

Tate County School District
Notice Regarding Title IX Amended Regulations

Title IX of the Educational Amendments of 1972 is an anti-discrimination law that states no person in the United States, on the basis of sex, shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal financial assistance. 20 U.S.C. § 1681(a) The policy of this Board forbids unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature amounting to or constituting harassment and/or discrimination against any student in the district. The Board of Education will not tolerate sexual harassment activity by any of its students or employees.

Title IX was originally enacted in 1972. Amended regulations addressing sexual harassment under Title IX were issued on May 6, 2020, and are effective as of August 14, 2020. The amended regulations define sexual harassment under Title IX and establish procedures to respond to an allegation of sexual harassment involving a student(s) or employee(s). The Tate County School District (District) has updated its policies, implementing the amended regulations. Below is a summary of these amendments.

This Notice explains how to report a complaint of sexual harassment, the steps the District takes to investigate the complaint, the process the district follows in making its decision, and the process for filing an appeal.

I. Notification Regarding Reporting Allegations of Sexual Harassment

To all students, parents, or legal guardians, and employees:

The District's Title IX Coordinator is as follows:

Regan Sellers, Ed.S.

Director of Human Resources and Case Manager

574 Parkway St

Coldwater, MS 38618

662-562-5861

rsellers@tcsdms.org

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The District Title IX Investigators are as follows:

Regan Sellers

Director of Human Resources and Case Manager

574 Parkway St

Coldwater, MS 38618

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Amy Williams

Assistant Superintendent and Federal Programs Director

574 Parkway St

Coldwater, MS 38618

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awilliams@tcsdms.org

The District Title IX Decision Maker:

Kristie Foster

Director of Special Services

574 Parkway St

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The Tate County School District has appointed an employee to serve as the Title IX Coordinator for the district. This person is authorized to coordinate the district's compliance efforts under this law. Because this policy is not amended each time the Title IX Coordinator changes, please contact the superintendent, the federal programs director, or any principal to request the name and contact information of the current Title IX Coordinator. The Title IX Coordinator is also identified with specificity in the Tate County School District's Student Handbook, Faculty Handbook, and on the district website.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of the conduct that could constitute sex discrimination), in the following ways: in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Any District employee who knows of or learns of information concerning conduct related to sexual harassment or allegations of sexual harassment should immediately notify the Title IX Coordinator.

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Reports may be made at any time (including during non-business hours) by using the Title IX Coordinator's telephone number or email address, or by mail to the Title IX Coordinator's office address as listed above. Inquiries about the application of Title IX to the District may be directed to the District's Title IX Coordinator or the Assistant Secretary of Education at the United States Department of Education, or both.

II. Definitions Under Title IX

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or to any student of the school district. All employees of the district are mandatory reporters under Title IX.

The **“complainant”** is the person who is alleged to be the victim of sexual harassment.

“Deliberate indifference” is when a district's response is clearly unreasonable in light of known circumstances.

An **“educational program or activity”** includes any location, event, or circumstance over which the educational institution exhibits substantial control over both the alleged harasser and the context in which the harassment occurred. This includes programs or activities which occur on-campus or off-campus and can involve the use of email, social media, or other technologies. 34 C.F.R. § 106.44(a)

A **“formal complaint”** of sexual harassment is defined as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegations.

The **“respondent”** is the individual who has been reported to be the perpetrator of the sexual harassment.

“Sexual harassment” is defined as conduct on the basis of sex that meets one or more of the following:

1. An employee of the recipient conditioning the provision of aid, benefit, or service of the educational institution on an individual's participation in unwelcome sexual conduct (quid pro quo sexual harassment);
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 educational institution's education program or activity; or
3. Conduct on the basis of sex that meets one or more of the following: “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)

“Supportive measures” are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a complainant or a respondent before or after the filing of a formal complaint or where a complaint has not been filed. Supportive measures should be designed to restore or preserve equal access to the educational program or activity without unreasonable burdening the other party. Examples of supportive measures include, but are not limited to:

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1. Counseling
2. Course Modification
3. Schedule Changes
4. Increased Monitoring or Supervision

If the district does not offer supportive measures, the records should document why/how the response was not clearly unreasonable under the known circumstances.

III. Individuals and Conduct Covered

These policies apply to all students and employees of Tate County School District, and third parties, persons hired to provide contracted services, and persons volunteering at school activities. Conduct prohibited by these policies is unacceptable in all academic, educational, extracurricular, athletic, and other programs of the school, whether those programs occur on campus, on a bus, or at another location away from campus. Individuals who violate these policies will be subject to disciplinary action, up to and including suspension or expulsion (if a student) or suspension or termination of employment (if any employee), and in egregious situations, law enforcement officials will be notified as required by law.

A. Parental Involvement

Parents/Guardians of students have the right to act on behalf of the complainant, the respondent, or other individuals at any time.

The district will obtain consent from parents/guardians to initiate an investigation where the complainant or alleged victim is under age eighteen (18), and inform parents/guardians of the complainant that the complainant may be accompanied by a parent/guardian during all steps of the complaint procedure.

The Title IX Coordinator shall contact the parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints.

B. Reporting

Any person may report sex discrimination or sexual harassment regardless of whether the person is the alleged victim. These reports may be made in person, by mail, by telephone, or by email to the Title IX Coordinator, or by any other means that result in receipt by the Title IX Coordinator. For K-12 educational institutions, actual notice of sexual harassment is a notice of sexual harassment or allegations of sexual harassment made to any employee.

Consistent with Title IX, a school must respond when the following occur:

1. The school has actual knowledge of sexual harassment;
2. That occurred within the school's education program or activity;

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3. Against a person in the United States.

Nothing in this policy or any other policy impedes or precludes a student, the student's parents, a school employee, or school officials from directly reporting to law enforcement officials any behavior that constitutes a violation of criminal law or any applicable laws.

It is prohibited to knowingly make false discrimination, harassment, or retaliation report or to 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.

C. Retaliation

The Tate County School District encourages reporting all incidents of discrimination or harassment. Retaliation is prohibited against any person for the purpose of interfering with Title IX rights or because the person participated, or refused to participate, in any manner in a proceeding under Title IX regulations. The district must keep confidential the identity of a person who complains of or reports sexual harassment, including parties and witnesses, except as permitted by law to carry out the purpose of the regulations. 34 C.F.R. § 106.71

Retaliation against an individual for reporting harassment or discrimination or for participation in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will subject an individual to disciplinary action.

D. Records

Any records related to reports of sexual harassment must be kept for a minimum of seven (7) years, including the following:

1. Investigative Records
2. Disciplinary Records
3. Remedies
4. Appeals
5. Records of action taken including supportive measures

The district must also retain for seven (7) years any materials used to train Title IX Coordinators, investigators, decision-makers, and any employee designated to facilitate an informal process. Training materials will also be posted on the district website.

IV. General Response

The district will respond promptly to actual knowledge of sexual harassment in an educational program or activity in a manner that is not deliberately indifferent. The records should reflect that the district's response was not deliberately indifferent and that measures were taken to restore or preserve equal access

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to the educational program or activity. The district will treat complainants and respondents equitably by offering/doing the following:

1. Offering supportive measures to a complainant, and
2. Following a grievance process before imposing any disciplinary sanctions on a respondent.

The Title IX Coordinator is required to contact the complainant promptly, even if a formal complaint has not been filed, to:

1. Discuss the availability of supportive measures,
2. Consider the complainant's wishes regarding supportive measures,
3. Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and
4. Explain the process of filing a formal complaint.

The district will provide the equitable treatment of the parties which includes the following:

1. Providing remedies to a complainant after a determination of responsibility against a respondent, and
2. Following a grievance process before imposing any disciplinary sanctions or other actions that are not supportive measures.
3. Remedies may include supportive measures but may also include punishing the respondent.

V. Informal Resolution

At any point during the formal complaint process, the district may offer to facilitate an informal process that does not require a full investigation as long as both parties receive written notice of their rights and the parties provide written, voluntary consent.

The district will obtain consent from the parents/guardians of a student to initiate an investigation where the complainant or alleged victim is under the age of eighteen (18) and will inform parents/guardians of the complainant that the complainant may be accompanied by a parent/guardian during all steps of the complaint procedure. If the complainant, school staff, or others with professional knowledge relating to the complainant's health and well-being indicate that notifying the parents/guardians could cause serious harm to the health or well-being of the complainant or other person(s), the Title IX Coordinator will determine, in consultation with such individuals and upon the advice of legal counsel, whether to withhold or delay notification of the report from the complainant's parents/guardians.

The district will ensure that no conflict of interest exists against a complainant or respondent by the Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an informal process.

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1. These individuals will be trained on the definition of sexual harassment, the scope of the district's program or activity, the process of conducting an investigation, the process of filing a grievance, the process of hearings, the process of appeals, and informal processes.
2. Investigators will be trained on how to prepare an investigation report.
3. Decision-makers will be trained on issues of evidence and questioning.

No offer can be made to facilitate an informal resolution process unless a formal complaint has been filed.

No offer can be made for an informal resolution in the context of a complaint alleging that an employee harassed a student.

VI. Formal Complaint Process

E. Basic Elements of Grievance Procedure

The following are components of the District's grievance process:

- For all formal complaints, a clear and convincing standard will be used.
- The Title IX Coordinator shall contact the parents/guardians and provide them with information regarding the report and Title IX sexual harassment procedures and grievance process for formal complaints.
- The complainant may file a formal complaint with the Title IX Coordinator by any method made available by the district. At the time of filing, the complainant must be participating in or attempting to participate in the educational program or activity of the educational institution. The Title IX Coordinator may sign a complaint which would trigger an investigation; however, this does not make the Title IX Coordinator a part of the grievance process. A formal grievance procedure in some cases may need to be implemented over the complainant's objection. Even if the complainant is not a willing participant in the investigation, the complainant will be informed of supportive measures and will be provided written notice of the steps in the grievance procedure.
- No hearing is required. School officials may determine that hearings will be held in certain circumstances. With or without a hearing, the district will provide each party the opportunity to submit, after completion of the investigative report, written, relevant questions that the party wants asked of another party or witness, provide each party with the answers, and provide for limited follow-up questions. No evidence or questions will be allowed that constitute or seek legally privileged information unless that privilege is waived.
- The district will provide for the following:
 1. Ensure that the burden of proof and gathering evidence rests on the district rather than the parties.
 2. Provide an equal opportunity for the parties to present witnesses and evidence.

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3. Not restrict either party's ability to discuss the allegations or gather and present evidence.
 4. Provide the same opportunity to have others present during interviews or other proceedings, including an advisor.
 5. Provide written notice, to a party who is invited or expected to attend, the date, time, participants, purpose, and location of any investigative interview or other meeting with enough time to allow the party to prepare or participate.
 6. Provide both parties and their advisors, if any, an equal opportunity to review all evidence that is directly related to the allegations in the formal complaint, including evidence on which the educational institution does not intend to rely and any exculpatory or inculpatory evidence from any source; must be provided prior to the completion of the final investigative report and in time to give the parties at least ten (10) days to prepare a written response, which investigator must consider before completing the investigation report.
 7. Prepare a written investigation report that fairly summarizes the relevant evidence and provide the report to the parties and their advisors at least ten (10) days before a determination of responsibility.
- The district will also provide written notice to all known parties, and the parents/guardians of know parties, where applicable, upon receipt of a formal complaint insufficient time to give the respondent time to prepare a response before an initial interview. Notice will include the following:
 1. Notice of the grievance process, including any informal resolution process.
 2. Notice of the allegations with sufficient detail to allow the respondent to prepare a response (names, dates, conduct, location, etc.)
 3. A statement that the respondent is presumed not responsible for the conduct and responsibility will be determined at the conclusion of the grievance process.
 4. Notice of the parties' right to have an advisor (maybe an attorney) and to inspect and review evidence.

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5. Notice of any provision in the code of conduct that prohibits knowingly making false statements or providing false information.

F. Appeal

- The district will offer both parties the right to appeal a determination of responsibility and the district's dismissal of a complaint or any allegations for the following:
 1. A procedural irregularity that affected the outcome
 2. New evidence that was not reasonably available at the time of the determination and could affect the outcome, or
 3. Conflict of interest on the part of the Title IX Coordinator, investigator, or decision-maker that affected the outcome.
- The district will ensure that any appeal process is conducted in a timely manner and that the appeal decision-maker is free from any bias or conflicts of interest.
- The decision-maker cannot be the investigator or the Title IX Coordinator. The decision-maker must issue a written determination of responsibility that does the following:
 1. Identifies the allegations that potentially constitute sexual harassment
 2. Describes the district's procedural steps taken from the receipt of the complaint to the determination
 3. Includes findings of fact supporting the determination
 4. Includes conclusions regarding the application of the code of conduct to the facts
 5. Includes a statement of, and a rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the district's program or activity will be provided to the complainant, and
 6. includes procedures for appeals.
- The district will issue a written decision describing the result of the appeal and the rationale for the result. The district will also ensure that written notice is provided to both parties of the appeal and provide both parties an equal opportunity to submit a written statement in support of, or challenging, the determination. A written statement will be provided to both parties simultaneously.

VII. Respondents

A presumption will be given to the respondent that he/she is not responsible for the alleged conduct until a determination has been made at the conclusion of the grievance process. The district will objectively

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evaluate all available evidence without making credibility determinations based on a party's status as a complainant, respondent, or witness.

Title IX regulations allow the district to immediately remove a respondent from the educational program or activity on an emergency basis if the district does the following:

1. The district conducts an individualized safety and risk analysis, and
2. Determines that an emergency removal is necessary to protect a student or other individual from an immediate threat to physical health or safety
3. The district must provide the respondent with notice and an opportunity to challenge the decision immediately after removal.

VIII. Consolidation

Where allegations arise out of the same facts or circumstances, formal complaints can be consolidated against more than one respondent, by more than one complainant against one or more respondents, or by one party against another party.

IX. Dismissal

The formal complaint must be dismissed if the allegations do not constitute sexual harassment as defined, the action did not occur in the district's program or activity, or the action did not occur against a person in the United States.

The formal complaint may be dismissed if the following occurs:

1. The complainant notifies the Title IX Coordinator at any time that he/she wishes to withdraw the complaint or allegation,
2. If the respondent's enrollment or employment ends, or
3. If specific circumstances prevent the district from gathering evidence.

Notice of dismissal must be provided to both parties, including the reasons for dismissal.