

Murfreesboro City School Board

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

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, students, and students' behaviors while on school property, at any school-sponsored activity,
5 on school-provided equipment or transportation, or at any official school bus stop in accordance with
6 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 training as to how to promptly and equitably resolve student and employee
10 complaints.³

11 All employees shall receive training on complying with this policy and federal law.⁴

12 **TITLE IX COORDINATOR**⁵

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.

16 Any individual may contact the Title IX Coordinator at any time using the information below:

17
18 Murfreesboro City Schools
19 Attn: Maryam Hill
20 2552 South Church Street
21 Murfreesboro, TN 37127

22 615-893-2313

23 **Email:** Maryam.Hill@cityschools.net

24 **DEFINITIONS**⁴

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

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

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

- 30 1. A school district employee conditioning an aid, benefit, or service of an education program or
31 activity on an individual’s participation in unwelcome sexual conduct;
32
- 33 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and
34 objectively offensive that it effectively denies a person equal access to the education program
35 or activity; or
- 36 3. Sexual assault,⁶ dating violence,⁷ domestic violence,⁸ or stalking⁹ as defined in state and federal
37 law.

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

- 39 1. Sexually suggestive remarks;
40
- 41 2. Verbal harassment or abuse;
42
- 43 3. Sexually suggestive pictures;
44
- 45 4. Sexually suggestive gesturing;
46
- 47 5. Harassing or sexually suggestive or offensive messages that are written or electronic;
48
- 49 6. Subtle or direct propositions for sexual favors; and
50
- 51 7. Touching of a sexual nature.

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

54 “Supportive measures” are non-disciplinary, non-punitive, individualized services and shall be offered
55 to the complainant and the respondent, as appropriate. These measures may include, but are not limited
56 to, the following:

- 57 1. Counseling;
58
- 59 2. Course modifications;
60
- 61 3. Schedule changes; and
62
- 63 4. Increased monitoring or supervision.

64 The measures offered to the complainant and the respondent shall remain confidential to the extent that
65 maintaining such confidentiality would not impair the ability of the school district to provide the
66 supportive measures.

67 GRIEVANCE PROCESS

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

- 70 1. Promptly contact the complainant to discuss the availability of supportive measures;
- 71
- 72 2. Consider the complainant's wishes with respect to supportive measures;
- 73
- 74 3. Inform the complainant of the availability of supportive measures; and
- 75
- 76 4. Explain the process for filing a formal complaint.¹⁰

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

81 Disciplinary consequences or sanctions shall not be initiated against the respondent until the grievance
82 process has been completed. Unless there is an immediate threat to the physical health or safety of any
83 student arising from the allegation of sexual harassment that justifies removal, the respondent's
84 placement shall not be changed.¹¹ If the respondent is an employee, they may be placed on
85 administrative leave during the pendency of the grievance process.¹² The Title IX Coordinator shall
86 keep the Director of Schools informed of any employee respondents so that they can make any
87 necessary reports to the State Board of Education in compliance with state law.¹³

88 Complaints

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

93 If a complaint involves allegations of child abuse, including child abuse on school grounds, appropriate
94 notification shall be made per the board policy on reporting child abuse.

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

- 96 1. Provide written notice of the allegations, and the grievance process to all known parties to give
97 the respondent time to prepare a response before an initial interview;
- 98
- 99 2. Inform the parties of the prohibition against making false statement or knowingly submitting
100 false information;
- 101
- 102 3. Inform the parties that they may have an advisor present during any subsequent meetings; and
- 103
- 104 4. Offer supportive measures in an equitable manner to both parties.

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

107 **Investigations**¹⁶

108 For complaints of student on student harassment, the principal shall serve as the investigator and be
109 responsible for investigating complaints in an equitable manner that involves an objective evaluation of
110 all relevant evidence. For complaints of employee on student or employee on employee harassment, the
111 Human Resources Department or Title IX Coordinator will investigate. The burden for obtaining
112 evidence sufficient to reach a determination regarding responsibility rests on the school district and not
113 the complainant or respondent.

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

119 All investigations shall be completed within twenty (20) calendar days from the receipt of the initial
120 complaint. If the investigation is not complete within twenty (20) calendar days, hours, the investigator
121 shall provide the Title IX Coordinator with appropriate documentation detailing the reasons why the
122 investigation was not initiated within the required timeframe. If the Title IX Coordinator is serving as
123 the investigator, the documentation shall be provided to the Director of Schools.

124 All investigations shall:

- 125 1. Provide an equal opportunity for the parties to present witnesses and evidence;
- 126
- 127 2. Not restrict the ability of either party to discuss the allegations under investigation or gather
128 and present relevant evidence;
- 129
- 130 3. Refrain from requiring, allowing, relying upon, or otherwise using questions or evidence that
131 seek disclosure of information protected under a legally recognized privilege unless such
132 privilege has been waived;¹⁷
- 133
- 134 4. Provide the parties with the same opportunities to have others present during any grievance
135 proceeding;
- 136
- 137 5. Provide to parties whose participation is requested written notice of the date, time, location,
138 participants, and purpose of all investigative interviews, or other meetings, with sufficient time
139 for the party to prepare to participate;
- 140
- 141 6. Provide both parties an equal opportunity to inspect and review any evidence directly related to
142 the allegations in the formal complaint; and
- 143
- 144 7. Result in the creation of an investigative report that fairly summarizes relevant evidence.
- 145

146 a. Prior to the completion of the investigative report, the investigator shall send to each
147 party the evidence subject to inspection and review. All parties shall have at least ten
148 (10) days to submit a written response which shall be taken into consideration in
149 creating the final report.

150 Within the parameters of the federal Family Educational Rights and Privacy Act,¹⁸ the Title IX
151 Coordinator shall keep the complainant and the respondent informed of the status of the investigation
152 process. At the close of the investigation, a written final report on the investigation will be delivered to
153 the parent(s)/guardian(s) of the complainant, parent(s)/guardian(s) of the respondent, and to the
154 Director of Schools.

155 **Determination of Responsibility**¹⁹

156 The respondent is presumed not responsible for the alleged conduct until a determination regarding
157 responsibility is made at the conclusion of the grievance process.²⁰ The preponderance of the evidence
158 shall be used in making this determination.²¹

159 The Director or Title IX Coordinator shall act as the decision-maker. In no circumstances shall the
160 investigator also serve as the decision-maker. They shall receive the final report of the investigation and
161 allow each party the opportunity to submit written questions that they want asked of any party or witness
162 prior to the determining responsibility.

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

165 A substantiated charge against a student may result in corrective or disciplinary action up to and
166 including expulsion. A substantiated charge against an employee shall result in disciplinary action up to
167 and including termination.

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

171 **APPEALS**²²

172 Either party may appeal from a determination of responsibility based on a procedural irregularity that
173 affected the outcome, new evidence that was not reasonably available at the time of the determination
174 that could affect the outcome, or an alleged conflict of interest on the part of the Title IX Coordinator or
175 any personnel chosen to facilitate the grievance process. Appeals shall be submitted to the Title IX
176 Coordinator within ten (10) days of a determination of responsibility.

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

- 178 1. Assign an impartial hearing officer within five (5) days of receipt of the appeal; and
 - 179 2. Notify the parties in writing.
- 180

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

185 **RETALIATION**^{r23}

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

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 CFR § 106.45(b)(5); 34 CFR § 106.45(b)(1)(v)
17. 34 CFR § 106.45(b)(1)(x)
18. 20 USCA § 1232g
19. 34 CFR § 106.45(b)(7)
20. 34 CFR § 106.45(b)(1)(iv)
21. 34 CFR § 106.45(b)(1)(vii)
22. 34 CFR § 106.45(b)(8)
23. 34 CFR § 106.71

Cross References

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