

Descriptor Term: Students: Title IX Complaint Procedures	Descriptor Code: JB-P	Issued: Adopted February 15, 2018
	Rescinds:	Revised: December __, 2017

**STUDENTS: TITLE IX COMPLAINT PROCEDURES**

As provided under Title IX of the Education Amendments of 1972, no student in the Amite County School District shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any education program or activity receiving federal financial assistance. Student complaints or complaints by a parent or guardian or employee on behalf of a student alleging a violation of Title IX are handled as set out this policy.

Further, students in the District are protected from sex discrimination, including sexual harassment, under Title IX. It is the intent of the District to maintain an environment free from sexual harassment of any kind. Therefore, unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature amounting to or constituting harassment are prohibited. Student complaints or complaints brought to the attention of the administration by parents or guardians or employees on behalf of a student alleging sex discrimination/sexual harassment are handled as set out in this policy.

The District has a Title IX Compliance Officer designated to handle any complaints regarding Title IX issues. Since this policy, Policy JB - P, is not amended each time the administrator serving as the Title IX Compliance Officer changes, please contact the superintendent, the federal programs director, or any principal to request the name of the current Title IX Compliance Officer. Also, the Title IX Compliance Officer is identified with specificity in the District Student Handbook and on the District website. Contact the Title IX Compliance Officer immediately to make a complaint regarding discrimination based on sex with respect to any District educational program or District activity receiving federal financial assistance or with respect to complaints of sex discrimination and/or sexual harassment.

This complaint procedure provides a process for filing, processing and resolving complaints regarding Title IX issues. The failure of any complainant to participate in this process constitutes abandonment of the complaint.

**I. DEFINITIONS**

A. "Sexual harassment" is when unwelcomed sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature meets one of the following criteria:

1. **QUID PRO QUO HARASSMENT:** Submission to such conduct is made, either implicitly or explicitly, a term or condition for a student's

assignment of grades, promotion or other school-related benefit. Another example is when submission to or rejection of such conduct by an individual is used as the basis for decisions affecting that individual.

2. **HOSTILE ENVIRONMENT HARASSMENT:** Such conduct has the purpose or effect of unreasonably interfering with the student's work performance or creating an intimidating, hostile or offensive learning environment.

3. **SEXUAL VIOLENCE – physical sexual assault**

B. A "complaint" is a report by any student, a parent, legal guardian or custodian of a student or any employee which alleges that a policy or practice of the District/an employee or one of its employees or students has discriminated against a student on the basis of sex, including sexual harassment. The definition of "complaint" also includes a report by any student, a parent, legal guardian or custodian of a student or any employee which alleges that a third party has discriminated against a student on the basis of sex, including sexual harassment.

C. The "complainant" is the student or parent, legal guardian or custodian of a student or employee who submits a complaint.

D. The "respondent" is the person alleged to be responsible for the violation alleged in a 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.

E. The "Title IX Compliance Officer" is the person(s) designated to coordinate the District's efforts to comply with and carry out responsibilities under Title IX and other state and federal laws addressing equal educational opportunity. The Title IX Compliance Officer may delegate responsibilities listed below to a properly trained designee if assistance is needed with an investigation.

F. A "day" means a working day and does not include holidays, weekends, or partial school days.

## II. GENERAL RULES

A. While it is important to handle complaints promptly, it is even more important that the investigation into the complaint be accurate. The District intends for a decision regarding the merits of the complaint to be rendered within a 30 day period or less, though complex complaints may take longer. The Title IX Compliance Officer/designee should complete his or her summary of the investigation within 20 days of receiving the complainant's written statement. The Principal/Superintendent, as applicable below, will then review the summary, conduct any interviews he or she wishes to conduct, and make a determination as to whether disciplinary action is

warranted and what steps, if any, can be put in place to prevent further discrimination or harassment, should the determination find that discrimination or harassment occurred. Under the direction of the Principal/Superintendent, as applicable below, a summary of the findings will be prepared and communicated to the complainant and respondent on or before the 30<sup>th</sup> day from the date the Title IX Compliance Officer received the complainant's written statement. The 30 day investigation and response timeframe may be extended up to 60 days by the Superintendent, if, upon being informed by the Title IX Compliance Officer that additional time is needed to investigate the complaint, the Superintendent determines that such an extension is needed to conduct a fair and impartial investigation. Should the Superintendent determine such an extension is necessary, the Superintendent will set a date during the extension time period by which the Title IX Compliance Officer/designee will submit the summary of the investigation and the Principal/Superintendent, as applicable, will handle his or her remaining responsibilities by on or before the 60<sup>th</sup> day from the date the Title IX Compliance Officer received the complainant's written statement. Reasons for extensions include, but are not limited to, extended school breaks, witnesses not being available, complex cases involving multiple witness, and involvement of law enforcement that halts or delays an investigation. On very rare occasions, there may be extenuating circumstances which justify the Superintendent extending the time period past the 60 day deadline.

B. With regard to complaints of staff member sexual misconduct with a student, complaints of allegations of violations of Standard 4 of the Mississippi Educator Code of Ethics and Standards of Conduct, complaints containing allegation of violations of criminal statutes or other statutes, the District has certain deadlines under Mississippi Law and Mississippi Department of Education (MDE) regulations within which to report these allegations. As the investigation into the complaint moves through the process outlined in these procedures, the District, if applicable, will simultaneously proceed with its reporting requirement under the deadlines required by state law and MDE. If applicable, the superintendent shall make a report to the appropriate District Attorney, the Department of Human Services, or law enforcement as required by Mississippi law and MDE regulations. Further, a complainant may also have reported the allegations to law enforcement. It may be that there is an internal investigation proceeding under these procedures and external investigation by the District Attorney, Department of Human Services or law enforcement. The District will continue its investigation independent of law enforcement unless the District has been notified by the District Attorney, the Department of Human Services, or law enforcement that its investigation will endanger or hinder the District Attorney's investigation, the Department of Human Services investigation, or law enforcement investigation or unless the District Attorney, the Department of Human Services, or law enforcement personnel instruct the District to discontinue its investigation. At that point, the Superintendent will determine whether he or she can make a determination based on the evidence gathered thus far and notify the complainant and respondent of that decision.

C. Facts elicited during the complaint procedure do not become part of a student's permanent record, unless disciplinary action is warranted with regard to a finding of

student misconduct as to a student alleged to have violated Title IX's provisions. A copy of documents, communications and records dealing with the processing of a complaint will be filed in a separate file as designated by the superintendent. To the extent possible, the investigation and the facts elicited are kept confidential, though the District must conduct an investigation into the complaint and must interview persons who have been identified as witnesses along with other persons who may have knowledge of the facts surrounding the report. Further, the District will interview any person(s) accused of violations of Title IX as part of its investigation. All individuals interviewed will be instructed that this is a confidential process.

D. Should an employee be accused of violations of Title IX with regard to that employee's interaction with a student, facts elicited during the complaint procedure which result in adverse disciplinary action against an employee will become part of that employee's personnel file.

E. The complainant may withdraw his or her complaint at any step without reprisal, though, depending on the circumstances, the allegations may still necessitate an investigation, even without the cooperation of the complainant. Further, refusal of a complainant to cooperate in an investigate will likely impact the effectiveness of the investigation.

F. No reprisal shall be invoked against the complainant for filing a complaint or against any person for participation in any way in this procedure. Further, a complainant or witness who believes that he or she is being retaliated against shall notify the Title XI Compliance Officer who shall investigate the retaliation claim under these procedures.

G. These procedures apply to complaints of discrimination alleged to have been carried out by employees, other students or third parties.

H. It may be appropriate for the District to take interim measures during the investigation of complaint. For instance, a staff member who is identified as having had inappropriate contact with a student may be placed on administrative leave with pay while the investigation is conducted. Or, in the case of sexual harassment allegations involving students, staff members may need to monitor the interaction between the students at issue more closely during the investigation in effort to head off negative interactions between the students. The Title IX Coordinator will oversee or require updates on any interim measures implemented.

I. A complainant will never be required to complain to the subject of a complaint and an employee/administrator will never be involved in any complaints/investigations of which they are the subject. For instance, if the Title IX Compliance officer is the subject of a complaint, the Superintendent should be contacted by the complainant so the Superintendent or the Superintendent's designee can oversee the investigation. If the Superintendent is the subject of a complaint, the Title IX Compliance Officer should involve the Attorney for the school board to assist with conducting an impartial investigation since the Title IX Compliance Officer reports to the superintendent.

Further, in that situation, the Superintendent would not make the determination regarding the merits of the complaint, but rather the Board of Education would step into the role the Superintendent would normally occupy in this process. The procedures must be implemented such that due process will still be provided to the respondent when the Board of Education steps into the role the Superintendent would normally occupy in this process.

J. If it is determined that a violation of Title IX has occurred or if the provisions of Title IX are implicated, the District will implement appropriate corrective and remedial actions.

K. It is also prohibited to knowingly make a false discrimination, harassment, or retaliation report or provide false information in an investigation. Individuals who knowingly file a false or misleading complaint alleging harassment, discrimination or retaliation or provide false information in an investigation are subject to appropriate disciplinary actions.

### III. PROCEDURES FOR INVESTIGATING A COMPLAINT AND REACHING A RESOLUTION

Depending on the substance of the complaint, this process will be adapted to best investigate the allegations in the complaint in a thorough, reliable, and impartial manner. As soon as possible from the time a complaint becomes known, the complainant should contact the Title IX Compliance Officer. If a complainant contacts another District administrator, that administrator must refer the complainant to the Title IX Compliance Officer and also notify the Title IX Compliance Officer of the contact. The Title IX Compliance Officer will then follow-up with the potential complainant regarding the report. The complainant will be asked to prepare and submit a written statement to the Title IX Compliance Officer. The statement should state the respondent's name, the nature and date of the alleged violation, the names of any witnesses to the alleged violation, and all facts that support the complaint.

The Title IX Compliance Officer or his or her designee will then conduct an investigation and may be assisted by other personnel in conducting the investigation. The specific steps in the investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved and other factors. The Title IX Compliance Officer/designee will interview the complainant regarding the facts listed in the statement and ask any follow-up questions. The Title IX Compliance Officer/designee will notify the respondent of allegations and interview the respondent and request that the respondent provide a written statement providing factual information responding to the allegations. The Title IX Compliance Officer/designee may request that the complainant and/or the respondent provide documents and records, including electronic documents and records, related to the allegations. Both the complainant and respondent will be given an equal opportunity to present other evidence throughout the investigation. This evidence may be gathered in several ways, including but not limited to, the following: through interviews of the complainant and respondent; through interviews with witnesses whose names are provided by the complainant and respondent; through interviews with other witnesses the investigator learns about in the

investigation; through documentation provided by the complainant and respondent to support the information provided in interviews; through documentation that the investigator obtains from other witnesses in the investigation; or through documentation that is part of District records. The complainant and respondent may be interviewed multiple times to follow-up on additional information learned during the investigation.

The Title IX Compliance Officer/designee will obtain statements from the witnesses interviewed. If anyone refuses to provide or sign a statement, the Title IX Compliance Officer/designee will prepare notes of the verbal statements in the interview. The Title IX Compliance Officer/designee may consult confidentially with other administrators/District legal counsel throughout the process, regarding the steps in the investigation and duties arising under the investigation or other issues that arise.

After concluding the initial investigation, the Title IX Compliance Officer/designee will prepare a summary of the investigation, attaching any statements and other evidence, and include a recommendation as to whether the facts support a finding of responsibility for violation of Title IX. The Title IX Compliance Officer may have additional administrative personnel confidentially review the investigation, which may generate additional investigation items or interviews.

In the case of a student respondent, the student's principal (who may also be the designee who conducted the investigation) will review the summary, conduct any additional interviews needed, and make a determination as to whether disciplinary action is warranted and what steps, if any, can be put in place to further prevent discrimination or harassment, should the determination find that discrimination or harassment occurred. Any due process required will be provided as set forth in the District's Student Code of Conduct, which includes the District Disciplinary Procedures and the District Discipline Plan, in the Student Handbook and District Policies (Student Handbook).

In the case of an employee respondent, the Superintendent will review the summary, conduct any additional interviews needed, and make a determination as to whether disciplinary action is warranted and what steps, if any, can be put in place to prevent further discrimination or harassment, should the determination find that discrimination or harassment occurred.

Under the direction of the Principal (if student respondent) or Superintendent (if employee respondent), a summary of the findings will be prepared. Both the complainant and respondent will be notified of the findings and the determination, though as to matters involving a student respondent, the notification will not reveal information protected by FERPA. Further, if the complaint involves an employee respondent, should it be determined that disciplinary action will be taken against an employee, the complainant may be informed that action is being taken, but the District may determine not to release the specific disciplinary action(s).

If the matter involves student disciplinary actions, any appeal of the Principal's decision will be handled according to the Student Handbook and notice provided to the respondent of the appeal option. Any appeal after the Committee/Superintendent review will be governed by Mississippi law as to whether an appeal to the Board is allowed. For instance, with regard to a

suspension greater than 10 days or an expulsion, Miss. Code Ann. Section 37-9-71 mandates that a student has the right to a due process hearing. The student and the student's parent, legal guardian or person in custody of the student may appeal suspension of more than ten (10) days and expulsions to the school board. The superintendent or his or her designee will provide notification to the appropriate party regarding any hearing or appeal options.

If the resolution involves employee disciplinary action, any appeal of the Superintendent's decision will be governed by Mississippi law and notice will be provided to the employee. For instance, if a licensed employee is suspended or terminated, Mississippi law provides a hearing process as described in Miss. Code Ann. Section 37-9-59 and Section 37-9-111 and the opportunity to appear before the Board of Education. The Superintendent or his or her designee will provide notification to the appropriate party regarding any hearing or appeal options.

With regard to any decision where there is a finding that the facts do not support a violation of the District Title IX policy, the complainant may also appeal to the next level of administration and, ultimately, the Board of Education. The District will provide the complaint notice of this appeal option.

Legal References

34 C.F.R. § 106.8

34 C.F.R. § 106.9

20 C.F.R. § 1681

Mississippi Code Annotated as cited.

Cross Ref: Policy JB Student Complaints of Violation of Title IX, including Complaints of Sex Discrimination/Harassment