

Murfreesboro City School Board

Monitoring: Review: Annually, in March	Descriptor Term: Title IX and Sexual Harassment	Descriptor Code: 6.3041	Issued Date: 11/28/23
		Rescinds: 6.3041	Issued: 08/25/20

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~~conduct, students, and students' behaviors while on school property, at any school-sponsored
5 activity, on school-provided equipment or transportation, or at any official school bus stop in accordance
6 with 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 annual training as to how to promptly and equitably resolve student and
10 employee 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. They shall be kept informed by school-level personnel of all investigations and shall
15 provide input on an ongoing basis as appropriate. The Board of Education designates and authorizes the
16 following individuals to oversee and coordinate its efforts to comply with Title IX and its implementing
17 regulations:

18 Ken Rocha- Primary Coordinator for Student-Related Title IX Complaints or Concerns
19 Assistant Superintendent of Student Support Services
20 2552 South Church Street
21 Murfreesboro, TN 37127
22 615-893-2313, Ext. 10029
23 Ken.rocha@cityschools.net

24 Maria Johnson- Primary Coordinator Employee-Related Title IX Complaints or Concerns
25 Director of Human Resources and Educator Effectiveness
26 2552 South Church Street
27 Murfreesboro, TN 37027
28 615-893-2313, Ext. 10036
29 Maria.johnson@cityschools.net

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DEFINITIONS⁴

“Complainant” is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

“Respondent” is an individual who is reported to be the perpetrator of conduct that could constitute sexual harassment.

“Sexual harassment” is conduct on the basis of sex that satisfies one or more of the following:³

1. A school district employee conditioning an aid, benefit, or service of an education program or activity on an individual’s participation in unwelcome sexual conduct;
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 education program or activity; or
3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state and ~~federal~~ federal law.

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

1. Sexually suggestive remarks;
2. Verbal harassment or abuse;
3. Sexually suggestive pictures;
4. Sexually suggestive gesturing;
5. Harassing or sexually suggestive or offensive messages that are written or electronic;
6. Subtle or direct propositions for sexual favors; and
7. Touching of a sexual nature.

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

“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:

1. Counseling;
2. Course modifications;
3. Schedule changes; and
4. Increased monitoring or supervision.

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 district to provide the supportive measures.

GRIEVANCE PROCESS

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

1. Promptly contact the complainant to discuss the availability of supportive measures;
2. Consider the complainant’s wishes with respect to supportive measures;
3. Inform the complainant of the availability of supportive measures; and
4. Explain the process for filing a formal complaint.¹⁰

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

5 The respondent shall be presumed not responsible for the alleged conduct unless and until a
6 determination regarding responsibility is made at the conclusion of the grievance process. Disciplinary
7 consequences or sanctions shall not be initiated against the respondent until the grievance process has
8 been completed. Unless there is an immediate threat to the physical health or safety of any student
9 arising from the allegation of sexual harassment that justifies removal, the respondent's placement
10 shall not be changed.¹¹ If the respondent is an employee, they may be placed on administrative leave
11 during the pendency of the grievance process.¹² The Title IX Coordinator shall keep the Director of
12 Schools informed of any employee respondents so that they can make any necessary reports to the
13 State Board of Education in compliance with state law.¹³

14 **Complaints**

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

19 If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate
20 notification shall be made ~~per pursuant to the board policy on reporting child abuse~~Board Policy 6.409.

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

- 22 1. Provide written notice of the allegations, and the grievance process to all known parties to give
- 23 the respondent time to prepare a response before an initial interview;
- 24 2. Inform the parties of the prohibition against making false statement or knowingly submitting
- 25 false information;
- 26 3. Inform the parties that they may have an advisor present during any subsequent meetings; and
- 27 4. Offer supportive measures in an equitable manner to both parties.

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

30 **Initial Assessment and Dismissal of Formal Complaints**

31 Upon receipt of a formal complaint, the Title IX Coordinator shall conduct an initial assessment to
32 determine whether the alleged conduct, if true, would constitute sexual harassment as defined by this
33 policy and applicable law.¹⁵

34 The Title IX Coordinator may consolidate formal complaints involving allegations of sexual harassment
35 arising out of the same facts or circumstances, including complaints involving more than one
36 complainant, more than one respondent, or allegations by one party against another party, when
37 consolidation is appropriate and consistent with applicable law.¹⁶

38 The Title IX Coordinator may dismiss a formal complaint or allegations therein if:¹⁷

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- 1 1. The District is unable to identify the respondent after taking reasonable steps to do so;
- 2 2. The alleged conduct, even if proven, would not constitute sex discrimination or sexual
- 3 harassment prohibited by Title IX or this policy;
- 4 3. The alleged conduct did not occur within the District’s education program or activity;
- 5 4. The complainant voluntarily withdraws the complaint or allegations, and the remaining alleged
- 6 conduct, if any, would not constitute a violation of this policy even if proven; or,
- 7 5. The respondent is no longer enrolled in or employed by the District.

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8 Prior to dismissal under this section, the Title IX Coordinator may communicate with the complainant
9 and make reasonable efforts to clarify the allegations. A dismissal under this section does not prevent
10 the District from addressing the alleged conduct under Board policies or procedures. Following
11 dismissal, the Title IX Coordinator shall determine whether supportive measures or other appropriate
12 actions are necessary to prevent recurrence and ensure continued access to the District’s education
13 programs and activities.

14 If the Title IX Coordinator dismisses a complaint, written notice, including the reasons for dismissal,
15 shall be provided to both parties simultaneously.¹⁷

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17 Either party may appeal a dismissal of a formal complaint on the following bases only:¹⁷

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- 18 1. A procedural irregularity that affected the dismissal decision;
- 19 2. New evidence that was not reasonably available at the time the dismissal decision was made and
- 20 that could affect the outcome; or
- 21 3. A conflict of interest or bias by the Title IX Coordinator, investigator, decision-maker, or other
- 22 Title IX personnel that affected the dismissal decision.

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23 Dissatisfaction or disagreement with the dismissal decision alone shall not constitute a sufficient basis
24 for appeal.

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25 **Investigations¹⁸⁶**

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26 The Title IX Coordinator shall oversee all complaints and reports alleging conduct that may constitute
27 sexual harassment under this policy. The Title IX Coordinator may conduct the investigation or designate
28 a trained investigator to conduct the investigation on behalf of the district.

29 School administrators and supervisors receiving reports or complaints alleging conduct that may
30 constitute sexual harassment shall promptly refer the matter to the Title IX Coordinator.
31 For complaints of student on student harassment, the principal shall serve as the investigator and be
32 responsible for investigating complaints in an equitable manner that involves an objective evaluation of
33 all relevant evidence. For complaints of employee on student or employee on employee harassment, the
34 Human Resources Department or Title IX Coordinator will investigate. The burden for obtaining
35 evidence sufficient to reach a determination regarding responsibility rests on the school district and not
36 the complainant or respondent.

38 Once a complaint is received, the Investigator shall initiate an investigation within forty-eight (48) hours
39 of receipt of the complaint. If an investigation is not initiated within forty-eight (48) hours, the
40 investigator shall provide the Title IX Coordinator with appropriate documentation detailing the reasons
41 why the investigation was not initiated within the required timeframe. If the Title IX Coordinator is
42 serving as the investigator, the documentation shall be provided to the Director of Schools.

1 All investigations shall be completed within twenty (20) calendar days from the receipt of the initial
2 complaint. If the investigation is not complete within twenty (20) calendar days, the investigator shall
3 provide the Title IX Coordinator with appropriate documentation detailing the reasons why the
4 investigation was not initiated or completed within the required timeframe. If the Title IX Coordinator
5 is serving as the investigator, the documentation shall be provided to the Director of Schools.

6 The Title IX Coordinator or investigator shall communicate with the parties regarding delays, extensions,
7 or the need for additional time due to witness availability, school breaks, law enforcement activity,
8 complexity of allegations, or other good cause. When a temporary delay or limited extension is
9 necessary, the district shall provide written notice to the complainant and respondent of the delay or
10 extension and the reason(s) for the action.

11 All investigations shall:

- 12 1. Provide an equal opportunity for the parties to present witnesses and evidence;
- 13 2. Not restrict the ability of either party to discuss the allegations under investigation or gather and
14 present relevant evidence;
- 15 3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that
16 seek disclosure of information protected under a legally recognized privilege unless such
17 privilege has been waived;¹⁹⁷
- 18 4. Provide the parties with the same opportunities to have others present during any grievance
19 proceeding;
- 20 5. Provide to parties whose participation is requested written notice of the date, time, location,
21 participants, and purpose of all investigative interviews, or other meetings, with sufficient time
22 for the party to prepare to participate;
- 23 6. Provide both parties an equal opportunity to inspect and review any evidence directly related to
24 the allegations in the formal complaint; and
- 25 7. Result in the creation of an investigative report that fairly summarizes relevant evidence.▲
26 a. Prior to the completion of the investigative report, the investigator shall send to each
27 party the evidence subject to inspection and review.▲
28 b. All parties shall have at least ten (10) days to submit a written response to the evidence
29 provided, which shall be taken into consideration in creating the final investigative
30 report.▲

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31 Within the parameters of the Family Educational Rights and Privacy Act,¹²⁰⁸ the Title IX Coordinator
32 shall keep the complainant and the respondent informed of the status of the investigation process. At
33 the close of the investigation, a written final report on the investigation will be delivered to the
34 parent(s)/guardian(s) of the complainant, parent(s)/guardian(s) of the respondent, and to the Director of
35 Schools.

36 **Determination of Responsibility¹⁹ Responsibility²¹**

37 The respondent is presumed not responsible for the alleged conduct until a determination regarding
38 responsibility is made at the conclusion of the grievance process.²⁰⁻²² The preponderance of the evidence
39 shall be used in making this determination.²³⁺

1 The Director of Schools, or their trained and impartial designee, shall act as the decision-maker. In no
2 circumstances shall the investigator also serve as the decision-maker. They shall receive the final report
3 of the investigation and allow each party the opportunity to submit written questions that they want asked
4 of any party or witness prior to the determining responsibility.

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

7 A substantiated charge against a student may result in corrective or disciplinary action up to and
8 including expulsion. A substantiated charge against an employee shall result in disciplinary action up to
9 and including termination.

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

13 **APPEALS²² APPEALS²⁴**

14 Either party may appeal from a determination of responsibility based on a procedural irregularity that
15 affected the outcome, new evidence that was not reasonably available at the time of the determination
16 that could affect the outcome, or an alleged conflict of interest on the part of the Title IX Coordinator or
17 any personnel chosen to facilitate the grievance process. Dissatisfaction or disagreement with the
18 outcome, sanction, disciplinary consequence, or factual findings alone shall not constitute a sufficient
19 basis for appeal. Appeals shall be submitted to the Title IX Coordinator within ten (10) days of a
20 determination of responsibility.

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

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

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

28 **RETALIATION²³ RETALIATION²⁵**

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

31
32 **RECORDKEEPING²⁶**

33 The District shall maintain records relating to reports, formal complaints, investigations, supportive
34 measures, informal resolutions, appeals, training materials, and responses required under this policy in
35 accordance with applicable law and District records retention practices.

36 Records shall be maintained for the period required by state and federal law.

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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 C.F.R. § 106.45\(e\)](#)
17. [34 C.F.R. § 106.45\(d\)](#)
- 16-18. 34 CFR § 106.45(b)(5); 34 CFR § 106.45(b)(1)(v)
- 17-19. 34 CFR § 106.45(b)(1)(x)
- 18-20. 20 USCA § 1232g
- 19-21. 34 CFR § 106.45(b)(7)
- 20-22. 34 CFR § 106.45(b)(1)(iv)
- 21-23. 34 CFR § 106.45(b)(1)(vii)
- 22-24. 34 CFR § 106.45(b)(8)
25. 34 CFR § 106.71
- 23-26. [34 C.F.R. § 106.45\(b\)\(10\)](#)

Cross References

Section 504 and ADA Grievance Procedures 1.802
Discrimination/Harassment of Employees (Sexual, Racial,
Ethnic, Religious) 5.500
Complaints and Grievances 5.501
Staff-Student Relations 5.610
Code of Conduct 6.300
Student Discrimination, Harassment, Bullying, Cyber-
bullying, and Intimidation 6.304
Student Concerns 6.305
Reporting Child Abuse 6.409