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## **Students**

### **Investigation: Sexual Harassment / Intimidation**

#### **What is a Title IX Investigation**

A Title IX Investigation examines allegations of sexual discrimination, harassment, assault, domestic violence, stalking or any other gender-based harm listed in the District's anti-discrimination policies.

Because it examines policy violations, the investigation occurs independently of any legal (civil or criminal) investigation. It is the District's responsibility to determine whether the incident violated District policy.

#### **The investigation process**

The formal investigation process is broken down into several phases:

1. Initial Notification
2. Gathering of Facts
3. Review
4. Report

##### **1. Initial Notification**

Upon receipt of a formal complaint, the Title IX office, consisting of the Title IX Coordinator and other personnel, must notify the involved parties, in writing, that a complaint exists and an investigation will begin.

The notice should include information about the investigation process, the allegations, the complainant's and respondent's rights, the policy that was allegedly violated, and contact information for the investigator.

The notice may also serve as a request to schedule initial intake meetings to discuss basic information about the allegations and to determine the next steps of the investigation.

A Title IX investigation will be conducted in consultation with the District's insurance company and legal counsel.

#### **Time Frame for Investigations**

Consistent with the goals of maximizing educational opportunities and minimizing disruption, the Title IX Investigator ("Investigator") will seek to resolve all reports in a timely manner. To accomplish that, the Investigator shall initiate the investigation within five (5) calendar days of receipt of a formal

complaint. All attempts will be made to complete the investigation within sixty (60) calendar days of the date it was started. However, that timeframe may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement, to accommodate the availability of witnesses, accommodate delays by the parties, account for school breaks, or address other legitimate reasons, including the complexity of the investigation or the severity of the alleged conduct. Any extension of the timeframes, and the reason for the extension, will be communicated to the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

## **2. Gathering of Facts**

Once the parties have been notified, the Investigator will proceed to gather information related to the allegations. The Investigator may gather documents, audio recordings, video recordings, social media posts, cell phone records, or any other materials deemed relevant. The Investigator will also schedule interviews with the complainant and respondent and will ask them each to explain their side of the story and their relationship with the other party. The Investigator will ask both the complainant and respondent about the names of potential witnesses or any other details that may be pertinent to the investigation. If at any time during the investigation the Investigator discovers any information relevant to any ongoing law enforcement investigation, the Investigator is required by law to forward such information to law enforcement.

Any party may submit written statements of fact, expert witness statements, and/or other evidence for review by the Investigator at any time during the investigation.

While the complainant and respondent may be prohibited from speaking directly to each other, at no time during the investigation will they be prohibited from discussing the allegations or from gathering relevant evidence.

## **3. Reviewing and Analyzing the Information**

Once the Investigator has gathered the information, the Investigator will notify both the complainant and respondent of all relevant evidence obtained and will provide both parties a minimum of ten (10) calendar days to inspect, review and submit written responses to the evidence gathered.

## **4. Investigation Report**

Within ten (10) calendar days of the last date upon which the complainant and respondent were able to inspect, review and submit written response(s) to the gathered evidence, the investigator shall prepare a report detailing the relevant content from interviews and all evidence gathered. The Investigator's report shall focus only on the facts and whether the District policies were adhered to.

The report will attempt to maintain as much confidentiality as possible while still protecting the rights of all involved. When necessary, the names and other identifying information of other students will be withheld (initials or pseudonyms may be substituted) in order to comply with the Family Educational Rights and Privacy Act (FERPA). However, privacy under FERPA will not be used to circumvent or interfere with the purposes of Title IX or other law. The investigation report will include, at a minimum, the following information:

- Background Information: A detailed summary of the facts alleged, including the filing of the formal complaint;
- Identification – of parties and witnesses; of any interim measures offered to and accepted or declined by the parties; of the legal standard of review applied to the review of the evidence/applicable policies;
- District policies implicated and any relevant definitions – listing the alleged violations of District policy; the legal definition of any alleged acts such as stalking, rape, domestic violence, etc.; and the elements to any alleged act;
- A timeline of the investigative steps taken, including dates of
  - Initial report and formal complaint
  - Start of investigation
  - Notices provided
  - Interviews of parties and witnesses
  - Conclusion of investigation
  - Dates for parties to inspect and review evidence
  - Dates for parties to inspect and review report
- Evidence - A description of all relevant evidence considered during the investigation whether or not it is corroborative, contradictory or neutral;
- Interviews – summaries of interviews with each party and witness;
- Facts - summary of relevant undisputed and disputed facts;
- Analysis – is the allegation, if true, a violation of Title IX or a school policy or both; what facts lend themselves to the allegation or element (both for and against);
- A summary of the findings.

A copy of the report shall be sent to the parties for their review. The parties shall have ten (10) calendar days to provide a written response to the report. At the conclusion of the response period, the Title IX Investigator may, but is not required to, revise their report to incorporate written responses. The final Investigator report will be provided to both parties concurrently within ten (10) calendar days. A copy of the report along with copies of the parties responses will be sent to the Title IX Coordinator and Title IX Decisionmaker.

### **Additional Information**

**Support Persons/Advisors.** During the investigative interview process, both the complainant and respondent may utilize a person to provide support and guidance. The support person is not allowed to participate in the questioning and is not allowed to present information. The support person may be an attorney or union representative but is not required to be either. Only one support person per complainant and respondent will be allowed. District staff may delay or terminate meetings, remove or dismiss support persons, and/or proceed with the investigation if a support person is disruptive or otherwise refuses to comply with the requirements of this policy. A support person is subject to the same confidentiality expectations applicable to others in attendance. The support person is not permitted to attend a meeting or proceeding without the party (complainant or respondent) they are advising being present.

**Face-to-Face Meetings.** At no time will the investigation require both parties (complainant and respondent) to be in the same room. At no point will either party be permitted to question or cross-examine the other party or any witness directly during the investigation, determination or appeal process. The parties may, however, ask questions of the other party during the Investigation and will have the opportunity to read and respond to the statements and evidence of the other, but all communication will be facilitated through either the Investigator or the Decisionmaker.

**Notes/Recordings.** The Investigator will take notes during the interview. However, interviews with the Investigator are not recorded and no recording is permitted by anyone participating in the investigation process, including complainants, respondents, witnesses and support persons.

**Contacting the Investigator.** If ever either party has a question, they can contact the Investigator at any time for an update. Although the Investigator will not be able to comment on the potential conclusion or finding prior to the final report, both the complainant and the respondent may know what is happening at all times.

#### *Legal Reference:*

Title IX of the Educational Amendments, 20 U.S.C. §1681, *et. seq.*

**KENAI PENINSULA BOROUGH SCHOOL DISTRICT  
Adopted:**