



Title IX Updated Policies and Procedures

Safety and Security
Investigator Training



Key Individuals/Terms

- **Complainant:** alleged victim
- **Respondent:** alleged perpetrator
- **Reporter:** individual who makes the original report of a potential violation
- **Witness:** Individual, other than complainant and respondent, who provides information to investigator and/or hearing officer
- **Investigator:** Safety and Security assigned staff
- **Decision-Maker:** Legal Department member



Off-Campus Reach

- **Title IX applies to all school operations, whether on campus or off**
 - School exercised substantial control over respondent and context of alleged harassment
 - Off-campus building owned or controlled by a student group officially recognized by the school
 - Digital platforms are part of District operations and are subject to Title IX



Types of Sexual Harassment

- Quid Pro Quo Sexual Harassment:
 - For students: A school employee conditioning an educational aid, benefit, or service upon a student's participation in unwelcome sexual conduct or using a student's submission to, or rejection of, such conduct as the basis for educational decisions regarding the student;
 - - For employees and applicants: a school employee in a supervisory or comparable role conditioning an employment benefit upon the employee's or applicant's participation in unwelcome sexual conduct or using an individual's submission to, or rejection of, such conduct as the basis for employment decisions regarding the employee or applicant;



Types of Sexual Harassment

- General Sexual Harassment:
 - Unwelcome conduct of a sexual nature determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student equal access to the education program or activity; or effectively denies an employee or applicant equal access to employment.



Title IX Sexual Assault

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. For purposes of these procedures, attempted rape may constitute a rape violation.
- **Incest:** Sexual Intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** sexual intercourse with a person who is under the statutory age of consent.



Title IX Sexual Assault

- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age and/or because of his/her temporary or permanent mental incapacity. For purposes of these procedures, the touching by the offender must be direct (for example, not through the victim's clothing), "private body parts" include a victim's genitalia, anus, or breasts, and the touching must have occurred with a sexualized intent on the part of the offender.



Title IX Dating and 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. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or who has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under domestic or family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under a domestic or family violence law.



Title IX Stalking

- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.



Title IX Reporting

- If a student or employee believes they have been subject to a violation addressed by these procedures or has actual knowledge that others have been subjected to such behavior, they should report the incident to the District's Title IX Coordinator.
- District employees with actual knowledge of a student being subject to Sexual Harassment are required report the conduct to the Title IX Coordinator.



Title IX Investigation - Assignment

- Prior to formal assignment, the Title IX Coordinator will confer with the prospective Investigator and Decision-Maker to ensure no conflict of interest exists between the either individual and the Complainant or Respondent or complainants or respondents generally. Previous service as an Investigator or Decision-Maker with respect to either party does not constitute a conflict of interest.



Protection in Complaint Process

- There can be no guarantee of confidentiality in the process for the Complainant or the Respondent.
- All parties involved should be:
 - Asked to keep information confidential
 - Told the District will keep information as confidential and possible



Rights of Parties

- Identify and have the Investigator consider witnesses and other evidence
- Access to all information the Investigator considers
- Access to review statements or evidence provided by the other party
- Access to review and comment on information the investigator develops



Role of the Investigator

- Review and analyze all evidence and make determinations regarding:
 - Credibility
 - Reliability
 - Significance
- Operate without any conflict of interest
- Act as an impartial investigator – not as an advocate for either party
- Make a recommendation for responsibility



Title IX Investigation

- The assigned Investigator will conduct an impartial investigation of the alleged conduct. Within ten school days of the assignment to the Investigator and Decision-Maker, the Investigator will meet with the Complainant in order to review the alleged conduct, ask clarifying questions, and solicit evidence relevant to the allegations. The Investigator will share the investigative evidence with the Decision-Maker.
- Decision-Maker determines whether Complaint moves forward.



Notifying the Complainant

- Advise that the investigation has begun: thank them for bringing the conduct to the District's attention
- Ask Complainant for written description of misconduct (if you don't already have it)
- Set an expectation for confidentiality but do not promise confidentiality
- Ensure Complainant there will be no retaliation for making a good-faith complaint.



Title IX Investigation

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- Decision-Maker determines whether Complaint moves forward.



Notifying the Respondent

- Advise that you are investigating an allegation that he/she engaged in misconduct
- Provide a summary of the allegations
- Set an expectation for full cooperation
- Set an expectation for confidentiality
- Caution against retaliating against Complainant and/or witnesses.



Title IX Investigation

- If the Complaint is not dismissed, the Investigator will meet with the Respondent between ten and fifteen school days later to ask clarifying questions, and provide the Respondent an opportunity to share their recollections of the alleged conduct and present any evidence in their defense. The alleged offender may also submit additional information to the Investigator within five school days after the interview. If the alleged offender fails to meet with the Investigator after reasonable attempts to engage, the investigator may proceed with the investigation based on the available evidence.
- The Investigator may determine whether the collection of additional evidence or interviewing of additional witnesses is appropriate. Both the Complainant and Respondent may identify fact or expert witnesses or exculpatory or inculpatory evidence supporting their position. The Investigator is not required to interview every individual identified by either party, but should provide deference to requests that witnesses be interviewed if the Investigator reasonably believes the identified witnesses may provide information material to the investigative determination.



Investigatory Report

- Must send investigator's report to both parties before making a determination as to responsibility.
- Report should include:
 - Findings of fact
 - Conclusions about whether alleged conduct occurred
 - Rationale
- After the parties receive the investigatory report:
 - Parties may send written questions to each other and/or witnesses
 - Must provide parties with written answers to questions and allow follow-up questions as necessary.
- Work with decision-maker through process.



Final Determination Report

- At the conclusion of the investigation and written questioning process, the decision-maker must issue a report containing the following:
 - Findings of fact
 - Conclusions about whether the alleged conduct occurred
 - Rationale for the result as to each allegation



Summary of Procedures

- **Investigator:** meet with Complainant (within 10 days of assignment) share results with Decision-Maker
- **Decision-Maker:** review results, confirm dismissal or continue
- **Investigator:** meet with Respondent (within 10-15 days of meeting with Complainant)
- **Investigator:** collect additional evidence, interview additional witnesses
- **Investigator:** draft investigative report (10 school days from last evidence). Share draft report, all evidence with Complainant and Respondent. Provide opportunity for written response.
- **Complainant / Respondent:** written response to draft investigative report (10 calendar days)
- **Investigator:** finalize the investigative report and submit the final investigative report, evidence, and each party's responses to the Decision-Maker. Provide opportunity for written response and cross-examination questions.



Special Issues During Interviews

- **Emotional Complainant or Respondent:**
sympathize but don't take sides
- **Complainant refuses interview:**
 - If still enrolled/employed, try to compassionately persuade to participate
 - If no longer employed/enrolled, document efforts to obtain cooperation and let them know the investigation will not move forward without their input



Special Issues During Interviews

- **Respondent refuses interview:**
 - If still enrolled/employed, advise that refusal to participate may result in discipline as the investigation will proceed without their input
 - If no longer employed/enrolled, document efforts to obtain cooperation and let them know the investigation may go forward without their input.
- **Respondent categorically denies allegations:**
 - Document credibility of witnesses
 - Pay attention to objective evidence (emails, etc.)



Additional Resources

- Training materials posted to CMSD website
- Updated policy and procedures posted to CMSD website
- U.S. Department of Education Fact Sheets and Summary Sheets available online
- Contact email and information

CMSD Website -> Departments -> Law Department
-> Civil Rights Notices (left-hand side of page)



