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CLINT INDEPENDENT SCHOOL DISTRICT

Title IX Training Materials

The materials used to train Title IX personnel include presentations and guidance based on 34 CFR § 106 the "Title IX regulations" as set forth below. Copies of the full materials are also available for public inspection upon request by contacting:

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Title IX of the Education Amendments of 1972 is a federal statute, found at 20 U.S.C. 1681:

No person in the United States, 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. The Title IX regulations may be found at 34 CFR 106.

Who Does it Protect: Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. The District complies with Title IX, in accordance with federal law and district policy. Title IX protections include discriminatory conduct that is:

- » Between Students
- » Between Employees and Students
- » Between the District in its capacity as Employer and its employees
- » Others who would otherwise receive the benefits of or participate in educational programs

What Is Sexual Discrimination: Examples of discrimination covered by Title IX may include, but not is not limited to:

- » Sexual harassment
- » Sexual violence
- » Failure to provide equal athletic opportunity
- » Sex-based discrimination in programs such as STEM courses, and
- » Discrimination based on pregnancy.

34 CFR § 106.30 defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following:

- (1) 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;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Responding to Sexual Harassment

A District that has “actual knowledge” of sexual harassment in an education program or activity of the district in the United States must respond promptly in a manner that is not deliberately indifferent. 34 CFR § 106.44.

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. 34 CFR § 106.30(a).

A “deliberately indifferent” response is one that is clearly unreasonable under the known circumstances. 34 CFR § 106.30(a).

Offering Supportive Measures

Upon receipt of a report of alleged sexual harassment, the Title IX Coordinator must promptly contact the alleged victim (the “complainant”) to discuss the availability of supportive measures, consider the complainant’s wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a complaint.

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. 34 CFR § 106.30(a).

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The District’s Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. 34 CFR § 106.30(a).

If the District does not provide a complainant with supportive measures, then the District must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. 34 CFR § 106.45(b)(10)(ii).

What is a Title IX Coordinator?

The District must designate a Title IX Coordinator, and the Title IX Coordinator must be authorized to coordinate the District’s compliance with Title IX. 34 CFR § 106.8.

The District must provide notice of the Title IX Coordinator’s name and contact information:

“the [District] must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the District, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator” 34 CFR § 106.8

Filing a Complaint

A formal complaint may be filed by the Complainant or the Title IX coordinator.

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 CFR § 106.30(a). At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in the education program or activity of the District that the formal complaint is filed with. 34 CFR § 106.30(a).

If the Title IX signs the complaint form, that does not make him or her a party in the grievance process and the Title IX coordinator must continue to serve impartially in the grievance process, in accordance with 36 CFR § 106.45(b)(1)(iii): “... Title IX Coordinator, investigator, decision-maker, or any person designated by a District to facilitate an informal resolution process, [must] not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.”

“Respondent” is defined as the individual who has been reported to be the perpetrator of conduct that constitutes sexual harassment. 34 CFR § 106.30.

Investigation

34 CFR § 106.45 sets forth the Grievance process for formal complaints of sexual harassment.

Both complainant and respondent have the right to have an advisor of their choice, who may or may not be an attorney. 34 CFR § 106.45(b)(5)(iv). The District must provide written notice of any investigative interviews, meetings, or hearings. 34 CFR § 106.45 (b)(5)(v). The District must send parties and their advisor, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to respond. 34 CFR § 106.45 (b)(5)(vi). Live hearings are optional in K-12 schools. 34 CFR § 106.45(b)(6)(ii).

Collection of Evidence

The District must maintain all evidence that is submitted by the parties or obtained as part of the investigation that is directly related to the allegations raised in the formal complaint. This may include, but is not limited to:

- » The investigative report prepared by the assigned investigator;
- » Exhibits, including party responses to the Final Draft Report;
- » Documentary evidence (such as witness statements, text messages, social media posts, photos, videos, etc.);
- » Evidence which District’s decision-maker may choose not to rely on when reaching a determination regarding responsibility;
- » May include inculpatory and exculpatory evidence.

Parties must have equal opportunity to inspect, review, and respond to evidence directly related to allegations, and parties must be given equal opportunity to review and respond to investigative report. 34 CFR § 106.45(b)(5)(vi).

Written Determination

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. 34 CFR § 106.45(b)(7). The requirements for the Written Determination are found at 34 CFR § 106.45(b)(7)(ii)(A) – (F). The Written Determination must be provided to the

parties simultaneously, and the Title IX coordinator is responsible for the implementation of any remedies. 34 CFR § 106.45(b)(7)(iii) and (iv).

Standard of Review

The District's grievance process for formal complaints of sexual harassment must state the standard of evidence to be used to determine responsibility. 34 CFR § 106.45(b)(1)(vii). Schools must use the same standard for all formal complaints, regardless of *whether the respondent is a student or employee*. [As per the District's Board Policy FFH (Local), the standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be "preponderance of the evidence".

Appeals

The District must offer both parties the opportunity to appeal a determination regarding responsibility and from a school's dismissal of a formal complaint or any allegations, therein on the basis of:

- » Procedural irregularity affecting the outcome of the matter;
- » Newly discovered evidence that could affect the outcome of the matter;
- » Title IX personnel had a conflict of interest, or bias that affected the outcome of the matter.
- » Any other bases decided by school so long as both complainant and respondent are offered an appeal, equally.

34 CFR § 106.45(b)(8)(i)(A)-(C) and 34 CFR § 106.45(b)(8)(ii). Additional information regarding appeals is found at 34 CFR § 106.45(b)(8)(iii).

Recordkeeping Obligations

Regulations require that records must be maintained for a minimum period of seven years. This includes the District's entire response and process in a report or formal complaint. 34 CFR § 106.45(b)(10).

Overview of Title IX Process for Investigating Formal Complaint

A Formal Complaint is Filed

- Complaint may be filed by alleged victim or signed by Title IX Coordinator.
- Formal complaint is not the same as an initial notification of inappropriate conduct that is sexual in nature.

District Receives Notice of Allegation in a Formal Complaint

- This notice will frame the parameters of the investigation.
- If additional allegations are made during the investigation process, **Title IX Coordinator must send additional notices.**

Title IX Coordinator Assigns an Investigator

- Must be unbiased and without conflict of interest.
- Investigator will not draw conclusions. Role is to gather evidence.
- Burden of gathering evidence lies with school, not with the parties.

Interviews and Data Gathering

- Must provide notice with sufficient time for parties to prepare for interviews.
- Must afford each party the opportunity to submit written questions that the party wants asked of the other party or any witness.

Parties (and Advisors) Review of Evidence

- Both parties must be given opportunity to review all evidence prior to conclusion of investigations and be given at least 10 days to submit a written response.

Investigation Report Drafted

- Description of all evidence gathered.
- Specific requirements as to content of report.

Investigation Report Sent to Parties

- Each party must be provided investigative report for review and written response before final determination.
- Copy should be sent to Decisionmaker and Title IX Coordinator.

Title IX Process Under 2020 Regulations: A Noncomprehensive Overview

Knowledge of Inappropriate Conduct that is Sexual in Nature

- District has knowledge when any employee knows or believes sexual harassment may have occurred.
- Employee must notify Title IX Coordinator of potential sexual harassment immediately.

Title IX Coordinator Communicates with Alleged Victim

- The Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

Determination of Supportive Measures

- Title IX Coordinator must ensure required supportive measures are provided to the person alleged to be the victim. Document response even if no formal complaint made.

Determination of Emergency Removal

- Limited availability for physical threat - not emotional or psychological

Formal Complaint

- Either alleged victim or Title IX Coordinator may file

Initial Determination of Sexual Harassment Threshold

- Title IX Coordinator must determine if conduct being reported is sexual harassment under the law or inappropriate conduct that is sexual in nature.
- Must consider alleged behavior and substantial control.
- Determination made assuming all facts in favor of alleged victim.
- If matter is dismissed, written notice provided to all parties of dismissal and reason for dismissal.
- Initial dismissal determination is appealable.

Notice of Formal Complaint

- Detailed and specific notice requirements
- Must go to both parties and to investigator

Investigation

- Unbiased individual without a conflict of interest other than Title IX Coordinator, Decision Maker, or Appeal Hearer must conduct investigation.
- Specific timelines apply.

Decision

- Decision maker must be unbiased and conflict free, and cannot be the Title IX Coordinator, Investigator, or Appeal Hearer.
- Decision must include specific components, including findings of fact and conclusions of law.

Appeal

- Specific requirements relating to ability to serve and timeline.

Public Notification of Nondiscrimination It is the policy of Clint ISD not to discriminate on the basis of race, color, religion, sex, gender, national origin, disability, age, or any other basis prohibited by Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendment of 1972; and Section 504 of the Rehabilitation Act of 1973, as amended. For information about your rights or grievance procedures, contact the district's Title IX Coordinator, Rene G. Chavez, Chief Human Resource Officer, at 14521 Horizon Boulevard, El Paso, Texas, 79928, 915-926-4062 and/or Section 504 Coordinator at 14521 Horizon Boulevard, El Paso, Texas, 79928, 915-926-4000.