of the complainant and the respondent as much
16 as possible, some information may need to be disclosed to appropriate individuals. All disclosures shall
17 be consistent with the school district's legal obligations and the necessity to investigate allegations of
18 harassment and take disciplinary action.

19 Disciplinary consequences or sanctions shall not be initiated against the respondent until the grievance
20 process has been completed. Unless there is an immediate threat to the physical health or safety of any
21 student arising from the allegation of sexual harassment that justifies removal, the respondent's
22 placement shall not be changed.¹¹ If the respondent is an employee, he/she may be placed on
23 administrative leave during the pendency of the grievance process.¹² The Title IX Coordinator shall
24 keep the Director of Schools informed of any employee respondents so that he/she can make any
25 necessary reports to the State Board of Education in compliance with state law.¹³

26 **Complaints**

27 Any individual who has knowledge of behaviors that may constitute a violation of this policy shall
28 immediately report such information to the Title IX Coordinator, however, nothing in this policy requires
29 a complainant to either report or file a formal complaint within a certain timeframe. If the complaint
30 involves the Title IX Coordinator, the complaint shall be filed with the Director of Schools.

31 If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate
32 notification shall be made per the board policy on reporting child abuse.

33 Upon receipt of a formal complaint, the Title IX Coordinator shall promptly:¹⁴

- 34 1. Provide written notice of the allegations, and the grievance process to all known parties to give
35 the respondent time to prepare a response before an initial interview;
36

- 1 2. Inform the parties of the prohibition against making false statement or knowingly submitting
2 false information;
- 3
- 4 3. Inform the parties that they may have an advisor present during any subsequent meetings; and
- 5
- 6 4. Offer supportive measures in an equitable manner to both parties.

7 If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for dismissal,
8 shall be provided to both parties simultaneously.¹⁵

9 **Investigations**¹⁶

10 The Title IX Coordinator shall serve as the investigator and be responsible for investigating complaints
11 in an equitable manner that involves an objective evaluation of all relevant evidence. The burden for
12 obtaining evidence sufficient to reach a determination regarding responsibility rests on the school district
13 and not the complainant or respondent.

14 Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48) hours
15 of receipt of the complaint. If an investigation is not initiated within forty-eight (48) hours, the
16 investigator shall provide the Title IX Coordinator with appropriate documentation detailing the reasons
17 why the investigation was not initiated within the required timeframe.

18 All investigations shall be completed within twenty (20) calendar days from the receipt of the initial
19 complaint. If the investigation is not complete within twenty (20) calendar days, the investigator shall
20 provide the Title IX Coordinator with appropriate documentation detailing the reasons why the
21 investigation has not been completed.

22 All investigations shall:

- 23 1. Provide an equal opportunity for the parties to present witnesses and evidence;
- 24
- 25 2. Not restrict the ability of either party to discuss the allegations under investigation or gather
26 and present relevant evidence;
- 27
- 28 3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that
29 seek disclosure of information protected under a legally recognized privilege unless such
30 privilege has been waived;¹⁷
- 31
- 32 4. Provide the parties with the same opportunities to have others present during any grievance
33 proceeding;
- 34
- 35 5. Provide to parties whose participation is requested written notice of the date, time, location,
36 participants, and purpose of all investigative interviews, or other meetings, with sufficient time
37 for the party to prepare to participate;
- 38

- 1 6. Provide both parties an equal opportunity to inspect and review any evidence directly related to
2 the allegations in the formal complaint; and
3
- 4 7. Result in the creation of an investigative report that fairly summarizes relevant evidence.
5
- 6 a. Prior to the completion of the investigative report, the investigator shall send to each
7 party the evidence subject to inspection and review. All parties shall have at least ten
8 (10) days to submit a written response which shall be taken into consideration in
9 creating the final report.

10 Within the parameters of the federal Family Educational Rights and Privacy Act,¹⁸ the Title IX
11 Coordinator shall keep the complainant and the respondent informed of the status of the investigation
12 process. At the close of the investigation, a written final report on the investigation will be delivered to
13 the parent(s)/guardian(s) of the complainant, parent(s)/guardian(s) of the respondent, and to the
14 Director of Schools.

15 **Determination of Responsibility**¹⁹

16 The respondent is presumed not responsible for the alleged conduct until a determination regarding
17 responsibility is made at the conclusion of the grievance process.²⁰ The clear and convincing evidence
18 standard shall be used in making this determination.²¹

19 The Director of Schools shall act as the decision-maker. He/she shall receive the final report of the
20 investigation and allow each party the opportunity to submit written questions that he/she wants asked
21 of any party or witness prior to the determining responsibility.

22 The decision-maker shall make a determination regarding responsibility and provide the written
23 determination to the parties simultaneously along with information about how to file an appeal.

24 A substantiated charge against a student may result in corrective or disciplinary action up to and
25 including expulsion. A substantiated charge against an employee shall result in disciplinary action up to
26 and including termination.

27 After a determination of responsibility is made, the Title IX Coordinator shall work with the complainant
28 to determine if further supportive measures are necessary. The Title IX Coordinator shall also determine
29 whether any other actions are necessary to prevent reoccurrence of the harassment.

30 **APPEALS**²²

31 Either party may appeal from a determination of responsibility based on a procedural irregularity that
32 affected the outcome, new evidence that was not reasonably available at the time of the determination
33 that could affect the outcome, or an alleged conflict of interest on the part of the Title IX Coordinator or
34 any personnel chosen to facilitate the grievance process. Appeals shall be submitted to the Title IX
35 Coordinator within ten (10) days of a determination of responsibility.

36 Upon receipt of an appeal, the Title IX Coordinator shall:

- 1 1. Assign an impartial hearing officer within five (5) days of receipt of the appeal; and
- 2
- 3 2. Notify the parties in writing.

4 During the appeal process, the parties shall have a reasonable, equal opportunity to submit written
 5 statements. Within ten (10) calendar days, the hearing officer shall issue a written decision describing
 6 the result of the appeal and the rationale for the result. The written decision shall be provided
 7 simultaneously to both parties.

8 **RETALIATION**²³

9 Retaliation against any person who makes a report or complaint or assists, participates, or refuses to
 10 participate in any investigation of an act alleged in this policy is prohibited.

Legal References

1. 34 CFR § 106.1
2. 34 CFR § 106.8(b),(c)
3. 34 CFR § 106.45(b)(1)(iii); 34 CFR § 106.45(b)(10)(D)
4. 34 CFR § 106.30(a)
5. 34 CFR § 106.8(a)
6. 20 USCA 1092(f)(6)(A)(v); TCA 36-3-601(10); TCA 71-6-302
7. 34 USCA 12291(a)(10)
8. 34 USCA 12291(a)(8); TCA 40-14-109
9. 34 USCA 12291(a)(30); TCA 39-17-315; TCA 36-3-601(11)
10. 34 CFR § 106.44(a)
11. 34 CFR § 106.44(c)
12. 34 CFR § 106.44(d)
13. TRR/MS 0520-02-03-.09 (2); TCA 49-5-417 (c)
14. 34 CFR § 106.45(b)(2)
15. 34 CFR § 106.45(b)(3)
16. 34 CFR § 106.45(b)(5); 34 CFR § 106.45(b)(1)(v)
17. 34 CFR § 106.45(b)(1)(x)
18. 20 USCA § 1232g
19. 34 CFR § 106.45(b)(7)
20. 34 CFR § 106.45(b)(1)(iv)
21. 34 CFR § 106.45(b)(1)(vii)
22. 34 CFR § 106.45(b)(8)
23. 34 CFR § 106.71

Cross References

Section 504 and ADA Grievance Procedures 1.802
 Discrimination/Harassment of Employees (Sexual, Racial,
 Ethnic, Religious) 5.500
 Staff-Student Relations 5.610
 Code of Conduct 6.300
 Student Discrimination, Harassment, Bullying, Cyber-
 bullying, and Intimidation 6.304
 Child Abuse and Neglect 6.409