



Kodiak Island Borough School District
722 Mill Bay Road
Kodiak, AK 99615
(907) 486-7550

Rationale for Policy

The District is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, which are free from sexual harassment and retaliation. The District developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation sexual harassment or retaliation.

Scope

The purpose of this policy is to prohibit sexual harassment and retaliation. When an alleged violation of this policy is reported, the allegations are subject to resolution using the grievance process or informal resolution process adopted by the district.

Title IX Coordinator

Geoff Smith serves as the Title IX Coordinator and oversees implementation of this policy. The Title IX Coordinator's primary responsibility for is coordinating the district's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent sexual harassment and retaliation prohibited under this policy.

Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures.

The members of the Title IX Team are trained to ensure they are not biased for or against any party in a specific case or biased for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Superintendent's Office at (907) 486-7552. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct committed by the Title IX Coordinator should be reported to the Superintendent's Office at (907) 486-7552. Reports of misconduct committed by any other Title IX Team member should be reported to the Title IX Coordinator.

Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Geoff Smith
Title IX Coordinator
722 Mill Bay Rd.
Kodiak, AK 99615
(907) 486-7555
gsmith01@kibsd.org

The District has also classified all employees as Mandated Reporters of any knowledge they have that a member of the district's educational program or activity is experiencing sexual harassment and/or retaliation.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For inquiries involving employees contact:

EEOC
Federal Office Building
909 First Avenue
Suite 400
Seattle, WA 98104-1061
Telephone #: (800)-669-4000
Facsimile: (206) 220-6911
TTY: (800) 669-6820

Notice/Complaints of Sexual Harassment and/or Retaliation

Notice or complaints of sexual harassment and/or retaliation may be made using any of the following options:

- 1) File a complaint with, or give verbal notice to, the Title IX Coordinator at:
722 Mill Bay Rd. Kodiak, AK 99615
Phone: (907) 486-7555
Email: gsmith01@kibsd.org

A report may be made at any time (including during non-school hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

- 2) Report online at <https://www.kibsd.org/departments/title-ix-sexual-harassment-and-sexual-assault/> Reports may be made anonymously, but may result in a need to investigate. The district tries to provide supportive measures to all Complainants, which is often not possible with an anonymous report.
Report does not carry an obligation to file a formal complete that would trigger a formal response. The district respects a complainant's decision to dismiss a complaint, unless there is a compelling threat to health, safety, criminal activity, child abuse or the respondent is an employee.
- 3) A report can be made via phone to (907) 486-7550

A Formal Complaint means a document submitted or signed by the Complainant or their parent/guardian or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the district investigate the allegation(s). The district's complaint form can be located at <https://www.kibsd.org/departments/title-ix-sexual-harassment-and-sexual-assault/>.

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information above, or as described in this section. The submission can be a by electronic mail or through an online portal provided by the district. The online submission or electronic mail must contain the Complainant's, or their parent/guardian's, physical or digital signature, or otherwise indicates that the Complainant, or their parent/guardian, is the person filing the complaint, and requests that the district investigate the allegations.

If a complaint is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant, and/or their parent/guardian, to ensure that it is filed correctly.

Promptness

All allegations, whether by notice or formal complaint, will be acted upon promptly. Complaints can take 30-6 school days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the district will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the district's procedures will be delayed, the district will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

Privacy

Every effort will be made by the district to preserve the privacy of reports. The district will not share the identity of any individual who has made a report or complaint of harassment or retaliation, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment or retaliation, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Information related to a complaint will only be shared with the parties, their advisors, and a limited number of District employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the district's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in

accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the Recipient's Student Records Policy. The privacy of employee records will be protected in accordance with collective bargaining agreements.

Jurisdiction of the District

This policy applies to the education program and activities of the district, to conduct that takes place within school or on property owned or controlled by the district, or at district-sponsored events. The Respondent must be a member of district's community in order for its policies to apply.

This policy can also be applicable to the effects of out-of-school misconduct that effectively deprive someone of access to district's educational program. The district may also extend jurisdiction to out-of-school and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial district interest.

Regardless of where the conduct occurred, the district will address complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on school or in an out-of-school sponsored program or activity.

All vendors serving the district through third-party contracts are subject to the policies and procedures of their employers.

Time Limits on Reporting

There is no time limit on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the district's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Policy on Nondiscrimination

The Kodiak Island Borough School District is committed to providing a working and learning environment free from discrimination, harassment, intimidation and bullying. The District prohibits discrimination on the basis of sex in violation of Title IX of the Education Amendments of 1972 in the educational programs or activities which it operates.

STUDENTS: District programs and activities shall be free from discrimination with respect to sex, race, color, religion, national origin, ethnic group, sexual orientation, gender identity, marital or parental status, and physical or mental disability. The School Board shall ensure equal opportunities for all students in admission and access to academic courses, guidance and counseling programs, athletic programs, testing procedures, vocational education and other activities. BP 5145.3

EMPLOYEES: The district and its employees shall not unlawfully discriminate against or harass employees or job applicants on the basis of sex, race, color, religion, national origin, ancestry sexual orientation, gender identity, age, marital status, changes in marital status, pregnancy, parenthood, physical or mental disability, Vietnam era veteran status, genetic information, or good faith reporting to the board on a matter of public concern.

Definition of Sexual Harassment

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment includes the actual or attempted offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. an employee of the district,
 - b. conditions the provision of an aid, benefit, or service of the district,
 - c. on an individual's participation in unwelcome sexual conduct.

- 2) Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to the district's education program or activity.

- 3) Sexual assault, defined as¹:
 - a. Forcible:
 - i. Any sexual act directed against another person,
 - ii. without the consent of the Complainant,
 - iii. including instances in which the Complainant is incapable of giving consent. iv.Consent is defined as:
 1. Consent is an affirmative, conscious, and freely-made decision given by words or clearly demonstrated actions to engage in sexual activity. Consent must be present for each individual sexual act irrespective of a current or previous sexual relationship between the parties. Consent can be withdrawn at any time.
 2. A person can be incapable of giving consent due to age, mental incapacity, mental disorder, mental defect, disability, impairment due to drugs or alcohol, coercion/threats, or any condition that permanently or temporarily renders them incapable of appraising the nature of their conduct and/or physically expressing their unwillingness to act.
 - b. Non-forcible:
 - i. Statutory Rape: ii. Non-forcible sexual intercourse,
 - iii. with a person who is under the statutory age of consent of 16.

- 4) Dating Violence, defined as²:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- 5) Domestic Violence, defined as³:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a current or former spouse or intimate partner of the Complainant,

- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or

¹ 20 USC 1092 (f)(6)(A)(v)

² 34 USC 12291 (a)(8)

³ 34 USC 12291 (a)(10)

- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Alaska, or
 - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Alaska.
- 6) Stalking, defined as⁴:
- a. engaging in a course of conduct,
 - b. on the basis of sex,
 - c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The district will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The district and any member of the district's programs are prohibited from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Mandated Reporting

All district employees (teachers, staff, and administrators) are expected to report actual or suspected sexual harassment or retaliation to appropriate officials immediately. This includes employees who might otherwise be considered confidential resources.

If a Complainant expects formal action in response to their allegations, reporting to any employee, staff or administrator can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

Failure of an employee, staff or administrator to report an incident of sexual harassment or retaliation of which they become aware is a violation of district policy and can be subject to disciplinary action.

⁴ 34 USC 12291 (a)(30)

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the school and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether the district proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to have experienced conduct that could constitute a violation of this policy.

In cases in which the Complainant requests no formal action and the circumstances allow the district to honor that request, the district will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the district, and to have the incident investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under district policy.

Impartiality

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, team member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the superintendent.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The Recipient presumes that the Respondent is not responsible for the reported misconduct unless and until a final determination is made that this Policy has been violated.

Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Recordkeeping

The district will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the district's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The district will make these training materials publicly available on the district's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the district's education program or activity; and

- c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The district will also maintain any and all records in accordance with state and federal laws.

Disabilities Accommodations in the Resolution Process

The District is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the District's resolution process.

Anyone needing such accommodations or support should contact the Director or Special Education who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision of these Procedures

The procedures supersede any previous procedures addressing harassment, sexual misconduct and/or retaliation under Title IX and will be reviewed and updated annually by the Title IX Coordinator. The District reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the school/district website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.