

SLCSD DEPUTY TITLE IX COORDINATOR TRAINING

REVISED 9/9/22



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DEPUTY TITLE IX COORDINATOR TRAINING INCLUDES:

- **Overview of Title IX**
- **2020 Regulations – Sexual Harassment**
 - **Changes on the horizon**
- **Duties of the Deputy Title IX Coordinator (DTIXC)**

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (20 USC §1681)

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

The Districtwide Title IX
Coordinator is:

Tina Hatch

440 East 100 South

Salt Lake City, Utah 84111

801-578-8388

tina.hatch@slcschools.org

Title IX Applies to:

Athletics; Counseling; Courses; Employment;
Fund Raising; Pregnancy; Sex/Gender
Discrimination; Sexual Harassment; Etc.

THE DEPUTY TITLE IX COORDINATOR WILL:

- Be listed on their school's main web page
- Ensure that students are informed of the Title IX sexual harassment process by October 1st of each year
- Be the point of contact at their school site for reports of sex discrimination/sexual harassment/Title IX issues
- Work closely with the TIXC
- Participate in TIX decision-making panels





Discrimination, Harassment, Sexual Harassment, and Retaliation Prohibited

AS REQUIRED UNDER FEDERAL REGULATIONS TITLE IX, VI, VII, SEC. 504

Any student or employee who feels they have been unlawfully discriminated or retaliated against, harassed, sexually harassed, or has witnessed an unlawful act should report as follows:

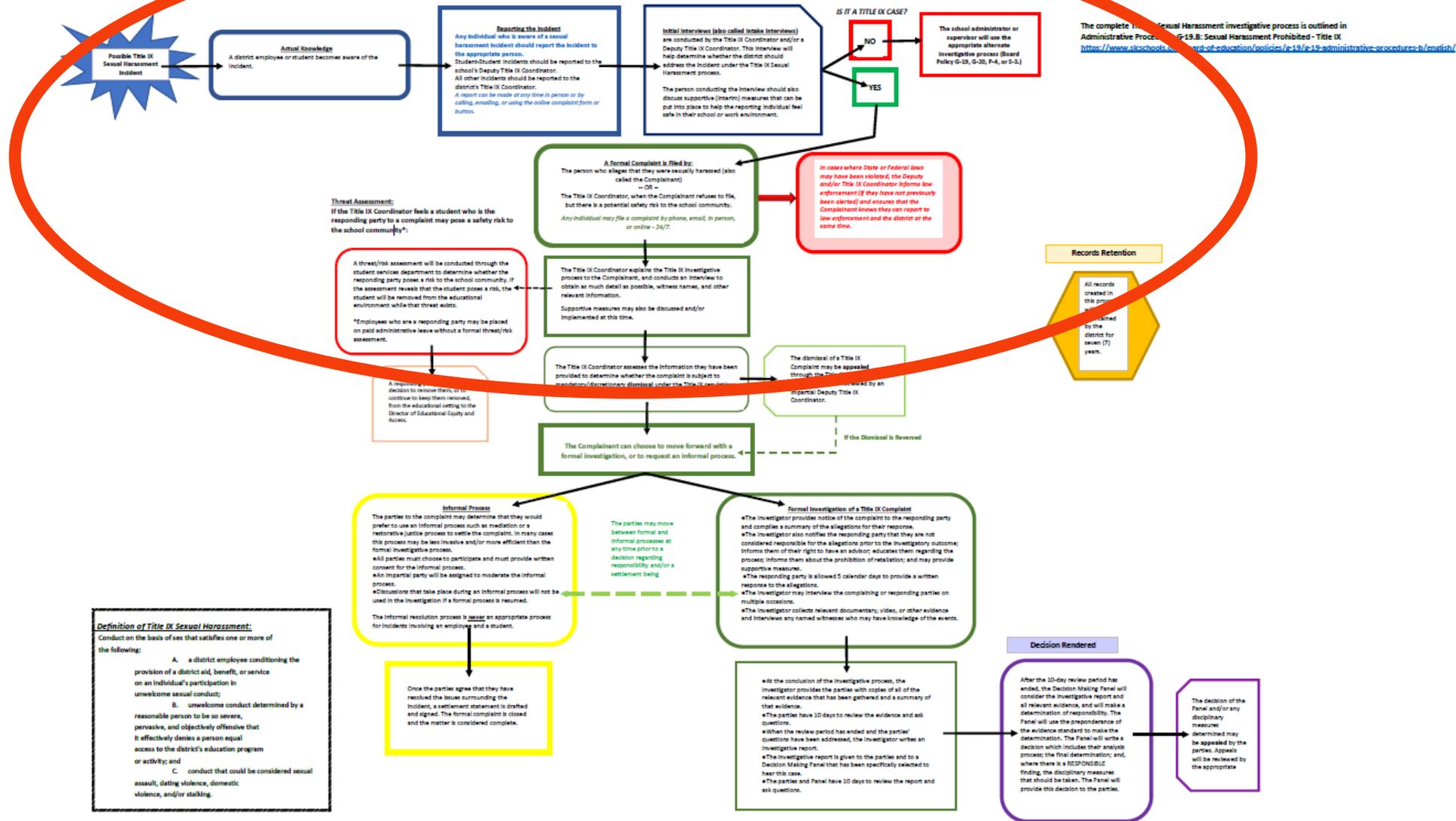
- ✓ Report acts of discrimination, harassment, or retaliation to a principal, teacher, supervisor, administrator, or the human resources department as soon as possible.
- ✓ Report acts of sexual harassment involving students to the school's Deputy Title IX Coordinator, whose name is listed on the school's main web page.
- ✓ Report acts of sexual harassment involving employees to the district's Title IX Coordinator, Tina Hatch.
- ✓ An investigation of the complaint will be conducted fairly and as quickly as possible.
- ✓ The complaint may be handled informally or formally.
- ✓ All investigations will be conducted in a way that protects the privacy of those involved to the greatest extent possible.

As the DTIXC, you are responsible to post the G-19 flyer in your school, and to ensure that staff and students are trained each year.

WHO SHOULD REPORT INCIDENTS OF SEXUAL HARASSMENT?

- It is the duty of every student and every employee to report any incidents of sexual harassment and/or sexual violence that occur within a district program or activity or on district property to the **DTIXC** or **TIXC**.
 - Employees who fail to do so may be subject to disciplinary action.
- Any member of your school community who believes an incident involving sexual harassment has occurred (parent, vendor, etc.) may file a complaint.

TITLE IX SEXUAL HARASSMENT INVESTIGATION FLOWCHART



Definition of Title IX Sexual Harassment:
 Conduct on the basis of sex that satisfies one or more of the following:

- A. a district employee conditioning the provision of a district aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- B. 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 program or activity; and
- C. conduct that could be considered sexual assault, dating violence, domestic violence, and/or stalking.

ACTUAL KNOWLEDGE

Any district employee who learns of an incident involving sexual harassment must immediately inform the school's DTIXC or the district's TIXC. The district is on notice no matter who receives the report.

- **If the employee learns of an incident involving sexual harassment from a student, they shall inform that student of their obligation to report the incident to the DTIXC/TIXC.**



QUIZ TIME!!

If a student confides in the school's custodian that a teacher has made sexual advances toward them, does the district have an obligation to act?

Reports made in good faith will not adversely impact employment, grades, work assignments, or participation in district-sponsored programs or activities.



Knowingly filing a false report with malicious intent will result in disciplinary action and may have other legal or disciplinary ramifications.

OFFER ASSISTANCE

Any individual making a report/complaint should be informed that the district will provide the following:

- **assistance with filling out the formal complaint form or other necessary paperwork;**
- **translation and/or interpreter services;**
- **assistance with understanding and/or undertaking the formal investigation process; and**
- **other accommodations, as necessary.**

THE INTAKE INTERVIEW

- **The DTIXC will perform an initial (intake) interview.**
 - **Intake Checklist**
 - **Review for Title IX Form**
- **The DTIXC will keep a record of this interview (notes) and of any steps they take following the interview.**
- **The DTIXC will share this documentation with the TIXC.**



MANDATORY REPORTING

- If an employee/the DTIXC learns of an incident involving allegations of child abuse, they *must* immediately report the incident to either the **Division of Child and Family Services (DCFS)** or local law enforcement.
- Any report clearly alleging criminal conduct, including sexual assault/violence, should be reported to local law enforcement (**SROs**).
 - The DTIXC will also inform the Complainant that they have the right to file a criminal complaint and a Title IX complaint simultaneously.

CONFIDENTIALITY

- The DTIXC will ensure that the individual making the report knows the following:
- We will attempt to maintain confidentiality but cannot guarantee it throughout the formal investigation process.
 - District employees must maintain confidentiality.
 - All relevant evidence gathered during a TIX investigation must be shared with both parties. (This includes witnesses' names and statements.)
 - Outside of the investigative process, we will make every effort to keep the identities of all parties confidential.
- Supportive measures will be kept confidential, unless they require disclosure of certain information.
- Requests for complete anonymity may prevent the full investigation of Title IX sexual harassment allegations.



INTAKE INTERVIEW – SUPPORTIVE MEASURES

- At any point after a report of sexual harassment, any party to the complaint may request and be granted supportive measures.
 - For students, supportive measures may include safety plans, no contact orders, counseling services, class or passing time adjustments, academic adjustments, etc. The DTIXC/TIXC is responsible for implementation.
 - For employees, supportive measures may include no contact orders, changes to work schedules and/or sites, etc. The DTIXC/TIXC will work with human resource services to implement the supportive measures.



Date:

CONFIDENTIAL INDIVIDUAL STUDENT SAFETY PLAN

Student Name:	DOB:	Student ID:	School:	Grade:
Special Education Eligible?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If yes, File Holder Name:		
504 Eligible?	<input type="checkbox"/> No <input type="checkbox"/> Yes	If yes, File Holder Name:		

Parent/Guardian Contact Information			
Parent/Guardian Name:			
Cell Phone:	Home Phone:	Other:	
Emergency Contact:			Phone:

Purpose of the Safety Plan (Why is the Plan Required?)

Crisis Response Plan	
If this student is in crisis or exhibits unsafe behavior, the school will:	Who will handle the situation?



GATEKEEPER

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GATEKEEPING DUTIES

- **Could this be Title IX sexual harassment?**
 - **TIX Process is different**
- **Call TIXC – review for TIX**
- **Inform parents**
- **Will there be a signed formal complaint?**





The 2020 regs require that a responding party be assumed not responsible until **AFTER** the investigative process is complete.

- No disciplinary actions
- Nothing that would negatively impact the Respondent
- We **MUST** deliver allegations and provide a deadline for a response
 - **DO NOT** interview the student-Respondent if the complaint may be TIX

What is Title IX sexual harassment?

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SCHOOL DISTRICT
Your Best Choice

DEFINITION OF TITLE IX SEXUAL HARASSMENT

- **Conduct on the basis of sex that satisfies one or more of the following:**
 - an employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct (**quid pro quo**);

WHAT IS QUID PRO QUO SEXUAL HARASSMENT

- An employee of the district explicitly or implicitly indicating that in order for an individual to enjoy the benefits of their employment or education that individual must:
 - submit to sexual advances;
 - comply with requests for sexual favors;
 - endure other verbal or written communications; or
 - accept physical conduct of a sexual nature.
- *Remember – any quid pro quo involving a minor is automatically considered unwelcome and/or unwanted.*

DEFINITION OF TITLE IX SEXUAL HARASSMENT

- **Conduct on the basis of sex that satisfies one or more of the following:**
 - an employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct (quid pro quo);
 - **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 program or activity;**

PERVASIVE AND SEVERE

- **Unwelcome conduct that alters the conditions of an individual's employment and/or education and creates a hostile or abusive environment.**
 - **Pervasive indicates that the behaviors are ongoing/widespread and does not typically include incidents that occur on one occasion.**
 - **Severity will be determined on a case-by-case basis and will be based on the behavior(s) reported.**
- **Sexual assault/violence claims are considered severe – and will fall under the third prong of the definition of Title IX sexual harassment.**

OBJECTIVE VS. SUBJECTIVE

- **Objective:** not influenced by personal feelings or opinions in considering and representing facts.



It is raining.

**Objectively Offensive –
A reasonable person
will find the behavior
to be offensive.**

- **Subjective:** based on or influenced by personal feelings, tastes, or opinions.



*It is fun to
play in the
rain.*

EFFECTIVELY DENIES...

- **Some examples of this would include:**
 - **the complainant stops attending a class or all classes;**
 - **the complainant stops coming to work;**
 - **the complainant's grades drop;**
 - **the complainant's work effectiveness is diminished;**
 - **the complainant drops out of school; and/or**
 - **the complainant quits their job.**

Remember, if the individual felt an action was serious enough that they filed a complaint, that is enough for us to act.

DEFINITION OF TITLE IX SEXUAL HARASSMENT

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 - **conduct that could be considered sexual assault, dating violence, domestic violence, and/or stalking.**

SEXUAL ASSAULT (20 U.S.C. 1092(F)(6)(A)(V))

Conduct that satisfies one or more of the following:

- **any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent;**
- **rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without consent of the victim;**
 - **This offense includes the rape of any individual, regardless of gender/gender identity.**
- **fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of temporary or permanent mental incapacity;**
- **incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and**
- **statutory rape is sexual intercourse with a person who is under the statutory age of consent.**

HOW DO WE DEFINE CONSENT IN UTAH?

Utah law states that consent:

- must be given through words or conduct;
- cannot be given when an individual is overcome through the application of physical force, violence, concealment, the element of surprise, kidnapping, extortion, or the threat of retaliatory measures;
- cannot be given by an individual who is unconscious, unaware that the act is occurring, unable or incapable of resisting, or has been administered a behavior altering substance without their knowledge;
- cannot be given by someone younger than 14 years of age;
- cannot be given by someone younger than 18 years of age to someone more than three years older than that individual; and
- cannot be given by someone younger than 18 to an individual in a position of special trust.

DATING VIOLENCE (34 U.S.C. 12291(A)(10))

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between persons involved in the relationship. For the purposes of this definition:

- A. dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; and**
- B. dating violence does not include acts covered under the definition of domestic violence.**

DOMESTIC VIOLENCE (34 U.S.C. 12291(A)(8))

Violence committed by a current or former spouse or intimate partner of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; a person similarly situated to a spouse of the victim as provided for under Utah law; or any other person against an adult or youth victim who is protected from that person's acts under Utah law.

STALKING

(34 U.S.C. 12291(A)(30))

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition:

- A. course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;**
- B. reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and**
- C. substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.**

JURISDICTION

- In order for a complaint to fall within TIX, the alleged incident must have occurred within a district program or activity or on district property, and it must have occurred within the United States.
- A formal complaint must be filed.

If it is not within our jurisdiction, we must dismiss under Title IX.



QUIZ TIME!!

Do nude pictures of students or on student phones fall under these regs?

How do I handle this?

THE INTAKE INTERVIEW IS COMPLETE, NOW WHAT?

IF THE TIXC/DTIXC DETERMINES THAT THE ALLEGATIONS FALL OUTSIDE OF THE DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX...

- Allegations involving only students that include a student code of conduct violation, bullying, discrimination, etc. will be investigated at the school site by the designated administrator.
- Allegations that involve employees, vendors, visitors, and volunteers should be forwarded to the compliance officer and the executive director of HRS for investigation.



THE INTAKE INTERVIEW IS COMPLETE, NOW WHAT?

THE TIXC/DTIXC DETERMINES THAT THE ALLEGATIONS FALL WITHIN
THE DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX...

- Supportive measures
- Discuss the Title IX process
 - Including protections for retaliation
- Formal complaint form

SUPPORTIVE MEASURES

- **The TIXC/DTIXC should ensure that the individual who reported being subjected to alleged inappropriate behavior(s) is offered supportive measures – *whether they file a formal complaint or not.***

DISCUSS THE INVESTIGATIVE PROCESS

- **Provide a copy of Board Policy G-19: Discrimination, Harassment, Sexual Harassment, and Retaliation Prohibited and its accompanying G-19.B. administrative procedures.**
- **Discuss confidentiality and alert the Complainant that it would be best not to discuss the complaint.**
- **Discuss the possibility of informal resolution – if appropriate.**
- **Inform the Complainant that you will forward a formal complaint to the TIXC for investigation.**

THE FORMAL COMPLAINT

- **The complaint form should include as much information as possible and should be signed by the Complainant.**
- **If the Complainant chooses not to file a complaint, but the DTIXC believes that serious health and safety concerns exist, the DTIXC can sign a complaint form.**
 - **Signing the complaint form DOES NOT make the DTIXC a party to the complaint.**

AFTER THE DETERMINATION...



- If a formal complaint has been signed, the **TIXC/DTIXC** will communicate their determination regarding whether the complaint falls under Title IX or another board policy to the Complainant, both verbally and in writing (usually via email).
- If no formal complaint is signed, and the **TIXC/DTIXC** determines they will not sign, the **TIXC/DTIXC** will document that determination and the reasons for it.

SAFETY RISK/THREAT – REMOVAL OF THE STUDENT-RESPONDENT

- **If it appears there is a safety risk in allowing the student-Respondent to remain at school:**
 - **Contact student services for an individualized safety/risk assessment.**
 - **A qualified individual will perform the assessment.**
- **If we remove the student:**
 - **The DTIXC will ensure that the student-Respondent is provided with appropriate educational services during the duration of the removal.**
 - **An alternate placement may be considered for removals of long duration.**
- **A manifestation of disability hearing may be held, if necessary, as part of the removal process.**
- **The removal may be appealed by the student-Respondent.**

SAFETY RISK/THREAT – REMOVAL OF THE EMPLOYEE-RESPONDENT

- **An employee-Respondent may be placed on paid administrative leave for the duration of the investigative process.**

WHO WILL PERFORM THE INVESTIGATION?

- In most cases the TIXC, except:
 - when there is a conflict of interest
 - when there are exigent circumstances
- If a DTIXC investigates, they will be trained

The TIXC will provide oversight and coordination for any investigations performed by a DTIXC.

DECISION MAKING

- **When a DTIXC is asked to participate in a decision-making panel:**
 - **Will be trained**
 - **Not their own school community**
 - **Asked about any potential conflicts of interest**
 - **Will receive guidance about the relevance of evidence and/or questions**
 - **Will be assisted with the creation of the final determination/disciplinary report**

BIAS OR CONFLICTS OF INTEREST

- **Any individual who participates in this process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.**
 - **What would indicate a conflict of interest?**
- **Each individual must serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.**

STUDENT RECORDS

If you notice that someone has entered “sexual harassment” as a violation in a student’s record, and you were not aware/don’t believe that a TIX investigation has taken place, contact me IMMEDIATELY.

- This should only be present after a TIX investigative process and a “responsible” finding.
- This could impact student athletes – NCAA.

Scenario #1

One of our high school students attended a female volleyball game on our school campus. This student was allegedly yelling inappropriate sexist and sexual things at the opposing teams' players. In addition, they were yelling inappropriate things of a non-sexual nature at the coaches of the opposing team. After receiving multiple emails and calls from the parents and administration of the opposing team's school, our high school athletic director wants to ban this student from attending all future games.

Does this situation fall under the definition of sexual harassment? If so, can the student be barred from attending games without a signed complaint and a formal investigation?

Scenario #2

The TIXC received an anonymous email alleging that there was a sexual assault after our team's home baseball game last Friday. The reporter alleges that the sexual assault involved two students. The Respondent is a baseball player, and the Complainant is a friend who drove the player to a celebration dinner and then returned to the school parking lot to drop the player off at his car. The alleged assault occurred inside the car, while it was parked in the student parking lot. The email named the students involved and indicated that they have several classes together.

What steps must the TIXC take upon receiving this email? Does the school have jurisdiction when an assault occurs in the school's parking lot, after everyone else is gone and the school is locked up? Can the school find the baseball player responsible and discipline the player when the assault occurred outside of regular school hours?

Scenario #3

Last week a student reported alleged sexual misconduct by a teacher in a classroom. This student indicated that they were not the person targeted by the misconduct and they didn't feel they had been personally sexually harassed, but they felt that another student had been. The TIX office met with the targeted student, who subsequently filed a formal complaint. As a result, the teacher was placed on paid administrative leave. Now, the student reporter alleges that the teacher retaliated against them by deleting all their homework and test scores in PowerSchool before being placed on leave. Unless the student can prove they had scores for each assignment and test, the student will receive a failing grade when the term ends next week.

What is the TIX obligation to the student reporter? Could the teacher's alleged behavior be considered retaliation under the new regulations?

Scenario #4

A male student reported to the TIXC that a female student he had formerly dated has been stalking him around campus, on social media, and near his home. He provided a picture of damage to the frame of his bedroom window and a note he found in his locker that was apparently written by the female student. In the note, the female student admits to trying to get into his bedroom through the window and threatens to “hurt him while he sleeps,” damage his car, and lie about him to his friends if he won’t agree to date her again.

What is the TIXC obligated to do in this scenario?

Scenario #5

The School Resource Officer (SRO) reported to the TIXC that a sexual assault occurred on a high school campus last night and that the victim is a student at the school. The SRO stated that the Respondent is not a student or employee of the school or the district. The sexual assault was reported to local police by the victim's parents, and the investigation was assigned to the SRO because of their connection to the school.

What is the TIXC obligated to do in this scenario?



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QUESTIONS?
COMMENTS?