



Title IX & Sexual Harassment

Policy Number: 6.3041	Adopted: 2021
Revised: June 28, 2023	Monitoring Review: Annually
Approved by: Lizzette Gonzalez Reynolds, Commissioner	Signature:

I. General

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

II. Title IX Coordinator⁴

- (1) The Title IX coordinator shall respond promptly to all general reports as well as formal complaints of sexual harassment. He/she shall be kept informed by school-level personnel of all investigations and shall provide input on an ongoing basis as appropriate.
- (2) Any individual may contact the school's Title IX coordinator at any time using the information below:

Yolanda Dandridge
 1219 Whitney Ave
 Memphis, TN 38133
 (901)440-9735
 ythomas.tnasd.org

III. Definitions⁵

- (1) "Complainant" is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- (2) "Respondent" is an individual who is reported to be the perpetrator of conduct that could constitute sexual harassment.
- (3) "Sexual harassment" is conduct on the basis of sex that satisfies one or more of the following:

¹ 34 CFR § 106.1

² 34 CFR § 106.8(b),(c)

³ 34 CFR § 106.45(b)(1)(iii)

⁴ 34 CFR § 106.8(a)

⁵ 34 CFR § 106.30(a)

- (a) A school employee conditioning an aid, benefit, or service of an education program or activity on an individual's participation in unwelcome sexual conduct;
 - (b) 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 education program or activity; or
 - (c) Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state and federal law.
- (4) Behaviors that constitute sexual harassment may include, but are not limited to:
- (a) Sexually suggestive remarks;
 - (b) Verbal harassment or abuse;
 - (c) Sexually suggestive pictures;
 - (d) Sexually suggestive gesturing;
 - (e) Harassing or sexually suggestive or offensive messages that are written or electronic;
 - (f) Subtle or direct propositions for sexual favors; and
 - (g) Touching of a sexual nature.
- (5) Sexual harassment may be directed against a particular person or persons, or a group, whether of the opposite sex or the same sex.
- (6) "Supportive measures" are non-disciplinary, non-punitive, individualized services and shall be offered to the complainant and the respondent, as appropriate. These measures may include, but are not limited to, the following:
- (a) Counseling;
 - (b) Course modifications;
 - (c) Schedule changes; and
 - (d) Increased monitoring or supervision.
- (7) The measures offered to the complainant and the respondent shall remain confidential to the extent that maintaining such confidentiality would not impair the ability of the school to provide the supportive measures.

IV. Grievance Process

- (1) Upon learning of an instance of alleged sexual harassment, even if no formal complaint is filed, the Title IX coordinator shall:
- (a) Promptly contact the complainant to discuss the availability of supportive measures;
 - (b) Consider the complainant's wishes with respect to supportive measures;
 - (c) Inform the complainant of the availability of supportive measures;

⁶ 20 USCA 1092(f)(6)(A)(v); T.C.A. § 36-3-601(10); T.C.A. § 71-6-302

⁷ 34 USCA 12291(a)(10)

⁸ 34 USCA 12291(a)(8); T.C.A. § 40-14-109

⁹ USCA 12291(a)(30); T.C.A. § 39-17-315; T.C.A. § 36-3-601(11)

- (d) Explain the process for filing a formal complaint;¹⁰ and
 - (e) Immediately (within 24 hours) contact Shaundraya Hersey, staff attorney, at the Tennessee Department of Education's office for civil rights at (615) 289-1887 or Shaundraya.Hersey@tn.gov.
- (2) While the school will respect the confidentiality of the complainant and the respondent as much as possible, some information may need to be disclosed to appropriate individuals. All disclosures shall be consistent with the school's legal obligations and the necessity to investigate allegations of harassment and take disciplinary action.
- (3) Disciplinary consequences or sanctions shall not be initiated against the respondent until the grievance process has been completed. Unless there is an immediate threat to the physical health or safety of any student arising from the allegation of sexual harassment that justifies removal, the respondent's placement shall not be changed.¹¹ If the respondent is an employee, he/she may be placed on administrative leave during the pendency of the grievance process.¹² The Title IX coordinator shall keep the superintendent informed of any employee respondents so that he/she can make any necessary reports to the State Board of Education in compliance with state law.¹³

Complaints

- (1) Any individual who has knowledge of behaviors that may constitute a violation of this policy shall immediately report such information to the Title IX coordinator, however, nothing in this policy requires a complainant to either report or file a formal complaint within a certain timeframe. If the complaint involves the Title IX coordinator, the complaint shall be filed with the superintendent.
- (2) If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate notification shall be made per the school policy on reporting child abuse, Policy 6.4090.
- (3) Upon receipt of a formal complaint, the Title IX coordinator shall promptly:¹⁴
- (a) Provide written notice of the allegations, and the grievance process to all known parties to give the respondent time to prepare a response before an initial interview;
 - (b) Inform the parties of the prohibition against making false statement or knowingly submitting false information;
 - (c) Inform the parties that they may have an advisor present during any subsequent meetings;
 - (d) Offer supportive measures in an equitable manner to both parties; and
 - (e) Immediately (within 24 hours) contact Shaundraya Hersey, staff attorney, at the Tennessee Department of Education's office for civil rights at (615) 289-1887 or Shaundraya.Hersey@tn.gov.
- (4) If the Title IX coordinator dismisses a complaint, written notice, including the reasons for dismissal, shall be provided to both parties simultaneously.¹⁵

Investigations¹⁶

- (1) The Tennessee Department of Education's office of general counsel shall assign an investigator and be responsible for investigating complaints in an equitable manner that involves an objective evaluation of all relevant evidence. The burden for

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)(x)

obtaining evidence sufficient to reach a determination regarding responsibility rests on the school and not the complainant or respondent.

- (2) Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48) hours of receipt of the complaint. If an investigation is not initiated within forty-eight (48) hours, the investigator shall provide the Title IX coordinator with appropriate documentation detailing the reasons why the investigation was not initiated within the required timeframe.
- (3) All investigations shall be completed within twenty (20) calendar days from the receipt of the initial complaint. If the investigation is not complete within twenty (20) calendar days, the investigator shall provide the Title IX coordinator with appropriate documentation detailing the reasons why the investigation has not been completed.
- (4) All investigations shall:
 - (a) Provide an equal opportunity for the parties to present witnesses and evidence;
 - (b) Not restrict the ability of either party to discuss the allegations under investigation or gather and present relevant evidence;
 - (c) Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that seek disclosure of information protected under a legally recognized privilege unless such privilege has been waived;¹⁷
 - (d) Provide the parties with the same opportunities to have others present during any grievance proceeding;
 - (e) Provide to parties whose participation is requested written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;
 - (f) Provide both parties an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint; and
 - (g) Result in the creation of an investigative report that fairly summarizes relevant evidence.
 - i. Prior to the completion of the investigative report, the investigator shall send to each party the evidence subject to inspection and review. All parties shall have at least ten (10) days to submit a written response which shall be taken into consideration in creating the final report.
- (5) Within the parameters of the federal Family Educational Rights and Privacy Act,¹⁷ the Title IX coordinator shall keep the complainant and the respondent informed of the status of the investigation process. At the close of the investigation, a written final report on the investigation will be delivered to the complainant and respondent (or their parents/guardians if they are minors), to the superintendent and to the Tennessee Department of Education's office for civil rights.

Determination of Responsibility¹⁸

- (1) The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.¹⁹ The preponderance of the evidence standard shall be used in making this determination.²⁰
- (2) An attorney with the Tennessee Department of Education's Office of General Counsel shall act as the decision-maker. He or she shall receive the final report of the investigation and allow each party the opportunity to submit written questions that he/she wants asked of any party or witness prior to the determining responsibility.
- (3) The decision-maker shall make a determination regarding responsibility and provide the written determination to the parties

¹⁷ 20 USCA § 1232g

¹⁸ 34 CFR § 106.45(b)(7)

¹⁹ 34 CFR § 106.45(b)(1)(iv)

²⁰ 34 CFR § 106.45(b)(1)(vii)

simultaneously along with information about how to file an appeal.

- (4) A substantiated charge against a student may result in corrective or disciplinary action up to and including expulsion. A substantiated charge against an employee shall result in disciplinary action up to and including termination.
- (5) After a determination of responsibility is made, the Title IX coordinator shall work with the complainant to determine if further supportive measures are necessary. The Title IX coordinator shall also determine whether any other actions are necessary to prevent reoccurrence of the harassment.

V. Appeals²¹

- (1) Either party may appeal from a determination of responsibility based on a procedural irregularity that affected the outcome, new evidence that was not reasonably available at the time of the determination that could affect the outcome, or an alleged conflict of interest on the part of the Title IX coordinator or any personnel chosen to facilitate the grievance process. Appeals shall be submitted to the Title IX coordinator within ten (10) days of a determination of responsibility.
- (2) Upon receipt of an appeal, the Title IX coordinator shall:
 - (a) Immediately (within 24 hours) contact Shaundraya Hersey, staff attorney, at the Tennessee Department of Education's office for civil rights at (615) 289-1887 or Shaundraya.Hersey@tn.gov.
 - (b) Notify the parties in writing.
- (3) The Tennessee Department of Education's office of general counsel shall assign an impartial hearing officer within five (5) days of receipt of the appeal.
- (4) During the appeal process, the parties shall have a reasonable, equal opportunity to submit written statements. Within ten (10) calendar days, the hearing officer shall issue a written decision describing the result of the appeal and the rationale for the result. The written decision shall be provided simultaneously to both parties.

VI. Retaliation²²

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

²¹ 34 CFR § 106.45(b)(8)

²² 34 CFR § 106.71