

## Big Spring School District Title IX Complaint Procedures

### **I. Notice of Non-Discrimination**

1. The Big Spring School District (“District”), as required by Title IX of the Education Amendments Act of 1972 and its corresponding regulations (“Title IX”), does not discriminate on the basis of sex in its education programs and activities.
2. All questions regarding Title IX may be referred to the District’s Title IX Coordinator or to the United States Department of Education’s Office for Civil Rights (“OCR”).
3. The District’s Title IX Coordinator is Dr. Kevin Roberts, the District’s Assistant Superintendent. Dr. Roberts may be contacted at:

45 Mt. Rock Road  
Newville, PA 17241  
717-776-2000 ext. 2409  
[kroberts@bigspring.k12.pa.us](mailto:kroberts@bigspring.k12.pa.us)

4. Furthermore, the District recognizes its obligations under Section 504 and Title II to not treat qualified students with disabilities differently than similarly situated, non-disabled students with respect to the provision of District aids, benefits, or services. In addition, the District recognizes its obligation to apply the requirements of Title IX to qualified students with disabilities in the same manner in which it is applied to similarly situated, non-disabled students.

### **II. Authority**

1. Title IX requires that the District maintains an environment for students and employees that is free from unlawful sex discrimination in all aspects of the educational experience, including academics, extracurricular activities, and athletics.
2. The Big Spring Board of School Directors (“Board”) directs that complaints of sex discrimination shall be investigated promptly, and corrective actions be taken when allegations are substantiated.

### **III. Definitions**

1. **Sexual Violence:** Physical sexual acts perpetrated against a person’s will or where a person is unable to give consent because of the person’s age, intellectual disability, or due to the use of drugs or alcohol.

2. **Sexual Harassment:** Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Since sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the District's education programs or activities, it is a form of sex discrimination prohibited by Title IX.
3. **Hostile Sexual Environment:** When the conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education programs or activities, or to create a hostile or abusive educational environment.

#### IV. **Filing a Title IX Complaint – Complaint Procedure**

1. This Complaint Procedure applies to all complaints of sexual violence or sexual harassment filed by students or on their behalf alleging sexual misconduct carried out by employees, other students, or other third parties.

##### 2. **Step 1 – Reporting**

- a. Students, Parents and employees may file Title IX Complaints with the District's Title IX Coordinator.
- b. Students may also report an act of sexual violence or sexual harassment with any employee of the District.
- c. The individual to whom a Title IX Complaint is filed must complete the Report Form for Complaints of Unlawful Harassment (see Board policy 248).
- d. If a student reports an act of sexual violence or harassment to an employee of the District who is not the Title IX Coordinator, that employee will inform the Title IX Coordinator of the alleged act of sexual violence or sexual harassment and submit the completed Report Form for Complaints of Unlawful Harassment to the Title IX Coordinator.
- e. District reporting policies and protocols. District employees must report the following information about a possible incident of sexual violence or sexual harassment to the Title IX Coordinator or other designated employees who have an obligation to report possible incidents of sexual violence or sexual harassment to the Title IX Coordinator:
  - i. Names, if known, of the alleged perpetrators.
  - ii. The name of the student who experienced the alleged act of sexual violence or sexual harassment.

- iii. The relevant facts, including but not limited to, the time, date, and location of the alleged assault or harassment.
  - iv. Names, if known, of witnesses to the incident.
- f. After a student tells an employee that they were the victim of sexual violence or sexual harassment, the Employee will inform the student, before the student discloses information the student wants confidential, that:
- i. The employee has a mandatory obligation to report the names of the alleged perpetrators and victim involved in the alleged act of sexual violence or sexual harassment along with all relevant facts to the school's Title IX Coordinator or other appropriate school officials.
  - ii. The student does have the right to request confidentiality that the District's Title IX Coordinator or other appropriate school official will consider.
  - iii. The student has the ability to share confidential information with counselors, or advocacy, health, mental health, or sexual-violence related services such as sexual violence resource centers.

3. **Step 2 – Investigation – For Title IX Coordinator and/or District Administrator(s)**

a. Investigations of Title IX Complaints.

- i. In investigating a complaint, the District will determine:
  - 1. Whether the misconduct occurred; and
  - 2. If the misconduct did occur, the District will take action to end the sexual violence and, if it exists, eliminate the hostile environment, and prevent recurrence. This may include:
    - a. Imposing sanctions on the perpetrator;
    - b. Providing remedies for the complainant and the broader student population.
- ii. The Investigation will be adequate, reliable, impartial, prompt, and allow both parties to present witnesses and other evidence.

- iii. If the District permits one party to have an attorney or advisor present at any stage of the investigation, it will allow the other side the same right.
- iv. If the District permits one party to submit third party expert testimony, it will allow the other party the same right.

b. Interim Measures That Will be Taken to Protect a Student Who Alleges That They Have Been the Victim of Sexual Violence or Sexual Harassment:

- i. Before the District completes its investigation into an allegation of sexual violence, the following steps will be taken to protect the alleged victim that includes but are not limited to:
  - 1. Ensuring that the alleged victim continues to have equal access to the District's educational programs and activities;
  - 2. Protect the alleged victim from the alleged perpetrator and from illegal retaliation; and
  - 3. The District will inform the alleged victim of their right to avoid contact with the alleged perpetrator and will allow the alleged victim to change academic and extracurricular activities along with changing the alleged victim's, transportation, dining and working situation, if applicable.
- ii. At all times while the investigation into the allegations is taking place, the District will attempt to minimize any burden that might be imposed upon the alleged victim.

c. Title IX prohibits Retaliation:

- i. The District will protect any student or person who reports an act of sexual violence or sexual harassment from retaliation for making the report.
- ii. The District will not only take prompt, strong action against anyone who attempts to retaliate against an alleged victim of sexual violence or a person reporting an act of sexual violence, the District will also take reasonable steps to prevent retaliation for making the report.

d. Evidentiary Standard to Use in Determining Whether Allegations Made by the Alleged Victim of Sexual Violence or Sexual Harassment Are True:

- i. The District will determine whether, **by a preponderance of the evidence**, the allegations made by the alleged victim of sexual violence or sexual harassment is true.
- ii. This means the evidence must show that more likely than not the act of sexual violence or sexual harassment did occur and more likely than not the alleged perpetrator(s) committed the act.

e. Confidentiality and the obligation of District staff to respond and report allegations of sexual violence and sexual harassment:

- i. If a student requests that their name not be disclosed to the alleged perpetrator or that the school not investigate the allegations, the District will:
  1. Inform the student that honoring the request may limit the school's ability to respond to the incident, including but not limited to, pursuing disciplinary action against the alleged perpetrator.
  2. Inform the student that Title IX includes protection against retaliation.
  3. Inform the student that it will take steps to prevent retaliation and if retaliation does occur, the school will take "strong" responsive action.
    - a. After providing this information, if the student still requests confidentiality, the District must determine whether it can honor the request and still provide all students with a safe environment. The following factors will be considered when determining whether to honor this request are:
      - i. Whether the alleged perpetrator may commit additional acts of violence or sexual violence.
      - ii. Investigate whether the alleged perpetrator has a prior history of violence.

- iii. Investigate whether the alleged perpetrator threatened the victim not to proceed with a complaints.
  - 4. Investigate whether the alleged act reveals a pattern of misconduct, such as the use of illegal drugs or alcohol to subdue the victim, and whether there is a location pattern or that a particular group has been sexually assaulting students.
  - 5. Consider whether a weapon was used.
  - 6. Consider the age of the alleged victim.
  - 7. Consider the mental competency of the student.
  - 8. Consider whether the school has alternatives to obtain evidence of the alleged attack, such as security cameras, witness reports, or physical evidence.
- ii. The Title IX Coordinator or this person's designated representative will then determine whether the request for confidentiality can be honored.
  - 1. If the District decides it must disclose the name of the alleged victim to the alleged perpetrator, it will first inform the alleged victim before making the disclosure.
  - 2. If the District determines that it must disclose the victim's name to the perpetrator, necessary interim steps will be taken to protect the alleged victim and to protect the safety of all students.
- f. Right to file a simultaneous criminal complaint: Any person who files a Title IX complaint with the District also has a simultaneous right to file a criminal complaint with law enforcement authorities.
- g. Timelines for completion of an investigation into allegations of sexual violence or sexual harassment:
  - i. Investigations into a complaint of sexual violence will usually be completed within 60 days. Included in this time frame is:
    - 1. Conducting the fact finding investigation;

2. Holding a hearing or engaging in another decision making process to determine whether the alleged misconduct occurred and whether a hostile environment exists;
  3. Determining what actions the District should take to eliminate the hostile environment and preventing a recurrence, including but not limited to imposing sanctions upon the perpetrator and providing remedies to the complainant and, as needed, to the entire school community.
  4. The time frame does not include the appeal process.
- ii. The 60 days is not a hard fixed timeline, and does recognize that the time to complete the process may take longer because of school breaks or if a parallel criminal investigation is also taking place.
    1. If additional time is required because of either or both of these events, the alleged victim and alleged perpetrator will be notified of the need to delay completion of the investigation and the date when the investigation will be completed.

h. Notice of outcome of the Investigation:

- i. The District will inform the alleged victim and alleged perpetrator in writing of the outcome of its investigation into the complaint of sexual violence or sexual harassment.
  1. If the allegations are confirmed, the victim will be also be notified of the sanctions taken against the perpetrator that directly relate to the victim, remedies offered to the victim, the steps the District will take to prevent a recurrence of sexual violence and sexual harassment against any District student.
  2. If the District finds that a hostile environment existed, take appropriate steps to eliminate the hostile environment so that neither the victim nor any student is subject to illegal sexual discrimination.
- ii. If the allegations of sexual violence or sexual harassment are confirmed, the District will not inform the perpetrator of any remedies offered or provided to the victim.

i. Appeal Procedure:

- i. If either the alleged victim or the alleged perpetrator is not satisfied with the District's outcome of its investigation, s/he may submit a written appeal to the Title IX Coordinator with fifteen (15) days of receiving notice of the outcome of the investigation.
- ii. The Title IX Coordinator will review the investigation and, if deemed necessary, may conduct a reasonable investigation.
- iii. The Title IX Coordinator shall prepare a written response to the appeal within fifteen (15) days. Copies of the response will be provided to the alleged victim, the alleged perpetrator, and the building principal who conducted the initial investigation.

4. **Step 3- District Action – For Title IX Coordinator and/or District Administrator(s)**

a. Remedies for the Victim of sexual violence or sexual harassment:

- i. If the investigation concludes that a student was the victim of sexual violence or sexual harassment, then District may provide the victim with the following:
  1. Providing an escort for the victim to make certain that the victim can move safely between classes and activities.
  2. Providing at no cost to the victim, comprehensive victim services including but not limited to medical assistance, counseling, academic support and, if needed, tutoring.
  3. Arranging for the victim, without academic penalty, to have extra time to complete or retake a class, or withdraw from a class.

b. Potential Sanctions against a perpetrator of sexual violence or sexual harassment.

- i. In addition to sanctions imposed by the District's Student Code of Conduct, perpetrators of sexual violence and sexual harassment may face the following sanctions:



1. Prior to returning to school, the perpetrator must attend counseling provided by a certified mental health provider.
  2. The perpetrator will be required, before returning to school, proper authorization that allows the District to obtain confirmation that the perpetrator has attended counseling sessions and that the sessions are directed towards prevention of any recurrence of sexual violence or harassment against any person including but not limited to this person's victim.
- c. If it is concluded that a student has knowingly made a false complaint under these procedures, such student shall be subject to disciplinary action.

**V. Record Keeping**

5. Once a Report Form for Complaints of Unlawful Harassment is filed, it must be timely submitted to the Title IX Coordinator by the individual who completed it.
6. The Title IX Coordinator shall secure and store electronically, if possible, all Report Form for Complaints of Unlawful Harassment and other Title IX related documents.
7. The Title IX Coordinator is required to maintain the following information:
  - a. The name of the individual who reported the allegation;
  - b. The identification of the alleged victim and perpetrator;
  - c. Notes from witness interviews;
  - d. Documentation of investigation steps completed; and
  - e. The determination, including disciplinary actions, if any, of all parties involved.