

TITLE IX INVESTIGATOR TRAINING

PART THREE



for Twin Rivers Unified School District



Today's Speaker

Lin-Chi
Wang

Title IX Investigator and Advisor



Mindset and Expectations



One word feeling or intention?



What's one goal or question you have for this training?

Community Norms



What's learned here leaves Here, what's said here stays here



Listen to learn, speak to offer

Today's Outline



UNPACKING
CONSENT



COMPLAINANT
INTERVIEW



INTERVIEW
STATEMENT
REVIEW



GROUP
DISCUSSION

Unpacking Consent in an Interview

CONSENT

First things first: Policy Definition of Consent

“ For the purpose of this AR, Section 261.6 of the California Penal Code defines consent as 'positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289, or former Section 288a.'

A voluntary expression of willingness, permission, or agreement to engage in sexual activity throughout a sexual encounter. Consent cannot be granted by an individual: who is less than the statutory age of consent under California law, has a mental or physical condition or incapacity that prevents the giving of consent; or from whom ostensible “consent” is extracted through threat, coercion, or forcible compulsion.

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- (a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.
- (b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.
- (c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

[https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=261.5.](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=261.5)

Neutral Questions about Consent

- 1) What did you say before/during/after sexual activity?
- 2) What did the other party say before/during/after sexual activity?
- 3) What did you do before/during/after sexual activity?
- 4) What did the other party do before/during/after sexual activity?
- 5) What was your age on the day the sexual activit(ies) occurred?
- 6) Do you know the other party's age on the day the sexual activit(ies) occurred?
- 7) Were you aware of what was happening during the sexual activity?

Neutral Questions about Consent

9) Were you okay with what was happening during the sexual activity?

10) Did you say you were okay with what was happening?

11) Did you do anything to indicate/show you were okay with what was happening?

12) Did you say you were not okay with what was happening?

13) Did you do anything to indicate/show you were not okay with what was happening?

14) What did you do in response to words/actions/touch?

Complainant Interview



The Parties

Complainant: Peyton Matthews, 14, 9th grade student at Excel High School, member of the EHS marching band, plays percussion

Respondent: Rajesh Patel (Raj), 17, 12th grade student at Excel High School, member of the EHS marching band, percussion section leader

Others Named:

- Rita Tavares, employee at Excel High School, EHS Band Director, initial reporter
- Tristan Park, 15, 9th grade student at Excel High School, member of the EHS marching band, potential witness

Sample Report

The screenshot shows an Outlook email interface. The top ribbon includes 'Quick Steps' (To Manager, Done, Create New), 'Move' (Move, Rules, OneNote), 'Unread/Read', 'Categorize/Tags', 'Follow Up', 'Search People', 'Address Book', 'Filter Email', and 'Store'. The email header shows 'Reply', 'Reply All', and 'Forward' buttons. The sender is Rita Tavares, and the recipients are Tawny Alonzo and Tom Denton. The subject is 'Title IX Issue- Assistance Needed'. There is one attachment: 'T. Park Email_3.7.23' (Word document). The email body contains the following text:

Tawny,

This weekend, there was an incident during our trip to competition in San Jose. I believe one of our section leaders may have assaulted a freshman band member. Many of the students were discussing a "hook up", but from what I can gather, this may not have been consensual. Can you call me as soon as possible? I can fill you in on the details. I have attached a statement from one of the students, Tristan Park, who knew about it.

Best,

Rita

Sample Formal Complaint

March 10, 2023

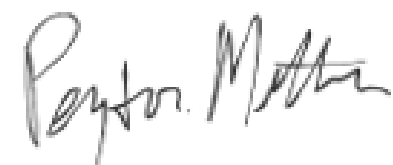
To the Sample ISD Title IX Coordinator,

On the night of Wednesday, March 1, the EHS marching band traveled to a competition in San Jose. We pulled into the hotel and got our room assignments and were then told to meet with our sections to go over the plan for competition the next morning. I was rooming with Tristan Park, another freshman. We met with our section, led by Raj Patel down in the lobby area around 8 PM. After the meeting, we all went back to our rooms. Raj said they wanted to come to my room for a minute to talk about a part of the next day's piece I was having trouble with. It was a solo and I wanted it to be good. I wanted to get some help, so I agreed and Raj walked up to the room with me and Tristan.

When we got to the room, I was sitting on the bed and Tristan had pulled up a chair across from me. Tristan decided to hop in the shower while Raj and I were going over the music. Once Tristan left the room, Raj moved to Tristan's chair and began scooting closer to me and put their hand on my thigh. Raj started massaging my groin area and said it felt like I was getting excited. I used to have a big crush on Raj, but now that something was happening, I wasn't sure if that's what I wanted. Raj unzipped my jeans and put their hand inside of my pants and began touching me while trying to kiss me. I kissed them back because I didn't know what else to do. As Raj was doing this, the noise of the shower stopped and they freaked out. Raj jumped up and ran out the door, mumbling something about being ready for tomorrow.

I told Tristan what happened and asked them to keep it a secret, but of course they told the whole section who started gossiping about it and said Raj and I hooked up. Raj heard about it right before the competition and gave my small solo to someone else because they said I still didn't understand the music. Raj glared at me the entire performance and I spent the day avoiding running into them. Mrs. Tavares found out about it too, which is why you know about it.

Sincerely,



Peyton Matthews

Sample Notice of Investigation

March 13, 2023

Raj Patel

Sent electronically to RajeshPatel@sisd.net

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2023-Q1-0120

Dear Rajesh:

The Sample Independent School District ("SISD" or "District") Title IX Office has received a Formal Complaint from Peyton Matthews ("Complainant") alleging that you ("Respondent") have engaged in conduct that may be a violation of SISD policy.

Complainant alleges the following:

On March 3, 2023 at approximately 8:30 PM, Respondent entered the hotel room of the Complainant while attending a marching band competition. While in the hotel room:

- Respondent kissed Complainant without consent;
- Respondent touched Complainant's thigh and genital area without consent

This letter serves as formal notice that the Title IX Office will be conducting a prompt, thorough, and impartial investigation of these allegations in accordance with the procedures detailed in the SISD Sexual Harassment Policy, SISD Policy 237.

You are alleged to have engaged in Sexual Harassment as defined in the SISD Sexual Harassment Policy, specifically:

237(4)(iii) "Sexual assault" - includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving affirmative consent.

(b) Fondling: The touching of the private body parts (including genitalia, anus, groin, breast, inner thigh or buttocks) of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

237(4)(ii) "Sexual harassment" - means conduct on the basis of sex that satisfies one or more of the following:

(a) An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo");

(b) 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 District's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").

Respondent is considered "not responsible" for violating SISD policy unless and until the University determines at the conclusion of the grievance process, by a preponderance of the evidence, that the Respondent is responsible for the conduct. The burden is on the District to gather evidence, investigate the allegations, summarize all relevant evidence in an investigation report, conduct a live hearing for the cross-examination of the parties and reach a final determination for all matters alleged.

You may have an advisor of your choice assist or represent you in this process....



Let's interview the
Complainant...

Interview Statement Review



Group Discussion

