



**SAN ANTONIO INDEPENDENT SCHOOL DISTRICT
Administrative Procedures**

F – Students No. 54	F54
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**SEXUAL HARASSMENT, DATING VIOLENCE AND SEXUAL VIOLENCE
COMPLAINT REPORTED BY A STUDENT**

During the 80th Legislative session, House Bill 121 mandates that all school districts in Texas adopt and implement a dating violence policy. This procedure provides further guidance and support for HB 121 by including definitions, reporting, conducting an investigation, enforcement of protective orders and school-based alternatives to protective orders. The following procedure is intended to assist you in responding to a sexual harassment, dating violence, or sexual violence concern expressed by a student. The recommended steps are not all inclusive and you may need to take other steps as you proceed with the investigation. The goal of your investigation is to gather as much information as possible regarding the complaint so that you can form a conclusion and determine a plan of action.

DEFINITIONS

Teen Dating Violence: is defined as the intentional use of physical, sexual, verbal or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Texas Family Code. Teen dating violence is a pattern of coercive behavior that one partner exerts over the other for the purpose of establishing and maintaining power and control.

Harassment: is defined as conduct that threatens to cause harm or bodily injury to another student, is sexually intimidating, causes physical damage to the property of another student, subjects another student to physical confinement or restraint or maliciously and substantially harms another student’s physical or emotional health or safety.

Sexual Harassment: is conduct that is severe, pervasive, and objectively offensive in such a manner that can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. It is a form of harassment that includes touching someone in ways that are not wanted, sexual jokes, pressuring someone to have sex, threats or intimidation from a dating partner, or any other form of harassment of a sexual nature that would make a reasonable person uncomfortable. Sexual harassment does not include simple acts of teasing and name-calling among school children, however, even when the comments target differences in gender. Violence or abusive behavior of a sexual nature in a dating relationship may also be considered sexual harassment when the behaviors occur at school and meet the definition of sexual harassment.

By an Employee: Sexual harassment of a student by a school district employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually-motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

- a. A school district employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or

that the employee will make an educational decision based on whether or not the student submits to the conduct; or

- b. The conduct is severe, persistent, or pervasive such that it:
 - i. affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
 - ii. creates an intimidating, threatening, hostile, or abusive educational environment.

By Others: Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is severe, persistent, or pervasive such that it:

- a. affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
- b. has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- c. otherwise adversely affects the student's educational opportunities.

Sexual violence: is defined as sexual assault, sexual abuse, or sexual stalking of a minor, including sexual violence committed by perpetrators who are strangers to the victim and by perpetrators who are known or related by blood or marriage to the victim. Behaviors that fall under this definition include but are not limited to incest, molestation, child abuse, stranger rape, and non stranger rape.

REPORTING

1. A student may report any form of sexual harassment, dating violence or sexual violence by utilizing the available ***Student Incident/Complaint Report*** [FORM F54-A] that is available through any counselor or administrator. Counselors and administrators may be asked to offer students assistance in filling out the form. In addition, the student(s) may complete the form in a secure location, such as in an administrative office. The ***Student Incident/Complaint Report*** [FORM F54-A] will be kept by the investigating administrator.
2. Administrators, counselors, teachers, paraprofessionals and any other staff members immediately report to the campus principal/designee any comment or suggestion made by a student of sexual harassment, dating violence or sexual violence inflicted on them by anyone on the campus.
3. The person reporting the offense will describe exactly what the student said and when the student reported it to them. The person reporting the incident will prepare a written statement describing what the student said and what the person did after the student spoke with them.
4. The campus principal/designee will set up a meeting with the student immediately.
5. The campus principal/designee shall contact the Title IX Coordinator to comply with Title IX of the Education Amendments of 1972, which pertains to sexual discrimination claims. The district Title IX Executive Director of Student Support. If the complaint is against an employee, immediately contact the Associate Superintendent of Human Resources. Additional referrals may be needed dependent upon the nature of the complaint, such as the school nurse, SAISD police,

Department of Family and Protective Services notification, and a critical incident report to your appropriate Area Executive Director, Executive Director of the department, and the Human Resources Department as applicable.

CONDUCTING AN INVESTIGATION

The campus principal/designee will set up a meeting with the student immediately in order to conduct an investigation, formulate a conclusion based on information and develop a plan of action. To provide support and guidance in conducting the investigation, the administrator/designee shall utilize the *Investigating Complaints Checklist* [FORM F54-B] and the *Student Incident/Complaint Report* [FORM F54-A]. An administrator may also utilize the *Sexual Harassment Prompt Guide* [EXHIBIT F54-B] as needed.

1. The administrator/designee will question the student in a non-threatening manner in the presence of another female or male depending on the gender of the student reporting the offense. Have this person witness the meeting with you and the student and ask the person to take notes reflecting what the student says as closely as possible.
2. When questioning the student try to ascertain as clearly as possible what occurred. The exhibit, a *Sexual Harassment Investigation Sample Questionnaire* [EXHIBIT F54-A] can provide guidance and assistance with appropriate questions:
 - when the event occurred
 - exactly what the alleged perpetrator did (exact description of what was said or how the student was touched);
 - why the student was in that person's presence;
 - where did it happen;
 - who was present that might have seen something;
 - how often this has occurred;
 - has the student told his/her parents;
 - has the student told anyone else;
 - why didn't the student report it to you right away;
 - what the student did in response to the alleged offense when it happened; and,
 - does the student know of any other students who have been treated in the same manner
3. Ask the student to give you a statement in writing that describes what happened. If the student is visibly upset, the counselor will be available to help the student. Read the student's submitted statement to ensure understanding of the allegations being made by the student. Ask the student to clarify and make any changes on his/her statement. Read the statement for specificity and clarity, to include the actual action or words the alleged perpetrator did or used. The student shall sign his/her statement. If the student is unable or unwilling to write a statement, the administrator/designee may write the statement for him/her from the administrator's notes. Read the statement to the student and ask him/her if he/she agrees with the statement. If they agree, ask him/her to sign the statement. If they want to make some changes in the statement you wrote, make the changes that they request prior to asking them to sign the statement.
4. Before the student leaves, ask the student to not discuss this with anyone except his/her parents.

5. Inform the student that you are going to talk with his/her parents, inform the parents of this concern and inform them of the investigation. Tell the parents that the alleged perpetrator will be interviewed and requested to respond to the allegations.
6. The alleged perpetrator shall be interviewed and informed of the allegations against him/her. Describe the allegations made by the student so that the alleged perpetrator knows exactly what he/she is being accused of. Ask him/her to give you a verbal response regarding each of these allegations. Make notes of the person's responses and observations about the person's demeanor when he/she is answering the questions.
7. Inform him/her that an investigation will be conducted and that the incident may be reported to the Department of Family and Protective Services dependent on the findings. Ask the person if he/she has any witnesses that they want questioned during the investigation.
8. Direct the person to provide a written response regarding the allegations made by the student and to specifically address each allegation. Inform him/her that this response as well as data from your investigation will be used to reach a conclusion about the incident. Remind him/her that he/she needs to sign the statement. Allow him/her to work on his/her response and to have his/her response ready by the following morning. If he/she asks to see his/her representative, allow him/her to do so.
9. Direct the alleged perpetrator not to talk with the student or the student's parents and not to discuss this with anyone on the campus except for the employee representative if he/she requests to meet with him/her.
10. If the student or the alleged perpetrator identified any witnesses, call the witnesses in individually and ask them to tell you what they saw regarding the student and the alleged perpetrator. Be cautious not to lead them in the questions you ask. Ask open-ended questions. Ask another adult to be present to help you write notes regarding the witnesses' responses.
11. Ask the witnesses to give you written statements regarding what they know about the incident or the situation. Remind the witnesses to sign their statements. Direct the witnesses not to discuss this with anyone except their parents in the case of students. In the case of employees, direct them not to discuss this with anyone except their attorney if they feel it is necessary.
12. If the allegation involves an employee, call the Human Resources Department to get guidance on whether the employee should be placed on administrative leave until the investigation is concluded.
13. Follow-up with the student and his/her parents to make sure that everything is all right. Ask the counselor to keep a watchful eye on the student.
14. After you have gathered all the statements from the student, the witnesses, and the alleged perpetrator, call the Title IX Coordinator to review the final investigation results and recommendations **prior** to parent notification. Involve the Human Resources Department as needed and other appropriate personnel. .

After a thorough review of the documentation collected, you must reach a conclusion and formulate a plan of action to address the concerns with the student, his/her parents and the alleged perpetrator.

PLAN OF ACTION

Victim safety is a top priority for any sexual harassment, dating violence or sexual violence situation. The victim safety plan of action may include a school safety choice transfer option as described in Administrative Procedure F5 *Student Transfers*, safety planning, enforcement of protective orders and/or school-based alternatives to protective orders.

Safety Planning

A safety plan is a tool for helping to increase students' safety. A safety plan should be developed in collaboration with the victim and may include the following elements:

- The schedule(s) of staff person(s) that have been identified as a support system for the victim,
 - Routes to and from school,
 - Routes to and from classes,
- Names and contact information of peers who can help support the victim and accompany him or her to and from classes as needed,
- A discussion of potential school-related problems/areas of concern and strategies for increasing safety: after-school activities, class trips, dances, etc.,
- A plan of action for the victim to follow if he/she encounters the alleged perpetrator outside of school: in a public place, on public transportation, at the victim's home, at the home of a friend, etc.,
- A list of general safety tips to aid the victim outside of school: lock doors, screen phone calls, never walk alone, etc.,
- A list of local resources: shelters, hotlines, agencies, advocates, and other services,
- Follow-up meeting dates to review the situation and to make any necessary adjustments,
- Referral to the SAISD Police Department for case filing and assistance with protective orders; and/or,
- Referral to any district personnel or departments for additional assistance.

Schools must inform the victim's parent/legal guardian that a safety plan has been developed, as well as the details of the safety plan unless this action would endanger the victim.

PROTECTIVE ORDERS/STAY-AWAY AGREEMENTS

Enforcement of Protective Orders

When a protective order (legal stay-away order) has been issued by a court to protect one student from another, school administrators shall take the following steps:

1. Hold separate meetings with the victim and the alleged perpetrator to:
 - Review the protective order and ramifications,
 - Clarify expectations,
 - Review the school day, classes, lunch, and activities, paying attention to potential conflicts and opportunities for face-to-face contact between the victim and the alleged perpetrator,
 - Identify schedule overlaps, i.e. arrival/dismissal times, classes, lunch, before- and after-school activities, locker, etc.

Whenever possible face-to-face contact between the victim and alleged perpetrator should be avoided. If changes need to be made, attention may be given to the victim's

preference. The burden of change for any bus, classroom or other schedule changes should be on the alleged perpetrator, not the victim.

2. In meeting with the victim, the school should consider:

- Helping the victim identify adults within the school setting with whom he/she feels comfortable,
- Developing a safety plan (see above).

The victim should be provided with the right to have a support person present during all stages of the investigation.

3. In meeting with the alleged perpetrator, the school should consider developing a plan that may include the following key points:

- Identification of key staff members to check in with daily/weekly or as needed;
- Any needed class/schedule changes, lunch, locker, etc.;
- Changes in arrival/departure times to/from school;
- Changes in arrival/departure times to/from classes;
- Clear review of expectations and consequences for any violations; and/or,
- Follow-up meeting dates to review how things are working and to make any necessary adjustments.

Stay-Away Agreements: School-Based Alternatives to Protective Orders

The most common school-based alternative to a protective order is called a *Stay-Away Agreement* [FORM F54-C]. The Stay-Away Agreement provides a list of conditions that must be followed by the alleged perpetrator while on school grounds or at school-sponsored activities. It is designed to ensure the safety of the victim. The *Stay-Away Agreement* [FORM F54-C] may be used in a conference with the alleged perpetrator and his/her parent or legal guardian. If the parent/legal guardian is unavailable or unwilling to attend the conference, the school may note this on the agreement. The *Stay-Away Agreement* [FORM F54-C] includes the following elements:

- A description of the relationship between the victim and alleged perpetrator;
- A description of the violent incident(s): what, when, where, witnesses;
- A list of behaviors that the alleged perpetrator may not do (i.e., talking to the victim, sitting near the victim, sending notes to the victim, etc.).
- Schedule changes for the alleged perpetrator (to separate the victim and alleged perpetrator), including classes, lunch period, arrival and dismissal times, locker location, and extracurricular activities;
- Notes on other disciplinary actions taken;
- Disciplinary consequences if the alleged perpetrator violates the *Stay-Away Agreement* [FORM F54-C];
- Dates during which the *Stay-Away Agreement* [FORM F54-C] is valid;
- Date when the *Stay-Away Agreement* [FORM F54-C] will be review; and,
- Signatures of parent/guardian, alleged perpetrator, and administrator.

FORM F54-A: *Student Incident/Complaint Report*

FORM F54-B: *Investigating Complaints Checklist*

FORM F54-C: *Stay-Away Agreement*

EXHIBIT F54-A: *Sexual Harassment Investigation Sample Questionnaire*

EXHIBIT F54-B: *Sexual Harassment Investigation Prompt Guide*

References: Board Policy(ies) [FFH](#)

Questions regarding this procedure should be addressed to:

Academics and School Leadership

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