

# Frequently Asked Questions

## **What is Title IX?**

Title IX is a Federal regulation applicable to all school districts that receive federal financial assistance. Title IX provides both substantive and procedural protections on complaints alleging harassment on the basis of sex. Title IX of the Education Amendments of 1972 states:

“No person...shall, on the basis of sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

## **What is Sexual Harassment?**

Sexual Harassment is a term used to refer to a broad range of sexually inappropriate behaviors prohibited by school district policies. Examples of behavior that could constitute Sexual Harassment include all forms of non-consensual sexual activity and unwelcome sexual conduct, such as, but not limited to: sexual violence (rape/sexual battery/sexual assault); relationship violence (domestic violence and dating violence); stalking; sex and gender-based discrimination (including gender identity, gender expression, and sexual orientation); sexual harassment; and other forms of sexually exploitative behavior. For definitions of Sexual Harassment along with behaviors that constitute the behavior, please see pages four (4) and five (5) of Concord School Board Policy #415.

## **Who is protected from sexual misconduct under Title IX?**

All district students, employees, and any third party who contracts with the district to provide services to district students or employees is protected. This protection is regardless of gender, sexual orientation, sexual identity, race, religion, national origin, and any other protected group status. Students from elementary to high school are protected.

## **What is Consent?**

Consent is the voluntary, informed, knowing, unambiguous agreement to engage in mutually acceptable sexual activity through clearly communicated actions or words and can be withdrawn any time. Consent cannot be given by someone who is sleeping, unconscious, or mentally or physically incapacitated due to drugs, alcohol, or other contributing factors. Consent also cannot be given under duress, threat, deception, coercion, force, or misuse of authority. Under New Hampshire law, a person under the age of (16) cannot give legal consent.

## **How do I get confidential support?**

Confidential support is available for hospital accompaniment, emergency shelter, court advocacy, education, and outreach via the Crisis Center of Central New Hampshire. Other assistance is available via the NH Coalition Against Domestic Violence, Employee Assistance Programs, and pastoral counselors. Please refer to the link on Resources for additional information and assistance.

## **How do I file a report?**

Individuals may report information on their own behalf or on behalf of another person. A report may be made at any time, in person, by mail, by telephone, electronic mail, verbally, or

in writing or by other means that results in the Title IX Coordinator receiving the report. Anonymous reports may also be made. However, without adequate information it may not be possible to conduct a thorough investigation. Please refer to the link on this webpage on filing a Sexual Harassment and Sexual Violence Incident Report.

### **What if assistance is needed in filing a report?**

The District is committed to providing accessible and understandable reporting, complaint, and grievance procedures. Any party, witness, or reporter requiring assistance due to a disability, language barrier, or for any other reason should inform the Title IX Coordinator or a District employee as soon as possible so that accommodations may be provided. The Title IX Coordinator may be contacted at (603) 406-1307 for assistance.

### **Can I file a report online?**

Yes, you can file a report on-line. Download the fillable PDF Sexual Harassment and Sexual Violence Incident Report form, fill it out and email it to [kfischer-anderson@sau8.org](mailto:kfischer-anderson@sau8.org), the Title IX Coordinator.

### **Who MUST report sexual harassment?**

Every Kindergarten thru 12<sup>th</sup> (K-12) Grade employee in the District is a “responsible employee” under Title IX for purposes of reporting sexual harassment. Actual knowledge occurs when a district employee receives notice, a report of information, or becomes aware of sexual harassment or allegations of sexual harassment. A K-12 employee must report any student or employee disclosure within 24 hours of learning or receiving notice of sexual harassment. Failure to report will subject a K-12 employee to discipline up to and including dismissal. When in doubt, report to the Title IX Coordinator.

### **What other reporting requirements might need to be made?**

In addition to reporting to the Title IX Coordinator or a building administrator, any incidents of abuse of a minor must also be reported to the New Hampshire Department of Children, Youth, and Families (DCYF) by every individual who is made aware of the abuse. An analysis of the facts will be made by the Title IX Coordinator or the Principal regarding whether law enforcement needs to be notified.

### **What is the difference between Criminal and District investigations?**

Criminal investigations are conducted by local law enforcement and can result in criminal charges (misdemeanor or felony). The criminal process can result in incarceration in serious cases, and the evidentiary standard is beyond a reasonable doubt. The District investigative process is overseen by the Title IX Coordinator, is administrative in nature, and may result in school remedial actions and/or disciplinary sanctions up to and including expulsion for a student and dismissal or non-renewal for an employee. The evidentiary standard for a determination of responsibility in a District investigation is preponderance of the evidence. Individuals have the right to pursue criminal and administrative investigations at the same time or independently.

### **Who is a Complainant and who is a respondent?**

A “complainant” is the individual who is alleged to be the victim of conduct that could constitute sexual harassment. The “respondent” is the person who has been reported to be the individual who committed the conduct that could constitute sexual harassment.

**What happens after a report is made to the Title IX Coordinator?**

The District will take appropriate measures to investigate, eliminate the inappropriate conduct, address its effects, and prevent reoccurrence. Supportive measures such as, but not limited to counseling, course modifications, schedule changes, increased monitoring or supervision, restrictions on contact between the parties, a safety escort, tutoring, or a leave of absence may be offered to the complainant and/or the respondent as appropriate.

**Is a report the same as a formal complaint under Title IX?**

No. A report provides brief details regarding an incident such as who was involved, what occurred, when it occurred and where it occurred. A formal complaint under Title IX is a document filed and signed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation(s).

**What are the rights of the Complainant and Respondent?**

The rights of both parties during the investigation and adjudication process of a formal sexual harassment complaint include a fair, impartial, prompt investigation and resolution of the allegations. For more information about Complainant and Respondent rights, see pages 19-25 of School Board Policy #415.

**What if a student is a threat to other students or employees during a District investigation?**

A school may temporarily remove a student from school on an interim basis during an investigation, but only in limited “emergency” situations where there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. Prior to removal, the district must conduct a safety and risk analysis, provide the respondent with notice of the emergency removal, and allow the respondent the opportunity to appeal the removal.

**Can a District employee be placed on administrative leave during the pendency of a complaint?**

Yes. If a sexual harassment complaint or other accusation is made against a District employee, the employee may be placed on administrative leave following completion of a safety risk analysis. An employee will be provided an opportunity to appeal the initial decision to place them on administrative leave.

**What is retaliation?**

Retaliation is any adverse action taken against a student or employee for making a good faith report of sexual harassment or for participating in an investigation. Retaliation includes threats, intimidation, harassment, coercion, or other conduct which would discourage a reasonable person from exercising a right under Board Policy #415 or #521

**What do I do if I think someone is retaliating against me?**

Report the retaliation immediately to the Title IX Coordinator or an administrator in your building such as the Principal or Assistant Principal.

**What could happen if I or someone I know retaliates?**

You, or they, could face a charge of retaliation in addition to any charges of sexual harassment.