

TITLE IX PROCEDURES:

100 SEXUAL HARASSMENT OF AND BY STUDENTS

- I. All reports and complaints of sexual harassment shall be promptly investigated and resolved according to these procedures.
- II. Definitions and General Rules
 - A. A *report* is a verbal or written allegation of sexual harassment of another person by a student or an employee. A *report* may be made by another student (not the alleged victim), a parent/guardian, or employee who has personal knowledge or other reason to believe that a student has been subjected to sexual harassment or retaliation. A *report* initiates the Step 1 Investigation process.
 - B. A *complaint* is a verbal or written allegation of sexual harassment of the complaining student by another student or an employee. A *complaint* may be made by the student who was allegedly harassed or by the parent/guardian of a student who was allegedly harassed. In order to institute the Step 2 Investigation process, a *complaint* must be in writing except under extenuating circumstances (such as when the age or other inability of the alleged victim or parent/guardian to provide a written *complaint* exists). Unless such extenuating circumstances exist, a verbal *complaint* initiates the Step 1 Investigation procedure.
 - C. Since it is important that complaints from alleged victims of sexual harassment be filed and processed as rapidly as possible, any report or complaint must be made within such specific time periods as provided in these procedures or, if no period is provided, must be made as soon as possible after the alleged sexual harassment occurred or is discovered. Untimely reports or complaints may result in the administration's inability to determine the reliability of the reported information or the legitimacy of the complaint. However, stated time limits may be extended when necessary and reasonable under the circumstances.
 - D. All reports and complaints shall be treated seriously and handled with confidentiality to the extent permitted and/or required by law. Specifically, facts elicited during these procedures are confidential and do not become part of the alleged harasser's record (i.e., the student's permanent record or an employee's personnel file) unless a final determination of guilt is made regarding the complaint and disciplinary action is taken. All other policies relevant to a student's permanent record and an employee's personnel file are fully applicable and shall be followed.
 - E. With regard to all reports and complaints made pursuant to the sexual harassment policy and procedures, the decision of the Title IX Coordinator shall be final and no appeal or review by the Superintendent or the School Board is available to any

party.

~~F. If the Title IX Coordinator has a conflict due to a personal or professional relationship with either the alleged victim or the alleged harasser, he/she shall immediately advise the Superintendent, who shall appoint a designee to handle such case. If the Superintendent has such a conflict, he/she shall immediately advise the Title IX Coordinator, who shall appoint a designee to handle such case.~~

III. Reports of Sexual Harassment

A. Making a Report

1. A student who has reason to believe that sexual harassment has occurred against another individual must immediately make a verbal or written report of alleged incidences of sexual harassment to the Principal, any teacher, counselor, staff member or administrator at the school site or to the Title IX Coordinator.
2. Any EBRPSS employee who receives a verbal or written report from a student or otherwise acquires information concerning a possible violation must complete a written report form and provide it to the Principal or Title IX Coordinator as soon as possible but no later than twenty-four (24) hours from receipt of the report from the student.
3. A parent/guardian or other third party must immediately make a verbal or written report of alleged incidences of sexual harassment against a student to the Principal or Title IX Coordinator.
4. The Principal or designee must immediately conduct an informal investigation.
5. As soon as possible after receipt of a report or after otherwise acquiring information concerning a possible violation, the Principal must institute the Step 1 Investigation procedure.

B. Step 1 Investigation Procedure - Investigating a Report

1. The Principal or designee shall institute a Step 1 investigation of a report as soon as possible after receipt of the report.
2. The purpose of a Step 1 investigation is to determine: (1) whether the contents of the report can be documented or otherwise substantiated; (2) whether the alleged victim of sexual harassment desires to make a complaint or whether the matter may be informally settled.

3. The Principal or designee shall determine, in consideration of the circumstances, whether it is necessary or appropriate to notify the parent/guardian of the student who is alleged by the reporter to be a victim of sexual harassment.
4. At the Step 1 level, the Principal or a designee shall conduct such an informal investigation as he/she deems appropriate under the circumstances to meet the purposes stated above. Such informal investigation should include, when possible, interviewing the reporting party, the alleged victim, and the alleged harasser; and obtaining statements. The Principal or designee should take reasonable steps to determine whether prior reports or complaints of similar conduct have been made against the alleged harasser for the sole purpose of determining whether a pattern of similar conduct may exist.
5. As soon as possible but no later than 24 hours after concluding the Step 1 investigation, the Principal or designee shall prepare a Step 1 investigation report form.
 - a. If the Principal or designee determines that the Step 1 investigation report is unsubstantiated or that the report can not be substantiated, the report form and supporting documentation shall be forwarded to the Title IX Coordinator and maintained in an appropriate confidential file. If not, the Principal or designee shall immediately institute the Step 2 Investigation procedure.
 - b. If the Title IX Coordinator obtains a complaint from the alleged victim or determines that the report may be substantiated otherwise, the Title IX Coordinator shall provide the Step 1 investigation report, with supporting documentation, to the applicable Principal or Building Manager, who shall immediately institute the Step 2 Investigation procedure.

IV. Complaints of Sexual Harassment

A. Making a Complaint

1. Within 5 days of the alleged incident of sexual harassment or retaliation, a student who has cause to believe he/she is a victim of sexual harassment must make a verbal or written complaint to a Principal, teacher, counselor, staff member, or administrator of EBRPSS or to the Title IX Coordinator.
2. Within 5 days of the alleged harassment or of the discovery of the alleged harassment, a parent/guardian or other third party must complete a complaint form and submit it to the Principal or Building Site Manager or

the Title IX Coordinator. If the alleged harasser is the Title IX Coordinator, the parent/guardian or other third party should submit the complaint form to the Superintendent.

3. As soon as possible but no later than 24 hours from receipt of a verbal complaint from a student, a teacher, counselor, staff member or administrator must complete a verification of verbal report form and provide it to the Principal, Building Site Manager or the Title IX Coordinator. If the alleged harasser is the Title IX Coordinator, the employee should submit the verification form to the Superintendent.
4. Within 24 hours from receipt of a verbal complaint from a student or of a verification of verbal report, the Principal must notify and conference with the complainant's parent/guardian and obtain a completed complaint form from either the complainant or the complainant's parent/guardian.
 - a. If a written complaint cannot be obtained due to extenuating circumstances (such as the inability of the student or parent/guardian to complete a written complaint), the Principal must immediately complete a verification of verbal complaint form.
 - b. Unless extenuating circumstances exist, refusal or failure of a student or parent/guardian to file a written complaint shall result in a verbal complaint from a student or parent/guardian to be treated as a report under this policy and such report shall initiate the Step 1 Investigation procedure.

B. Step 2 Investigation Procedure - Investigating a Complaint

1. The purpose of a Step 2 investigation is to conduct a formal investigation of a complaint of sexual harassment to determine whether the content of the complaint can be documented or otherwise substantiated.
2. Upon receipt of a complaint or verification of verbal complaint, the Principal or designee shall institute a formal investigation, as follows:
 - a. Within 2 days of receipt, the Principal or designee shall appoint an investigator or request the Title IX Coordinator to appoint an investigator to conduct the Step 2 investigation.
 - b. Within 5 days of appointment, the investigator shall conduct and complete the investigation, which shall be conducted, as follows:
 - 1) The appointed investigator shall conduct the formal investigation in a manner which respects the privacy of all

parties concerned to the extent permitted or required by law and to the extent practical and appropriate under the circumstances.

- 2) The formal investigation shall include (a) conducting personal interviews of the alleged victim, the alleged harasser, and any other named witnesses; (b) obtaining written statements from all persons interviewed, or, if unable to do so, preparing an account of the information obtained; (c) collecting documentary evidence; and (d) reviewing Title IX investigation files, as maintained by the Title IX Coordinator, for the sole purpose of determining whether a pattern of similar conduct may exist as to the alleged victim and/or harasser.
 - 3) The formal investigation may include other such steps as may be necessary under the circumstances.
- c. As soon as possible but no later than 5 school days after concluding the formal investigation, the investigator shall prepare a written report which shall include: (1) the steps taken; (2) the information obtained; and (3) the conclusions reached as a result of the formal investigation and the investigator shall provide a copy of the report and all supporting documentation to the Principal who after review will forward a copy to the Title IX Coordinator.

C. Resolution of a Complaint

1. As soon as possible but no later than 5 school days after receipt of the investigator's report, the Principal or Building Site Manager shall review the investigator's report to determine whether the conclusions were reasonable and supported by sufficient documentation.
 - a. In the event the report and documentation supports a conclusion that the complaint could not be substantiated or that it is otherwise indeterminate, the Principal shall proceed, as follows:
 - 1) Within 5 days of the receipt of the investigator's report, the Principal or designee shall provide written notice of his/her final decision and provide a copy to the Title IX Coordinator.
 - a) The written notice shall be provided to the parent/guardian of the alleged victim, the alleged harasser (if an employee) or to the parent/guardian of

the alleged harasser (if a student), and the investigator.

- b) With the written notice, the Title IX Coordinator shall provide a copy of the investigator's report, appropriately redacted to comply with privacy concerns but without supporting documentation, to the parent/guardian of the alleged victim, the alleged harasser (if an employee) or to the parent/guardian of the alleged harasser (if a student).
- 2) The complaint shall be closed, recorded, and filed, as appropriate.
 - 3) Additionally, the Title IX Coordinator may deem certain disciplinary and/or remedial measures to be appropriate under the particular circumstances presented and may mediate the implementation of such measures with the participants to the complaint.
 - 4) Such a complaint may be reopened by the alleged victim, the parent/guardian of the alleged victim, the alleged harasser, or the parent/guardian of the alleged harasser presenting a written request to re-open the investigation accompanied by production of additional evidence.
- b. In the event the report and documentation supports a conclusion that the complaint was false or was substantiated, the Principal or designee shall proceed, as follows:
- 1) The Principal shall determine whether disciplinary and/or other remedial measures are proper under EBRPSS policy, state law, and federal law and, if so, shall then determine what action is appropriate under the circumstances.
 - 2) Within 5 days of the receipt of the investigator's report, the Principal or designee shall provide a written notice of his/her final decision and shall take such disciplinary or other remedial steps as may be deemed reasonable and prudent under the circumstances and under the law in a timely manner. A copy of the report will be provided to the Title IX Coordinator.
 - a) The written notice shall be provided to parent/guardian of the alleged victim, the alleged

harasser (if an employee) or to the parent/guardian of the alleged harasser (if a student), and the investigator.

- b) With the written notice, the Title IX Coordinator shall provide a copy of the investigator's report, appropriately redacted to comply with privacy concerns but without supporting documentation, to the parent/guardian of the alleged victim, the alleged harasser (if an employee) or to the parent/guardian of the alleged harasser (if a student).
- c. The Title IX Coordinator shall retain all documents related to a Title IX complaint, regardless of outcome, in a clearly identified file for at least 1 year after the alleged victim and alleged harasser are no longer enrolled and/or employed with the School Board. Such file(s) shall be maintained in a confidential manner and in accordance with the state and federal privacy laws.

V. Reports to Law Enforcement

- A. Any school employee who receives a verbal or written report or complaint from a student or from a parent/guardian on behalf of his/her child that contains an allegation of conduct which may constitute a sexual offense under Louisiana law shall immediately report such information to the Title IX Coordinator who shall make a report to the appropriate local law enforcement agency within 24 hours from receipt of the complaint from the student or parent/guardian. LA. REV. STAT. 15:539.
- B. Any faculty member, counselor, staff member or employee who receives a verbal or written report or complaint from a student or from a parent/guardian on behalf of his/her child that contains an allegation of conduct which may constitute prohibited sexual conduct between an educator and student under Louisiana law or who otherwise has cause to believe that such prohibited conduct has occurred shall immediately report such information to the site Title IX Coordinator, who shall immediately determine whether there is cause to believe that such prohibited conduct has occurred and, if so, report such information to the appropriate local or state law enforcement agency. LA. REV. STAT. 14:81.4.
- C. Any school employee making a report to a law enforcement agency shall be complete a law enforcement report form and submit it to the Title IX Coordinator, who shall maintain such forms both in a law enforcement report file and in the respective Title IX report or complaint investigation file. All such files shall be made available for review by a Title IX Coordinator/designee conducting a Step 1 investigation and an investigator assigned to conduct a Step 2 investigation, such

review to be for the sole purpose of determining whether a pattern of conduct may exist.

- D. Failure of any employee to make the reports as required by this policy and any applicable laws may result in disciplinary action against the employee, including up to termination, and in additional steps as may be provided by the applicable laws.

LEGAL REFERENCES:

Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681, *et seq.*; 34 C.F.R. part 106; LA.REV.STAT. 15:539; LA.REV.STAT. . 14:81.4; LA.REV.STAT. 17:100.7

RS 15:539**§539. Notification by school superintendents of allegations of the commission of a sex offense**

The superintendent of each city, parish, or other local public school system or his designee shall notify the local law enforcement agency of any allegation made by a student of the commission of a sex offense as defined in R.S. 15:541. Such notification shall be made by the superintendent within twenty-four hours of the time the student notified the superintendent or other appropriate school personnel, as provided for by rules adopted by each city, parish or other local public school board.

Acts 2003, No. 215, §1; Acts 2007, No. 460, §4, eff. Jan. 1, 2008.

RS 14:81.4**§81.4. Prohibited sexual conduct between educator and student**

A. Prohibited sexual conduct between an educator and a student is committed when any of the following occur:

(1) An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the presence of a student who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

B. As used in this Section:

(1) "Educator" means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) "School" means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) "Sexual intercourse" means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) "Student" includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

C. The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

D. Lack of knowledge of the student's age shall not be a defense.

E.(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

F. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

G. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal

liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

H. In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

Acts 2007, No. 363, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009.