

A background image showing a police officer in a grey uniform with a 'PEACE OFFICER' patch on the sleeve, smiling and interacting with a group of diverse students in a classroom. The students are also smiling and looking towards the officer. The text 'TITLE IX & LAW ENFORCEMENT' is overlaid in large, bold, dark blue letters.

TITLE IX & LAW ENFORCEMENT



BUILDING EFFECTIVE RELATIONSHIPS & PROCEDURES

Welcome & Introductions



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Who is responsible for reporting?



Every person is responsible for reporting:

Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services. Reports shall be made to the hotline provided for in subsection A of this section. **10A O.S. 1-2-1-1**

School Employees Are Specifically Responsible

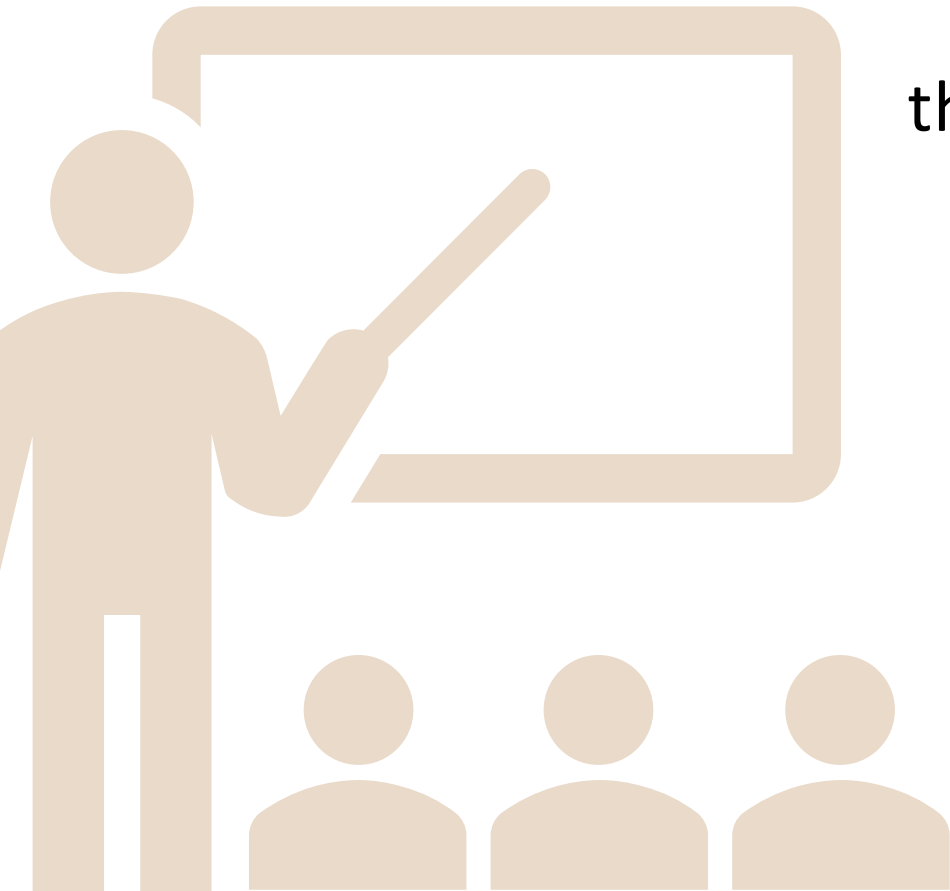
Every school employee having **reason to believe** that a student under the age of eighteen (18) years is a victim of abuse or neglect **shall report** the matter **immediately** to the Department of Human Services and local law enforcement.

10A O.S. 1-2-101 (B)(2)(a) & 70 O.S. 1210.163



School Employees Are Specifically Responsible

Every school employee having **reason to believe** that a student aged eighteen (18) years or older is a victim of abuse or neglect **shall report** the matter **immediately** to local law enforcement.



10A O.S. 1-2-101 (B)(2)(b) & 70 O.S. 1210.163



LAW ENFORCEMENT INTERACTION BASICS





LAW ENFORCEMENT ARRIVES WITH WARRANT

Students must be released to police officers who have proper arrest authority and a valid arrest warrant.

- Record name and badge number

- Notify parents/guardians



LAW ENFORCEMENT REQUESTS

INTERVIEW WITHOUT WARRANT

School employees cannot force students to submit to law enforcement interview.

For law enforcement interviews without a warrant, interview should not commence until minor student and the parents, guardian, attorney, adult relative, adult caretaker or legal custodian have been fully advised of the constitutional and legal rights of the minor student, including the right to be counsel, and the right to have counsel appointed if the parties are without sufficient financial means.

INTERSECTION OF TITLE IX & CRIMINAL PROCESS



Allegations of Crimes

Some allegations of sexual harassment would, if true, also violate criminal laws (e.g., sexual assault, domestic or dating violence, statutory rape, etc.).

When this happens, the school district and law enforcement agency ***both*** have investigation responsibilities.

Duty to Investigate

Title IX, which is a federal law, requires school districts to respond to allegations of sexual harassment promptly, and in a manner that is not deliberately indifferent, ***regardless of whether the allegation may also constitute a crime.***

Different Processes & Evidence Standards



SCHOOL DISTRICT

The school district is trying to determine whether a respondent is "responsible" for committing sexual harassment against a complainant, using either the ***preponderance of the evidence*** or ***clear and convincing evidence*** standards.



LAW ENFORCEMENT

Law enforcement is trying to determine whether it can be proven, ***beyond a reasonable doubt***, that a defendant committed acts that constitute a crime.

Evidentiary Standards

Schools will use either:

Preponderance of the Evidence (Lowest Standard):

Greater than 50% chance that the allegation is true.

Clear & Convincing Evidence:

Highly and substantially more likely to be true than untrue (higher than “preponderance of the evidence”, but lower than “beyond a reasonable doubt”).

Evidentiary Standards

Law enforcement uses beyond a reasonable doubt:
evidence must leave jurors or judge firmly convinced of the defendant's guilt.

Parallel Investigations

- Police investigations do not relieve a school district of their Title IX duty to respond to allegations of sexual harassment promptly and in a manner that is not deliberately indifferent.
- The investigations must run parallel, to the extent practicable.

Delays or Extensions

- The Title IX regulation allows for temporary delays in the investigation process, but only for “good cause”.
- The parties must be notified in writing of the reason for the delay and the expected date the investigation will resume.

Delays for Law Enforcement

Must be

- *Reasonably short* – preferably no longer than two weeks. If longer, ask for request in writing.
- Only for the time it takes law enforcement to quickly complete necessary interviewing and evidence gathering.

Also, when such a delay occurs, the institution must provide written notice to the parties of the delay and the reasons for it.

Supportive Measures During Delay

- Remember, if investigating under Title IX, the district can only “emergency suspend” a respondent in certain situations. This is further complicated by Oklahoma’s 10-day limit on short-term suspensions.
- May have to get creative.

PREPARING FOR COORDINATION WITH LEA



FIRST

***Establish
Relationship &
Understanding***

→ **Relationship
Building**

→ **Education
Regarding Legal
Obligations**

NEXT

Clarify (and Document) the Protocols, Preferably in an MOU

Once you've begun building a relationship with local law enforcement, and explained the federal obligation to investigate, you should clarify the protocols regarding:

- Legal obligations of parties to investigate
- Jurisdictional explanations
- Information sharing and privacy
- Conducting simultaneous/parallel investigations

Legal Obligations to Investigate



SCHOOL DISTRICT

Title IX, a federal law, requires district to investigate alleged violations of sexual harassment policy.



LAW ENFORCEMENT

State and local obligations to investigate crimes

Jurisdiction of Parties



SCHOOL DISTRICT

School district jurisdiction under Title IX:

- Definitions of sexual harassment
- People that must be involved
- Geographical jurisdiction



LAW ENFORCEMENT

Crime in the municipality or county of jurisdiction.

Information Sharing

School to LEA

FERPA

- Written consent of parent/guardian or adult student.
- Directory Information: Information designated by school policy as “directory information”.
- Law Enforcement Records
- Imminent Threat
- School Official

Warrant

FERPA DISCLOSURES

CONSENT

FERPA requires that the parent or eligible student “provide a signed and dated written consent” before a school or LEA discloses personally identifiable information from a student’s education record.

Model Consent Form for Disclosure

[https://studentprivacy.ed.gov/resources
/model-form-disclosure-parents-dependent-
students-and-consent-form-disclosure-parents](https://studentprivacy.ed.gov/resources/model-form-disclosure-parents-dependent-students-and-consent-form-disclosure-parents)

Model Form for Disclosure to Parents of Dependent Students and Consent Form for Disclosure to Parents

To: Registrar, [Postsecondary Institution]

From: _____

Student’s First Name	Middle Initial	Last Name	
Permanent Street Address		City	State Zip Code

Under the Family Educational Rights and Privacy Act (FERPA), the [Postsecondary Institution] is permitted to disclose information from your education records to your parents if your parents (or one of your parents) claim you as a dependent for federal tax purposes. Please indicate whether your parents claim you as a tax dependent.

Please check the appropriate box:

- ☐ Yes. I certify that my parents claim me as a dependent for federal income tax purposes.
- ☐ No. I certify that my parents do not claim me as a dependent for federal income tax purposes.

Signature: _____ Date: _____

If you are not claimed as a dependent or you do not know whether you are claimed as a dependent for federal income tax purposes, but you agree that [Postsecondary Institution] may disclose information from your education records to your parents, please sign the following consent:

I consent to the disclosure of any personally identifiable information from my education records to my parent(s), for reasons determined by the [Postsecondary Institution] as appropriate. This authorization will remain in effect for the [2008-2009] school year.*

Signature: _____ Date: _____

If parents live at the same address, please list both in # 1.

1. _____ Name(s)	2. _____ Name(s)
_____ Address	_____ Address
_____ City, State, Zip	_____ City, State, Zip
_____ Telephone	_____ Telephone

*Students cannot be denied any educational services from the [Institution] if they refuse to provide consent.

FERPA Directory Information

Schools may disclose, without consent, "directory" information:

- Student's name
- Address
- Telephone number
- Date and place of birth
- Honors & awards
- Dates of attendance



However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.

Directory Information

- Degrees/Awards Earned
- Study Abroad Participation (No Location)
- University Sponsored Activities/Sports Participation
- Athlete Height & Weight
- Name
- Local Address
- Phone
- UI Email Alias
- Hometown/State
- FT/PT Enrollment
- College
- Class or Year
- Major
- Dates of Attendance
- Most recent institution attended
- Scholarships earned (not \$ amount)

FERPA

Law Enforcement Record

Some districts specifically designate SROs as “law enforcement units” for purposes of school records.

Records created by SROs, for a law enforcement purpose, and maintained by the SROs are **NOT** education records and may be shared freely with the law enforcement agency. This also means that students and/or parents may be denied access to these records.

- Criminal investigation reports
- Witness statements
- Body camera footage
- Depending on who creates and maintains security cameras, possibly footage from security camera

If the record is **ALSO** maintained by the school, then the record is considered BOTH a law enforcement unit record AND an education record.

Emergency Disclosure

FERPA permits school officials to disclose, without consent, education records, or personally identifiable information from education records, to appropriate parties in connection with an emergency, if knowledge of that information is necessary to protect the health or safety of the student or other individuals.

This exception is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from the student's education records.

FERPA Disclosures

School Officials

An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

- Disclosure to a school official who is determined to have a legitimate educational interest
- Disclosure to a contractor/consultant/volunteer or other party if:
 - They perform an institutional service or function that would otherwise use employees;
 - Are under the direct control of the agency or institution with respect to the use and maintenance of education records; and,
 - Abide by the disclosure requirements of FERPA.

FERPA Disclosures

School Official

Is a School Resource Officer a school official for purposes of disclosure?

- FERPA specifically allows school officials to share education records without parental consent.
- Depending on the MOU and the relationship between the SRO and the school, SROs may also be considered school officials. Therefore, SROs can have access to student information including electronic information, security cameras and actual paper files.
- A school must have direct control over an SRO's maintenance and use of education records in providing SRO services in order for the SRO to be considered a school official.
- An SRO may ONLY access and utilize school educational records for legitimate and necessary purposes related to their SRO duties. (i.e. school safety and security).
- SROs may NOT use confidential student information for other **purposes or provide student information to other law enforcement units or officers.**

FERPA Disclosures

Judicial Order or Subpoena

District may disclose protected student information to LEAs in response to a judicial order (warrant) or subpoena.

However, a subpoena or subpoena duces tecum purporting to compel testimony or disclosure of such information or record shall be invalid (10A O.S. § 1-6-102(C)).

Applicable in criminal, civil and administrative proceedings.



TITLE 10A

SUBPOENA



**CONTACT ISSUER OF
THE SUBPOENA**



**FILE MOTION TO
QUASH**



**LETTER TO
PARENT/STUDENT**

Information Sharing

LEA to School

Police sharing with district in accordance with state law and department procedure.

Reporting



Should the law enforcement agency (LEA) designate a point person to receive reports from the district, and should the school designate such a person to receive information from the LEA?

Investigation Timelines

- State both parties' responsibility under applicable law to timely investigate complaints.
- District will only delay the investigation upon request of LEA, and delay should only be for a couple of weeks.
 - Longer delays should only be considered after receiving a written request from LEA.

Investigation Procedures

How can the parties operate collaboratively?

- Delay request procedure
- Interviews
- Evidence sharing, if possible
- Points of Contact

Have a question?

Contact me!



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