

TEXAS

TITLE IX

Administrator Conference

REPORT WRITING, FORMS, RECORD RETENTION, AND PAPERWORK REQUIREMENTS

Holly Boyd Wardell



EICHELBAUM WARDELL
HANSEN POWELL & MUÑOZ, P.C.

October 18, 2022

TITLE IX GRIEVANCE PROCESS SEXUAL HARASSMENT



- Prevent or stop sexual harassment
- Provide equitable process for handling reports/complaints
- Implement supportive measures to individuals
- Document efforts to ensure compliance, have record for future action, identify patterns
- Avoid finding of deliberate indifference

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TITLE IX GRIEVANCE PROCESS SEXUAL HARASSMENT



- A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the U.S. must respond promptly in a manner that is not deliberately indifferent.
- A recipient is **deliberately indifferent only** if its response to sexual harassment is clearly unreasonable in light of known circumstances.

34 CFR 106.44(a).

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LIABILITY

A recipient is liable for its own actions in response to known harassment.

Davis v. Monroe County Bd. of Educ.,
526 U.S. 629 (1999).

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LIABILITY

Liability under Title IX does not extend to school officials, teachers, and other individuals.

Plummer v. Univ. of Houston,
860 F.3d 767 (5th Cir. 2017).

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LIABILITY

Remember that Title IX is not the exclusive mechanism for addressing gender discrimination in schools.

Fitzgerald v. Barnstable Sch. Comm., 555
U.S. 246 (2009).

For example: 14th Amendment – substantive due process
Right to bodily integrity

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RECORD KEEPING



- Initial intake report
- Response to sexual harassment report – supportive measures
- Formal complaint
- Notice to parties
- Emergency removal
- Administrative leave
- Informal resolution
- Notice to parties of interviews
- Evidence submitted to parties
- Investigative report
- Notice of opportunity to submit questions
- Questions and submitted answers
- Determination of responsibility
- Documentation of remedies and sanctions
- Appeal documentation
- Decision of appeal

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Hypothetical:

Lashonda, 5th grade cisgender female

Allegations

- Male classmate repeatedly groped and touched on Lashonda's breast and in her genital area
- Made vulgar statements: *I want to get in bed with you. I want to feel your boobs.*
- Placed a door stop in his pants and proceeded to act in a sexually suggestive manner toward Lashonda in PE class.
- Rubbed his body against her in the hallway
- On campus and the school bus
- Repeatedly over a 5-month period
- Parent says already reported to campus administration and nothing done.
- Calls Director of Student Services office.

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Record of Reports

**STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION** **FFH
(LOCAL)**

Note: This policy addresses the retaliation against District officials regarding discrimination, harassment, and retaliation against District employees. Agreements related to and made prior to the date of this policy shall be used in conjunction with FFH (posting) for certain prohibited conduct.

Statement of nondiscrimination: The District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, disability, or national origin.

Discrimination **Employee Report** Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced prohibited conduct shall promptly notify the appropriate District official listed in this policy and take any other steps required by this policy.

Prohibited Conduct

Prohibited Harassment

Note: Prohibited harassment includes dating violence as defined by law and this policy.

Examples Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or

DATE ISSUED: 9/30/2022 1 OF 2

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Record of Reports

Definition of District Officials For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

State Note *Title IX Coordinator* Reports of discrimination based on sex, including sexual harassment, gender-based harassment, or dating violence, may be directed to the designated Title IX coordinator for students. [See FFH(EXHIBIT)]

Discr

Prohib

Prohib Harass

2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance, or

3. Otherwise adversely affects the student's educational opportunities.

Note: Prohibited harassment includes dating violence as defined by law and this policy.

Examples Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or

DATE ISSUED: 9/30/2022 1 OF 2

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Intake

Title IX Discrimination Intake Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. This form is to be completed by an individual reporting sexual harassment or an individual in the Title IX Coordinator's office when a student, parent, or district employee reports possible sexual harassment to the Title IX Coordinator's office.

Title IX Discrimination Intake Form
 Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. This form is to be completed by an individual reporting sexual harassment or an individual in the Title IX Coordinator's office when a student, parent, or district employee reports possible sexual harassment to the Title IX Coordinator's office.

REPORTER INFORMATION:
 Case Number: 2020-10-21:45
 Reporter Name: Aurelia Davis (Parent)
 Email: adavis@shmail.com
 Phone Number: (478) 867-5309
 Student ID: 1191661
 Employee ID: JSA
 Campus: Hubbard Elem. Sch.
 Employee's School/Office Location: NA
 Job Title: NA

Type of Prohibited Conduct:
 Discrimination based on: (Check all that apply)
 Sexual Harassment Sexual Assault Gender Based Harassment
 Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:
 Earliest: Sept. 2020
 Latest: Oct. 15, 2020

Continuing Action

ALLEGED VICTIM'S INFORMATION:
 Name: LESHON DAVIS
 School/Department: HUBBARD E.S. Job Title: NA
 Email: NA Employee ID: NA
 Student ID: 1191661 Campus: 205
 State/Campus Address: After school pickup

REPORTER INFORMATION:

Case Number: 2020-10-21:45

Reporter Name: Aurelia Davis (Parent)

Email: adavis@shmail.com

Phone Number: (478) 867-5309

Student ID: 1191661

Campus: Hubbard Elem. Sch.



Intake

Type of Prohibited Conduct:

Discrimination based on: (Check all that apply)

- Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence
 Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:

Earliest: Sept. 2020

Latest: Oct. 15, 2020

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Intake

Title IX Discrimination Intake Form
 Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students. Educational institutions that receive federal financial assistance are required to be compliant with all federal reporting and enforcement requirements. The Title IX Coordinator's Office upon a student, parent, or district employee reports possible sexual harassment to the Title IX Coordinator's Office.

REPORTER INFORMATION:
 Case Number: 2020-02148
 Reporter Name: Lashonda Davis, Parent
 Email: lashedavis@gmail.com
 Phone Number: (202) 847-5209
 Student ID: 1191661 Campus: Hubbard Elem. Sch.
 Employee ID: NA Job Title: NA
 Employee's School/Office Location: NA

Type of Prohibited Conduct:
 Discrimination based on: (Check all that apply)
 Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence
 Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:
 Start: 2020-02-20
 Latest: Oct 18, 2020

Continuing Action

ALLEGED VICTIM'S INFORMATION:
 Name: LASHONDA DAVIS
 School/Department: HUBBARD E.S. Job Title: NA
 Email: NA Employee ID: NA
 Student ID: 1191661 Campus: HES
 Extra-Curricular Activities: After school chess club

ALLEGED VICTIM'S INFORMATION:

Name: Lashonda Davis

School/Department: Hubbard E.S. Job Title: NA

Email: NA Employee ID: NA

Student ID: 1191661 Campus: HES

Extra-Curricular Activities: After school chess club

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Intake

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 Case Number: 2020-02148
 Reporter Name: Lashonda Davis, Parent
 Email: lashedavis@gmail.com
 Phone Number: (202) 847-5209
 Student ID: 1191661 Campus: Hubbard Elem. Sch.
 Employee ID: NA Job Title: NA
 Employee's School/Office Location: NA

Type of Prohibited Conduct:
 Discrimination based on: (Check all that apply)
 Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence
 Stalking Retaliation Cyber Bullying Other

Date Incident Occurred:
 Start: 2020-02-20
 Latest: Oct 18, 2020

Continuing Action

ALLEGED VICTIM'S INFORMATION:
 Name: LASHONDA DAVIS
 School/Department: HUBBARD E.S. Job Title: NA
 Email: NA Employee ID: NA
 Student ID: 1191661 Campus: HES
 Extra-Curricular Activities: After school chess club

- Description of prohibited conduct
- Any witnesses
- Previously discussed with witnesses
- Identify any administrators or district employees reported to
- Signature and date of person taking initial report

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Child Abuse Report?

If the incident could be child abuse, the employee(s) receiving the report must report to CPS or law enforcement within 48 hours.



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Promptly Contact Complainant

The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures...consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

34 CFR §106.44(a).

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If Complainant wants to file formal complaint...

Title IX Discrimination Formal Complaint Form
 Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. When the form has been completed and signed by a Complainant or the Title IX Coordinator, the alleged sexual harassment will be investigated by the District. A copy of this completed form, as well as information about the District's Title IX grievance process (FFH – Regulation 2), will be provided to the Complainant and Respondent.

- Complainant:** An individual who is alleged to be the victim of sexual harassment.
- Respondent:** An individual who is alleged to be the perpetrator of sexual harassment.
- Formal Complaint:** A document filed by a Complainant (or parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.

COMPLAINANT PERSONAL INFORMATION (Please Print):

Name _____
 Email _____
 Home Address _____
 City _____ State _____ Zip code _____
 Phone Numbers: (Cell) _____ Work _____
 Student ID: _____ Campus _____
 Employee ID: _____ Job Title _____
 Employer's School/Office Location _____

Type of Complaint:
 Discrimination based on: (Check all that apply)
 Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence
 Stalking Retaliation Cyber-Bullying Other _____

Date Incident Occurred: _____
 Submit _____
 Later _____
 Continuing Action _____

RESPONDENT INFORMATION: Please list the individual(s) alleged to have engaged in sexual harassment/prohibited conduct:
 Name _____

Title IX Discrimination Formal Complaint Form
 Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. **When the form has been completed and signed by a Complainant or the Title IX Coordinator, the alleged sexual harassment will be investigated by the District.** A copy of this completed form, as well as information about the District's Title IX grievance process (FFH – Regulation 2), will be provided to the Complainant and Respondent.

- Complainant:** An individual who is alleged to be the victim of sexual harassment.
- Respondent:** An individual who is alleged to be the perpetrator of sexual harassment.
- Formal Complaint:** A document filed by a Complainant (or parent/guardian) or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the District investigate the allegation.

COMPLAINANT PERSONAL INFORMATION (Please Print):



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If Complainant does not want to file formal complaint...

DISTRICT LETTERHEAD

**This letter may be sent to adult students or parents of minor students after initial verbal contact by school officials about a report of alleged sexual harassment involving their child when no Formal Complaint is filed.*

October 21, 2020
 Via email: adavis@shmail.com
 Original via First Class Mail

Aurelia Davis
 862 Georgia Drive
 Macon, Texas 75457

Re: Title IX Complaint – Response to Sexual Harassment Report
 Supportive Measures

Dear Ms. Davis,
 This letter is to confirm receipt of a report of alleged sexual harassment involving your child. It is our understanding that, at this time, you do not wish to file a Formal Complaint and pursue this matter further. If you change your mind, please contact the Title IX Coordinator.

Even though you have not filed a Formal Complaint, the District is implementing the following supportive measures for your child, based on our Title IX grievance process on the basis of the alleged sexual harassment and other prohibited conduct, against students in all of its educational programs. Supportive measures are non-punitive, non-remedial, non-disciplinary services offered as appropriate, as resources available, without fee or charge to students, when a report of alleged sexual harassment is made.

Supportive measures: (check only those that apply and provide details. Delete the options below that will not be implemented.)

- Changing of classes regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/room/schedule/teacher location
- Campus/campus escort
- Increased school monitoring of (location) for (time period) e.g., next 3 weeks
- Online counseling
- City/county department contact directives
- Limitation of extracurricular activities
- Training
- Other _____

The District's goal is for your child to feel safe and comfortable on campus. If you have questions about the District's Title IX grievance process or supportive measures, please contact the Title IX Coordinator's Office at (862) 862-8626 or (862) (Area).

Name _____
 Title IX Coordinator/designee
 Enclosure: FFH(DOCL)

DISTRICT LETTERHEAD

**This letter may be sent to adult students or parents of minor students after initial verbal contact by school officials about a report of alleged sexual harassment involving their child when no Formal Complaint is filed.*

October 21, 2020

Via email: adavis@shmail.com
 Original via First Class Mail

Aurelia Davis
 862 Georgia Drive
 Macon, Texas 75457

Re: Title IX Complaint – Response to Sexual Harassment Report
 Supportive Measures



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Dear Ms. Davis:

This letter is to confirm receipt of a report of alleged sexual harassment involving your child. It is our understanding that, at this time, you do not wish to file a Formal Complaint and pursue this matter further. If you change your mind, please contact my office immediately.

Even though you have not filed a Formal Complaint, the District is implementing the following supportive measures for your child, because school board policy FFH prohibits discrimination on the basis of sex, including sexual harassment and other prohibited conduct, against students in all of its educational programs. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, without fee or charge to students, when a report of alleged sexual harassment is made.

Supportive Measures: *(Select only those that apply and provide details. Delete the options below that will not be implemented.)*

- Counseling of students regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/lunch schedule/locker location
- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities
- Training
- Other: _____

The District's goal is for you/your child to feel safe and comfortable on campus. If you have questions about the District's Title IX grievance process or supportive measures, please contact the Title IX Coordinator's Office at (XXX) XXX-XXXX or [email].

If the district does not provide the supportive measures, the Title IX Coordinator must document why not.



Emergency Removal

Nothing in the Title IX grievance process precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 CFR 106.44(c).

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Removals requiring analysis:

- OSS
- DAEP
- Expulsion
- Change of class/schedule*
- Change of campus*
- Teams
- Clubs
- Organizations
- Student activities (STUCO)

*Could be a supportive measure if doesn't unreasonably burden the respondent.

See p. 770-777 - Commentary

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Emergency Removal Form

Emergency Removal Form

Name of Respondent Student: Groper Flanders (G.F.)

Title IX Case No. 2020-10-21:45 Current Campus: Hubbard E.S.

**A Respondent may be removed from an educational program or activities if the District makes an individualized safety and risk analysis and determines that an immediate threat, arising from the allegations of sexual harassment, to anyone's physical health or safety justifies removal. This analysis may involve the campus/district threat assessment team. A student who is removed on an emergency basis must be provided with notice and an opportunity to challenge the decision. A student with a disability has rights under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act and may not be removed without following the procedural safeguards of those laws.*

Examples of removal include OSS, Removal, Detention, etc.
 Yes -- Respondent poses an physical health or safety on the basis for removal.
 No -- Respondent does not pose an physical health or safety on the basis for removal.
 Length Removal: Semester 90 Days
 School employees involved in making Threat Assessment Team:
 Removal (ARDF) - C. Thomas III

*The district threat assessment and safe and supportive school team should be notified of removal determination.
 *Upon removal, Respondent student must be notified of opportunity to challenge emergency removal. *EACSS will inform of right to challenge emergency removal under 29GULC004.

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Emergency Removal Form

Does the student receive special education or Section 504 supports? If so, refer to ARD/504 committee. See Texas Education Code § 37.004

If the Respondent has already been removed for behaviors other than sexual harassment, list the basis for the removal from the Student Code of Conduct (e.g., bullying; cyberbullying, use of profanity, lewd or vulgar language on campus or school-related activity; violation of technology acceptable use policy; assault; hazing)._____

Examples of removal include OSS, DAEP, expulsion, change of campus, removal from extracurricular activity.

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Emergency Removal Form

Removal Determination:

No – Respondent does not pose an immediate threat arising from the allegation of sexual harassment to anyone’s physical health or safety.

Yes – Respondent poses an immediate threat arising from the allegation of sexual harassment to the physical health or safety of the self or others.

Basis for Removal: Due to on-going physical nature of alleged conduct, G.F. is being removed from the after school chess program where there is less student supervision than regular classroom instruction pending the results of the Title IX investigation and grievance process. G.F. is also temporarily suspended from the bus.

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Emergency Removal Form

Length Removal: Semester Year Indefinite Trial Basis Other: pending grievance process

School employees involved in making Emergency Removal Decision:

Threat Assessment Team: B. Query (Principal/Behavior Coordinator); A. Kennedy (School Counselor); Rehnquist (LSSP); C. Thomas (Title IX Coordinator); A. Scalia (Exec. Dir. Special Education)

*The district threat assessment and safe and supportive school team should be notified of removal determination.

*Upon removal, Respondent student must be notified of opportunity to challenge emergency removal: Parent was informed of right to challenge emergency removal under FNG(LOCAL).

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Dismissal of a Formal Complaint

Dismissal Basis: (Check all that apply)

Does not constitute sexual harassment

Did not occur in the district program or activity

Did not occur in the U.S.

Dismissal requested by Complainant

Respondent no longer enrolled in district

Circumstances prevent the district from gathering evidence sufficient to reach a determination

Reasoning for Dismissal: Describe the reasoning behind the dismissal of this complaint.

Title IX Disciplinary
 Title IX of the Education Amendments of 1972 prohibits sexual harassment in U.S. educational programs. A complaint must be filed with the Title IX Coordinator within 180 days of the alleged incident. The Title IX Coordinator will investigate the complaint and determine if there is evidence sufficient to reach a determination.

COMPLAINANT INFO
 Case Number: _____
 Complainant's Name: _____
 Email: _____
 Complainant School: _____
 Respondent's Name: _____
 Email: _____
 Respondent School: _____

Dismissal Basis:
 Does not constitute sexual harassment
 Did not occur in the U.S.
 Respondent no longer enrolled in district
 Circumstances prevent the district from gathering evidence sufficient to reach a determination

Reasoning for Dismissal:

Name: _____
 Title IX Coordinator/designee

Once signed, a copy of this dismissal form will be placed in the file for this complaint and sent to all parties involved.

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Written Notice of Interviews

DISTRICT LETTERHEAD

*The Complainant location, part to prepare (e) [Date]

[Adult Student Address]

Re: Notice Case # _____

Dear Mr./Ms. _____,

As you are aware, the District has received a Formal Complaint alleging sexual harassment involving your student. I plan to interview your student at [Time] on [Date] regarding this pending complaint. The interview will occur at [Location].

You and/or an advisor for the student may accompany the student to the interview to observe the process. However, the student will be expected to respond to questions directly, as developmentally appropriate. While an advisor may attend the meeting, he/she may not question the student, others, or the investigator.

You have the opportunity to respond to this notice via email, fax, and provide a written response. If you have an opportunity to respond to this notice via email, please provide a written response to the investigator.

If you have an opportunity to respond to this notice via email, please provide a written response to the investigator.

Sincerely,

 [Name],
 Title IX Investigator

cc: Title IX Coordinator/designee

As you are aware, the District has received a Formal Complaint alleging sexual harassment involving your student. I plan to interview your student at [Time] on [Date] regarding this pending complaint. The interview will occur at [Location].

You and/or an advisor for the student may accompany the student to the interview to observe the process. However, the student will be expected to respond to questions directly, as developmentally appropriate. While an advisor may attend the meeting, he/she may not question the student, others, or the investigator.

34 CFR §106.45(b)(5).

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Written Notice of Interviews

DISTRICT LETTERHEAD

**The Complainant and Respondent are entitled to written notice of the date, time, location, participants, and purpose of investigative interviews with sufficient time to prepare for them. 34 CFR §106.45.*

You have the right to submit evidence for consideration. You may submit evidence to me via email, flash-drive, or hard-copy. For all evidence you submit, please retain the original and provide only a copy. Include your student's name and the date on all information submitted. Please keep in mind that all evidence may be shared with all parties prior to the issuance of my investigative report.

Before the issuance of my investigative report, you and the other party(ies) will have the opportunity to receive a copy of the evidence and an opportunity to submit a written response on behalf of your student.

opportunity to receive a copy of the evidence and an opportunity to submit a written response on behalf of your student.

If you have any questions regarding the interview, please contact me at (XXX) XXX-XXXX or [email].

Sincerely,

[Name]
Title IX Investigator

cc: Title IX Coordinator/designee

34 CFR §106.45(b)(5).



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Investigation & Evidence

- Notes = evidence
- Evidence must be provided to both parties prior to completion of investigative report.
- Parties must have 10 days to submit a written response to the evidence before completion of the IR.
- Parties must have an opportunity to review the IR and respond another 10 days before a determination of responsibility is made.

34 CFR §106.45(b)(5).



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Investigative Report

Title IX Final Investigation Report

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. The Complainant and Respondent may submit relevant¹ questions that they would like asked of a party or witness to the Decision Maker.

A Formal Complaint was filed on [date] by [Name of Complainant or Title IX Coordinator]. This report contains a summary of the evidence gathered through the District's investigation of the Formal Complaint, as part of the District's Title IX grievance process.

This investigation was conducted by _____ from [date] to [date]. The parties have been given the opportunity to inspect and review the evidence gathered in this investigation and an opportunity to provide a written response.

Allegations

Identify the allegations potentially constituting sexual harassment: _____

Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:

- A report of alleged sexual harassment was received by the campus/Title IX Coordinator's office on [date].
- The alleged victim was contacted by the Title IX Coordinator's office and provided with information about the grievance process and supportive measures.
- A Formal Complaint was filed on [date].
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures.
- The following supportive measures were implemented: _____
- Campus administration and the Title IX Coordinator made a determination regarding Emergency Removal of the Respondent. [or] The Title IX Coordinator and Human Resources made a determination regarding Administrative Leave for the Respondent.
- The Title IX Coordinator appointed the undersigned to investigate the Formal Complaint.
- The investigator reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning [date].
- The investigator sent written notice of interviews and right to an advisor on [date].
- The investigator interviewed the Complainant on [date].
- The investigator interviewed witnesses provided by Complainant on [date].
- The investigator interviewed the Respondent on [date].
- The investigator interviewed witnesses provided by the Respondent on [date].
- The investigator [add other steps taken during investigation—review of physical evidence, location].

¹ Questions regarding a Complainant's sexual predisposition or prior sexual behavior are not allowed, unless the responses are needed to prove that someone other than the Respondent committed the alleged conduct or to prove consent.



- A report of alleged sexual harassment was received by the campus/Title IX Coordinator's office on [date]
- The alleged victim was contacted by the Title IX Coordinator's office and provided with information about the grievance process and supportive measures
- A Formal Complaint was filed on [date]
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures.
- The following supportive measures were implemented: _____
- Campus administration and the Title IX Coordinator made a determination regarding Emergency Removal of the Respondent. [or] The Title IX Coordinator and Human Resources made a determination regarding Administrative Leave for the Respondent.

Procedural Steps



- *The Title IX Coordinator appointed the undersigned to investigate the Formal Complaint. Investigator.*
- *The Investigator reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning [date].*
- *The Investigator sent written notice of interviews and right to an advisor on [date].*
- *The Investigator interviewed the Complainant on [date].*
- *The Investigator interviewed witnesses provided by Complainant on [dates].*
- *The Investigator interviewed the Respondent on [date].*
- *The Investigator interviewed witnesses provided by the Respondent on [dates].*
- *The Investigator [add other steps taken during investigation—review of physical evidence, location].*

Procedural Steps



- *The parties were given the opportunity to submit evidence, which was reviewed by the Investigator.*
- *The Investigator completed secondary interviews with Complainants, witnesses, additional witnesses, or Respondent.*
- *The parties were given the opportunity to inspect and review evidence and submit a written response.*
- *The draft investigation report written was sent to all parties with an opportunity to respond within 10 calendar days.*
- *The parties did/did not submit written responses that were considered by the Investigator.*

Procedural Steps



- I. *Factual information about the parties*
- II. *The allegations in the Formal Complaint*
- III. *Timeline/dates*
- IV. *Relevant sections of board policy and the student of code of conduct*
- V. *Whether a CPS report was necessary*
- VI. *Whether there is a related criminal/juvenile investigation*
- VII. *Evidence from witnesses*
- VIII. *Physical or other evidence*
- IX. *Consideration of written responses to draft investigative report.*

Findings of Fact



Investigative Report

The 2020 Title IX grievance process does not prohibit the investigator from making recommendations, but the decision maker must make an independent decision based on an objective review of the evidence.



This is the final investigative report in this matter. The Decision Maker will allow the parties to submit relevant questions for the other party(ies) or witnesses before making a determination of responsibility for sexual harassment.

Title IX Investigator

Date

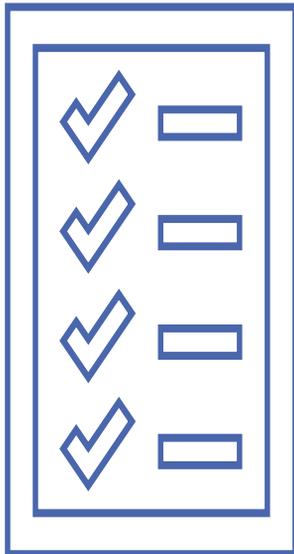
Opportunity to Submit Questions



Determination of Responsibility

The new Title IX grievance process does not prohibit the investigator from making recommendations, but the decision maker must make an independent decision based on an objective review of the evidence.





Determination of Responsibility

- Nature of allegations
- Procedural steps
- Findings of fact
- Determinations based on preponderance of evidence/beyond reasonable doubt
- Remedies provided
 - Supportive measures to complainant
 - Supportive measures/sanctions to respondent
- Appeal information



SUPREME COURT:

Whether gender-oriented conduct rises to the level of actionable “harassment” under Title IX depends on a constellation of surrounding circumstances, expectations, and relationships, including, but not limited to, the ages of the harasser and the victim and the number of individuals involved, and courts must bear in mind that children may regularly interact in a manner that would be unacceptable among adults; damages are not available for simple acts of teasing and name-calling, even where these comments target differences in gender, and the behavior must be serious enough to have the systemic effect of denying the victim equal access to an educational program or activity.

Davis v. Monroe County Bd. of Educ.,
526 U.S. 629, 651 (1999).

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APPEAL FORMS

- Appeal form
- Letter – Notice to Other Party
- Decision on Appeal

The image shows two forms side-by-side. The left form is the 'Title IX Decision Appeal Form' and the right form is the 'Title IX Discrimination Appeal Decision' form. Both forms contain sections for 'APPEAL REQUESTER'S INFORMATION (Please Print)', 'DISTRICT LETTERHEAD', and 'APPEAL INFORMATION'. The forms include fields for case number, name, date of decision, and various checkboxes for appeal reasons and decision types. There are also sections for signatures and dates.



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OFFICE FOR CIVIL RIGHTS

Thirty-two (32) times in the commentary to the new Title IX regulations, OCR promises to not second guess the substantive decisions of recipients, so long as procedures are followed.



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- *Remember the purposes for documenting.*
- *Consider the ultimate audience.*
- *As educational experts, an administrator must ensure that errors in writing do not undermine his/her credibility.*
- *Date and sign final reports.*
- *Make sure Title IX Coordinator gets a copy of all related documents and evidence.*

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TYPES OF INVESTIGATIVE REPORTS

1. Sexual harassment (2020 content requirements)
2. Other types of sex discrimination
3. Athletics

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The 2020 regulations pertaining to sexual harassment complaints...

seek to create a separation between the investigation and decision-making of formal complaints (sexual harassment).

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While it is best to separate roles...

- The Title IX Coordinator can also be the investigator and the informal resolution facilitator.
- The Title IX Coordinator cannot also serve as the decision-maker on a formal complaint or on appeal.
- All roles can be outsourced, except the Title IX Coordinator (e.g., investigator, decision-maker, informal resolution facilitator, appellate decision maker).

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Remember that anyone serving as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an information resolution process must not have a **conflict of interest or **bias** for or against **complainants** or **respondents generally** or an **individual** complainant or respondent.**

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SCENARIO:

Keeley and Jamie used to date. Jamie has “nudes” of Keeley. After they break up, Jamie sends the pics to other students who show them around school. Keeley’s new boyfriend, Roy, finds out about this and “avenges” Keeley’s honor by punching Jamie in the nose at school.

- Both Jamie and Roy play on the soccer team.
- Keeley’s parents decide to file a Formal Complaint against Jamie.

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INVESTIGATIVE REPORT

- Prepare an investigative report that summarizes relevant evidence.
- The report may include proposed findings of fact.

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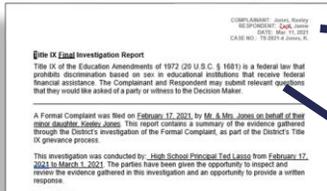
INVESTIGATIVE REPORT

Prior to completion of the investigative report, the investigator must **send an electronic or hard copy of the relevant evidence** gathered to the parties and the parties' advisors, if any. The parties must be provided **at least 10 calendar days** to submit a written response that the investigator must consider before completing the investigative report. The evidence may be provided using a platform that prevents downloading and copying to protect the confidentiality of information about students or victims of sexual offenses.

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INVESTIGATIVE REPORT



COMPLAINANT: Jones, Keeley
RESPONDENT: Tarrt, Jamie
DATE: Mar. 11, 2021
CASE NO.: T9-2021-4 Jones, K.

Title IX Final Investigation Report

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. The Complainant and Respondent may submit relevant questions that they would like asked of a party or witness to the Decision Maker.

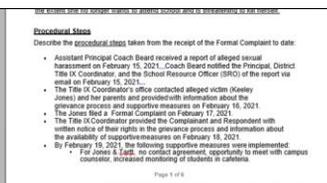
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INVESTIGATIVE REPORT



A Formal Complaint was filed on February 17, 2021, by Mr. & Mrs. Jones on behalf of their minor daughter, Keeley Jones. This report contains a summary of the evidence gathered through the District's investigation of the Formal Complaint, as part of the District's Title IX grievance process.



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INVESTIGATIVE REPORT

COOPER ARCADE JONES BEARD
REGISTRATION CASE NUMBER
19275-18-11-2021
CASE NO. 19-2017-4 JONES, K.

Title IX (Lass) Investigation Report

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1051) is a federal law that prohibits discrimination based on sex in educational institutions that receive federal financial assistance. The Complainant and Respondent may submit relevant questions that they would like asked of a panel or arbitrator in the Decision Making

This investigation was conducted by: High School Principal Ted Lasso from February 17, 2021 to March 1, 2021. The parties have been given the opportunity to inspect and review the evidence gathered in this investigation and an opportunity to provide a written response.

to the extent she no longer wants to attend school and is threatening to kill herself.

Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:

- Assistant Principal Coach Beard received a report of alleged sexual harassment on February 15, 2021. Coach Beard notified the Principal, District Title IX Coordinator, and the School Resource Officer (SRO) of the report via email on February 15, 2021.
- The Title IX Coordinator's office contacted alleged victim Keeley Jones and her parents and provided information about the grievance process and supportive measures on February 16, 2021.
- The Jones filed a Formal Complaint on February 17, 2021.
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures on February 18, 2021.
- By February 19, 2021, the following supportive measures were implemented:
 - For Jones & Lasso, no contact agreement, opportunity to meet with campus counselor, increased monitoring of students in cafeteria.

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INVESTIGATIVE REPORT

COOPER ARCADE JONES BEARD
REGISTRATION CASE NUMBER
19275-18-11-2021
CASE NO. 19-2017-4 JONES, K.

Allegations

Identify the allegations potentially constituting sexual harassment: _

Keeley Jones (Student) alleges that Jamie Tartt (Student) electronically distributed to classmates at school nude pictures of Keeley that Jamie obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

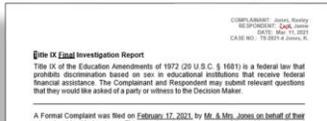
- The Jones filed a Formal Complaint on February 17, 2021.
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures on February 18, 2021.
- By February 19, 2021, the following supportive measures were implemented:
 - For Jones & Lasso, no contact agreement, opportunity to meet with campus counselor, increased monitoring of students in cafeteria.

Page 1 of 6

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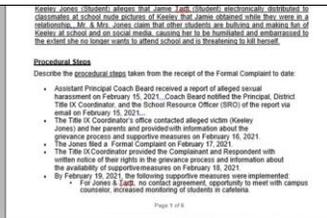


INVESTIGATIVE REPORT



Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:



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INVESTIGATIVE REPORT

- Assistant Principal Coach Beard received a report of alleged sexual harassment on February 15, 2021. Coach Beard notified the Principal, District Title IX Coordinator, and the School Resource Officer (SRO) of the report via email on February 15, 2021.
- The Title IX Coordinator's office contacted alleged victim (Keeley Jones) and her parents and provided with information about the grievance process and supportive measures on February 16, 2021.
- The Jones filed a Formal Complaint on February 17, 2021.
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures on February 18, 2021.

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INVESTIGATIVE REPORT

- By February 19, 2021, the following supportive measures were implemented:
 - For Jones & Tartt: no contact agreement, opportunity to meet with campus counselor, increased monitoring of students in cafeteria.
 - For Jones: one-week extension to take Algebra II test scheduled for February 15, 2021; one-week extension to turn in history project; campus escort to and from lunch; opportunity to eat lunch in front office
 - For Tartt: schedule change to different Algebra II class

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INVESTIGATIVE REPORT

- On February 18, 2021, the Title IX Coordinator appointed the undersigned (Lasso) to investigate the Formal Complaint. I was trained to conduct Title IX sexual harassment investigations in accordance with the May 2020 federal regulations at the Texas Title IX Administrators Conference, October 19-20, 2021.
- This Investigator/I reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning February 18, 2021.

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- The State of Texas mandates that threat assessments must be conducted when students display “harmful, threatening, or violent behavior” which includes threats of self-harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student. On February 18, 2021, Campus administration (Lasso, Beard) and the Title IX Coordinator (Welton) requested that the campus Threat Assessment Team determine whether Respondent Tartt should be removed from school on an emergency basis. On February 19, 2021, the Threat Assessment Team undertook an individualized safety and risk analysis to determine whether an immediate threat to the physical health and safety of Complainant Jones or others, arising from the alleged sexual harassment, justified removal. The Threat Assessment Team’s determined that Tartt’s presence on campus did not pose a threat to the physical health or safety of Jones or others. Tartt remained on campus with the supportive measures cited above. The Threat Assessment also reviewed Complainant’s parents’ comments about suicidal ideation and provided Complainant and her parents with information about community and school resources. A plan was developed for Complainant to have access to a school counselor.

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INVESTIGATIVE REPORT

- I sent both Complainant and Respondent a letter including written notice of interviews and rights under the Title IX investigation process on February 19, 2021.
- I interviewed the Complainant on February 22, 2021. She was accompanied by her parents.
- I interviewed witnesses provided by Complainant on February 22, 2021 – February 24, 2021. I gave the witnesses an opportunity to provide written statements. For students who declined to provide a written statement, I took notes of their verbal statements. I interviewed all witnesses separately. Dr. Sharon Fieldstone observed the interviews and assisted me in the development of my investigation notes.

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INVESTIGATIVE REPORT

- I interviewed the Respondent on February 23, 2021. He was accompanied by his mother and an attorney/advisor, Dewey Cheatham.
- I interviewed witnesses identified by the Respondent on February 23-25, 2021.
- I gave the parties the opportunity to submit evidence. Complainant submitted text messages, which I reviewed.
- I then completed secondary interviews with the Complainant, witnesses, additional witnesses, and the Respondent.

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INVESTIGATIVE REPORT

- The parties were given the opportunity to inspect and review evidence and submit a written response. Specifically, on March 1, 2021, I emailed a secure, password protected link for the parties to access electronic copies of all evidence collected in this investigation (except the photos). The parties agreed that additional access to the photos was not necessary. All evidence was provided in an electronic format that prevented alteration, editing, and copying.
- On March 5, 2021, the Respondent submitted written responses that were considered by the Investigator. The Complainant did not submit a response.

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INVESTIGATIVE REPORT

SUMMARY OF EVIDENCE:

Factual information about the parties

On February 14, 2021, Assistant Principal Coach Beard broke-up a fight in the cafeteria between two students: Jamie Tarrt and Roy Kent. When investigating the cause of the fight, Coach Beard learned that Roy was avenging the honor of his girlfriend, Keeley Jones, who had previously been in a dating relationship with Jamie Tarrt. Jones and Tarrt are both 15 year old sophomores; they were a couple in a dating relationship during their freshman year of high school. Until February 18, 2021, they were in the same class for Algebra II (5th period). Kent is a senior. Tarrt and Kent are both members of the men's soccer team.

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INVESTIGATIVE REPORT

Relevant sections of board policy and the student of code of conduct

Richmond ISD Board Policy FFH(LOCAL) prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law. The District further prohibits dating violence. Retaliation against anyone involved in the complaint process is also a violation of District policy and is prohibited. Discrimination, harassment, dating violence, and retaliation as defined in policy are considered "prohibited conduct," even if the behavior does not rise to the level of unlawful conduct. Prohibited conduct also includes sexual harassment as defined by Title IX.

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INVESTIGATIVE REPORT

Prohibited sexual harassment means conduct on the basis of sex that satisfies one or more of the following: 1) a school employee conditioning an educational benefit or service upon a student's participation in sexual conduct (often called "quid pro quo" harassment); 2) 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 District's education programs or activities; or 3) Sexual assault, dating violence, domestic violence, or stalking.

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INVESTIGATIVE REPORT

Additionally, dating violence, prohibited by state law and Board policy, includes behavior when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship....Tex. Family Code §71.0021....

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INVESTIGATIVE REPORT

Under the Richmond ISD 2020-2021 Student Code of Conduct:

- **Sexual harassment** is a Group III Behavior.
- **Sexual harassment** that involves physical conduct is a Group IV Behavior.
- **Dating violence** is a Group IV Behavior.

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INVESTIGATIVE REPORT

The range of consequences for **Group III** behaviors include: parent/administrator/teacher/SEL support staff/student conference; restorative practices; peer mediation; loss of privilege to have any telecommunication device on campus; suspension; emergency removal from school; referral to law enforcement agencies; and/or any other corrective action deemed appropriate by campus administration and approved by the Office of Student Services.

The range of consequences for **Group IV** behaviors include: parent/administrator/teacher/SEL support staff/student conference; restorative practices; campus reassignment; assignment to DAEP; expulsion; and/or any other corrective action deemed appropriate by campus administration and approved by the Office of Student Services.

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INVESTIGATIVE REPORT

To the extent that federal law, including Title IX federal regulations pertaining to sexual harassment investigations, conflicts with the RISD policy or its SCOC, federal law supersedes.

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INVESTIGATIVE REPORT

Whether a CPS report was necessary

The allegations as presented did not indicate child abuse or neglect as defined by the Texas Family Code....The investigation did not yield facts indicating suspected child abuse or neglect....

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INVESTIGATIVE REPORT

Whether there is a related criminal/juvenile investigation

The campus SRO was notified of the allegations; local law enforcement will determine whether there has been a penal code violation. Law enforcement did not request that the school district delay or abate its investigation in this situation. Law enforcement did not suggest a forensic interview.

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INVESTIGATIVE REPORT

Evidence collected or provided by witnesses, including physical evidence

- Formal Complaint Form completed by Complainant's Parents
- Notice of Rights Letters to Complainant and Respondent
- Complainant's Statement Form
- Student discipline file for Respondent Tartt
- During Complainant's interview, she identified 4 students who reportedly received electronic messages with copies of nude photographs of her: Student A, B, C, and D.
- Witness Statement Forms from A, B, C.
- Transcription of Statement from Witness D.
- Respondent's Statement Form
- During Respondent's interview, he identified 2 students who reported that Complainant allowed Students E and F to have access to her phone to view the nude photographs.
- Witness Statements Forms from E and F.
- Statement from AP Coach Beard regarding initial report
- Interview Notes of All Witnesses
- Photographs of Complainant*
- Board Policy FFH
- RISD Student Code of Conduct
- Athletic Code of Conduct and Respondent's Signature for same

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INVESTIGATIVE REPORT

*Photographs in this case were viewed by the undersigned but not maintained as part of the investigative file. The lewd nature of the photographs is not in dispute and maintaining a copy is not necessary for a determination in this matter.

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INVESTIGATIVE REPORT

Consideration of written responses to evidence.

After reviewing the evidence, Respondent Tartt submitted an additional statement to the effect that: 1) Complainant Jones voluntarily took and sent the pictures to him; 2) no school devices or technology were involved; 3) Complainant sent the pictures to him outside of the school setting and at night when they were in a relationship; 4) at no time did Complainant ask Respondent not to show the pictures to others; and 5) he did not show the pictures to other students at school.

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INVESTIGATIVE REPORT

This is the final investigative report in this matter. The Decision Maker will allow the parties to submit relevant questions for the other party(ies) or witnesses before making a determination of responsibility for sexual harassment.

Ted Lasso

March 11, 2021

Title IX Investigator

Date

cc: Title IX Coordinator – Ms. Rebecca Welton
Title IX Decision Maker – Mr. Leslie Higgins



DETERMINATION OF RESPONSIBILITY

1. Identification of the **allegations** that constitute sexual harassment;
2. Description of the **procedural steps** taken since the receipt of the Formal Complaint through the Decision, including notifications, interviews with the parties and witnesses, site visits, methods used to gather other evidence;
3. **Findings of Fact**
4. **Conclusions** regarding the application of the District's Code of Conduct to the facts;

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DETERMINATION OF RESPONSIBILITY

5. A statement of and the **rationale** for the results of **each allegation**, including a **determination of responsibility**;
6. Any **disciplinary sanctions** imposed on the Respondent;
7. A statement **whether remedies** to the Complainant have been designed to **restore** or **preserve equal access** to the District's education program or activity; and
8. Information about the ability of the parties to **appeal** the decision.

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DETERMINATION OF RESPONSIBILITY

- Note the burden of proof standard (e.g., preponderance, clear and convincing)
- Note the evidence relied upon and not relied upon
- Summarize and assess credibility

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DETERMINATION OF RESPONSIBILITY

- Describe how your finding meets the standard of proof (e.g., POE)
- If more than one allegation, make a separate finding for each allegation.

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DETERMINATION OF RESPONSIBILITY

- Describe how your finding meets the standard of proof (e.g., POE)
- Identify any specific sanctions imposed and explain the basis for choosing those (e.g., precedent, history, cumulative violations, pattern of behavior, aggravating or mitigating factors, Complainant's request, etc.)

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DETERMINATION OF RESPONSIBILITY

- Write in active voice (e.g., I determined that...) rather than passive voice (e.g., It was determined that...)
- Write in the past tense
- If there is more than one Respondent, write a separate decision for each Respondent.

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DETERMINATION OF RESPONSIBILITY

Title IX Determination of Responsibility – Sexual Harassment Decision

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

Title IX Determination of Responsibility – Sexual Harassment Decision
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

CASE INFORMATION (Please Print)
Case Number: TS-2021-4 Jones K.

Specific Allegations
Identify the allegations potentially constituting sexual harassment.

Keeley Jones (Student) alleges that James Yarr (Student) electronically distributed to classmates at school nude pictures of Keeley that James obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

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DETERMINATION OF RESPONSIBILITY

Title IX Determination of Responsibility – Sexual Harassment Decision

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

CASE INFORMATION (Please Print):

Case Number: T9-2021-4 Jones, K.

Complainant: Keeley Jones

Campus: Richmond High School

CASE INFORMATION (Please Print):

Case Number: T9-2021-4 Jones, K.

Complainant: Keeley Jones

Campus: Richmond High School

Respondent: Jamie Tartt

Campus: Richmond High School

classmates at school using pictures of Keeley that Jamie Tartt obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

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DETERMINATION OF RESPONSIBILITY

Title IX Determination of Responsibility – Sexual Harassment Decision

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

CASE INFORMATION (Please Print):

Case Number: T9-2021-4 Jones, K.

Type of Complaint:

Discrimination based on: (Check all that apply)

- Sexual Harassment Sexual Assault Gender Based Harassment Dating Violence Stalking Retaliation Other

Specific Allegations

Identify the allegations potentially constituting sexual harassment.

Keeley Jones (Student) alleges that Jamie Tartt (Student) electronically distributed to classmates at school nude pictures of Keeley that Jamie obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

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DETERMINATION OF RESPONSIBILITY

Title IX Determination of Responsibility – Sexual Harassment Decision
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

CASE INFORMATION (Please Print):
Case Number: 19-2021-L Jones K.

Nature of Allegations:

- A school employee conditioning an educational benefit or service upon a student's participation in sexual conduct
- 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 District's education programs or activities
- Sexual assault, dating violence, domestic violence, or stalking (as those offenses are defined in the Clery Act, 20 U.S.C. § 1092(f), and the Violence Against Women Act, 34 U.S.C. § 12291(a))

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DETERMINATION OF RESPONSIBILITY

Title IX Determination of Responsibility – Sexual Harassment Decision
Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex in educational institutions that receive federal financial assistance. This decision must be issued simultaneously to the Complainant and Respondent.

CASE INFORMATION (Please Print):

Specific Allegations

Identify the allegations potentially constituting sexual harassment: _

Keeley Jones (Student) alleges that Jamie Tartt (Student) electronically distributed to classmates at school nude pictures of Keeley that Jamie obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

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DETERMINATION OF RESPONSIBILITY

Procedural Steps

Describe the procedural steps taken from the receipt of the Formal Complaint to date:

- Assistant Principal Coach Beard received a report of alleged sexual harassment on February 15, 2021...Coach Beard notified the Principal, District Title IX Coordinator, and the School Resource Officer (SRO) of the report via email on February 15, 2021...
- The Title IX Coordinator's office contacted alleged victim (Keeley Jones) and her parents and provided with information about the grievance process and supportive measures on February 16, 2021.
- The Jones filed a Formal Complaint on February 17, 2021.
- The Title IX Coordinator provided the Complainant and Respondent with written notice of their rights in the grievance process and information about the availability of supportive measures on February 18, 2021.
- By February 19, 2021, the following supportive measures were implemented:
 - For Jones & Tartt: no contact agreement, opportunity to meet with campus counselor, increased monitoring of students in cafeteria
 - For Jones: one-week extension to take Algebra II last scheduled for February 15, 2021; one-week extension to turn in history project, campus escort to and from lunch; opportunity to eat lunch in front office
 - For Tartt: schedule change to different Algebra II class
- On February 18, 2021, the Title IX Coordinator appointed the undersigned (Lasso) to investigate the Formal Complaint...The investigator was trained to conduct Title IX sexual harassment investigations in accordance with the May 2020 federal regulations at the Texas Title IX Administrators Conference, October 19-20, 2021.
- This Investigator reviewed the Formal Complaint and relevant district policy and student code of conduct provisions beginning February 18, 2021.
- The State of Texas mandates that threat assessments must be conducted when students display "harmful, threatening, or violent behavior" which includes threats of self-harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student. On February 18, 2021, Campus administration (Lasso, Beard) and the Title IX Coordinator (Wilton) requested that the campus Threat Assessment Team determine whether Respondent Tartt should be removed from school on an emergency basis...On February 19, 2021, the Threat Assessment Team undertook an individualized safety and risk analysis to determine whether an immediate threat to the physical health and safety of Complainant Jones or others, arising from the alleged sexual harassment, justified removal...The Threat Assessment Team's determined that Tartt's presence on campus did not pose a threat to the physical health or safety of Jones or others...Tartt remained on campus with the supportive measures cited above...The Threat Assessment also reviewed Complainant's parents' comments about suicidal ideation and provided Complainant and her parents with information about community and school resources...A plan was developed for Complainant to have access to a school counselor.
- The investigator sent both Complainant and Respondent a letter including written notice of interviews and rights under the Title IX investigation process on February 18, 2021.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- Complainant is Keeley Jones is a 15 year old sophomore at RHS.
- Respondent is Jamie Tartt is a 15 year old sophomore at RHS.
- Complainant and Respondent were in a dating relationship during their freshman year of high school, 2019-2020... They are no longer dating.
- During their relationship, Complainant took photos of herself in a state of undress using her personal cell phone and while in her home... In her interview, Complainant stated that Respondent asked for "nudes," which she understood to mean nude photos of herself.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- In Respondent's interview, he admitted to asking for and receiving "nudes" of Complainant during the 2019-2020 school year. He received them on his cell phone through a text message. He saved the photos to his cell phone. Respondent provided a supplemental statement in which he stated that: Complainant voluntarily took and provided him the photos; no school devices or technology were used in the transmission of the photos; Complainant sent the photos outside of the school setting and at night when they were in a relationship; at no time did Complainant ask Respondent to not show the photos to others; and that he did not show the pictures to other students at school.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- Complainant claimed that, after Complainant and Respondent were no longer in a dating relationship, Respondent showed the "nudes" to fellow schoolmates, Students C and D. Complainant was told by Students A and B that Students C and D claimed to have seen the photos.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- Students C and D denied having seen or possessed the photos. Student C provided a written statement denying being shown the photos. Student D declined to write a statement. The investigator interviewed Student D and made notes of the interview.
- Respondent claims that Complainant showed Students E and F the photographs from her own cell phone. Complainant denies this. Students E and F also deny seeing any photographs.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- Neither Complainant nor Respondent identified an adult/employee witness to these events. However, the investigator obtained a statement from English Teacher, Trent Crimm, who overheard students talking about seeing pictures of Complainant.
- Complainant claims that she did not share the photos or show the photos with anyone other than Respondent and that others must have seen them because details of the photos have been the subject of comments made on social media. Those details included descriptions of Complainant's physique, what Complainant was doing in the photographs, and a specific object Complainant had in her hand. Complainant provided copies of two social media posts that contained these details.

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DETERMINATION OF RESPONSIBILITY

Findings of Fact

- Complainant provided copies of text messages between Complainant and Respondent in which he apologized for “hurting her” and stated that he has “deleted the pics.” This text message exchange occurred after Complainant heard from Students C and D that other students had seen the photos.
- Complainant provided a letter from a private counselor stating the effects this situation has had on Complainant, which include an inability to sleep, loss of appetite, inability to focus and complete schoolwork, and comments about self-harm.

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DETERMINATION OF RESPONSIBILITY

Conclusion regarding the Code of Conduct and Rationale

Based on a preponderance of the evidence, it is determined that:

I. Allegation:

Keeley Jones (Student) alleges that Jamie Tartt (Student) electronically distributed to classmates at school nude pictures of Keeley that Jamie obtained while they were in a relationship. Mr. & Mrs. Jones claim that other students are bullying and making fun of Keeley at school and on social media, causing her to be humiliated and embarrassed to the extent she no longer wants to attend school and is threatening to kill herself.

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DETERMINATION OF RESPONSIBILITY

Conclusion regarding the Code of Conduct and Rationale

Based on a preponderance of the evidence, it is determined that:

- a. I have determined that it is more likely than not that the Respondent engaged in sexual harassment and dating violence under the district's FFH policy and student code of conduct....
- b. Rationale for determination: It is undisputed that Complainant provided nude electronic images of herself to Respondent while they were in a dating relationship..... Other students had knowledge of specific details about the photos that they would not have, if they had not seen them, as evidenced by the social media posts provided by Complainant..... Complainant has been

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DETERMINATION OF RESPONSIBILITY

- Complainant has been consistent in her version of events.
- Respondent's version of events has evolved or differed slightly. When interviewed Respondent denied having shown the photos or sent the photos to anyone. However, in his post-evidence review statement, Respondent stated that he did not show the pictures to other students at school. I infer from this subsequent statement that he did show the pictures to students away from school.
- The timing of this matter also corresponds to Complainant's new relationship with another student on campus.
- I have determined that Respondent showed the photographs in retaliation for Complainant entering a new relationship and that Respondent was jealous of Complainant's new relationship.

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DETERMINATION OF RESPONSIBILITY

- This matter has had an effect at school by affecting Complainant's ability and desire to participate in school programming, causing disruption by students gossiping about this matter as overhead by at least one teacher, and resulting in this investigation.
- Respondent's action of sharing nude photos of Complainant with other students in an attempt to embarrass her was unwelcome conduct that was so severe, pervasive, and objectively offensive that it effectively denied equal access to the District's education programs or activities.
- I also find that, because Complainant and Respondent had been in a past dating relationship, Respondent's actions constitute emotional abuse to intimidate or control Complainant by subjecting her to ridicule and making her uncomfortable at RHS.

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DETERMINATION OF RESPONSIBILITY

Remedies Provided

Disciplinary Sanctions

Due to the severity of the impact Respondent's actions have had on Complainant, the following disciplinary sanctions are to be imposed upon the Respondent:

- Respondent will be suspended from the soccer team for the remainder of the 2020-21 school year....
- A recommendation will be made that Respondent be placed in DAEP for 30 school days.

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Supportive Measures to Complainant: (Select only those that apply and provide details. Delete the options below that will not be implemented.)

- Counseling of students regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/lunch schedule/locker location
- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities
- Training

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Supportive Measures to Respondent: (Select only those that apply and provide details. Delete the options below that will not be implemented.)

- Counseling of students regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/lunch schedule/locker location
- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities: removal from soccer team for remainder of 20-21 SYr
- Training
- Change of work schedule/reassignment
- Other: DAEP – 30 days

DETERMINATION OF RESPONSIBILITY

The remedies and measures listed above are designed to restore or preserve equal access to the district's educational programs.

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DETERMINATION OF RESPONSIBILITY

Appeal

Either party may appeal this determination of responsibility on a form provided by the District **within 10 calendar days** of issuance of this decision. The only allowable bases for appeal are:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time of the decision that could affect the outcome; and
3. The Title IX Coordinator, Investigator(s), or Decision Maker has a conflict of interest or bias for or against Complainants or Respondents.

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DETERMINATION OF RESPONSIBILITY

Name

Date

Title IX Decision Maker

cc: Title IX Coordinator

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The information in this handout was prepared by Eichelbaum Wardell Hansen Powell & Muñoz, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If special legal advice is sought, consult an attorney.



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