



Administrative Regulation 9201 TITLE IX SEXUAL HARASSMENT

Responsible Office: Office of the General Counsel, Department of Civil Rights Compliance

PURPOSE

The Superintendent has adopted this administrative regulation to set forth the procedures for the resolution of Title IX¹ sexual harassment complaints in the Washoe County School District ("District" or "WCSD").

REGULATION

1. For the purposes of this administrative regulation the following definitions apply.
 - a. Sexual harassment for the purposes of a Title IX complaint is:
 - i. An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (also referred to as Quid Pro Quo sexual harassment);
 - ii. Unwelcome conduct that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity.
 - iii. Sexual Assault, which is any sexual act, directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. It includes:
 1. Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
 2. Fondling: The touching of the private body parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental capacity.
 3. Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

¹ Title IX of the Educational Amendments of 1972.

4. Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

- iv. Dating Violence which is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim which includes but is not limited to sexual or physical abuse or the threat of such abuse.
- v. Domestic Violence which is a crime of violence such as rape, attempted rape or a sexual offense committed between family or household members.
- vi. Stalking which is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 1. Fear for his or her safety or the safety of others; or
 - 2. Suffer substantial emotional distress.

- b. Reporting Party means the party that is bringing a complaint.
 - c. Responding Party means the person alleged to have engaged in sexual harassment.
 - d. Grievance Procedure refers to the process followed beginning with receiving a formal complaint and includes the investigation, decision-making and appeals.
 - e. Title IX Coordinator refers to the person designated by the District to oversee the Title IX process. The Title IX Coordinator cannot be involved in decision-making.
 - f. Investigator is the person who investigates a formal complaint and submits a final report to the Decision-Maker. The Investigator cannot be involved in decision-making.
 - g. Decision-Maker is the person assigned by the District to receive the final investigative report and issues a decision. The Decision-Maker cannot be involved in the investigation of the complaint.
 - h. Preponderance of the Evidence means that, based on the evidence, the conduct more likely than not occurred.
 - i. Rape shield laws limits the ability to introduce evidence or cross-examine rape complainants about their past sexual behavior.
2. Application

The procedures outlined in this regulation applies to sexual harassment between:

- a. Student and student

- b. Staff and student.
 - c. Staff and staff.
3. Jurisdiction
- A matter falls under Title IX jurisdiction if:
- a. It meets the Title IX definition of sexual harassment;
 - b. The respondent is enrolled as a student or is employed by the District;
 - c. The complainant is enrolled as a student or is employed by the District;
 - d. The conduct occurs while the complainant is participating or attempting to participate in a District education program or activity; and
 - e. The conduct occurs in the United States of America.
4. Filing a Complaint
- a. A Title IX Complaint must be made in writing or to the District. The District accepts complaints submitted verbally, in writing, or online. (Email: titleIX@WashoeSchools.net; online SafeVoice Nevada at <http://safevoicenv.org>).
 - b. Complaints shall be directed to the school's principal or designee (i.e. assistant principal or dean of students). The school administrator will immediately contact the Title IX coordinator of the District.
 - c. The Director of the Department of Civil Rights Compliance and the Title IX coordinator is Gina C. Session. Her contact information is:
 - Office of the General Counsel
 - Department of Civil Rights Compliance
 - 425 E. 9th Street
 - Reno, Nevada 89520-3425
 - GSession@washoeschools.net
 - d. It is a violation of law to retaliate against any individual filing a complaint or participating in an investigation. Any student experiencing retaliation because they filed a sexual harassment complaint or participated in an investigation should file a separate complaint regarding the alleged retaliation.
5. Reporters
- a. Students – Any student who is the target of sexual harassment and/or students who have first-hand knowledge of sexual harassment are encouraged to report such incident. Students should report incident(s) to any employee; by email to the Title IX Coordinator at

titleIX@WashoeSchools.net; or through the Nevada Department of Education's SafeVoice Program (<http://safevoicenv.org>).

- b. District Employees and Elected Officials – Members of the Board of Trustees, administrators, faculty, coaches or staff members who witness an act of sexual harassment or receive information that such an act may have occurred shall report the information to the principal or designee or the Title IX coordinator as soon as practicable, but not later than the same day on which the administrator, faculty, or staff member witnessed the sexual harassment or received a report that sexual harassment may have occurred.

6. Preliminary Steps

- a. District staff shall report sexual harassment that is violent or criminal in nature to the appropriate school law enforcement officers. Investigation by school law enforcement does not replace a school's obligation to conduct an investigation and respond to a sexual harassment complaint.
- b. Upon receiving a report of possible sexual harassment, the principal or designee shall:
 - i. Contact the Title IX Coordinator.
 - ii. Take any immediate necessary action to ensure the safety and well-being of the involved student(s). Possible supportive measures may include, but are not limited to:
 - 1. Implementing a safety plan;
 - 2. Putting a no contact order in place;
 - 3. Class changes;
 - 4. Counseling services; and/or
 - 5. Academic support.
 - iii. Supportive measures taken should aim to minimize the impact on the Reporting Party but cannot place an undue burden on the Responding Party. An example of an undue burden may include removing the Responding Party from an academic course without making adjustments to the Responding Party's schedule to allow the Responding Party to continue to earn credit in the academic course.
 - iv. If the principal or designee does not have access to the Reporting Party or Responding Party, they can wait until the next school day that there is access to the Reporting Party or Responding Party to take the steps outlined above.

- v. The Responding Party shall not be issued any disciplinary consequences until the investigation is complete and a decision that the Responding Party is in violation of Title IX is finalized.

7. Intake

- a. Upon receipt of a report of a possible Title IX sexual harassment violation, the Title IX Coordinator will contact the Reporting Party to discuss the Title IX sexual harassment complaint process.
 - i. The Reporting Party may elect to file a written formal Title IX complaint with the Title IX Coordinator; or
 - ii. The Reporting Party may elect to address the matter through the bullying process and/or the Title VII process or any other appropriate District process.
 - iii. If a complaining party elects not to file a formal Title IX complaint, in instances where there is a threat to safety, the Title IX Coordinator may elect to file a formal complaint.
- b. All formal sexual harassment complaints will be reviewed by the Title IX Coordinator to determine whether the complaint meets the jurisdictional requirements of Title IX.
 - i. If the complaint meets the jurisdictional requirements of Title IX, the Title IX Coordinator will forward the complaint for investigation.
 - ii. If the complaint does not meet the jurisdictional requirements of Title IX, the Title IX Coordinator will provide in writing the grounds for dismissing the complaint under Title IX and whether the complaint can be pursued through the bullying process and/or the Title VII process or any other appropriate District process.
- c. If the complaint meets the jurisdictional requirements of Title IX, the Title IX Coordinator will provide written notice to each party that includes:
 - i. Relevant grievance procedures
 - 1. Allegations with sufficient details to include identity of parties, date, location, if known, and implicated policies.
 - ii. Statement that the Responding Party is presumed not responsible.
 - iii. Right to inspect and review relevant evidence.

8. Informal Resolution

- a. After a formal written complaint has been submitted to the Title IX Coordinator and any time before a final decision is issued by the Decision-

Maker the parties may enter into an informal resolution of the complaint subject to the following:

- i. In matters involving a staff member and a student, there can be no informal resolution of the complaint.
- ii. Parties must receive detailed notice that includes the allegations, a description of the Title IX process, and the consequences of entering into an informal resolution.
- iii. An informal resolution must be voluntary and include written consent from the parties.

9. Advisor of Choice

- a. All parties are entitled to have an advisor of their choice to assist them throughout the process.
- b. There is no restriction on who may serve as an advisor.
- c. An advisor is allowed to be present at all meetings and interviews.
- d. There can be restriction on the participation of the advisor as long as it is applied equally to all parties.

10. Evidence

- a. All relevant evidence must be considered.
- b. There is no restriction on the parties' abilities to discuss the matter or gather evidence.
- c. All parties shall have an equal opportunity to
 - i. Present witnesses
 - ii. Present evidence
 - iii. Inspect all evidence, including evidence not used to support the determination.
 - iv. Evidence must be relevant and not violate "rape shield" protections.

11. Investigation

- a. The burden of proof for the Investigator's final report is the preponderance of the evidence standard as defined in paragraph (1)(h) of this Regulation.
- b. The scope of the investigation must be sufficient to reach a determination.
- c. Each party must have an equal opportunity to present witnesses, including fact and expert witnesses, and inculpatory and exculpatory evidence.

d. Investigative Report

- i. Report must fairly summarize all relevant evidence.
- ii. Prior to the completion of the report all evidence directly related to the allegations must be provided to parties and advisors.
- iii. Parties have 10 business days to review and submit written responses.
- iv. The Investigator shall finalize the investigative report after considering the written responses.
- v. The final report shall be sent to the Decision-Maker and all parties.

12. Decision-Making Process

- a. The Decision-Maker cannot be the Title IX Coordinator or the Investigator.
- b. The parties have 10 business days to review the final investigative report and submit written responses to the Decision-Maker.
- c. Each party may submit relevant questions to the Decision-Maker for the opposing party. Questions not deemed relevant by the Decision-Maker may be excluded. The Decision-Maker shall provide a rationale for questions that are excluded.
- d. The Decision-Maker shall issue a final report to the parties that includes the following:
 - i. Allegations potentially constituting sexual harassment.
 - ii. All procedural steps taken by the District prior to reaching a decision.
 - iii. Findings of fact supporting the decision.
 - iv. A determination on each allegation regarding responsibility.
 - v. Sanctions
 - vi. Remedies
 - vii. Procedures and bases for parties to appeal.

13. Sanctions

- a. If after an investigation, the Decision-Maker determines that an individual engaged in sexual harassment, the District may take any necessary and appropriate action that is consistent with District policies and/or applicable statutes including termination for an initial act of sexual harassment.

- b. Successive violations by an offender shall lead to progressive discipline consistent with District policies and/or applicable statutes including termination.
- c. A sanction shall not be implemented until the right to appeal the determination of the Decision-Maker is exhausted and the determination is final.

14. Remediation

- a. Persons found to be the victim of sexual harassment will be offered support services available from the District to help deal with the effects, if any.
- b. Any action(s) taken after the completion of the investigation shall be carried out in a manner that causes the least possible disruption for the Reporting Party. When necessary, the principal or designee shall give priority to ensuring the safety and well-being of the Reporting Party over the interests of the Responding Party when determining the actions to take.

15. Appeals

- a. All parties have a right to appeal the Final Decision by the Decision-Maker.
- b. An appeal must be submitted in writing within 10 business days of notification of the Final Decision by the Decision-Maker, addressed to the Title IX Coordinator. The Title IX Coordinator will assign the appeal to an Area Superintendent or other appropriate District administrator that has not participated, in any way, in the investigation or resolution of the complaint to perform as the Reviewing Officer.
- c. A decision can be appealed based on the following grounds:
 - i. Procedural error that significantly impacted the outcome of the investigation (i.e. insufficient evidence to support findings, substantiated bias, material deviation from established procedures).
 - ii. To consider new evidence, unknown or unavailable during the original investigation and that could substantially impact the original findings or sanction. The appeal must include a summary of new evidence, why it was unavailable at the time of the investigation, and its potential impact on the outcome of the investigation or sanction.
 - iii. A sanction imposed is substantially disproportionate to the severity of the violation.
- d. Acknowledgement of receipt of appeal will be sent to all parties within three business days.

- e. All parties may submit written summaries either challenging or supporting the Decision-Maker's final report.
 - f. Before considering the appeal, the Reviewing Officer will determine whether the appeal is timely and raises one or more of the permissible grounds for appeal listed above. If the written appeal is not timely or does not raise one or more of the permissible grounds for appeal, the reviewing officer will notify the parties in writing that the appeal is denied and the basis for the denial.
 - g. A decision on an appeal will be based on the following:
 - i. Unless there is a request to consider new evidence, the Reviewing Officer will limit the review to the records from the Decision-Maker's process.
 - ii. The Reviewing Officer will decide whether to grant or deny the appeal based on the specific grounds for appeal listed above.
 - iii. The Reviewing Officer may also remand the matter back to the original Investigator to consider new evidence.
 - iv. The Reviewing Officer will respond to the parties with a written decision within 15 business days of receiving the appeal.
 - v. A decision on appeal is final.
16. Nothing contained herein shall be construed or interpreted to prohibit or in any way to infringe on a person's right to freedom of speech, discourage the genuine discussion of issues or use of materials for academic, educational, or instructional purposes.
17. If dissatisfied with the District's response to a Title IX complaint students and/or their parent/guardian may file a complaint with the following agencies:
- i. U.S. Department of Education's Office for Civil Rights (Telephone: 800-421-3481); or Seattle Office (Telephone: 206-607-1600, TDD 1-800-877-8339), www.ed.gov/ocr.
 - ii. Nevada Department of Education's SafeVoice Program (<http://safevoicenv.org>).

LEGAL REQUIREMENTS & ASSOCIATED DOCUMENTS

1. This Regulation is effective until the date of the repeal or injunction against the Federal Title IX Regulation that was effective August 14, 2020. If the Federal Title IX Regulation is repealed or otherwise rendered inoperable, complaints of sexual harassment will be handled pursuant to District Regulations 5701, Student Bullying, Harassment, and/or Discrimination Complaint and Appeal Procedures,

District Regulation 5702, Staff on Student Bullying, Harassment, and/or Discrimination – Complaint and Appeal Procedures and District Regulation 4425, Staff Complaint Process: Harassment, Sexual Harassment and Intimidation.

2. This administrative regulation aligns and complies with the governing documents of the District, to include:
 - a. Board Policy 9200, Harassment and Discrimination Prohibited
3. This administrative regulation aligns with federal law, specifically Title IX of the Education Amendments and the regulations thereto that went into effect August 14, 2020.

REVISION HISTORY

Date	Revision	Modification
9/16/2020	1.0	Adopted: pursuant to new Title IX Regulations