

Code of Student Conduct Title IX Supplement

2020-2021

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Title IX of the Education Amendments Act is a federal law that prohibits discrimination on the basis of sex against students and employees of HISD, including sex discrimination, sexual harassment, and other sexual misconduct (such as sexual assault, stalking, and dating or domestic violence) in an educational program or activity. The District shall take all allegations of Title IX violations seriously and will make every reasonable effort to handle and respond to every Title IX complaint filed by students or employees in a prompt, fair, thorough, and equitable manner.

As required by law, the District shall follow the procedures below upon a report of sex-based harassment, including sexual harassment, gender-based harassment, and dating violence, when such allegations, if proved, would meet the definition of sexual harassment under Title IX.

Please consult HISD's Title IX website for more information regarding Title IX. Also, questions regarding Title IX may be referred to:

Kaneetra Bass, District Title IX Coordinator
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Definitions

"Title IX sexual harassment" is prohibited conduct on the basis of sex that satisfies one or more of the following:

1. An employee of District conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo harassment);
2. 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 programs or activities; and
3. "Sexual assault" as defined by 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30).
 - a. Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v) means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.
 - b. Dating violence is defined in 34 U.S.C. § 12291(a)(10) as violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (2) where 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 the interaction between the persons involved in the relationship. Dating violence occurs when a person in a current or past dating

relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship or any of the person's past or subsequent partners.

- c. Domestic violence as defined in 34 U.S.C. § 12291(a)(8) includes 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 has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- d. Stalking as defined in 34 U.S.C. § 12291(a)(30) means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

Title IX Reporting

Any person may report Title IX sexual harassment regardless of whether the person is the alleged victim of the conduct. The report may be verbal or written.

If the person reporting the Title IX violation has cause to believe that the he or she witnessed child abuse per HISD Board policy FFG, then the reporter shall notify Child Protective Services of the Department of Family and Protective Services or local law enforcement within 48 hours.

A student who has been or is being subjected to any form of Title IX sexual harassment may bring the matter to the attention of a campus employee, including but not limited to a teacher, the campus nurse, counselor, principal or other campus administrator, District Title IX Coordinator or appropriate Title IX Administrator [See HISD Title IX website or HISD Board policies FB (exhibit) or FFH (Exhibit)]. The student may report the sex discrimination either verbally or through the District's Title IX Incident Report Form. Campus employees shall report the allegation to District's Title IX Coordinator or appropriate Title IX Administrator within 24 hours of receiving the report.

An employee who suspects or knows that a student has been subjected to Title IX sexual harassment shall inform his or her campus principal or work location supervisor, the District's Title IX Coordinator, or the appropriate Title IX Administrator. The employee may report the sex discrimination either verbally or through the District's Incident Report Form. If the employee notifies his/her campus principal or work location supervisor, the campus principal or work location supervisor shall report the concern to the District Title IX Coordinator or the appropriate Title IX Administrator within 24 hours of receiving the report.

Title IX Formal Complaint Process

Filing of Formal Complaint

The filing of a formal, written complaint shall initiate the District's formal grievance and investigation process. The complainant may file a formal complaint alleging Title IX sexual harassment and request that the District investigate the allegation of Title IX sexual harassment.

The complainant may utilize the District's Formal Complaint Form to file the complaint [See HISD's Title IX website or request the Formal Complaint form from the District Title IX Coordinator or Title IX Administrator]. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity of the District.

A formal complaint may be filed with the Title IX Coordinator or appropriate Title IX Administrator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator provided in FFH(Exhibit) and HISD's Title IX website, and by any additional method designated by the District. The formal complaint must contain the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint.

The Title IX Coordinator may also file a formal complaint, even where the complainant declines to file a formal complaint, if the Coordinator determines that the particular circumstances require the District to formally respond to and address the allegations.

Right to an Advisor

Once a formal complaint is filed, the complainant and respondent may have an advisor of his or her choice throughout the complaint process. Upon request of either the complainant or respondent, the district will provide an advisor of the district's choice at no cost to the complainant or respondent. The advisor may:

1. accompany a complainant or respondent to any formal complaint process meeting or conversation related to an investigation including interviews with the investigator;
2. assist a complainant or respondent in understanding and navigating the formal complaint process;
3. seek clarification or ask procedural or process questions about the formal complaint process;
4. alert the Title IX Coordinator or Administrator to any acts of retaliation;
5. speak with the Title IX Coordinator or Administrator to better understand the investigation process;
6. speak with the complainant or respondent during an interview break, if requested by the Complainant or Respondent;
7. review applicable district policies and procedures governing Title IX investigations; and
8. be copied on any correspondence or communication related to the investigation process at the direction of the complainant or respondent.

Notice of Allegation to Respondent

Upon receiving a formal complaint, and prior to commencement of the investigation, the Title IX Coordinator or Title IX Administrator shall promptly issue a written notice to the respondent informing the respondent of the alleged Title IX policy violations. The notice should include the identities of the parties involved, the specific section of the Title IX policy allegedly violated, the

precise conduct constituting the potential violation, and the date and location of the alleged incident (to the extent this information is known).

Informal Resolution

After a formal written complaint has been filed, the complainant and respondent may forgo the formal Title IX formal complaint process and voluntarily agree to informally resolve the complaint through mediation. Both parties must voluntarily consent, in writing, to the informal resolution process.

A request for informal resolution can be made by email, telephone, in-person or by completing the Informal Resolution Request Form, which can be obtained from the District Title IX Coordinator or appropriate Title IX Administrator. If the complainant or respondent chooses to make a verbal request for informal resolution, the Title IX Coordinator or appropriate Title IX Administrator shall complete the Informal Resolution Request Form, and ask the parties to acknowledge the accuracy of the completed form by signing it. At any time prior to the resolution, either party may withdraw consent and resume the formal complaint process.

Prior to and during the informal resolution process, the Title IX Coordinator or appropriate Title IX Administrator shall inform both parties that any decision to forgo informal resolution will not result in any disciplinary or punitive actions.

If the informal resolution process is successful in resolving the formal complaint, then an informal resolution agreement shall be finalized and signed. The informal resolution will be binding, with no appeal.

The informal resolution process is not available for:

1. any allegations of sexual harassment, sexual assault, or dating or domestic violence by an HISD employee involving a student;
2. repetitive misconduct found to violate Title IX and HISD's anti-discrimination and anti-harassment policies; or
3. the alleged student misconduct that constitutes a Level III or above Code of Student Conduct infraction/violation.

Investigation Process:

Once a Title IX Formal Complaint is filed, either by the complainant or the District Title IX Coordinator, all allegations of harassment of students or employees shall be investigated and addressed through the formal Title IX Complaint process.

1. The District Title IX investigators shall initiate and conduct all Title IX investigations.
2. Complainants will have 48 hours after the filing of the Title IX Formal Complaint Form to secure an advisor to represent him or her through the Title IX Process. Respondents will also have 48 hours after receipt of the Notice of Allegations to secure an advisor to represent him or her through the Title IX Process.
3. The District investigators shall give both parties and witnesses 48 hours written notice of an investigation interview. The written notice shall include the date, time, location, participants, and purpose of the interview.

4. The District investigators shall allow both parties (complaint and respondent) simultaneously an opportunity to review and inspect all evidence gathered during the course of the investigation and give both parties ten (10) business days to review all evidence and provide a written response to the investigator prior to the finalization of the written investigation report.
5. The investigation shall be completed within 45 business days from the date the investigator receives the Title IX Incident Report Form from the Title IX Coordinator or Title IX Administrator.
6. The District investigators shall provide copies of the final investigation report to both parties, the appropriate Decision Maker and the Title IX Coordinator within 60 business days from the date the investigator receives the Title IX Incident Report Form from the Title IX Coordinator or Title IX Administrator.

Grievance Process – Written Submission

The complainant and respondent will have ten (10) business days from the date the final investigation report is received from the District Investigator to submit a written response to the final written investigation report submitted to the Decision Maker. Within that same ten (10) day time frame, both parties will have the opportunity to submit relevant written questions to the Decision Maker, which the Decision Maker will present, within 24 hours of receipt, to the opposing party and/or witnesses for written response.

Both parties and their witnesses will have two (2) business days from the date the questions are received to submit written responses to the Decision Maker. The Decision Maker will, within 24 hours of receipt, provide the written responses to the opposing party and/or witnesses. Each party will then have two (2) business days to submit relevant follow up questions to the Decision Maker, which the Decision Maker will present, within 24 hours of receipt, to the opposing party and/or witnesses for response.

Both parties and their witnesses will have two (2) business days from the date the follow up written questions are received to submit written responses to the follow up questions to the Decision Maker. During the time period wherein written questions and follow up questions are being submitted to parties and witnesses for response, the Decision Maker may also submit written questions and follow up questions to the parties and/or their witnesses for written response. Parties and their witnesses will have two (2) business days from the date of receipt of the Decision Maker's questions to provide a written response to the Decision Maker.

The Decision Maker will have five (5) business days from the date of receipt of the written responses to the questions submitted or the receipt of responses to follow up questions to issue the final written determination to both parties via email and certified mail return receipt requested. The final written determination shall be distributed to the complainant and respondent simultaneously.

The final written determination shall provide for a fair and equitable resolution of the formal complaint.

Title IX Standard of Evidence

The standard of evidence used to determine responsibility in a formal complaint of Title IX sexual harassment shall be the preponderance of evidence.

Title IX Appeals

Either party may petition for an appeal of the Determination of the Decision-Maker.

Deadlines: An appeal of the Determination may be made by written notice of appeal to the Title IX Coordinator or Area Administrator within ten (10) business days of the Determination. Once an appeal is received, the other party will be notified in writing of the appeal, which will include a notice that the other party may respond to the appeal in writing within ten (10) days. The appeal notice must clearly set forth the grounds for the appeal and evidence supporting the basis on which the appeal is made. Failure to provide supporting evidence may result in denial of the appeal. The appeal decision must be issued on the 30th day following the delivery of the Notice of Appeal.

Deadlines may be extended at the discretion of the Title IX Coordinator upon a showing of good cause. A deadline extension request must be submitted in writing and may not unnecessarily delay the timely resolution of the matter.

Grounds for Appeal:

1. A procedural or substantive error occurred that significantly affected the outcome of the case.
2. There is new, relevant information that was not available at the time of the investigation that, if available, could have significantly affected the outcome of the case.
3. If Title IX personnel involved in handling the complaint have a conflict or bias that affected the outcome of the case.
4. Discipline appeal – either the complainant or respondent may appeal on the ground that the discipline issued is disproportionate to the behavior or that the mitigating factors set forth in the Code of Student Conduct warrant a different discipline be applied based on the determination of responsibility made by the Decision Maker. This appeal requires acceptance of the determination of responsibility and only requests a reconsideration of the discipline assigned.

Title IX Appeal Committee:

The Appeal Committee shall be made up of three (3) Appeal Decisions Makers as appointed by the District.

Following a review, the Appeal Committee shall issue a written decision. The Appeal Committee may grant the appeal, deny the appeal, or remand the complaint back through the process if further development of the facts is warranted. In instances where bias significantly impacts the investigation and/or Determination of Responsibility, the Appeal Committee may order a new investigation by a new investigator. The decision of the Appeal Committee is final and not subject to further review.

The Appeal Committee's review will be limited to the Determination of Responsibility, Investigation, Notice of Appeal, and Response to Appeal. No other evidence shall be reviewed,

other than new evidence not available at the time of the investigation, but if the Appeal Committee concludes that this new evidence could have significantly affected the outcome of the case, then the matter must be remanded to the Decision-Maker for consideration of that new evidence.