



## Putnam County School District

# Title IX Grievance Procedures Guide

This guide covers the Putnam County School District's responsibilities covering sexual discrimination and harassment under the USDOE Title IX of the Education Amendments of 1972. Title IX is a Federal civil rights law that prohibits discrimination on the basis of sex in education programs and activities. All public and private elementary and secondary schools, school districts, colleges, and universities receiving any Federal funds must comply with Title IX. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

A school has a responsibility to respond promptly and effectively. If a school knows or reasonably should know about sexual harassment or sexual violence that creates a hostile environment, the school must take immediate action to eliminate the sexual harassment or sexual violence, prevent its recurrence, and address its effects.

Even if a student or his or her parent does not want to file a complaint or does not request that the school take any action on the student's behalf, if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. A criminal investigation into allegations of sexual harassment or sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

District and School Based Title IX Coordinators and Investigators are posted on the district website along with their contact information. This guide includes how to report and file a complaint of sex discrimination or harassment and how the district will respond in a timely manner.

**Sexual Harassment:** Conduct on the basis of sex where the incident occurred during a K-12 school education program or activity and satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct. (Quid pro quo)
- 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. (Hostile environment).
- "Sexual assault" as defined, "Dating violence". Domestic violence" or "Stalking" as defined in VAWA.

The act must have occurred during an education program or activity in the United States. An education program or activity includes locations, events, or circumstances over which a school district exercised substantial control over the alleged perpetrator and the context in which the sexual harassment occurred. Depending on the circumstances, may cover incidents that occur off school district property or online (e.g. field trip, school district digital platform).

### **Reporting**

It is imperative that all employees know that they are required to report any allegations of sexual harassment as a mandatory reporter. By reporting an allegation to the Title IX Coordinator, employees are protected from legal and disciplinary actions. Reporting an act of sex discrimination or harassment is when a complainant or any employee of a primary/secondary school give notice or allegations of an alleged act of sex discrimination or harassment they witnessed or have knowledge of. This constitutes actual knowledge of a school or district. A report from anyone of an alleged act to a Title IX Coordinator is always sufficient to put a school on notice of an allegation of sexual harassment.

Actual knowledge is met when any employee:

- Witnesses the conduct
- Hears about the conduct from the alleged victim or anyone else (e.g. parent, friend, peer, anonymous reporter).
- Receives a written report of the conduct from the alleged victim or anyone else.

Reported allegations will promptly begin a grievance process in a manner that is not deliberately indifferent.

Title IX Coordinator will:

- Offer supportive measures to the alleged victim.
- Follow a grievance process that includes consulting the alleged victim on the grievance procedures and process, on how to file a formal complaint and how the school will respond.
- Not continue with the grievance process in the absence of a formal complaint.

When reporting under Title IX, reporting sexual harassment is distinct and separate from reporting sexual assault to law enforcement.

## **Grievance Process**

### **Initial Response from a Report**

The discussion of an alleged offence to the school or district level Title IX Coordinator initiates a report. A report is a written statement describing the events that took place which include the allegation of sexual harassment or discrimination. At that time the coordinator will follow specific protocol:

- Promptly contact the complainant to discuss the availability of supportive measures.
  - Counseling, Extensions of deadlines or other course related adjustments, Modifications or class schedules, school escort services, mutual restrictions on contact between the parties, leaves of absence, increased security and monitoring of certain area of the school grounds. (Must be offered to respondent once a formal complaint is filed.)
- Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint.
- Consider the complainant's wishes with respect to supportive measures.
- Explain to the complainant the process for filing a formal complaint. (Actual knowledge does not necessarily trigger obligation to conduct formal investigation).

### **Filing a Formal Complaint**

Filing a formal complaint means a document filed to the district signed by a complainant, his or her parents/guardian or by the Title IX Coordinator describing the alleged sexual discrimination or harassment of a respondent and requesting an investigation of the allegation. Under the Title IX Regulations, at the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.

The Putnam County School District will investigate and adjudicate formal complaints of sexual harassment using a grievance process that must:

- Give all parties written notice of the allegations, an opportunity to select an advisor, and an equal opportunity to submit and review evidence throughout the investigation. Both parties cannot be restricted to discuss the allegations under investigation.

- Inform the parties of provisions in the code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- Designate reasonably prompt time-frames:
  - For when the school will conduct a full investigation of the complaint
  - When the parties will be notified of the outcome
  - When parties may file an appeal if applicable.
- Provide parties at least 10 days to inspect, review, and respond to all evidence directly related to the allegations prior to the completion of the investigative report.
- Utilize trained Title IX personnel to objectively investigate all reports of sexual harassment.
- Create an investigative report that summarizes the relevant evidence.
- Provide parties at least 10 days to review and provide a written response to the finalized investigative report.
- PCSD will not provide a live hearing. K-12 educational institutions need not hold a hearing but must provide the parties the opportunity to submit written questions to be answered by the opposite party.
- Apply a presumption of innocence on the respondent during the grievance process and utilize **either** a preponderance of the evidence or a clear and convincing evidence standard in making findings. The institution must use the same standard for all formal complaints of sexual harassment.
- Keep the burden of proof and the burden of gathering evidence on the institution, not the parties.
- The investigator is a different person than the final decision maker in a formal complaint. For staff/personnel of PCSD the decision maker will be Tonya Whitehurst Director of Human Resources. For students of PCSD the decision maker will be Randall Hedstrom, Director of Student Services.
- Prohibit any inappropriate questioning about prior sexual history and protect the privacy of a party's medical, psychological, or similar treatment records.
- The district will provide a written determination with an analysis as to how the conclusion was reached to both parties and advisors using a preponderance of the evidence.
- Offer an opportunity to appeal a final determination. An appeal can be filed on the following bases: procedural irregularity, newly discovered evidence, and/or bias of the Title IX personnel that affected or could affect the outcome of the matter. A covered entity may also add other rights to appeal, so long as the other bases are available to all parties.
- Provide protection from retaliation for any individual that participates in a Title IX grievance process.

### **Investigation**

The investigator cannot be the Decision-maker or have any conflict of interest with either the complainant or accused or their advisors. The Investigator will lead the investigation

after the formal complaint is in place and written notice is given to the involved individuals and their parents/guardians. Written notice will include:

- Written notice of sexual harassment allegations in sufficient detail by including the identities of the involved individuals, the conduct alleged and the date and location of the incident (if known).
- PCSD Title IX Grievance Policy
- Provide Required Notification which includes but not limited to the following information: (Form provided in attachments)
  - Statement that the alleged perpetrator is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
  - Statement that no disciplinary action may be taken against an alleged perpetrator until after the grievance process is carried out.
  - Notification that involved individuals are prohibited to knowingly making false statements or knowingly submitting false reports. This can be found on page 10 section 5 of the PCSD Student Code of Conduct.
  - Notification that involved individuals may have an advisor of their choice and review evidence.
  - Provide access to the PCSD Title IX Grievance Policy.

The Investigator will gather evidence from eye witness accounts of the event or of first account information revealed after the fact. The evidence received through interviews will be in the form of written questions and answers. The Investigator will review evidence, and prepares an investigative report which will then be reviewed by the involved individuals and their parents/guardians. They will have an opportunity to respond to the report. The report along with the involved individuals' response will then be forwarded to the Decision-maker.

The Investigator will use the PCSD Title IX Grievance Check List to guide them through the investigative process.

### **Provisions of Denial**

Under Title IX regulations once a formal complaint has been made the recipient must begin an investigation of the allegations.

- If no Sexual discrimination or sexual harassment took place under an educational program of that institution then the allegations under Title IX must be dismissed. Such a dismissal does not preclude action under another provision of the recipient's code of conduct.
- Denial may be considered If at any time during the investigation:
  - A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or allegations therein
  - The respondent is no longer enrolled or employed by the recipient

- Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

### **Informal Resolution Options**

An educational institution may, in its discretion, choose to offer and facilitate resolution options, such as mediation or restorative justice, in any formal investigation with the parties' voluntary, informed, written consent. Waiver of the right to a formal investigation or adjudication of a formal complaint of sexual harassment as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, is prohibited. Informal resolution is not available to resolve allegations where an employee sexually harassed a student.

### **Responsibility of Determination**

The Decision-maker who is not the same person as the Title IX Coordinator or Investigator must apply the standard of evidence selected by the district and must be an impartial. The Decision-maker will allow the individuals involved and their parents/guardians to submit questions to be answered by the other party. The use of the preponderance of the evidence or a clear and convincing standard to reach a determination as to whether the alleged conduct occurred will be used. The Decision-maker will produce a written determination that identifies the allegations, and describes the procedural steps taken by the school district to produce a determination. The decision-maker will lay out the responsibility determination, including finding of fact, disciplinary sanctions, applicability of code of conduct and remedies. This will be provided to both parties along with an outline of the appeal procedures.

### **Title IX Training:**

- All employees in the Mandatory Reporting process
- T9 coordinators, Investigators, Decision-makers in the Grievance Process
- Records of who was trained must be retained for 7 years
- Training material posted on district website