

Leadership Team Meeting 9/10/20 Title IX Update

1. *When do the new regulations become effective and what do they cover?

The regulations went into effect on August 14, 2020. The new regulations outline a new process for reporting sexual harassment and discrimination.

**We have been working with Tracy Copenhaver (WSBA Attorney) on adopting a new policy. This new policy will be brought to the Board on September 22.*

2. What must the school district do to be in compliance?

- Adopt new policy and share with all staff
- Identify and appoint Title IX Coordinator, Investigators, and Decision Makers.
- Update student/employee handbooks with Title IX Coordinator and policy
- Update Title IX Officer contact information on website
- Train all personnel.

3. What is changing? What has been added?

The new rule has defined “sexual harassment” as conduct on the basis of sex, that satisfies one or more of the following:

- An employee of the recipient conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
- 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 educational program or activity; or
- **“Sexual assault” as defined in 34 U.S.C. 12291(1)(10) of the Violence Against Women’s Act (“VAWA”), “domestic violence as defined in 34 U.S.C. 12291(a)(10) of the VAWA, or stalking as defined in 34 U.S.C. 12291(a)(30) of the VAWA.**

4. Who is responsible for reporting possible sexual harassment?

All employees of K-12 schools are required to report possible sexual harassment. Actual knowledge of sexual harassment to impose liability against a school district is as notice of sexual harassment or allegations of sexual harassment to a Title IX Coordinator or to any employee of an elementary and secondary school.

5. Who can file a complaint?

Any person may file a complaint of possible sexual harassment.

6. The policy refers to complainant and respondent what is meant by these terms?

The new rule requires equitable treatment of both the complaining party and the party responding to the allegations. A “complainant” is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A “respondent” is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. The respondent is to be treated as not responsible for

the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

7. Will both parties be involved in each stage of the grievance process?

Yes. The new rule requires equitable treatment of both the complaining party and the party responding to the allegations. Both parties will be provided an equal opportunity to participate in the investigation and appeal.

8. What notice are the parties required to receive?

Upon receipt of a formal complaint of sexual harassment, the school district must provide written notice to the parties explaining the grievance process.

9. Will both parties have equal access to materials/evidence collected during the investigation?

Yes, during the investigation, both parties will be given an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the complaint.

10. How can a person file a complaint?

A complaint can be received verbally, phone, phone message, email, or regular mail.

11. Can a parent file a complaint? Will parents receive notice?

Yes, any person can file a complaint. Parents will be notified if a complaint is received involving their son or daughter and nothing in the new rule restricts a parents' legal right to act on behalf of their son or daughter.

12. How will the school district determine responsibility?

The new rule requires an objective evaluation of all relevant evidence-including both *inculpatory and exculpatory evidence-and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

**Exculpatory (evidence that tends to show the respondent did not commit the alleged sexual harassment) and inculpatory (evidence that tends to show the respondent did commit sexual harassment).*