

Policy 3208 Annual Report to
Seattle Public Schools Superintendent and Board of Directors

To: Board of Directors Operations Committee
Cc: Stephen Nielsen, Deputy Superintendent
From: Warner Santiago, Title IX Coordinator and Tina Meade, Student Civil Rights
Compliance Officer

Date: August 17, 2018

I. Introduction

Seattle Public Schools (District) is dedicated to fostering an environment free from discrimination, including discrimination on the basis of sex or gender. This encompasses a prohibition against sexual harassment. Consequently, upon notice the District must take prompt, equitable, and remedial action within its authority when the District receives reports, complaints, and grievances, either informally or formally, which allege acts of sexual harassment. Federal and state laws, as well as School Board Policies 3207, 3208, and 3210, along with the implementing Superintendent Procedures 3207SP.A, 3208SP, and 3210SP.B, provide the basis for the District's administrative complaint and resolution processes regarding reports of general harassment, sexual harassment, and discrimination, respectively.

Additionally, regarding incidents of sexual harassment specifically, Board Policy 3208 requires the Superintendent to make an annual report to the Board of Directors, and states in pertinent part, "The Superintendent shall make an annual report to the Board reviewing the use and efficacy of this policy and related procedures. Recommendations for changes to this policy, if applicable, shall be included in the report." With respect to the annual report, Superintendent Procedure 3208SP.B states further:

The Title IX Coordinator shall prepare an annual report to the Superintendent at the conclusion of each school year. The annual report shall include a discussion of all instances of sexual harassment in which students were alleged to have been subjected to sexual harassment:

1. When, where, and how the District disseminated information required by this procedure;
2. Any relevant training and curriculum given to staff or students; and
3. A summary of formal complaints made in the previous year. This summary shall indicate at a minimum, the number of formal complaints, the most common types of harassment experienced, the number of incidents of sexual violence, the most common types of remedies applied, and the number of appeals.

Therefore, in accordance with Board Policy 3208, the Office of Student Civil Rights (OSCR) is submitting this report to the District's Operations Committee for review and further referral to the Superintendent and Board of Directors.

II. District Dissemination of Information Regarding Prohibitions Against Discrimination on the Basis of Sex and Sexual Harassment

A. Pre-Service Professional Development for the 2017-2018 School Year

On August 1, 2018, Student Civil Rights Compliance Officer provided a three-hour training to school administrators who are new to the District. The training was attended by 40 administrators and covered the following content: the Office of Student Civil Rights; Harassment, Intimidation, and Bullying; Sexual Harassment/Title IX; and Investigative Skills training based on a sexual harassment scenario. Administrators that attended were provided with an online Sexual Discrimination and Sexual Harassment “Tool Kit,” which included relevant policies and procedures, sexual harassment information, tips and samples, and resources for interim and remedial measures.

B. Additional Professional Development Provided to District Staff

Over the course of the 2017-2018 school year, staff members from OSCR provided professional development opportunities to various internal constituency groups regarding, among other topics, the prohibition against sex or gender discrimination. The content of the training program regarding sex discrimination consisted of a review of the District policies, procedures, and complaint resolution process; information regarding the District’s obligation to respond and investigate upon notice of an incident of sexual harassment or sexual violence; what constitutes notice to the District and issues regarding incidents occurring off school grounds or outside school hours; internal District reporting protocols (i.e. when to report to 411 Team, Safety/Security; Legal, Risk Management, Human Resources, etc.); investigation tools and strategies; implementation of interim safety measures; intersection between OSCR, HR, Discipline, and Special Education departments; and post-investigation action and remedial steps.

- All District School Counselors – January 2018
- All District School Nurses – April 2018
- Jane Addams Middle School – May 2018

OSCR recognizes that additional work needs to be done in the area of professional development to reach a larger number of District staff regarding the obligation to respond, report, and – depending upon a staff member’s job responsibilities – investigate incidents of sex discrimination and sexual harassment. In that regard, OSCR is continuing to build a professional development program to provide relevant training to the staff that is most likely to receive reports of this nature:

- School Building Leaders – (Training already conducted for administrators new to the District during School Leadership Institute – Operations, August 2018)
- All District Counselors

- All District School Nurses
- Special Education Program Specialists and Supervisors
- Community Based Organizations

The OSCR and the Title IX Coordinator also acknowledge that significant work needs to be done to provide educational opportunities to parents and community-based advocacy organizations on topics regarding the District's prohibition against sex discrimination and sexual harassment, with an emphasis on providing information regarding sexual harassment prevention/intervention strategies and tools. OSCR intends to work in collaboration with the District's Chief Engagement Officer and this task will be included as an agenda item for the Title IX ad hoc committee, as detailed below.

III. Ongoing Collaboration with Local Law Enforcement

One matter facing District staff responding to and investigating reported incidents of alleged sexual harassment is the fact that some types of conduct deemed sexually harassing may also constitute a criminal offense, such as sexual assault or harassment with sexual motivation. Incidents reported to the Title IX Coordinator this year included reports of inappropriate touching or groping of sexual body parts, attempted sexual assaults, and sexual assaults. District staff members – in particular certificated staff members – have a mandatory obligation to report an incident alleging sexual assault or sexual abuse to either local law enforcement (Seattle Police Department; SPD) or Child Protective Services (CPS).

While these external agencies may conduct their own investigation of alleged sexual harassment/sexual violence, SPD or CPS investigations do not relieve the District of its own obligation to respond and investigate an incident under District policy and the federal civil rights law prohibiting discrimination on the basis of sex. Moreover, there is no District staff member at this juncture who is trained to conduct child forensic interviews, while SPD's Special Assault Unit (SAU) in collaboration with King County Prosecuting Attorney's Office (KCPAO) staffs an individual whose primary role is to conduct forensic interviews related to sexual offenses or child abuse. Thus, to reduce the possibility of re-traumatizing an alleged victim through multiple interviews and to conduct appropriate forensic interviews, staff from OSCR and the General Counsel's Office have been partnering with the sergeant's and detectives from SPD's SAU, attorneys from the KCPAO's Criminal Division specializing in juvenile offenses, and victim advocates from SAU and KCPAO to develop a "Memorandum of Understanding" (MOU) between our respective organizations. A final MOU was finalized on February 8, 2018 (attached). The purpose of the MOU is to establish specific parameters regarding cooperative investigations, including forensic interviewing; and to memorialize a shared understanding of each respective organization's roles and responsibilities when investigating reports of sexual assault or sexual abuse.

Additionally, OSCR and SAU have established ongoing meetings to foster open communication regarding how SAU detectives and District investigators are able to cooperate with each other on investigations and to discuss the limitations each respective organization has regarding the disclosure of student or individual information and access to public records. During the 2017-18

school year, SPS and SPD continued to meet. We anticipate continuing these cooperative meetings for the 2018-2019 to further enhance our collaborative relationship with SPD and to inform our investigation procedures and protocols.

Additionally, OSCR staff have been contacted by other school districts across the nation – including a liaison working with Portland Public Schools, a member of the staff from Tulsa (Oklahoma) Public Schools – for the purpose of obtaining guided information on SPS’s processes for handling reports of sexual harassment/sexual assault. Although it is true that there is room for improvement in the District’s response protocol regarding reports of sexual harassment/sexual assault, these communications provide an indication that SPS-OSCR is becoming known in other parts of the country in how it addresses civil rights concerns in general, and sexual harassment/sexual assault reports specifically.

IV. Incident Reporting and Investigation Information

As stated above, the Title IX annual report to the Superintendent must include information regarding incidents of sexual harassment, which occurred over the course of the school year and must include specific information about formal complaints filed. Superintendent Procedure 3208SP incorporates by reference the discrimination complaint process detailed in 3210SP.B/5010SP. This procedure states a formal complaint, “shall be in writing; shall be signed by the complainant; and shall set forth the specific acts, conditions, or circumstances alleged to have occurred that constitute discrimination.” Individuals can use the general discrimination complaint form developed by the District in September 2016 (see http://www.seattleschools.org/UserFiles/Servers/Server_543/File/District/Departments/Office%20of%20Student%20Civil%20Rights/SPS%20Discrimination%20Complaint%20Form%20ACC%2009122016.pdf) to file a formal complaint of sexual harassment. That said, there is no prescribed document or form that a complainant must use to file a formal complaint of discrimination, including a complaint of sexual harassment, so long as the written document submitted by a complainant contains the minimum information detailed above and signed by a complainant.

The information detailed below is a comparison between the 2016-2017 and 2017-2018 academic years for sexual harassment incidents¹ where students were the alleged victim² reported to the Title IX Coordinator, as follows³.

Academic Year	<u>2016-2017</u>	<u>2017-2018</u>
Total number of incidents reported	100	196

¹ Some incidents reported multiple concerns, such as allegations of general harassment/bullying and discrimination on the bases of disability, race, and sex (including different treatment and sexual harassment). These multiple allegations incidents are included in this information if the report included an allegation of hostile environment sexual harassment.

² For this report from the Title IX Coordinator, all of the alleged victims are students. Superintendent Procedure 3208SP directs the Assistant Superintendent of Human Resources to make a separate report to the Superintendent and Board of Directors regarding reported incidents of sexual harassment where the alleged victim is a district staff member.

³ Charts, tables, and graphics are not included so as to ensure the report is accessible when posted to the District’s public-facing webpage.

Informal complaints	93	194
Formal complaints	7	2

In accordance with 3208SP, a summary of the two formal complaints submitted during the 2017-2018 academic year is as follows:

- Types of harassment reported through a formal complaint:
 - Unwelcome comments and gestures of a sexual nature directed at a targeted student from another student – 2 complaints; at two elementary schools
- Number of formal complaints reporting sexual violence, where “sexual violence” for purposes of this report is defined as rape, attempted rape, and inappropriate touching of an individual’s sexual body parts⁴: 0
- There have been no appeals of the findings for formal complaints of sexual harassment submitted to date.

While these were not formal complaints, during the 2017-2018 school year there were two reported incidents alleging on campus rape. Specifically, on January 29, 2018, the parent of an elementary student reported that the student had been raped multiple times by an instructional assistant during the 2016-2017 academic year; and on March 27, 2018, parents of a high school student reported that their student had been raped the previous day by another student in a bathroom on the campus. For both of these cases, staff from OSCR worked collaboratively with school staff, staff from SAU (detectives and victim advocate), and KCPAO to investigate the sexual assault reports. Additionally, these two incidents garnered significant media attention. To maintain the privacy and confidentiality of the involved parties and ensure the integrity of the criminal justice process, OSCR is not including any details from the investigations in this report, and is including this information in this report based on the high profile of these two incidents.

With respect to overall reporting of sexual harassment/ sexual assault incidents, while it is true that the data shows a marked increase in the reporting between the last two academic years, it is our belief that this increase represents a stronger consciousness on the subject of sexual harassment and assault, and more importantly the District’s ongoing efforts to provide a reporting mechanism for individuals to seek redress. It should be noted that much of this heightened awareness is due to the inception of the #MeToo movement. Specifically, #MeToo spread virally in October 2017 as a hashtag used on social media in an attempt to demonstrate the widespread prevalence of sexual assault and sexual harassment.⁵ Moreover, there was specific impact to the District because of the #MeToo movement. That is, the District received

⁴ The National Institute of Justice (NIJ) in the U.S. Department of Justice defines sexual violence as, “a specific constellation of crimes including sexual harassment, sexual assault, and rape.” As this report is specifically reporting incidents of sexual harassment, using the NIJ definition of sexual violence would encompass all formal complaints submitted to the District under Policy 3208. This does not seem to accurately reflect the specific information sought by the Superintendent, as articulated in 3208SP. However, further clarification of the definition of sexual violence for purposes of the annual report will be addressed by the Title IX ad hoc committee as a possible revision to the 3208SP procedure.

⁵ <https://metoomvmt.org/>

an increased number of reports from former students alleging sexual harassment or sexual assault they experienced while they were students. Even though the Title IX federal regulation does not apply in incidents reported by former students, relevant District staff members convened an impromptu work group in November 2017 to develop a process for responding to reports of this nature. The work group included members from OSCR, Human Resources, School Operations, and the General Counsel’s Office. The working draft of the procedural flow chart developed by this work group is attached to this report.

With respect to addressing reports of sexual harassment/ sexual assault, the most common types of remedies applied for both formal and information complaints consisted of the following:

- Safety Plans for all students involved
- “No Contact” contracts or review of behavior expectations
- Alterations to student schedules
- Modification to student school day (i.e. early release, late start)
- IEP team meeting
- Individualized corrective action for alleged aggressor, up to and including emergency removal and suspension or school transfer
- Training for staff

The following data is a specific breakdown of the reported incidents to OSCR of sexual harassment, and the comparison between the 2016-2017 and 2017-2018 school years.

Overall number of incidents of alleged sexual harassment reported by school type in each academic year

	<u>2016-2017</u>	<u>2017-2018</u>
Elementary School	41	73
Middle School	14	47
K8 School	15	24
High School	27	49
Alternative School/Program	3	3

Sexual harassment incidents reported by region, school type in each academic year

	<u>2016-2017</u>	<u>2017-2018</u>
Northwest	15	43
<i>Elementary</i>	3	16
<i>Middle</i>	3	7
<i>K8</i>	3	5
<i>High</i>	6	15
Northeast	23	37
<i>Elementary</i>	14	25
<i>Middle</i>	4	4
<i>K8</i>	2	3
<i>High</i>	3	5

Central	26	41
<i>Elementary</i>	8	10
<i>Middle</i>	4	13
<i>K8</i>	2	2
<i>High</i>	3	14
<i>Alternative</i>	0	2
West Seattle	18	47
<i>Elementary</i>	10	16
<i>Middle</i>	3	16
<i>K8</i>	4	4
<i>High</i>	1	11
Southeast	18	28
<i>Elementary</i>	6	6
<i>Middle</i>	1	7
<i>K8</i>	4	10
<i>High</i>	6	4
<i>Alternative</i>	1	1

Further breakdown of the incidents by region and school to include student demographic information has not been included in this report in order to maintain confidentiality and privacy of either an alleged victim, alleged aggressor, or both. That is, since some schools only reported one incident, by providing demographic information of the students involved in the reported incident, it may be possible to determine the specific identity of the parties involved, thereby violating student privacy. That said, it will be the work of the Title IX *ad hoc* committee to compile and conduct a more comprehensive analysis of the student demographic information of reported sexual harassment incidents for the purposes of determining appropriate strategies for the prevention or intervention of sexual harassment and sexual violence (see below).

V. Use and Efficacy of Policy and Procedures; Periodic Review

Superintendent Procedure 3208SP states the following with respect to conducting a periodic review of the District's sexual harassment policy and procedure:

In every odd numbered year, the Title IX Coordinator shall convene an *ad hoc* committee composed of representatives of certificated and classified staff, volunteers, students, and parents/guardians to review the use and efficacy of Policy No. 3208 and this procedure. Superintendent Procedure 4110SP shall be followed in the development and operations of the ad hoc committee. Based on the review of the committee, the Title IX Coordinator shall prepare a report to the Superintendent including, if appropriate, any recommended policy of procedure changes.

However, this was not possible due to unforeseen OSCR staffing departures, which included the departure of all OSCR staff except for the Student Civil Rights Compliance Officer (SCRCO).

Consequently, for the majority of the 2017-2018 school year, the Student Civil Rights Compliance Officer was the Acting Title IX Coordinator from August 2017 through February 2018. Therefore, the District was not able to field the *ad hoc* Title IX committee because the SCRCO focused all work of the department on responding to reports of general harassment, intimidation, bullying (HIB), discrimination, and sexual harassment.⁶

As a result of finalizing the hiring, onboarding, and training of a Title IX Coordinator (hired in February 2018; training completed by March 2018), OSCRC will be soliciting volunteers for membership to convene the *ad hoc* Title IX committee during the academic year 2018-2019. The committee will be co-facilitated by the Title IX Coordinator and Student Civil Rights Compliance Officer, with additional oversight provided by the Deputy Superintendent. A report will be developed and provided to Operations Committee and the Superintendent at the conclusion of the committee's work.

The scope of the committee's work for the 2018-2019 school year will include, but may not be limited to:

- Review and conduct statistical analyses of demographic information regarding alleged victims and alleged aggressors for the purpose of determining whether the District's response protocol produces equitable results and to identify relevant prevention and intervention activities;
- Review and revise, as necessary, policy and procedure 3208 and 3208SP based on past incident response and investigative efforts;
- Review and revise, as necessary, content posted on the District website regarding prevention, intervention, and response to incidents of sexual harassment; and
- Develop outreach and/or education plan for parents/guardians and community members regarding prevention, intervention, and education about the District's response to incidents of sexual harassment or sexual violence.

VI. Conclusion

This annual report provides important insight into the District's ongoing efforts to provide a more comprehensive response to reports of sexual harassment/ sexual assault. It also details one aspect of the work the Office of Student Civil Rights done since its inception during the 2015-2016 academic year to ensure the District's compliance with state and federal non-discrimination regulations. Most importantly, this report details the work of the staff within OSCRC that reinforces the District's commitment to working together to proactively address concerns of sexual and gender based discrimination, and the District's unwavering commitment to ensuring that Seattle Public Schools provides school environments free of prohibited discrimination or harassment. OSCRC is not only a solid internal resource for District staff, students, and parents, but is also becoming a leader and resource for external constituencies across the nation in the area of responding to reports alleging sexual harassment/ sexual assault.

⁶ As an indication of workload for the single staff member, of the 302 incidents of HIB, discrimination, and sexual harassment reported to the OSCRC during the 2017-2018 school year, the SCRCO fielded 235 of the reports until additional staff could be hired.

OSCR will continue its efforts to create and maintain a respectful and inclusive District community free of prohibited harassment and discrimination. Moreover, we understand that no matter how well we perform, there is always room for continued growth and improvement. To that end, in the next year and future years, OSCR has goals to strengthen our Title IX training programs at the District level, as well as expand what we have learned to state and national constituencies.