



## **TITLE IX INVESTIGATION STEPS**

1. **Actual Notice**: If any employee of the district has notice of conduct that may violate Title IX's prohibition against sexual harassment, report it to the Title IX coordinator and building principal.
2. **Initial Discussion/Supportive Measures**: Title IX coordinator contacts the complainant (i.e., the individual alleged to be the victim of harassment) and:
  - a. offers supportive measures, and
  - b. explains how to file a formal complaint.
3. **Law Enforcement/DHS Referral**: Does the allegation require a law enforcement or DHS referral?
4. **Formal Complaint**: To proceed under Title IX, a formal complaint must be submitted by the complainant or the Title IX Coordinator? If no formal complaint, proceed under a different aspect of the student code of conduct.
5. **Supportive Measures**: The Title IX Coordinator determines whether supportive measures are necessary for both parties.
6. **Jurisdictional Determination**: Determine whether the district has jurisdiction over the subject matter, the people, and the place, event or activity at which the conduct allegedly occurred.
7. **Assign Investigator**: If the district has jurisdiction, assign an employee to investigate the allegations.

8. Informal Resolution: If the district offers an informal resolution process, determine whether it is appropriate in the matter being investigated. (Informal resolution is not appropriate if the respondent is an employee of the district.)
9. Notice to Parties: Provide written notice to parties that meets the requirements of 34 C.F.R. 106.45(b)(2).
10. Emergency Removal: Before an emergency removal, the district must perform an individualized risk analysis, determine that an immediate threat to the health or safety of students or employees justifies removal, and provide the respondent with notice and an opportunity to challenge the decision immediately following removal.
11. Notice of Interviews: Provide notice of interviews that provides the date, time, place, and purpose.
12. Interviews: Interview the complainant and respondent, and any witnesses that may have relevant information to contribute.
13. Evidence: Obtain any evidence that will help the district make a determination (e.g., text messages, emails, social media posts, surveillance video, medical documentation, etc.). ***This should begin after notice of the possible conduct and continue throughout the investigation.***
14. Opportunity to Inspect: Prior to completion of the investigatory report, provide all evidence directly related to the allegation(s) to both parties and their advisors in electronic or hard copy format, and allow both parties ten (10) days to provide a written response. These responses must be considered before finalizing the investigatory report.
15. Report: Write a report that contains all relevant evidence and analyzes the issues under investigation. Witness statements, interview notes and other evidence should be attached as exhibits.
16. Submit Report to Parties: The report must be submitted to the parties and their advisors, and they must be given at least ten (10) days to review and

provide written responses. Review the responses and determine whether any aspect of the responses should be added to the report.

17. Submit Report to Decision-Maker: The final report must be submitted to the decision-maker.

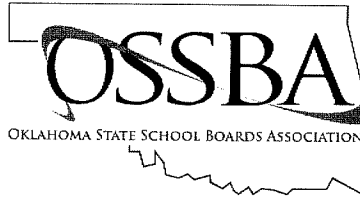
18. Live Hearing (optional): Determine whether a live hearing should be held.

19. Follow-up Questions: With or without a live hearing, the decision maker must ask each party and any witnesses any relevant questions and follow-up questions, including that challenging credibility, that a party wants asked of any party or witnesses.

- a. Afford each party the opportunity to submit written questions;
- b. Provide each party with the answers; and
- c. Allow for additional, limited follow-up questions from each party.

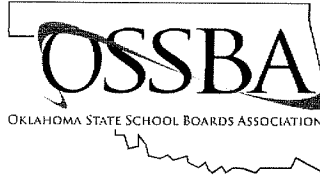
20. Outcome Letter: Send a written notice of the determination, that complies with 34 C.F.R. 106.45(b)(7), to both parties.

21. Appeal: Ensure that the parties are aware of their rights to appeal the final determination. If an appeal is filed, follow the steps in district policy.



## IS THIS A POSSIBLE TITLE IX ISSUE?

- Does the allegation include sex-based actions (e.g., sex-based verbal or written communications; sex-based drawings or pictures; sexually inappropriate videos; sexual assault; etc.) that were committed in a context over which the district has substantial control?
  - On campus or during an online class
  - Off campus location owned or controlled by the school district
  - Off campus but a school-sponsored event
  
- If yes, determine whether the allegation might constitute one of the following:
  - *Quid pro quo*: An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
  
  - *Hostile environment on the basis of sex*
    - Unwelcome conduct determined by a reasonable person to be so:
      - **Severe** (sexual contact, touching in inappropriate places, public sexual shaming/objectification, or repeated incidents of less severe conduct), *or*
      - **Pervasive** (pattern or practice, widespread, occurring in public spaces), *and*
      - **Objectively offensive** (age and relationship of the parties, number of people involved, severity, humiliation, intimidation, abuse, etc.)
    - that it denies a person equal access to the district's education program or activity.
  
  - "Sexual assault", "dating violence", "domestic violence", or "stalking."
  
- If no, pursue under a different element of the student code of conduct (i.e., disrespect, inappropriate words or actions, bullying, threats, etc.).



## **Title IX Investigation – Supportive Measures**

The following supportive measures were provided pending the completion of the investigation into the complainant's allegations.

- New seating assignments: \_\_\_\_\_
- Increased monitoring of parties/areas: \_\_\_\_\_
- No contact order: \_\_\_\_\_
- Schedule change: \_\_\_\_\_
- Referral to counselor: \_\_\_\_\_
- Other: \_\_\_\_\_

## Notice of Temporary Delay

The purpose of this communication is to provide notice of a temporary delay in the Title IX grievance process in which you are currently involved. The Title IX regulations at 34 C.F.R. 106.45(b)(1)(v) allow for a temporary delay of the investigation timelines for "good cause". The reason for the current temporary delay is as follows:

- Absence of a party, a party's advisor, or a witness: \_\_\_\_\_
- Concurrent law enforcement activity: \_\_\_\_\_
- Language assistance or disability accommodations: \_\_\_\_\_
- Other reasons: \_\_\_\_\_

The delay is expected to last until \_\_\_\_\_. At that time, the district plans to resume the investigation. Feel free to contact \_\_\_\_\_ at \_\_\_\_\_ if you have any questions.

## Emergency Removal

On \_\_\_\_\_, 2020, you were notified that a formal complaint was filed alleging that you had engaged in conduct that, if true, would violate district policies prohibiting sexual harassment. The Title IX regulations, at 34 C.F.R. 106.44(c), allow school districts to remove a student from the school setting on an emergency basis, as long as the district:

- undertakes an individualized safety and risk analysis,
- determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and
- provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

The formal complaint alleges that you engaged in the following behavior: \_\_\_\_\_. Based on the nature of the alleged behavior, we believe that you pose an immediate threat to the physical health or safety of \_\_\_\_\_, which justifies your removal from the school setting on an emergency basis. Therefore, you are prohibited from being on any school district properties, or attending any school sponsored events, until \_\_\_\_\_. Please contact the following individual at one of the listed contact options for information on your educational plan during the time of the emergency removal.

Name:  
Email:  
Phone Number:  
Office Address:

You also may challenge this decision by contacting the following individual, in writing, at one of the listed contact options.

Name:  
Email:  
Phone Number:  
Office Address:

If you choose to challenge this removal, your written challenge must be received by \_\_\_\_\_, 2020.

If you have any questions about this process, feel free to contact me.

Sincerely,

## NOTICE OF TITLE IX INVESTIGATION & INTERVIEW

Date

Addressee

Dear Addressee:

This letter is to inform you that a formal complaint has been filed alleging that you have engaged in conduct that, if true, would violate district policies prohibiting sexual harassment. The policies allegedly violated include:

- Sexual misconduct (link)
- Stalking (link)
- Sexual harassment (link)
- Etc.

Specifically, on \_\_\_\_\_, 2020, a formal complaint was filed that alleged you engaged in the following conduct: (list allegations, including the conduct alleged to constitute sexual harassment, the complainant, date, location)

At this time, you are presumed not responsible for the alleged conduct, as a determination regarding responsibility will not be made until the conclusion of the grievance process. Below, you will find information to help you understand the district's grievance process and your rights in this matter:

- The district's applicable procedures are to be found online at \_\_\_\_\_. If you need a hardcopy or accessible copy of these procedures, you should direct a request to the investigator listed below at \_\_\_\_\_.
- You have the right to one (1) advisor of your choice to accompany you and assist you throughout the district's process. The advisor may be, but does not have to be, an attorney.
- You will have the right to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. Prior to the conclusion of the investigative report, the investigator will submit the evidence to you and the complainant in electronic or hard copy format, and you and the claimant will have ten (10) days to submit a written response. The investigator will consider the responses before finalizing the investigative report.
- The district's student code of conduct prohibits students from knowingly making false statements or submitting false information during the grievance process.

The individual assigned to investigate this complaint needs to meet you for an interview for the purpose of obtaining your response to the allegations, and to obtain further information and evidence, if any. The details of the interview are as follows:



- Date: \_\_\_\_\_
- Time: \_\_\_\_\_
- Location: \_\_\_\_\_
- Participants: \_\_\_\_\_

If you have a conflict during this time, please contact the investigator to arrange a different time. Also, if you have materials or other evidence that you believe are relevant to the investigation, please bring them to the interview

Should you have any questions about the process and/or the interview, please contact the investigator listed above at \_\_\_\_\_.

Signed,

Investigators/conduct officer/coordinator/etc.

**NOTICE OF TITLE IX INTERVIEW**

Date

Addressee

Dear Addressee:

You have been identified as a possible witness for an ongoing investigation of alleged violations of district policy. The policies allegedly violated include:

- Sexual misconduct (link)
- Stalking (link)
- Sexual harassment (link)
- Etc.

**You have not been accused of wrongdoing.** Rather, you have simply been identified as someone that may have information relevant to the matter. The individual assigned to investigate this complaint needs to meet you for an interview. The details of the interview are as follows:

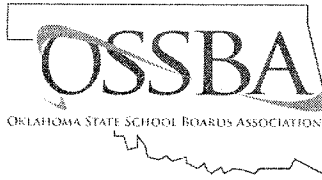
- Date: \_\_\_\_\_
- Time: \_\_\_\_\_
- Location: \_\_\_\_\_
- Participants: \_\_\_\_\_
- Purpose: Investigative interview to obtain information and evidence about the matter, if any.

If you have a conflict during this time, please contact the investigator to arrange a different time. Also, if you have materials or other evidence that you believe are relevant to the investigation, please bring them to the interview

Should you have any questions about the process and/or the interview, please contact the investigator listed above at \_\_\_\_\_.

Signed,

Investigators/conduct officer/coordinator/etc.



## **Title IX Investigation – Supportive Measures**

The following supportive measures were provided pending the completion of the investigation into the complainant's allegations.

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No contact order: \_\_\_\_\_

Schedule change: \_\_\_\_\_

Referral to counselor: \_\_\_\_\_

Other: \_\_\_\_\_

# INVESTIGATION TIMELINE

(formal complaint, notice of investigation/interviews, supportive measures, interviews, written statements, obtaining evidence, inspection of evidence, investigation report, follow-up questions, determination)

| <u>Action</u> | <u>Date</u> |
|---------------|-------------|
| 1. _____      | _____       |
| 2. _____      | _____       |
| 3. _____      | _____       |
| 4. _____      | _____       |
| 5. _____      | _____       |
| 6. _____      | _____       |
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| 17. _____     | _____       |
| 18. _____     | _____       |
| 19. _____     | _____       |
| 20. _____     | _____       |