



Foundations of Title IX

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1

Presenter



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Ms. Fama is a co-chair of the firm's Title IX practice group and routinely advises client on Title IX and all types of investigations. She also regularly conducts investigations and provides extensive trainings on Title IX, investigations, employment and other matters.

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2

Presenter



Arielle S. Egan

Arielle Egan is an Associate in Lozano Smith's Walnut Creek Office. Her legal practice is focused primarily on Title IX, investigations and student matters for public agencies.

Ms. Egan is skilled in ensuring compliance with federal civil rights agreements and adept at navigating oversight requirements from the Department of Justice. She has extensive experience composing detailed responses to inquiries, and drafting action plans to address and mitigate prohibited conduct under Title VII and Title IX of the Civil Rights Act of 1964. Ms. Egan is skilled in handling thorough investigations and preparing extensive reports. Additionally, she has experience developing and delivering training on Title IX and Equal Opportunity policies.

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3

CONTENT ADVISORY

Please note that some of the topics and content of this presentation is explicit and may be triggering for some individuals.

Viewer discretion is advised. If at any time you need to step away, please feel free to do so.

Thank you for your understanding and participation in this important conversation.



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4

Hypothetical

Gianna, a 10th grader, has been skipping soccer practice this week. Her Coach asked her why she had been missing, and Gianna told her Coach that she was being bullied by her teammates over a rumor that she slept with a college student. Gianna said she was being bullied in person and on social media. She has deleted all her social media accounts. She feels embarrassed and humiliated and does not want to play soccer.

What do you do?

Is this Title IX?



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Title IX and the 2020 Regulations

6

The Plain Language

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”



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20 U.S.C. § 1681 *et seq.*

7

7

What Does Title IX Cover



1. Education Programs or Activities
2. Sports
3. Employment
4. Equal Access to Facilities
5. Admissions and Recruitment
6. **Sexual Harassment***
 - (34 C.F.R. Part 106)
 - *New regulations that have the full force and effect of law



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8

8

Vacatur of the 2024 Title IX Regulations

- The Department of Education released new Title IX Regulations, referred to as the 2024 Title IX Regulations, that went into affect on August 1, 2024.
- However, on January 9, 2025, a federal district court in Kentucky vacated those 2024 regulations, essentially wiping the slate clean as though those regulations never existed.



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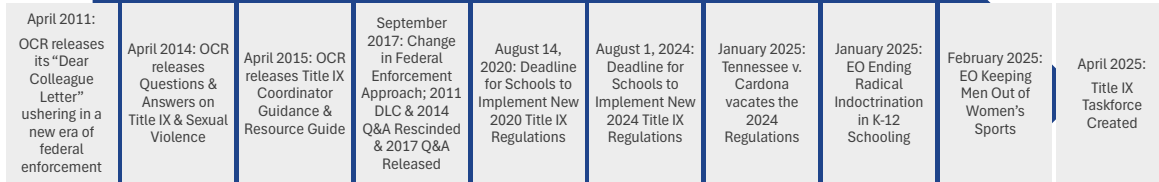
Back to the 2020 Title IX Regulations

- Because the 2024 Title IX Regulations were vacated, Districts must :
 - Ensure their policies and procedures comply with 2020 Title IX Regulations; and
 - Reassess any Investigations that began under the 2024 Title IX Regulations.



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A Brief History of Title IX Regulations



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Sexual Misconduct in Schools

Why Title IX is Important - Potential Impact of Sexual Misconduct on Students and Employees

Shame, humiliation,
stress, anxiety,
depression, loss of
sleep

Impaired
learning/poor work
performance

Absenteeism/turnover

Culture of
discrimination

Civil liability
(monetary damages,
attorney fees)

Negative media
attention and public
outcry

OCR Resolution
Agreement

Loss of federal funds



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13

Title IX Regulation Highlights



1. The definition of “sexual harassment”
2. “Actual knowledge” for notice
3. Procedural requirements for due process
 - a. Roles
 - b. Procedure
4. “Deliberate indifference” standard



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14

14

Title IX Regulation Highlights

Title IX Coordinator

Notice to parties of initiation, outcome and appeal rights

Identify and promptly investigate

Prevent recurrence

Clear policies

Remedy effects



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15

Title IX Definitions

Actual Knowledge

- **(K-12)** When *any employee* has notice of sexual harassment or allegations of sexual harassment
- **(Higher Ed)** When the Title IX Coordinator or any official who has the authority to institute corrective measures has notice of sexual harassment or allegations of sexual harassment

Formal Complaint

- A document filed by a **complainant** or signed by the **Title IX Coordinator** alleging sexual harassment against a respondent, and requesting that the recipient (District) investigate the allegation

Complainant

- An individual who is alleged to be the **victim of the conduct** that could constitute sexual harassment

Respondent

- An individual who has been reported to be the **perpetrator of conduct** that could constitute sexual harassment



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16

16

Title IX Definitions – Sexual Harassment

Sexual Harassment is conduct on the basis of sex:

Employee Quid Pro Quo;

Severe, pervasive **and** objectively offensive; or

“Sexual assault,” “dating violence,” “domestic violence,” or “stalking.”



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17

17

“On the basis of sex” - Capacity

Age

- What if Respondent is really young?

Disability

- What if the Respondent has a disability?

Reasonable Person standard



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18

Title IX Definitions – Sexual Harassment

Sexual assault:

- An offense classified as a sex offense or nonforcible sex offense under the FBI uniform crime reporting system
 - i. Sex Offenses
 1. **Rape**—(Except Statutory Rape)
 2. **Sodomy**
 3. **Sexual Assault With An Object**



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19

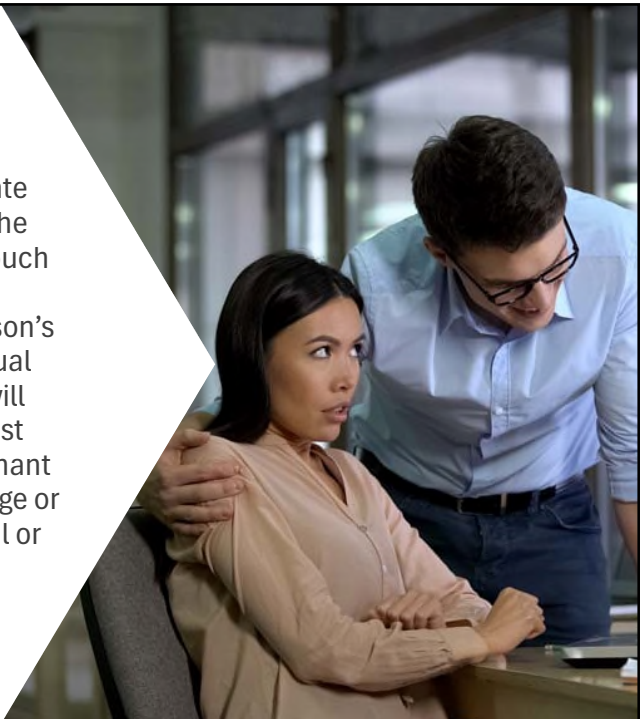
19

Title IX Definitions – Sexual Harassment (Forcible Fondling)

- Fondling, meaning the touching of the private body part(s) (buttocks, groin, breasts), of the complainant, causing another person to touch the private body part(s) of complainant, or causing complainant to touch another person's private body part(s), for the purpose of sexual gratification, forcibly, and/or against their will (non-consensually), or not forcibly or against their will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.



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20

Title IX Definitions – Sexual Harassment

Sexual assault (continued):

- ii. Sex Offenses, Nonforcible—(Except Prostitution Offenses)
 - 1. Incest
 - 2. Statutory Rape

Dating violence:

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.



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Title IX Definitions – Sexual Harassment

Domestic violence:

Felony or misdemeanor crimes of violence committed by a qualified person.

Stalking:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for safety or the safety of others; or
- Suffer substantial emotional distress.



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Hypothetical

Josh is best friends with Elizabeth, and they are both in the same 4th grade class. Josh reported to you that although he likes Elizabeth, she recently started calling him her boyfriend, and put her hand on his inner thigh in class and pulled his leg closer to him. Josh is uncomfortable being near Elizabeth and does not want to be friends anymore.

Is this Title IX?



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Title IX Jurisdiction

In the United States;

The District exercised **substantial control** over both:

- 1) the **Respondent** and
- 2) the **context** in which the sexual harassment occurs; and

The **Complainant** was **Participating/attempting to participate** at the time the complaint is filed.



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24

Hypothetical: True or False

The District **must** conduct a Formal Title IX investigation into an incident

1. that occurred between two students while at a sleepover.
2. in which an administrator allows an office manager to leave early and work from home in exchange for the office manager going on a date with the administrator.
3. that occurred last year, and the Complainant has graduated.



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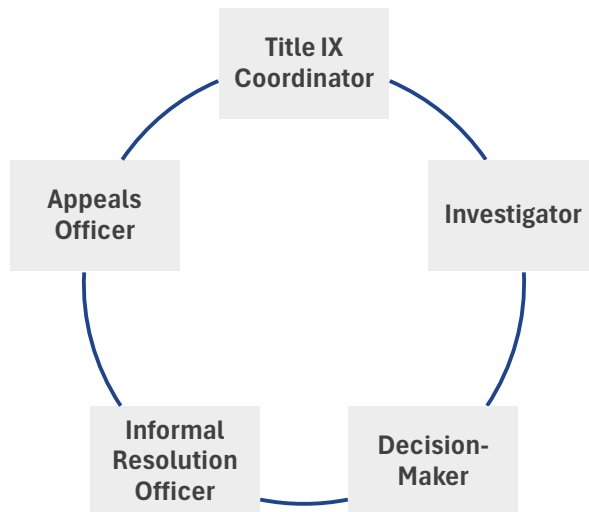
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25

The Roles and Responsibilities of District Administrators and Employees

26

What are the Roles?



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Title IX Coordinator's Duties

- Receives and oversees
- Explains options and process to complainant*
- Offers supportive measures *
- Determines dismissal of complaints
- Evaluates corrective actions*
- Identifies systemic issues
- Ensures overall Title IX compliance



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Investigator's Duties



- Interview
- Gather evidence
- Parties to review evidence
- Consider responses
- Prepare investigation report



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Decision-Maker's Duties (K-12)

- Reviews investigation report
- Facilitates exchange of questions
- Asks relevant questions
 - Explains if questions are irrelevant
- Makes determination about responsibility
- Prepares written determination

**Cannot be the Title IX
Coordinator or Investigator**



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30

Decision-Maker's Duties (Higher Education)

- Reviews investigation report
- Conducts hearing
- Reviews questions for relevancy
 - Explains if irrelevant
- Makes determination about responsibility
- Prepares written determination

**Cannot be the Title IX
Coordinator or Investigator**



Informal Resolution Officer's Duties

- Facilitates the informal resolution process
- Verifies a complaint meets the criteria
- Verifies voluntary, written consent
- Ensures the parties know their rights

**May be the Title IX
Coordinator**

**Cannot be the
Investigator**



Responsibilities of the Appeals Officer:

- Evaluates any appeal
- Makes a decision on the appeal
- Issues a written decision

Cannot be the Title IX Coordinator,
investigator, or decision-maker



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33

Hypothetical

Diana, a student, tells you that she and her boyfriend Steve met under the bleachers last week. Diana shows you text messages, where Steve says “can’t wait to see you in our spot later, I want to tell you something.” Diana says that they usually “make out” in their “spot,” however, this time, Steve asked Diana to perform oral sex on him. Diana said she refused, but they continued to kiss. A few days later, Diana heard from a friend that Steve was telling students that Diana gave him oral sex. Upset by this, Diana broke up with Steve. When you ask Diana what she’d like to do, she says she wants an investigation.

Later that same day, Steve comes into your office and asks if he can change electives. When you ask why he says he shares the elective with Diana and it’s awkward. He broke up with her last week and started dating their mutual friend, Tina.

Is this Title IX?

What supportive measures
would you offer?



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34

Responsibilities of All Employees (K-12)



Identify and Report

This does not relieve an employee of their mandated reporter duties!



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35

Responsibilities of Officials with Authority (Higher Ed.)



Identify and Report



Still have mandated reporter duties, IF the conduct involves a minor!



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Clery & the Violence Against Woman Act

- If the conduct involves persons is OVER the age of 18, then it is the Complainant's right to choose whether to report to police.
- The Title IX Coordinator, or person doing a Title IX Intake, has the responsibility of informing the Complainant that they have the option to involve police.
- The Title IX Coordinator, or Office, **CANNOT** contact the Respondent without the Complainant's consent, UNLESS certain criteria are met.



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37

37

“Red Flag” Conduct of Potential Sexual Harassment

- Flirtations or propositions
- Derogatory comments
- Sexual jokes or gestures
- Spreading sexual rumors
- Massaging, grabbing, or touching
- Comments on a person's body
- Sexual acts without consent or based on coercion
- Non-consensual “sexting”
- Sexploitation



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Hypothetical

Harrison is in the first grade. Harrison's mom tells you that Harrison came home last night and said that whenever he plays baseball in PE, Lincoln, tries to slap his butt when he runs bases. Harrison's mom wants an investigation.

**ADD: When Lincoln slaps Harrison's butt, he says "nice."
Harrison no longer wants to go to PE.**

Is this Title IX?

Does your answer change if these
are high school students?



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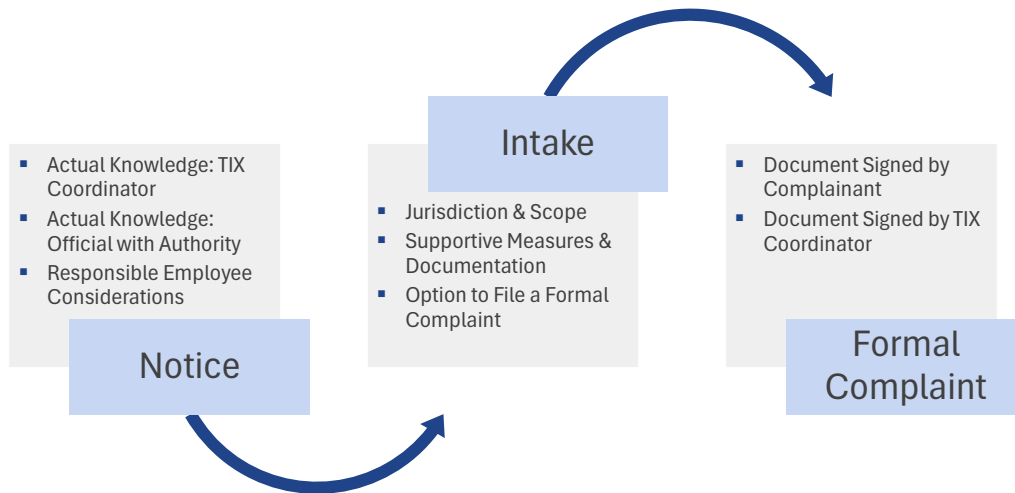
39

39

Title IX Complaint Procedures

40

What happens when we get a Report



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Retaliation Prohibitions



- Retaliation is prohibited
- Retaliation complaints under the same process
- Confidential, unless required by law
- First Amendment rights
- Cannot make false statement in bad faith



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42

42

Receiving a Title IX Report

43

Contacting Law Enforcement



- Was a crime potentially committed?
- Title IX **does not** relieve employees of their mandated reporting obligations **for minors**.



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44

Criminal Investigation

A police investigation does **not** relieve a district of its obligations under Title IX or state laws

Gathering evidence

- A brief delay is permissible, but it is not good cause to delay sending the written notice of the investigation
- Criminal reports may be useful for fact gathering
- Coordinate with local law enforcement



Hypothetical

- You are monitoring lunch at a high school when you overhear Julie tell Amanda that Carol's boyfriend broke her phone while they were fighting.

ADD: In response, Amanda tells Julie that she saw a bruise on Carol's arm recently.

Is this a Report?

What are the next steps?



Receiving Reports (In General)

WHERE REPORTS COME FROM

Student

Parent

Employee

Member of Public

Anonymous Person

FORM OF REPORTS

Verbal

Written

No Complaint
(Rumor or Observation)



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47

Receiving a Report



- Notify the Title IX Coordinator
- Assess whether a CPS report should be filed (continue to reassess)
- Title IX Coordinator should promptly schedule an Intake meeting with the Complainant



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48

Hypothetical

You get the following text message from a teacher.

Is this a Report?

Can you “do nothing”?



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What if the Complainant says “Do Nothing”?

The Title IX Coordinator must inform them of their options

- This includes supportive measures **without** filing a formal complaint

The Title IX Coordinator can sign a formal complaint on the complainant's behalf

- Assess the conduct!
- If NOT filing a formal complaint would be deliberately indifferent, the Title IX Coordinator has the discretion to sign a formal complaint on the complainant's behalf



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50

50

Reporting under AR 5145.7 (Model AR)

“A student or parent/guardian who believes that the student has been subjected to sexual harassment by another student, an employee, or a third party or who has witnessed sexual harassment is strongly encouraged to report the incident to a teacher, the principal, the district's Title IX Coordinator, or any other available school employee. **Within one school day of receiving such a report**, the principal or other school employee shall forward the report to the district's Title IX Coordinator. Any school employee who observes an incident of sexual harassment involving a student shall, **within one school day**, report the observation to the principal or Title IX Coordinator. The report shall be made regardless of whether the alleged victim files a formal complaint or requests confidentiality.



Hypothetical

- An 8th grade student, Erica, comes and tells you that a 7th grade student, Natalie, has been making her feel uncomfortable at school. Erica tells you that Natalie has been staring at her in the locker room, and that one of her friends overheard that Natalie thinks she's "sexy."

Is this Title IX?

What supportive measures
do you offer?

What do you
do next?



Urgent Considerations



- Is there a threat of imminent harm to others?
- Was a crime potentially committed?
- Have mandated reporting obligations been triggered?



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53

Contact the Complainant

Intake Meeting with Complainant

- Gather facts (think about scope & notice)
- Supportive measures
- Explain Title IX options
- Discuss the District's policy that prohibits retaliation



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54

Intake Meeting with Complainant

- Ask open-ended questions
- Listen and “hear” the concern without judgement
- Do not ask “why” questions, unless necessary to determine allegations, or assess Title IX.
- Get complaint in writing or confirm allegations in writing if not already received
- Do not promise confidentiality
- Determine whether Complainant would be interested in resolving informally*



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55

Supportive Measures

Designed to restore or preserve equal access to the educational program

Cannot be disciplinary/punitive

Cannot be retaliatory

Offered to Complainant and Respondent*

Determined on a case-by-case basis



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56

Supportive Measures

Examples: Counseling

Medical services

Academic support

No-contact orders

Increased security

Changed schedules

Independent study (voluntary)

*Document the
implemented
supportive
measures, but don't
stop there!*



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57

57

Document your Intake Meeting

Dear [Name],

Thank you for sharing your experience with me. We covered a lot during our meeting, so I wanted you [and Parent] to have an email, as a reference. During our meeting you shared [brief description of reported conduct]. I want to make sure we minimize the impact of this experience on your time here at school. To do that we offered the following Supportive Measures: [List]. You decided that you want us to [list Supportive Measures agreed on].

I spoke to you about the different types of investigations, including Title IX, and asked if you wanted to file a Formal Title IX Complaint. You said that you are unsure but will get in touch when you make a decision. Please let me know how you would like to proceed, or if you have more questions about the investigation processes.

Warmly,



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58

Pause Before Discipline

The Title IX framework requires that the formal grievance procedure be concluded before any disciplinary measures are implemented.



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59

Do You Have a “Formal” Title IX Complaint?

**Document filed by
Complainant**

OR

**Signed by Title IX
Coordinator**



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60

Does it Meet the Tests?

Definition of
Title IX Sexual
Harassment

AND

Title IX Jurisdiction



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Test 1: If the Alleged Conduct is True, Does it Rise to the Level of Sexual Harassment Under Title IX?

Employee Quid Pro Quo;

SPOO (severe, pervasive **and** objectively offensive); OR

Sexual assault, dating violence, domestic violence
or stalking.

***If the answer is
no, you must
dismiss the
complaint or
allegations
therein. If yes,
move to Test 2.**



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62

Test 2: Is there Title IX Jurisdiction Over the Conduct?

Substantial control over both

- Respondent; and
- Context.

Within the United States.

Participating/attempting to participate at the time the complaint is filed.

***If the answer is no, you must dismiss the complaint or allegations therein.**



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63

Hypothetical

Eli, a senior in high school, comes to you to tell you that when he was a freshman, his classmate Drew sexually assaulted him in the bathroom of the park across the street from the school.

Is there Title IX jurisdiction?

Does the school exercises substantial control over

- The respondent; and
- The context in which the sexual harassment occurred?

If it is determined there is no Title IX jurisdiction, do you still investigate?



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64

Emergency Removals (Students)

Title IX Regulations require that the full Title IX grievance procedure be completed prior to discipline being imposed.

EXCEPTION: Emergency Removal

Respondent must be an immediate threat to the physical health or safety of any student or individual;

The immediate threat must arise from the allegations of sexual harassment; and

Respondent is provided with notice and an opportunity to challenge the decision immediately after removal.



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Hypothetical

- Eli, a senior in high school, comes to you to tell you that when he was a freshman, his classmate Drew sexually assaulted him in the bathroom at the school.

Should the Title IX Coordinator consider
Emergency Removal?



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66

Deliberate Indifference

- A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
- Deliberate indifference may require the Title IX Coordinator to sign a formal Title IX complaint.



Administrative Leave

A large, light blue circle is centered on the slide, containing the text 'Placing an employee on Administrative Leave is not disciplinary'.

Placing an
employee on
Administrative
Leave is not
disciplinary



Mandatory Dismissals

- Only required if Complainant files a **Formal Title IX Complaint**
- Not required for a Report
- Does not meet definition;
- Did not occur in District education program or activity; or
- Did not occur in the United States.



Discretionary Dismissals

- Request in writing to withdraw;
- Respondent is no longer enrolled or employed; or
- Inability to gather sufficient evidence.



Dismissals (Mandatory and Discretionary)

The decision to dismiss a complaint should be made by the Title IX Coordinator.

Notice of dismissal must be issued contemporaneously to both parties in writing.

Parties must be informed of their right to appeal the dismissal on the basis of:

- Procedural irregularity;
- New evidence that was not reasonably available earlier; or
- Involved personnel had a conflict of interest or bias.



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71

- **Even if You Determine Title IX Is NOT Triggered or the Complaint Should Be Dismissed, Do NOT Stop There!**
- ***Consider whether the alleged conduct may otherwise violate District policy or employee/student conduct standards***



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72

Policies and Procedures for Investigating Title IX Complaints (Model policies)

BP/AR 1312.3 – Uniform Complaint Procedures

BP/AR 4030 – Nondiscrimination in Employment

BP/AR 4119.11 – Sexual Harassment (Employee)

AR 4119.12 – Title IX Sexual Harassment Complaint Procedures (Employee)

BP/AR 5145.7 – Sexual Harassment (Students)

AR 5145.71 – Title IX Sexual Harassment Complaint Procedures (Student)



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73

Investigation Timelines



- Title IX - “reasonably prompt time frame”
- District policies



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74

Notice of Investigation

Send the parties
notice of the
allegations



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75

Formal Grievance Procedure (K-12)

- Investigator gathers evidence and interviews parties/witnesses
- Investigator shares evidence with the parties in a written report
- Parties have 10 days to respond to the evidence
- Investigator conducts any necessary follow up
- Investigator prepares Investigation Report
- Investigation Report is sent to the parties
- Parties have 10 days to respond to the Investigation Report and/or submit written, relevant questions to the other party or any witness
- Decision-maker facilitates the exchange of written questions
- Decision-maker makes decision and prepares a Written Determination
- Both parties have right to appeal



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76

76

Formal Grievance Procedure (Higher Education)

- Investigator gathers evidence and interviews parties/witnesses
- Investigator shares evidence with the parties in a written report
- Parties have 10 days to respond to the evidence
- Investigator conducts any necessary follow up
- Investigator prepares Investigation Report
- Investigation Report is sent to the parties
- Live Hearing with cross-examination (indirect questioning only)
- Decision-maker makes decision and prepares a Written Determination
- Both parties have right to appeal



Rights of Parties

- Receive detailed notice of investigation (names, dates, times, locations)
- Have a support person or advisor present throughout the Title IX grievance process
- At least 10 days to review directly related evidence in preliminary report
- At least 10 days to review relevant evidence in the final investigation report and submit written questions to the decision maker (K-12) or Live Hearing (can be through videoconference) (Higher Ed)
- Right to appeal decision



Checklist for Beginning Effective Investigations

Receiving the
Report

Conducting an
Intake

Urgent/Supportive
Measures

Receive or File
Formal Complaint

Assessing the
Nature of the
Report

Frame the Scope

Send Notice of
Investigation



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79

79

Informal Resolution

80

Informal Resolution

Formal Title IX Complaint;

Written notice of allegations;

No written determination; and

Voluntary, written consent.



Informal Resolution

Right to withdraw.

**Cannot be used for
employee v. student.**

Sexual Assault?



Conducting Informal Resolution

- Identify ground rules for the chosen resolution process
 - This does not need to include Complainant and Respondent interacting
 - This does not need to include mediation
- Allow both parties to share their side of the story without interruption
 - Feel free to prompt the parties with open-ended questions (i.e., “How did this make you feel?,” “Help us understand...” etc.)
- Ask clarifying questions to fill in any details
- The facilitator should be able to objectively summarize what each party has shared
- Let the parties propose their own possible solutions first



Understanding Informal Resolution Agreements



Informal Resolution Agreements

Agreement

- Reduce agreement to writing
- May look like a summary of commitments, or a contract
- Can include discipline, supportive measures, etc.

No Agreement

- Voluntary process: parties may withdraw at any point prior to reaching a determination of responsibility and resume a formal grievance process



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85

Hypothetical

Cindy, a high school sophomore, tells you that her classmate Tanner has asked her out five times, and each time she has told him that she is busy or has other plans. However, he cannot “get the hint.” Cindy says that Tanner is nice, and so she shared her phone number with him. Tanner has now started to text her, asking repeatedly “do you want to go out.” Cindy has not replied to the text messages. She wants the conduct to stop.

Is this Title IX?

Is this a good option for
informal resolution?



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86

Hypothetical

Kayla and Robin are both paraeducators, assigned to work in Peter's classroom. Robin, tells you that Kayla likes Peter. Robin says that Kayla told her that Kayla thinks Peter likes her back. Robin says that Kayla flirts with Peter during class, but he doesn't seem to notice. However, recently Kayla touched Peter's back and shoulders while he was at his desk. Peter flinched away but didn't say anything. Robin says that she was walking back to the classroom, and as she opened the door, she saw Kayla kiss Peter, and Peter jump away. Robin heard Peter say "I'm engaged." Robin is instagram friends with Peter and doesn't think he's engaged.

Is this Title IX?

Is this a good option for informal resolution?



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87

Title IX and Student Discipline

88

Hypothetical

Bianca's parents meet with you and tell you that over winter break, Bianca began "talking" to Bobby. The two met up a few times in the school parking lot over the break (school is not in session). During one of their meet ups, they begin kissing. While they kissed Bobby touched Bianca's breasts; her parents know this because they went through her phone after she broke their curfew.

Bianca's parents want to file a formal complaint.

What do you say to Bianca's parents?

Is this Title IX?



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89

Hypothetical

Recall: Bianca and Bobby. Change the facts such that Bianca and Bobby met up on campus after basketball practice. In the texts Bianca's parents read; Bianca messages Bobby "That wasn't cool, I didn't say you could get under my shirt. I don't want to see you again."

Is this Title IX?


Can you suspend
Bobby?



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90



STOP Before You Discipline

The Title IX framework requires that the formal grievance procedure be concluded before any disciplinary measures are implemented.

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Hypothetical

Recall: Bianca and Toby. Based on the facts about them meeting on campus after basketball practice and Toby digitally penetrated Bianca.

Would you implement an Emergency Removal?

What if Bianca says this occurred last school year?

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92

Title IX ?

4th grade transgender student Charlie, alleges that while in the restroom, another student crawled under the stall, forced Charlie to take his pants down and the student rubbed their penis against Charlie's buttocks.

Is this Title IX?

Does Charlie's gender identity change your analysis?



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93

Gender Identity and Sexual Orientation

Federal Law

At the federal level this issue is currently unsettled, with ongoing legal challenges and differing interpretations among federal courts and agencies.

California Law

In California, state law affords LGBTQIA+ individuals protections against discrimination and harassment on the basis of their "gender identity" and "sexual orientation."



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94

94

Student Discipline



After the Formal Grievance procedure is complete and time for appeal passes, the student discipline timeline begins, and discipline can be imposed.



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95

Site Admin/Manager Plan



Sexual Harassment Complaint Intake and Title IX Assessment

I, _____, as a District administrator performed a preliminary assessment of the attached below complaint. In doing so, I accumulated the following information:

Name of Complainant and Victim (if different): _____

Complainant/Victim is a: () Student () Employee

Date of Complaint: _____ Date of Incident: _____

Name of Respondent(s): _____

Respondent is a: () Student () Employee () Other (specify): _____

I offered Complainant the following supportive measures:¹ _____

The following supportive measures were implemented: _____

The following supportive measures were declined: _____

Step 1: Definition of Sexual Harassment under Title IX

- (1) The alleged conduct may meet the definition of sexual harassment under Title IX – see below. If this has been checked, move to **Step 2: Jurisdiction**.
Only one has below needs to be checked, but check all that apply.
- (2) A District employee constituting the provision of a District aid, benefit, or service as a person's participation in nonconsensual sexual conduct.
- (3) 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.

¹ Examples include: schedule change, no contact order, counseling, academic support, voluntary leave, administrative, voluntary transfer, voluntary withdrawal, campus safety escort, increased security, and monitoring of certain areas on campus.

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- (4) **Sexual assault**: Any sexual act including Rape² (including "Sexual Assault with an Object"), or "Involuntary" sexual contact against another person, without the consent of the victim, including instances where the victim is incapable of giving consent, also includes sexual intercourse. 20 U.S.C. § 1092(f)(6)(A)(i).
- (5) **Dating violence**: "Violence committed by an individual who is or has been in a social relationship of a romantic or intimate nature with the victim." 34 U.S.C. § 12291(a)(20).
- (6) **Domestic violence**: Policy or maintenance crimes of violence committed by a current or former spouse or intimate partner of the victim, by an individual with whom the victim shares a child in common, by an individual who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by an individual similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, involving great bodily harm, or by any other individual against an adult or youth victim who is protected from that individual's acts under the domestic or family violence laws. 34 U.S.C. § 12291(a)(45).
- (7) **Stalking**: Harassing in a course of conduct directed at a specific individual that would cause a reasonable individual to: (A) fear for his or her safety or the safety of others, or (B) suffer substantial emotional distress. 34 U.S.C. § 12291(a)(50).
- (8) The alleged conduct does not meet any of the above definitions of sexual harassment under Title IX. (If this has been checked, move to **Step 3b**, proceed under appropriate BP/AR, and you may proceed with discipline.)

² Rape is the sexual knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

³ Sodomy is oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

⁴ Sexual assault with an object is to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

⁵ Finding a touching the private body parts (e.g., buttocks, groin, breasts) of the complainant, causing another individual to touch the private body parts of the complainant, or causing the complainant to touch the private body parts of another individual, for the purpose of sexual gratification, without the complainant's consent, including instances where the complainant is incapable of giving consent because of age or because of his/her temporary or permanent mental or physical incapacity.

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Step 2: Jurisdiction under Title IX

Check all that apply:

- If all boxes are checked, move to **Step 3a**.
- If not all boxes are checked, move to **Step 3b**.
- (1) The District had substantial control over the respondent at the time of the alleged harassment.
- (2) The District had substantial control over the context in which the alleged harassment occurred.
- (3) The conduct occurred against a person in the United States.
- (4) The complainant was participating/attempting to participate in the educational program at the time the complaint was filed.

Step 3a: Moving Forward under Title IX

If the respondent is a student, do NOT suspend the student until you have spoken to the Title IX Coordinator.

Call and e-mail the District's Title IX Coordinator and let them know you have a potential Title IX matter.

Complete this form, and attach all notes, statements and evidence you have gathered regarding the incident. Provide a copy of this form and all attachments to the District's Title IX Coordinator.

Step 3b: Non-Title IX Sexual Harassment

If the alleged conduct does not meet the definition of sexual harassment or the jurisdictional requirements, the school site can move forward with discipline, and an investigation under the appropriate BP/AR. Still alert the Title IX Coordinator of the matter.

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96

96



Takeaways

- ✓ Schools have an obligation to address sexual misconduct.
- ✓ Title IX Regulations outline definitions and procedures.
- ✓ Report to the Title IX Coordinator.
- ✓ Supportive Measures.



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97

Questions?

98



Please Take a Moment to Complete the Course Evaluation

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99



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100

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102

102

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103

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104

104