

**Seattle Public Schools  
Title IX Coordinator Interim Report**

**December 1, 2014 through May 31, 2015**

**Issue Date: May 29, 2015**

## Executive Summary

### Background Information

#### The interim Title IX Coordinator Position

The interim Title IX Coordinator position was created in response to an incident that occurred in 2012. A student alleged that the District failed to adequately respond to her allegation that she was sexually assaulted by a classmate. When community members heard about this they demanded that the District examine how it handles student on student sexual assault. The community expressed particular concern about how the District supports student victims.

The student ultimately filed a civil lawsuit against the Seattle Public School District and a complaint with the U.S. Office of Civil Rights (OCR) alleging that her Title IX rights were violated. The lawsuit was settled, and the OCR case is still pending. However, the incident, the community response and the complaint processes revealed that there were issues in the District's response to student on student sexual assault that needed to be addressed.

In addition to creating an **interim coordinator position**, the District took two preliminary measures:

1. In November 2014, the District convened **the Task Force on the Response to and Prevention of Sexual Harassment and Sexual Assault** to meet for one year ending November 2015. The Task Force's executive sponsor is Charles Wright, Deputy Superintendent of Seattle Public Schools, and it is co-chaired by the interim Title IX Coordinator and a community member; their mid-term report is jointly submitted with this one.
2. In December 2014, the District adopted a **revised Sexual Harassment Procedure, Superintendent Procedure 3208 SP ("3208 SP")**.

#### The interim Civil Rights Compliance Officer Position

Title IX compliance - though in and of itself a large project - was conceived of as part of an even larger project of building an Office of Civil Rights. It was intended that this office would one day monitor the District's compliance with all discrimination laws, including those prohibiting discrimination on the basis of race, gender, sexual orientation, disability, national origin, and veteran or military status. For this reason, the interim Title IX Coordinator's official job title is interim Civil Rights Compliance Officer.

The District's first step towards building a comprehensive compliance office was to hire one employee, the interim Civil Rights Compliance Officer /interim Title IX Coordinator. She in turn scoped and prioritized a sub-section of compliance work based on several criteria. Community and District priorities were given the greatest weight, but other criteria were also considered, including: (1) where the largest organizational compliance gap existed, and (2) the urgency of the body of work.

Based on these criteria, the interim Civil Rights Compliance Officer /interim Title IX Coordinator elected to focus on developing a compliance infrastructure for the District's response to student on student sexual assault.

### **Roles and Responsibilities**

In addition to developing an infrastructure for responding to allegations of sexual harassment and sexual assault, the interim Title IX Coordinator also managed a large case load and co-chaired the Task Force.

The District is ultimately responsible for ensuring that it complies with Title IX and other laws. It is also responsible for providing the Title IX coordinator with the appropriate authority and support necessary to coordinate the District's Title IX compliance.

### **Report Objectives**

Part I of this report describes general trends in the cases.

Part II of this report describes the initial steps taken to develop a compliant, effective and standardized response to allegations of student on student sexual assault. Part II also proposes recommended next steps.

### **Approach and Methodology**

The information in this report is based on the observations of the interim Title IX Coordinator and data she gathered on the cases for which she received notice. This report is intended to provide feedback to the District so that it can continue to improve its response to allegations of student on student sexual assault.

### **Scope of the Report**

This report covers the interim Title IX Coordinator's term, December 1, 2014 to May 31, 2015.

This report was completed to summarize the work of the interim Title IX Coordinator. It is not intended to be the annual report required by Superintendent Procedure 3208.

The focus of this report is on the response to student on student sexual assault allegations. Prevention<sup>1</sup>, milder forms of sexual harassment and responding to cases involving employee respondents are important elements of a comprehensive Title IX compliance effort. The interim Title IX Coordinator's work included all of those elements, but that is not the focus here. That being said, much of this work is broadly applicable and impacts other areas of Title IX compliance.

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<sup>1</sup> The Task Force's Interim Report, which is jointly submitted with this report, has several recommendations related to prevention and response.

In addition, a complete Title IX program also addresses gender inequity in sports, academic programs, and activities. Those areas were beyond the scope of the interim Title IX Coordinator's work.

## **Conclusion**

The District is to be commended for striving to improve its response to allegations of student on student sexual assault, strengthening its efforts to comply with Title IX and seeking community and expert input in the form of a task force. This is difficult work and many school districts have yet to develop their Title IX programs beyond athletic equity compliance. During the interim term, many improvements were implemented; however, in the Trend Analysis section below, I have noted some areas that need further exploration. In addition, in the Initial Steps and Recommended Next Steps section below, I have suggested specific next steps for building upon this foundation to create a sustainable program.

## Part I: Trend Analysis

1. **Standardization:** The District has historically responded to sexual assault on an ad hoc basis and given a lot of discretions to individual decision-makers. To maintain compliance, decision-makers must be guided by standardized rules and processes. Standardization also supports fairness and efficiency. As described in Part 2, promising first steps have been taken in this direction, but additional work needs to be done.
2. **Kindergarten, Elementary, and Special Education Students.** Although this work was initiated as a result of an incident involving high school students, most of the student on student cases involve victims or aggressor who are kindergarten, elementary or special education students. This means that the lens through which the District views this body of work must be adjusted. Victim support and school safety are always the District's paramount concerns, as is holding students accountable for their actions. However, when an aggressor is very young or mentally disabled, the District may also be obligated to help the aggressor get the supports he or she needs to either contain or change the inappropriate behaviors. When seen in this light, this work looks less like Human Resources, where it is currently housed, and where employee discipline and termination are emphasized; and more like Student Behavioral & Emotional Health, where supporting students with special needs is the focus.
3. **Repeat Aggressors:** The District should develop guidelines for managing cases involving students who continue to engage in a pattern of sexually inappropriate conduct after repeated interventions.
  - a. **Recordkeeping and alerts:** A sub-set of this work is developing standards around how to keep records of student misconduct.
4. **Communicating Well with Families:** Poor communication with families can impede the District's ability to support students and escalate otherwise manageable situations. Sometimes communication has broken down prior to an incident and sometimes communication breaks down following an incident. Often a family's primary complaint is the way the school interacted with them or the student once an incident occurred.

The District should explore ways to improve communication and manage conflict with families.

- a. **English Language Learner Families:** A sub-set of this work is addressing the unique needs of English Language Learner families. Often these families are particularly reliant on the school District to communicate effectively with them and provide supports because of the limitations in their English language skills.
  - b. **Create Alternative Versions of Documents:** Another sub-set of this work is creating documents that are accessible to English Language Learners, students with disabilities, and various age groups (such as elementary, middle school, and high school students).
5. **Re-Conceptualizing Title IX Compliance as a Program, Rather Than a One-Person Role.** Although hiring an interim Title IX Coordinator is an important first step, the District is

ultimately responsible for developing a robust approach to ensuring nondiscrimination. This means that the Title IX Coordinator must be provided with the authority and support necessary to coordinate their institution's Title IX compliance.

- a. **The Lead Title IX Coordinator Position Should Be a High-Level Position or Staffed By a Person with Substantial Influence.** The lead Title IX Coordinator should have sufficient institutional power to direct the work of people who are in different departments or outside of their chain of command. They should also have enough power to push through road blocks and make high-level decisions.
  - b. **More People Are Needed.** Additional Deputy Title IX coordinators should be designated. More people are needed to manage the volume of cases; it would also allow the District to designate specific employees to coordinate certain Title IX compliance issues (e.g., investigations, complaints from employees, complaints from students, or special education cases)
  - c. **Cross-Departmental Collaboration:** Title IX compliance involves many different departments working together to achieve a common goal. This means that there must be overarching and agreed upon objectives, strategies, and tactics. Currently the departments are very siloed. Promising first steps have been taken towards greater collaboration, but additional work needs to be done
    - i. **Adopt Tacoma's Team Model:** The District should consider adopting a model successfully developed by the Tacoma Public Schools. They have a core Title IX team which includes the lead Title IX Coordinator, a representative from Safety and Security, Legal and Student Behavioral Health. A representative from Special Education is also included when needed.
6. **A project plan should be developed:** As described above, Title IX compliance is a large project that is part of an even larger project of creating an Office of Civil Rights. A project of this size and importance must be carefully mapped out. This is particularly important because the District must continue to manage cases while building the compliance program.
7. **A change plan should be developed:** Any significant organizational change will meet with some resistance. The Title IX Coordinator is a new position. That new person is charged with introducing new knowledge, structures and standards into a culture that has pockets of resistance. Creating a change plan would make it more likely that the proposed changes would be embraced and sustained.

## **Part 2: Initial Steps and Recommended Next Steps**

Below are seven areas where initial steps were taken to develop processes for responding to student on student sexual assault claims:

- I. Initial Response to Allegations and Interim Measures**
- II. Revising the District's Sexual Harassment Procedure**
- III. Training Employees on the Investigation and Complaint Process**
- IV. Recordkeeping, Reports and Case Analysis**
- V. Investigations and Investigators**
- VI. Developing Guidelines and Procedures for Conveying Final Results**
- VII. Posting Required Notices**

Following is a description of initial steps taken in each of these areas, followed by recommended next steps.

## **I. Initial Response to Allegations and Interim Measures**

### INITIAL STEPS

The most important part of Title IX compliance is taking immediate action to eliminate harassment, prevent its recurrence and address its effects. Before the interim Title IX Coordinator position was created, much of this was done on an ad hoc basis. However, during the interim period, clear, consistent steps were developed for responding to allegations.

Please note, because each case is different, a completely routine response is not possible. Below is a list of steps that may be taken, depending on the circumstances:

- School staff conducts preliminary investigations into allegations.
- When appropriate, police are called.
- Alleged victims and their families are given written notice of their rights under Title IX to receive counseling and academic support as well as a right to a formal investigation.
- Staff meets with parents of alleged victims and alleged aggressors to inform them of the allegations, describe the interim steps that have been taken to secure the safety of all students, and explain the investigation process.
- School building staff seeks support from central office staff, including an Executive Director of schools, the Title IX Coordinator, Safety and Security, Behavioral Health and others to develop an appropriate response.
- Safety plans are created for alleged victims and, when appropriate, alleged aggressors. These plans are reviewed by parents, and may include some of the following elements:
  - Identifying a trusted adult that the student can go to when issues arise.
  - Prohibiting students from interacting with each other and establishing consequence if they do.
  - Placing rules around student's bathroom use.
  - Changing transportation or seating arrangements on the bus.
  - Designating a specific security person, recess staff, or teacher to keep an eye on the students.
- For as long as necessary after an incident occurs, school staff continues to check in with students to inquire about their sense of safety, their academics and their emotional health.
- School staff arranges for students to change classes, go to class late to avoid an alleged aggressor in the hall, retake tests or get additional time for assignments.
- When appropriate, an investigator is assigned and a formal report is produced.
- When appropriate, students are emergency expelled, pending the outcome of an investigation.
- If the alleged aggressor is a special education student, the student's Independent Education Plan (IEP) team is alerted and his or her plan may be adjusted to address inappropriate sexual behaviors.

### RECOMMENDED NEXT STEPS

The steps listed above should be further developed and adopted as official guidelines, then put into accessible, user-friendly formats like checklists and forms. Areas that need further attention and refinement include:

- Intake: The District should develop documents that give principals guidance on the initial steps to take when allegations of sexual assault are first brought to his or her attention.
- Student Respondent Support: Alleged aggressors and their families should receive standardized information about the investigation process and Title IX. Particular attention should be given to developing materials for elementary and special education students.
- Sexualized Cyberbullying: The District should develop guidelines on how to address cases involving “sexting”, sharing of explicit images and social media.
- Safety Plans and No Contact Contracts:
  - The District should develop standardized templates or guidelines for cases involving allegations of sexual harassment and sexual assault, including templates that are adjusted for age.
  - The District should develop guidelines on how to assess the quality of safety plans, and when to end plans and under what circumstances.

## **II. Revising The District's Sexual Harassment Procedure**

### INITIAL STEPS

The interim Title IX Coordinator gave feedback to an external law firm, Porter Foster Rorick LLP, on the current sexual harassment procedure. The goal was to make the procedure shorter and more user-friendly. The current procedure is 18 pages and has 6 attachments. The revised version will be approximately 6 pages and have no attachments.

A draft of the revised procedure is expected to be completed by the end of June. Once completed, the draft will be circulated to various stakeholders including the Task Force for review and comment.

It has not been decided if the Sexual Harassment Policy No. 3208 will also be revised.

### RECOMMENDED NEXT STEPS

The District should create a separate Title IX practice manual with additional guidance.

### III. Employee Trainings on the Investigation and Complaint Process

#### INITIAL STEPS

Title IX has extensive training requirements. The priority during the initial six month period was training principals and other employees who receive, investigate or manage complaints.

To determine training requirements for employees, the Interim Title IX Coordinator relied on two documents. Both were found on a District-recommended risk management website called "EduRisk by United Educators." Those documents were:

- A Checklist for Complying with The Department of Education's Office of Civil Rights' 'Dear Colleague' Letter on Student Sexual Assault and Sexual Harassment, pages 6-8
- Title IX and Beyond: Federal Training Requirements for Employees

The following trainings were offered between December 1, 2015 and May 31, 2015:

<b>Date</b>	<b>Title</b>	<b>Presenter</b>	<b>Subject</b>	<b>Topics Covered</b>
January 13, 2015	What do We Do Now? A Principal's Guide to Responding to Sexual Harassment and Sexual Assault	OSPI Equity and Civil Rights Office Presenters: the Director of Equity and Civil Rights, J.D., and two Program Supervisors, J.D.s	Title IX overview for principals	Sexual Harassment In the School Environment; Title IX Overview; Investigations; Pitfalls and Lessons Learned
February 11, 2015	Avoiding the Traps and Snares that Compromise Sex Abuse Investigations	Law Offices of Richard H. Kaiser	Title IX Investigations	Duty To Report; Student on Student Cases; Special Education Issues; Developmentally Inappropriate Play; Investigation Techniques.
April 16, 2015	Title IX Overview for HR and Legal	OSPI Equity and Civil Rights Office Presenters: the Director, Equity and Civil Rights, J.D., and a Program Supervisor, J.D.	Title IX overview for HR, Legal and other staff who receive complaints on behalf of the District.	Legal Protections Under Title IX and WA Law; District Procedures; Identifying Responsible Employees;

Representatives from the following departments were trained: Principals, HR, Labor & Employee Relations, Legal, Safety & Security, Risk Management, Auditors, the District Ombudsman, and the Special Education Ombudsman.

In addition, trainings were attended by the Superintendent, the Deputy Superintendent, and the Assistant Superintendents for Human Resources and Teaching & Learning, and the Assistant Superintendent of Operations.

In March 2015, following a civil rights compliance audit, the Office of the Superintendent of Public Instruction commended the District for its Title IX employee trainings on sexual harassment.

#### RECOMMENDED NEXT STEPS

- The District should create a plan to develop, roll out and track all of the required Title IX trainings, including trainings for all students, volunteers, and employees.
  - A sub-set of this work is developing a plan to integrate Title IX training into existing trainings, like trainings for new employees and principals.
- The District should continue to develop the employee trainings listed above, or others like them, and require that at least one Title IX employee training be conducted annually.

**IV. Recordkeeping, Reports and Case Analysis**

INITIAL STEPS

Currently, there is no centralized system of recordkeeping for sexual harassment or sexual assault allegations, and there is no practice of producing periodic reports. During the interim period, the coordinator collected the following categories of information about each case reported to her.

<b>Basic Facts</b>	<b>Category of Alleged Offense</b>	<b>Interim and long term measures taken</b>	<b>Investigations</b>
Names of parties	Adult Sexual Misconduct	Safety Plans	Formal or informal
Dates	District Student/District Student (Assault)	No Contact Contracts	Name of the investigator assigned
Grade or Job Title	District Student/District Student (Non-Assault)	Emergency Expulsion	Length of time it took to complete investigation
Description of Allegations	District Student/Non-District Student	Administrative Leave	Information about any police investigation
Name of school; School Compliance Officer; and E.D.	Policy Violation	Changing Student's Schedules	Findings

The following demographic information was also tracked: age, gender, and race.

Finally, information about disability and any history of misconduct was collected, including special education or disability status; previous misconduct or alerts; and any Individual Education Plans (IEP) or Behavioral Improvement Plans (BIP).

Specific details about cases were shared with District management. However, below are some general statistics about student on student sexual assault or severe sexual harassment. As described in the Approach and Methodology Section above, this is a very limited amount of information that was not scientifically gathered. This preliminary data should not be used to draw any definitive conclusions; it is intended to help guide and focus the District's next steps in this challenging area.

**Total Number of Cases Reported: 38<sup>2</sup>**

**Total Number of Cases with Student Respondents: 27<sup>3</sup>**

**Total Number of Cases Involving Allegations of Sexual Assault or Severe Harassment: 11**

<sup>2</sup> Nine of the reported cases had adult respondents.

<sup>3</sup> Nine of the reported cases were sexual harassment cases with student respondents. The remaining cases were policy violations, cases that involved non-sexual harassment or cases that involved sexual harassment or sexual assault that occurred outside of the school and/or did not involve a District student as an alleged victim.

### 1. Data About Alleged Victims

Below is a chart of alleged victims by grade level:

Elementary Students (55%)	6 Kindergarten through Sixth Grade Students
Middle School Students (18%)	2 Eighth Grade Students
High School Students (27%)	3 Eleventh Grade Students

**Grade Level:** 55% of the reported cases involved elementary students. 18 % of the case involved middle school students, and 27 % involved high schools students.

**Gender:** 73% of the alleged victims were female.

**Special Education Status:** 55% of the alleged victims were special education students.

**Race and Ethnicity:** 64% of the alleged victims were people of color.

**Disability:** 9% (1 person) of the alleged victim was disabled.

**Behavioral Improvement Plan :** 9% (1 person) of the alleged victim had a BIP.

### 2. Data About Alleged Aggressors

Below is a chart of the alleged aggressors by grade level:

Elementary Students (73%)	8 Kindergarten through Sixth Grade Students
High School Students (27%)	3 Eleventh Grade Students

**Grade Level:** 73% of the reported cases involved alleged aggressors who were elementary students. 27 % involved high schools students. There were no reported cases involving middle school alleged aggressors.

**Gender:** 90% of the alleged aggressors were male.

**Special Education Status:** 27 % of the alleged aggressors were special education students.

**Race and Ethnicity:** 72 % of the alleged aggressors were people of color; 9 % (1 person) were multiracial; and 18% (2 people) were of unknown racial or ethnic origin.

**Disability:** No alleged aggressor was disabled.

**Behavioral Improvement Plan :** 45% of the alleged aggressors had a BIP; 37% did not have a BIP. There was no information for 18% of the alleged aggressors.

Alleged aggressors were usually peers with the alleged victims; one case involved an older aggressor and two cases involved a younger aggressor.

In addition, 45% of the cases involved alleged aggressors who had more than one alleged victim and/or who had more than once incident of inappropriate conduct with the same alleged victim.

#### RECOMMENDED NEXT STEPS

- Establish a work group to develop an agreed upon process for record keeping and for generating periodic reports, including:
  - The annual report required by the 3208 procedure.
  - Mid-year reports for key stakeholders.
- The Title IX Coordinator should have access to PowerSchools.
- Continue to monitor the patterns evidence by this preliminary data.

## **V. Investigations and Investigators**

### INITIAL STEPS

#### **1. Developing Standards for Investigations and Reports**

Superintendent Procedure 3208 SP requires that the District conduct formal investigations into serious allegations of sexual harassment or sexual assault that occurred at school or during a school-sponsored activity, and informal investigation into less serious matters. More specifically, a formal investigation is required when an allegation involves an adult perpetrator or “where criminal activity is alleged.” A formal investigation is also required when a complaint is in writing.

Although the procedure makes clear that a written report must be produced at the end of a formal investigation, no specific guidance is given on what a formal report must contain. Without such guidelines it is hard to determine if the reports are in compliance. In addition, it is difficult to maintain fair and consistent standards.

Informal investigations also require documentation. It is also unclear what information must be in an informal report.

The interim Title IX Coordinator began a dialogue with relevant stakeholders on establishing guidelines for both formal and informal complaints, but no decisions were made.

#### **2. Lack of Internal Investigators**

Title IX requires that investigators understand the District’s policies and procedures. It also requires that investigators be trained in managing sexual harassment and sexual assault cases.

Currently, the District doesn’t have internal investigators with the skills to investigate allegations of serious student on student sexual harassment or sexual assault. Consequently, the District currently relies on external investigators for these cases. These external investigators produce high caliber work, but are costly.

During the interim period there were 16 investigations conducted by external investigators.

#### **3. Role Clarification**

It is also unclear who is responsible for conducting investigations.

### RECOMMENDED NEXT STEPS

- The District should adopt guidelines for both formal and informal investigations and reports.
- The District should develop forms, checklists or guidelines to help people conducting investigations comply with District and legal standards.
- The District should hire internal investigators who have sexual assault investigation training.
- The District should clarify roles and responsibilities in this area.

## **VI. Developing Guidelines and Procedures for Conveying Final Results**

### INITIAL STEPS

As described above in the “Initial Response to Allegations and Interim Measures”, when a school gets notice of an allegation, it takes immediate actions to ensure that students are safe and supported at school, and the school continues to provide support for as long as it is needed.

#### **1. Response Letters**

If a formal investigation is conducted, all alleged student victims and alleged student respondents must also receive letters explaining the final results of an investigation, any remedies or enforcement steps put in place by the school, and the appeals process. These letters are required even when the underlying complaint has already been addressed and the parties are satisfied with the outcome. In addition, it is a recommended practice to provide these letters even if the investigation is District-initiated, and not requested by either party. These letters are issued by the Superintendent.

#### **2. Recommendation Memos**

Before these letters can be drafted, a memo of recommendation must be written. The Title IX Coordinator must review each investigation and make recommendations based on the findings. Those recommendations are in turn reviewed by the Assistant Superintendent of Human Resources if the respondent is an adult, or the Assistant Superintendent of Teaching & Learning if the respondent is a student. The recommendation memo is then submitted to Superintendent. Recommendations can range from something as basic as requiring that the school continue to check in with a student, to something more substantial like recommending additional training for students or staff. Interim safety and discipline issues are usually addressed early on, immediately after the initial investigation is completed. In such cases, the final recommendation might include deciding whether to modify or discontinue interim measures. Thus, these memos require a lot of time and effort.

The District did not have prior practice of drafting these recommendation memos. During the interim period, several memos were completed.

### RECOMMENDED NEXT STEP

- The District should strive to reduce the amount of time it takes to get the response letters returned to parties.
- The District should strive to maintain better and more consistent communication with families about investigations before the final response letter is issued.
- The District should encourage the practice of first conveying final results in person, then giving the parties the letter.

## **VII. Notice**

### INITIAL STEPS

#### **1. Required Poster**

In each school building, on each school's website, and in District administration buildings, the District is required to prominently post: (1) age-appropriate information on reporting sexual harassment; (2) information about where detailed procedures can be found; (3) contact information for making a report to the relevant School Compliance Official; and (4) contact information of the Title IX Coordinator.

A poster was placed in all school and admirations buildings by the March 2015. This poster was reviewed by OSPI during their March 2015 audit and it was deemed sufficient.

The poster is attached to the jointly submitted Task Force Interim Report as Exhibit D.

#### **2. Other Notices**

References to the District's sexual harassment policy and procedures are required to be included in any District or school publication that sets forth the rules, regulations, procedures, and standards of conduct of the school or the District, like Student or Staff Handbooks.

During the March 2015 compliance audit, OSPI cited the District for having notices that contained inconsistent and/or outdated information. An effort is currently underway to bring these notices into compliance.

### RECOMMENDED NEXT STEPS

- As mentioned in the Trends Analysis section above, the District should create alternative versions of these notices for English Language Learners, people with disabilities, and various age groups (such as elementary, middle school, and high school students).
- See also the Task Force's Interim Report, Section III, for recommendations for improving the visual appeal of the required notice and for creating additional notices.