



## Best Practices for Addressing Inappropriate Employee-to-Student Relationships

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Inappropriate employee-to-student relationships can tarnish an organization's reputation and spark costly lawsuits. Consistently implementing your policies is the first step toward reducing liability risk. Adopt these best practices to ensure your district properly addresses sexual misconduct.

### Understand what constitutes inappropriate relationships

Before properly addressing inappropriate relationships, your district should know how this misconduct is defined. The Texas Penal Code states that an improper relationship occurs when:

- An employee of a school district engages in sexual behavior with a student in the district where the employee works
- An employee in a position requiring a license or certificate, including State Board for Educator Certification (SBEC), engages in sexual behavior with a student in another district
- An employee, certified or not, solicits a minor online

It is important to note that this law applies to students regardless of their age.

Sexual harassment falls under Title IX and has been defined by the Title IX regulations as conduct on the basis of sex that satisfies one or more of the following:

- Quid pro quo: This is when an employee of the district conditions the provision of an aid, benefit, or service to the recipient on an individual's participation in unwelcome sexual conduct.
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity.
- Sexual assault, dating violence, domestic violence, or stalking.

Additionally, the Educator's Code of Ethics prohibits educators from requesting a sexual relationship or engaging in sexual conduct with a student or minor.

### Review and consistently implement your district's policies

It is important for your district to regularly review and understand its policies, as well as its administrative procedures on employee-to-student sexual harassment.

Your Policy FFH (LOCAL) is a great place to start. Evaluating successes and failures regarding the district's compliance with this policy and others concerning sexual harassment can uncover improvement opportunities and the need for additional training. It is also helpful to seek district employees'



suggestions for the types of training they would find helpful since they are your eyes and ears within your schools.

Additionally, your district should consistently implement its policies and any existing administrative procedures on sexual harassment. There are several ways you can encourage effective compliance among your administrators and staff including, but not limited to:

- **Yearly training:** A good way for your district to effectively carry out its policies regarding sexual harassment is to include compliance training during in-service days, as well as including best practice strategies in your [employee handbook](#). Your staff should be well trained in recognizing and addressing inappropriate behavior. This training can serve as a refresher course or an opportunity for your district to learn new information.
- **Onboarding:** Discussing your district's sexual harassment policies and procedures during onboarding will be helpful to clearly establish employee boundaries and responsibilities.
- **Feedback:** Encourage openness and feedback from your employees about what can be done to improve administrative procedures concerning employee-to-student sexual harassment.

For more information and guidance on your Policy FFH (LOCAL), please visit [TASB Policy Service](#). You may also review TASB Legal Services' article on [Guidelines for Responding to Allegations of Employee Misconduct](#).

### Ensure your district's Title IX personnel is properly trained

Your Title IX personnel, including but not limited to Title IX Coordinators, investigators, decision-makers, and those who will facilitate an informal resolution process, must be effectively trained in their role as detailed by the [Office for Civil Rights](#). Specifically, personnel must be trained regarding:

- Title IX's definition of sexual harassment
- The scope of the school's education program or activity
- How to conduct an investigation and grievance process
- How to serve impartially, including by avoiding prejudgment of the facts at issue
- How to avoid conflict of interest and bias
- Decision-makers must receive training on any technology to be used at a live hearing, and on issues of relevance of questions and evidence, including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant
- Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence

Your district's Title IX personnel should be up to date on training and familiar with the legal requirements of their roles. Training can include webinars, in-person training, conferences, and other workshops. All training for the Title IX personnel must be posted to your school's website or available upon request if no website exists. If the training material is copyrighted or contains protected



information, you should get permission from the copyright holder before posting, as well as consult your school attorney.

### Teach employees about their reporting requirements

To avoid liability and criminal penalties, districts must educate superintendents, principals, and all employees on their sexual misconduct reporting responsibilities.

#### K-12 and post-secondary reporting

The Title IX regulations require an elementary and secondary school to respond if any employee of that school witnesses, hears about, or receives a report or complaint about sexual harassment. This gives the school actual notice, requiring it to respond promptly and appropriately. For post-secondary institutions, a report to the Title IX coordinator or an official authority gives the school actual notice, which requires the school to respond.

#### State Board for Educator Certification (SBEC) reporting

According to SBEC, principals and superintendents are required to timely report sexual misconduct between employees and students. Failing to comply could result in disciplinary actions. Reporting requirements allow transparency of an educator's criminal history and prevent offenders, who may seek other employment, from school hopping and going under the radar.

#### Superintendents

For **certified educators**, SBEC reporting requires superintendents to file a report with the Texas Education Agency (TEA) no later than seven business days:

- After becoming aware of the circumstances concerning an educator's termination or resignation following allegations of sexual misconduct where there was evidence that the educator committed the sexual misconduct;
- After becoming aware of other criminal misconduct through knowledge of the educator's reported criminal history obtained by means other than the criminal history clearinghouse; or
- After receiving a report of sexual misconduct from the principal.

For **non-certified educators**, SBEC requires superintendents to report any non-certified employee who resigns or is terminated and there is evidence that the employee:

- Abused or otherwise committed an unlawful act with a student or minor; or
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

It is important to note that an investigation of an educator's misconduct must be completed if there is evidence the educator committed such misconduct, despite the educator's resignation or termination.



### Principals

Principals are required to notify the superintendent no later than seven business days:

- After an educator's termination or resignation following an alleged incident of sexual or other criminal misconduct; or
- After the principal learns about an educator's reported criminal history.

There is no obligation for principals to report directly to SBEC. However, if principals and superintendents fail to timely report sexual misconduct per their obligations, a fine and/or jail time could be imposed.

### Child abuse reporting

While SBEC reporting is the responsibility of your district's superintendent and principals, any employee who suspects child abuse or neglect has a responsibility to report such abuse and must not delegate this duty to another person.

Child abuse reports may be made to the Child Protective Services (CPS) division of the Texas Department of Family and Protective Services, law enforcement, or both. For more information regarding when to report to CPS and law enforcement, please review [TASB Legal Services' Child Welfare Issues Chart](#) (see Question #11).

Emphasize to your district that failing to report suspected child abuse and neglect is a criminal offense. Your district should also review the policies at FFG, which address reporting child abuse and neglect.

### Search the Do Not Hire registry regularly

The [Do Not Hire Registry](#) includes a list of certified and non-certified persons who have committed an unlawful act with a student or who have requested or engaged in a romantic relationship with a minor. These persons are prohibited from being hired by school districts and other educational institutions. Your district or school is required to report non-certified employees for the same reasons that certified educators are reported. Districts must comply with the Do-Not-Hire registry and could face consequences for failing to do so.

Stay vigilant and ensure your district or school does not employ ineligible persons by regularly conducting searches of the registry for current employees and candidates. For more information, review TASB HR's resources, [Understanding the New Do Not Hire Registry](#) and [Do Not Hire Registry FAQ](#). You may also visit the [Texas Education Agency](#).

### Create awareness

Informed stakeholders are your best defense against sexual misconduct. Students and staff should know what to look for and how to respond.



### Student awareness

Promote student awareness and education regarding sexual harassment by encouraging your district to:

- Hold age-appropriate assemblies or student policy classes at the beginning of each school year or each semester that explain what constitutes sexual misconduct and teach students how to identify harassment and assault.
- Create pamphlets, brochures, or other resources that explain sexual harassment.
- Encourage your district to include clear, practical definitions of sexual harassment, instructions on reporting such incidents, information on confidentiality, and contact information for people who can help.
- Emphasize the importance of your district maintaining students' privacy and confidentiality when reporting potential misconduct. Students may be more willing to come forward if they understand that the district will protect their privacy to the extent possible. Also, ensure your district staff complies with the Family Educational Rights and Privacy Act (FERPA) when disclosing student information. For general guidance on privacy of education records, review your policy FL (LOCAL).

### Teacher and staff awareness

Teachers and staff should constantly be aware of what is taking place in the school and be able to identify inappropriate relationships between employees and students as reasonably possible. To help accomplish this, you should:

- Ensure that your district trains its teachers and staff on identifying sexual harassment and recognizing inappropriate employee-to-student interactions.
- Make resources available for employees to know how to appropriately address issues of sexual harassment.
- Ensure that your district keeps its teachers and staff fully informed on policies concerning their conduct on and off campus, including social media engagement. Also, have district leadership review policy DH (LOCAL) regarding electronic communications with students.

### Promote action

Encourage your district staff to listen, respond, and follow up when a complaint of an inappropriate employee-to-student relationship is received. Your school administrators should stress the importance of employees staying aware of what is going on in their schools. That includes keeping their ears open to what students are saying directly and indirectly. Also, they should remind their employees to take notice and watch how students interact with each other and with school employees.



### Encourage a timely and objective response

In responding to complaints of sexual harassment, ensure your staff understand the importance of a timely and unbiased response by prompting them to do the following:

- Address the issue now rather than waiting.
- Avoid telling a student to forego or delay making a report, as this violates district policy. Whether it turns out to be an actual problem or not, it is better to be safe than sorry.
- Never jump to conclusions.
- Treat each allegation with the utmost seriousness, and do not evaluate allegations based on personal perceptions of the student. Every student's report should be important enough to investigate thoroughly and diligently.
- Report every complaint to the necessary officials in a timely manner.

### Other resources

- [How to Reduce the Risk of Inappropriate Employee-to-Student Relationships](#)
- [How to Keep Sexual Harassment Out of Your Schools](#)

### Expert advice from the Fund

Fund members with [Legal Liability](#) coverage have access to expert advice, training, and resources on liability risks such as inappropriate relationships, cyberbullying, and discrimination.

For more information on liability risks, please contact TASB Legal Liability Risk Consultant Charli Searcy at [charli.searcy@tasb.org](mailto:charli.searcy@tasb.org). If you need legal advice or have questions about your policies, we encourage you to contact [TASB Legal Services](#) at 800.580.5345 and [TASB Policy Service](#) at 800.580.7529.

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