

## **School Title IX Coordinator/Investigator Guidelines (STS-G002)**

### **Upon receipt of a report of sexual harassment of a student:**

- ☐ Promptly respond and contact the complainant and discuss: (1) the availability of supportive measures; (2) the complainant's wishes regarding supportive measures; (3) that supportive measures are available to the complainant, with or without the filing of a formal complaint; and (4) the process for filing a formal complaint.
- ☐ Notify and provide a copy of report ([STS-F037](#)) to the Chief of Staff/designee via email at TitleIXappeals@cmcss.net. [STS-F037](#) is NOT sent to the parties/parents. Also notify CHRO if the respondent in the report is a District employee.
- ☐ If a report involves allegations of child abuse the appropriate and required notification must be made per District policy regarding reporting child abuse.
- ☐ Coordinate the implementation of effective supportive measures for complainant.
- ☐ Ensure there are no conflicts of interest or biases which would prevent you serving as Investigator. If complainant chooses not to file formal complaint, consider if information received in report warrants you as School Title IX Coordinator to sign a formal complaint to comply with District's obligation not to be deliberately indifferent to known allegations of sexual harassment.
  - o Existence of pattern of alleged conduct, especially by a person with authority;
  - o Involvement of violence, weapons, etc.
  - o Seriousness of the alleged conduct;
  - o Age of student allegedly harassed.
- ☐ If neither complainant nor School Title IX Coordinator file formal complaint, consider whether allegations, if proven, violate a provision of the Student Code of Conduct other than sexual harassment.
  - o If no formal complaint of sexual harassment is filed, disciplinary action against respondent **for sexual harassment** cannot occur. However, if warranted, disciplinary action for some other Student Code of Conduct violation could be administered.
- ☐ Keep detailed record of all actions taken in response to reports made.

### **If a formal complaint is filed:**

- ☐ Ensure [STS-F037](#) is completed, indicating that a formal complaint was filed.
- ☐ Notify Chief of Staff/designee that formal complaint was filed; provide copy of [STS-F037](#), memorializing such filing to Chief of Staff/designee.
- ☐ Provide written notice to each party and/or the party's parent/guardian that a formal complaint has been filed, to include the allegations potentially constituting sexual harassment made and the grievance process. (Ref. [STS-F039](#)) Best practice is to contact respondent/respondent's parent and disclose identity of complainant as the respondent has the right to know accuser's identity. Use of student party initials is appropriate once you ensure respondent is aware of complainant's identity. If requested by either party, a copy of [STS-F037](#) can be provided at this point to parents/guardians but ensure names of student witnesses and students reporting alleged sexual harassment are redacted. For student parties, initials can be used.
- ☐ If allegations involve or Investigator becomes aware that the alleged conduct could arise to the level of student-to-student sexual misconduct or violence notify the SRO immediately to determine if law enforcement will investigate. (Document such information on [STS-F038](#)) If at elementary level, in addition to reporting to SRO, report to DCS as per District policy INS-P040.
  - o If SRO indicates law enforcement will investigate and written notice is given requesting/requiring CMCSS to delay its internal investigation, do not investigate further until advised by SRO.

- ☐ Ensure parents/guardians of parties are aware the matter has been referred to law enforcement and that CMCSS will conduct its own independent investigation.
- ☐ Consider whether informal resolution process would be appropriate for this situation, remembering this is discretionary and should be used sparingly and only when a formal complaint of sexual harassment has been made. **Level Directors, not school administrators, serve as facilitators and should be consulted as to their availability.** If offered to parents, remember:
  - Only for student-on-student conduct (not employee-on-student).
  - Advise parties that at any time prior to agreeing to a final informal resolution, they may withdraw from the informal resolution process and resume the investigative process with respect to the formal complaint.
  - Advise parties that resolved issues may not be re-investigated, even if there is a breach of the resolution agreement.
  - Obtain written voluntary consent of participation from all prior to initiation (STS-F041)

Documentation of outcome of informal resolution should be created by Level Director, with copy being maintained at school level and submitted to TitleXappeals@cmcss.net
- ☐ Continue coordination of any supportive measures for the complainant.
- ☐ Initiate the investigation based upon the allegations within 2 calendar days (excluding weekends and CMCSS holidays and closures) with a goal of completing investigation within 20 calendar days (excluding weekends and CMCSS holidays and closures) of receipt of the initial formal complaint.
  - Remember the respondent is presumed not responsible at the outset of the investigation.
  - Investigator must be and remain impartial and free of conflicts or bias. The Investigator's actions could be reviewed or even challenged, so ensure fairness and thoroughness.
  - Confidentiality is vital – only persons with a need to know should be aware of investigation.
  - Gather any evidence to which Investigator has access, i.e., school video surveillance.
  - Remember documentation that you create will be disclosed to others later; be mindful of your choice of words.
  - If the investigation is delayed, inform Chief of Staff/designee & parties as to status.
- ☐ Provide an equal opportunity for the parties to present witnesses and evidence.
- ☐ Preserve any collected tangible evidence.
  - Take care with evidence that may exist on student cell phones. Do not ask to search them, rather ask for copies of screenshots. Call parents if needed for permission. If suspect unlawful content on them, involve SRO.
- ☐ Conduct party and witness interviews (if needed).
  - Written notice must be given to parties and/or their parents/guardians or advisors of the date, time, location, participants and purpose of their respective investigative interview, with sufficient time for preparation. ([STS-F040](#)) (Notice may be emailed.)
- ☐ Provide each party an equal opportunity to inspect and review any evidence directly related to the allegations in the formal complaint and with 10 days to submit a written response to the evidence.
  - Prior to permitting inspection and review of evidence by the parties and their advisors, provide each with non-disclosure agreement and secure execution of the same. (Ref. [STS-F046](#)).
  - Statements, notes of interviews, and other types of evidence the school plans to use/consider before reaching the determination.
  - Can be provided to review either in electronic or hard copy format. School surveillance videos can be made available for review. Do not give copies of evidence to parties other than a copy of the party's own written statement if one exists.

- Investigator may redact information contained within documents or other evidence or the investigative report (witness names, witness faces from surveillance video) or that is otherwise barred from use (legal privilege, medical/treatment records if party has not given written consent) prior to sending the evidence to parties and/or their advisors to inspect or review. If redact witness names, use a key, i.e., John Smith is J.S.
- ☐ Keep the parties informed of the status of the investigation process, but be mindful not to divulge FERPA protected information.
- ☐ Create an investigative report that fairly summarizes the relevant evidence ([STS-F038](#)). The report must include:
  - Witness credibility;
  - Any discrepancies;
  - Relevant CMCSS policies and rules and the manner in which the same were made known to the school population and specific parties; and
  - Consideration of any written response by the parties to the evidence and address whether the written response comports with or contradicts the evidence.
  - The Investigator does NOT make a finding as to responsibility.
- ☐ Send a copy of the investigative report to both parties or their parents/guardians or other advisor for their review, allowing 10 days for the parties to submit a written response to the Decision-maker regarding the investigative report. Use the transmittal form ([STS-F042](#)). (Be mindful of FERPA considerations – redact FERPA protected information from investigative report if being sent to parties and/or their parents/guardians or other advisor.)
- ☐ Send a copy of the investigative report to the Decision-maker and Chief of Staff/designee, along with the evidence and relevant materials from investigation (investigator notes, witness interviews), copies of all communications to the parties or their parents/guardians or other advisor. (Un-redacted version to be sent to Decision-maker and Chief of Staff/designee.)

To review a flowchart depicting these guidelines, please [click here](#).