

## **SEXUAL HARASSMENT OF STUDENTS COMPLAINT PROCEDURES**

The Oklahoma School for the Deaf complies with the Civil Rights Laws, including but not limited to Title IX of the Education Amendments of 1972. It is the express policy of the board of education to encourage student victims of sexual harassment to come forward with such claims.

Students who feel that administrators, supervisors, support personnel, teachers, or other students are subjecting them to sexual harassment are encouraged to report these conditions, or have their parents report these conditions, to the Title IX Coordinator. Any employee to whom such a report was made will provide notice of the report to the Title IX coordinator.

No reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

Every attempt will be made to maintain confidentiality; however, absolute confidentiality cannot be guaranteed because of due process concerns that arise in sexual harassment investigations.

### **Definitions:**

**Complainant:** Individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**The Oklahoma School for the Deaf Title IX Coordinator:** The Oklahoma School for the Deaf Title IX Coordinator oversees compliance efforts and the investigation complaints of alleged sexual harassment against students.

For the 2020-2021 school year:

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**Respondent:** The person alleged to be responsible for the violation alleged in the complaint. The term may be used to designate persons with responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint.

**Supportive Measures:** Individualized services must be offered, even if a complainant does not wish to initiate or participate in a grievance process, to restore or preserve equal access to education, protect student and employee safety, or deter sexual harassment.

### **A. Reporting Allegations of Sexual Harassment**

1. Upon notice from an employee that a student or parent/guardian has reported possible sexual harassment, the Title IX coordinator will promptly contact the student (alleged victim) to discuss the availability of supportive measures, consider the student's wishes with regard to supportive measures, and explain the process that will be involved with a formal complaint.
2. Any employee found to have engaged in sexual harassment of students shall be subject to sanctions, including, but not limited to warning, suspension, or termination subject to applicable procedural and due process requirements.
3. Any student found to have engaged in sexual harassment of other students shall be subject to sanctions, including, but not limited to warning, suspension or other appropriate punishment subject to applicable procedural and due process requirements. Students who engage in sexual harassment on school premises or off school premises at school-sponsored activities will be subject to appropriate discipline, including suspension. The school's normal disciplinary procedures will be followed in determining the appropriate

consequence for the sexual harassment. In the event the administration recommends suspension as a result of the conduct, due process will be afforded to the student in accordance with the district's suspension procedures.

#### **B. Grievance Procedure.**

1. Equitable Treatment. Both the alleged victim (complainant) and the alleged respondent (respondent) will be treated equitably by the school district.
2. Objective Evaluation of Evidence. All evidence both inculpatory and exculpatory will be evaluated objectively. Credibility determinations will not be made based upon the party's status as complainant, respondent, or witness.
3. Conflict of Interest. Any person serving as the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate the process shall not have a conflict of interest against complainants and respondents generally or against the particular complainant and respondent.
4. Presumption. There will be a presumption that the respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.
5. Timeliness. The grievance process will proceed in a timely manner. Any delay in the process for good cause such as law enforcement involvement, absence of a party, witness or advisor, translation, or accommodation needs will be documented, and written notice provided to both parties explaining the reason for the delay.
6. Possible outcomes. A description or listing of possible disciplinary outcomes and remedies that may be implemented following a determination of responsibility must be provided to both parties.
7. Standard of Review. The school district will utilize a preponderance of the evidence standard to determine responsibility.
8. Privileged Information. The school district will not require, allow or use evidence or questions that constitute or seek legally privileged information, unless the privilege is waived.

**C. Written Notice.** Upon receipt of a formal complaint, the school district will provide written notice to all known parties in sufficient time to give the respondent time to prepare a response before an initial interview. The written notice must include:

1. Notice of the grievance process, including any informal resolution process;
2. Notice of the allegations, including sufficient details to allow the respondent to prepare a response;
3. A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the grievance process;
4. Notice of the parties' right to have an advisor and to inspect and review evidence. The advisor may but is not required to be an attorney.
5. Notice of any provision in the student discipline code that prohibits knowingly making false statements or providing false information in the grievance process.

If in the course of an investigation, the school district obtains additional information about the respondent or complainant that was not included in the original written notice, notice of the additional allegations must be provided in writing to both parties.

**D. Investigation of the Allegations.** The school district will designate an investigator to conduct a thorough investigation of allegations. Contact information for the investigator will be provided to both the complainant and the respondent.

1. The burden of proof and of gathering evidence remains on the school district.
2. An equal opportunity will be provided to both parties to present witnesses and evidence during the investigation.
3. Neither complainant nor respondent will be prohibited from discussing the allegations or gathering and presenting evidence to the investigator.
4. Both parties will have the opportunity to have others present during interviews or related proceedings. This may include an advisor who may but is not required to be an attorney.

5. Written notice of the date, time, participants, purpose and location of any investigative interview, hearing, or other meeting shall be provided to the party who is invited or expected to attend.
6. Both parties and their advisors, if any, will be provided an opportunity to review all evidence that is directly related to the allegations in the formal complaint. This would include any evidence on which the school district does not intend to rely and any exculpatory or inculpatory evidence from any source. Such evidence must be provided prior to the completion of the final investigation report and in time to give the parties at least ten (10) days to prepare a written response, which the investigator must consider prior to completing the investigation report.
7. A written investigation report will be provided that summarizes the relevant evidence. This report will be provided to the parties and their advisors, if any, for their review and written response at least ten (10) days before a hearing or determination of responsibility.

**E. Written Hearing.** The Title IX coordinator will conduct a written hearing, whereby each party will have ten (10) days from the receipt of the investigation report to submit written, relevant questions that the party wants asked of another party or witness. Both parties will be provided with the answers and follow up questions. Federal law determines when questions regarding a complainant's prior sexual behavior or sexual predisposition are considered relevant in a hearing provided by a school district.

**F. Determination of Responsibility.** A decisionmaker, who is not the Title IX coordinator nor the investigator, will apply a preponderance of the evidence standard to determine responsibility, and will issue a written determination of responsibility that:

1. Identifies the allegations that potentially constitute sexual harassment;
2. Describes the school district's procedural steps taken from the receipt of the complaint to the determination;
3. Includes findings of fact to support the determination;
4. Includes conclusions regarding applicability of the discipline code to the facts;
5. Includes a statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the school's educational programs or activities will be provided to the complainant; and
6. The procedures and permissible basis for appeals.

**G. Appeals.** Within ten (10) days of a determination of responsibility, dismissal of a complaint or any allegations therein either party may appeal for one of the following reasons:

A procedural error affected the outcome.

New evidence that was not reasonably available at the time of the determination and could affect the outcome;

Conflicts of interest on the part of the Title IX coordinator, investigator or decision maker that affected the outcome.

If an appeal is made, the school district will provide written notice to both parties of the appeal. Both parties will be provided an equal opportunity to submit a written statement in support of or challenging the determination within ten (10) days of the written notice to both parties of the appeal being filed. The appeal will be heard by an appeal decision maker who is not the Title IX coordinator, the investigator or the original decisionmaker. The appeal decisionmaker cannot have a conflict of interest or bias against complainants and respondents generally or the particular complainant and respondent. The appeal decisionmaker will receive training as mandated by law. The decision of the appeal decisionmaker will be final and non-appealable. The written decision of the appeal decisionmaker will be provided within ten (10) days of the deadline for written statements supporting or challenging the initial determination. The written decision will be provided simultaneously to both parties.

**H. Recordkeeping.** The school district will keep records related to reports of alleged sexual harassment for a minimum of seven (7) years. Records maintained will include investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken including supportive measures. Records will document in each instance that the school district's response was not indifferent and that measures were taken to restore or preserve equal access to educational programs or activities. If the school does not offer supportive measures in

response to a report, the records should document why the response was not clearly unreasonable under the known circumstance.

The district will also post the training materials used to train Title IX coordinators, investigators, and decisionmakers on the district website at [www.osd.k12.ok.us](http://www.osd.k12.ok.us). These materials will also be available to the public.

**I. Retaliation.** The board of education prohibits retaliation by the school district or any employees of the school district against any person for the purpose of interfering with Title IX rights or because the person has participated or refused to participate in any manner in a proceeding under Title IX regulations. Complaints of retaliation will be addressed under the district's grievance process.

Charging a person with a discipline violation or code of conduct violation based on a person's knowingly making a materially false statement in bad faith in an investigation is not retaliation.

**Adopted: August 1, 2020**