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OVERVIEW OF NEW TITLE IX STANDARDS

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I. INTRODUCTION

Earlier this year, the Office for Civil Rights (“OCR”) at the U.S. Department of Education announced new Title IX requirements governing sexual harassment complaints and investigations. The new standards define “sexual harassment” for Title IX purposes for the first time and contain comprehensive notice and procedural requirements schools must follow when responding to sexual harassment claims from both students and employees. The new standards are controversial. Some believe they are unfair to complainants, while others believe they are an appropriate correction of prior OCR guidance that has been criticized for being unfair to the accused. The new standards went into effect on August 14, 2020, and will require significant changes to the manner in which schools respond to sexual harassment allegations.

NOTE: These materials and the corresponding presentation are meant to inform you of interesting and important legal developments. While current as of the date of presentation, the information that is provided may be superseded by court decisions, legislative amendments, rule changes, and opinions issued by bodies interpreting the area of law. We cannot render legal advice without an awareness and analysis of the facts of a particular situation. If you have questions about the application of concepts addressed in this outline or discussed in the presentation, you should consult with your legal counsel.

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II. GENERAL INFORMATION ABOUT NEW REGULATIONS

A. “To Do” List

1. **The new regulations went into effect on August 14, 2020.** Schools that have not already started to update policies and procedures to ensure Title IX compliance need to start doing so now.
2. Things to do:
 - a) Review and revise existing sexual harassment policies. For schools that use the MSBA’s model policies, Policies 413 and 522 will need to be updated. Policy 413, for example, uses the MHRA definition of sexual harassment. The new Title IX definition is different. The Title IX definition is discussed below.
 - b) Develop a written grievance procedures document.
 - c) Identify who will serve in the various roles under the new Title IX regulations and ensure those individuals are properly trained. The Title IX regulations lay out the following roles:
 - (1) Title IX Coordinator;
 - (2) Investigator(s);
 - (3) Decision-maker(s);
 - (4) Decision-maker(s) for appeals; and
 - (5) Individuals who facilitate an informal resolution process.
 - d) Post contact information (mailing address, office location, telephone number, and email address) for your Title IX Coordinator, your non-discrimination policies, and your written grievance procedures¹ “prominently” on the district’s website (34 C.F.R. § 106.8(b)(2)(i));

¹ The new regulations require the grievance procedures to be published, but do not specifically state how they must be published. As a practical matter, it will be best to publish the grievance procedures in the same way the Title IX Coordinator’s contact information and the policies are published.

- e) Post training materials used to provide required training to Title IX personnel on the district's website.
- f) Include the following in any student and employee handbooks, as well as any course catalogues:
 - (1) A copy of the policies prohibiting sex discrimination and sexual harassment;
 - (2) The contact information for the Title IX Coordinator; and
 - (3) The written Title IX grievance procedures.

B. Scope

- 1. There are significant changes to procedural requirements for investigating and responding to sexual harassment allegations, but the changes are fairly narrow in scope in that they only relate to allegations of sexual harassment.
- 2. The new regulations outline standards applicable to responding to allegations of sexual harassment and retaliation that occurs during or as a result of a sexual harassment investigation.
- 3. "Sexual Harassment" is defined for Title IX purposes for the first time. The definition is discussed below.

C. Designated Personnel

- 1. Title IX Coordinator
 - a) Not a new requirement, but this role takes on more prominence based on the expanded duties and obligations in the new regulations.
 - b) Title IX Coordinator must be "authorized" to coordinate the district's efforts to comply with Title IX. 34 C.F.R. § 106.8(a). This is a critical role and should not be taken lightly.
 - c) Can be any employee, but should be an administrator or director-level employee because of the nature of information they will need to access and the responsibilities of the role.
 - d) May be designated by title rather than name, i.e. "Human Resources Director" rather than "Jane Smith."

- e) A district may designate more than one Title IX Coordinator and/or any other positions like “Assistant” or “Deputy” coordinators.
2. Investigators, Decision-makers, and Informal Resolution Facilitators
- a) Districts must designate at least one, but preferably more, individuals to each of these roles.
 - b) Duties of each position are explained in more detail below.
 - c) The same individual can serve different roles so long as they do not serve multiple roles in the same complaint. For example, if the High School Principal and Elementary Principal both receive the proper training, the High School Principal can investigate allegations that arise at the High School and the Elementary Principal can be the decision-maker for those investigations. If allegations arise at the Elementary School, the Elementary Principal can investigate and the High School Principal can be the decision-maker for those investigations.
 - d) Position requirements
 - (1) Appointees must demonstrate no bias against complainants or respondents generally, and no bias in individual investigations they are assigned to;
 - (2) Appointees must receive the specific training detailed below.

III. SEXUAL HARASSMENT DEFINITION AND SCOPE OF COVERAGE

- A. **What is sexual harassment?** Sexual harassment is conduct on the basis of sex that includes one or more of the following:
- 1. An employee conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct (also called *quid pro quo* harassment);
 - 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a school’s education program or activity;

3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).
 - a) 20 U.S.C. 1092(f)(6)(A)(v) defines “sexual assault” “an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.”
 - (1) The FBI UCRS defines “Sex Offenses – Forcible” as “[a]ny 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 consent.” This definition includes forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling.
 - (2) The FBI UCRS defines “Sex Offenses – Non-forcible unlawful, non-forcible sexual intercourse” as “Incest – Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law” and “Statutory Rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.”
 - b) 34 U.S.C. 12291(a)(10) defines “dating violence” as “violence committed by a person...”
 - (1) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (a) The length of the relationship,
 - (b) The type of relationship,
 - (c) The frequency of interaction between the persons involved in the relationship.
 - c) 34 U.S.C. 12291(a)(8) defines “domestic violence as including “felony or misdemeanor crimes of violence committed...”

- (1) by a current or former spouse or intimate partner of the victim,
 - (2) a person with whom the victim shares a child in common,
 - (3) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
 - (4) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
 - (5) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- d) 34 U.S.C. 12291(a)(30) defines "stalking" as engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
- (1) fear for his or her safety or the safety of others; or
 - (2) suffer substantial emotional distress.

B. Which school programs or activities are covered by Title IX?

- 1. An "education program or activity" includes "locations, events, or circumstances over which the recipient exercised substantial control over both the [subject of a complaint] and the context in which the sexual harassment occurs..." 34 C.F.R. § 106.44(a).
- 2. Note that this definition is broad enough to encompass sexual harassment occurring over an online platform.
- 3. One of the only exclusions is conduct that takes place outside of the United States. 34 C.F.R. § 106.8(d).

C. What documents are required?

- 1. Nondiscrimination Policy
 - a) The new regulations do not include any detailed requirements for what must be included in a nondiscrimination policy.

- b) Schools should review existing policy language, such as policies based on the MSBA Model Policies 413 and 522, to ensure there is no confusion about who serves as the Title IX Coordinator and to ensure that existing policy language does not contradict the new Title IX requirements.
- c) Notice of Policy
 - (1) The regulations require that notice of the non-discrimination policy must be provided to: “applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the [district.]” 34 C.F.R. § 106.8(a) and § 106.8(b).
 - (2) Notice of the policy must also identify the Title IX Coordinator and include their office address, email address, and telephone number. *Id.* One way to ensure notices remain accurate is to direct Title IX concerns to a centralized email address such as TitleIX@yourdistrict.org.
 - (3) Notice of the policy and contact information for the Title IX Coordinator must also be “prominently displayed” on a school district’s website, and be included in each handbook or catalog made available to “applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the [district.]”

2. Grievance Procedure

- a) A grievance procedure is separate from the nondiscrimination policy and must “provide for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by [Title IX].” 34 C.F.R. § 106.8(c).
- b) The regulations contain many detailed requirements for the grievance procedure. These requirements are discussed in this outline. Each individual school district and charter school will need to develop its own grievance procedures based on the requirements

discussed in this outline and must incorporate the following overarching requirements:

- (1) Complainants and respondents must be treated equally.
- (2) All relevant evidence must be objectively evaluated and credibility determinations must not be solely based on a person's status as a complainant, respondent, or witness.
- (3) Individuals involved in the Title IX grievance process must be trained and must not demonstrate bias.
- (4) The respondent is presumed not responsible for the alleged conduct until a determination of responsibility is made after the grievance process.
- (5) There must be reasonably prompt time frames for conclusion of the grievance process.
- (6) The range of potential disciplinary sanctions must be outlined.
- (7) The standard of evidence used must be identified. Options are "preponderance of the evidence" or "clear and convincing evidence." These options are discussed below.
- (8) Appeal procedures and bases for appeal must be outlined.
- (9) Range of supportive measures available to complainants *and* respondents must be described.
- (10) The procedures must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived the privilege.

IV. INITIAL HANDLING OF ALLEGATIONS AND FORMAL COMPLAINTS

A. Reporting Sex Discrimination or Sexual Harassment

1. Any person may report sex discrimination or sexual harassment to the Title IX Coordinator, regardless of whether the reporter is the alleged victim.
2. A report may be made in person, by mail, by telephone, by e-mail, using the Title IX Coordinator's other designated contact information, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
3. A report may be made at any time, including non-business hours. 34 C.F.R. § 106.8(a).
4. A parent of a dependent child may also file a formal complaint on behalf of their child. 34 C.F.R. § 106.6(h).

B. Notice of Sexual Harassment Allegations

1. A district's obligations under Title IX are triggered once the district has "actual knowledge" of alleged sexual harassment.
2. An elementary or secondary school is deemed to have *actual knowledge* of alleged sexual harassment if **any employee** has notice of the allegation. 34 C.F.R. § 106.30(a). This standard is intended to be consistent with mandatory reporting requirements for school staff.
3. Although not specifically required by the new Title IX regulations, an employee who has notice of sexual harassment should promptly notify the Title IX Coordinator to ensure the matter is properly addressed. This will require that staff are notified of and understand their obligation to pass all knowledge of or reports they receive of sexual harassment to the Title IX Coordinator.

C. Responding to Allegations of Sexual Harassment

1. At a minimum, the school must respond promptly and in a manner that is not "deliberately indifferent."
2. A school is "deliberately indifferent" *only* if the school's response is "clearly unreasonable in light of the known circumstances." 34 C.F.R. § 160.44(a).

D. Formal Complaints

1. A “formal complaint” is a document filed by an individual who is the victim of alleged sexual harassment (called the “complainant” under the Title IX regulations) or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that a school investigate the allegation of sexual harassment. 34 C.F.R. § 160.30(a).
2. At the time the formal complaint is filed, a “complainant” must be participating in or attempting to participate in the school’s education program or activity.
3. If the Title IX Coordinator signs a complaint, the Title IX Coordinator is not considered a “complainant” or party to the matter. The Title IX Coordinator is the only school official under the new regulations with authority to initiate a formal complaint.
4. Once a formal complaint is filed, a school must follow the grievance process outlined below. 34 C.F.R. § 160.44(b). This is an important concept because it means that a school does not have to conduct a Title IX investigation if a “formal complaint” is not filed, but the school still must respond to the reported misconduct in a manner that is not “deliberately indifferent.”

E. Title IX Coordinator Complaints

1. The Title IX Coordinator may file a formal complaint over the objection of a complainant if it is “reasonable” to do so.
2. This issue is not directly addressed in the text of the new regulations, but OCR’s commentary on the new regulations states that a Title IX Coordinator must consider the complainant’s wishes and must only initiate a formal complaint against a complainant’s wishes if doing so is “not clearly unreasonable in light of the known circumstances.”

F. Responding to Complaints that are not Formal Complaints

1. A district is required to respond to any complaint, even if it is not a “formal complaint.”
2. The “deliberate indifference” standard outlined above applies regardless of whether a formal complaint is filed. 34 C.F.R. § 106.44(b).

3. When a school has actual knowledge of potential sexual harassment, the Title IX Coordinator must promptly contact the suspected victim, who is referred to as the “complainant” in the regulations, to discuss the availability of supportive measures, consider the complainant’s wishes regarding supportive measures, inform the complainant of the availability of supportive measures regardless of whether a formal complaint is filed, and discuss the process for filing a formal complaint. 34 C.F.R. § 160.44(a).

G. Supportive Measures

1. “Supportive measures” are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available to the complainant or the respondent. They must be offered at no cost.
2. Supportive measures may be offered before or after a formal complaint is filed or in situations where no formal complaint is filed.
3. Supportive measures are designed to deter sexual harassment and to restore or preserve equal access to an education program or activity by *both parties* without reasonably burdening the other party, which includes protecting the safety of all parties and the educational environment.
4. Examples of supportive measures include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, increased security and monitoring of certain areas of the campus, and other similar measures.
5. Supportive measures offered to a party must be kept confidential to the extent doing so does not impair the ability of a school to provide the supportive measures. 34 C.F.R. § 160.30.
6. The Title IX Coordinator is responsible for coordinating the implementation of supportive measures.

H. Notice to Parties

1. When a formal complaint is filed, a school must provide the following written notice to the known parties:
 - a) Notice of the grievance process, including any informal resolution process;

- b) Notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and the location of the alleged harassment, if known. The notice must also include:
 - (1) A statement that the respondent is presumed not responsible for the alleged conduct;
 - (2) A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - (3) A statement that the parties may inspect and review evidence;
 - (4) Notice of any provision in the school's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- 2. If, in the course of an investigation, the school decides to investigate allegations about the complainant or respondent that are not included in the initial notice, notice of the additional allegations must be provided to the parties whose identities are known.

V. CONDUCTING AN INVESTIGATION

A. Obligation to investigate or dismiss.

- 1. An investigation is required when a formal complaint is made.
- 2. A formal complaint must be dismissed if: (1) the conduct alleged in the formal complaint would not constitute sexual harassment, as defined above, even if proved, or (2) did not occur against a person in the United States.
- 3. The dismissal of the complaint for Title IX purposes does not prevent a school from taking action under another provision of the code of conduct for students, the MHRA, or Title VII for employees.

B. Investigation Process

1. Exactly how an investigation will be conducted is subject to each district's grievance process. The Title IX regulations require the following elements:
 - a) School districts bear the burden of proof and are responsible for gathering evidence.
 - b) A school district cannot access, consider, disclose, or otherwise use a party's records from a physician, psychiatrist, psychologist, or similar professional that are made and maintained in connection to the treatment of that party, unless the party (or a parent) provides voluntary, written consent.
 - c) Both parties must have an opportunity to present fact and expert witnesses, as well as other evidence.
 - d) Parties cannot be prohibited from discussing the allegations with others.
 - e) The school district must provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied by an advisor of their choice, who may be an attorney, and not limit the party's choice or presence of advisor (a school may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties).
 - f) The school district must provide reasonable advance written notice of the date, time, location, participants, and purpose for any meetings, including hearings or investigative interviews, to any invited or expected participant.
 - g) Both parties must be allowed to review all evidence.
 - h) The investigator must prepare an investigation report that fairly summarizes relevant evidence and provide a copy of the investigation report to each party and the party's advisor, if any, at least ten days before a determination of responsibility is made by the decision-maker.

- i) Prior to completing the investigative report, the investigator must send all evidence to the parties or their advisors, if any, and provide the parties ten days to submit a written response.

C. Data Privacy. The regulations state that schools cannot use the Family Educational Rights and Privacy Act (“FERPA”) as a reason for not complying with these regulations. 34 C.F.R. § 106.6(e).

VI. MAKING A DECISION

A. Decision-maker’s role

1. A “decision-maker” must make a determination regarding responsibility.
2. The “decision-maker” may not be the Title IX Coordinator or the investigator(s). 34 C.F.R. § 106.45(b)(7).
3. The regulations specify required training for a “decision-maker,” which is discussed below, but do not otherwise define who must serve as a “decision-maker.”

B. Live hearing or opportunity to submit written questions must be allowed

1. K-12 schools may decide whether to include a hearing as part of the grievance process, but they are not required to do so.
2. If a hearing is not provided, after the investigation report is provided to the parties, the decision-maker must allow for each party to submit written questions to any party or witness. The decision-maker determines whether the questions are relevant and, if so, the decision-maker must send the questions to the party or witness, allow time for a written response, and provide the written response to the party who submitted the question. 34 C.F.R. § 106.45(b)(6)(ii).
3. The decision-maker must also allow “limited follow-up” questions from each party. *Id.*

C. Informal Resolution

1. Informal resolution is allowed so long as it is completely voluntary for the parties.

2. At any time before a decision is made, a school may facilitate an informal resolution process, such as mediation, that does not involve a full investigation or decision regarding responsibility.
3. Prior to agreeing to an informal resolution, the parties must receive written notice of the following:
 - a) The allegations;
 - b) The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - c) That at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint;
 - d) Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
4. The school must obtain the parties' voluntary, written consent to the informal resolution process.
5. A school must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

D. Written decision required.

1. A decision must be in writing and must contain the following elements:
 - a) Identification of the allegations potentially constituting sexual harassment;
 - b) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - c) Findings of fact supporting the determination;
 - d) Conclusions regarding the application of the recipient's code of conduct to the facts;

- e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
- f) The recipient's procedures and permissible bases for the complainant and respondent to appeal. 34 C.F.R. § 106.45(b)(7).

VII. APPEALS

- A. **Any party may appeal.** Any party may appeal from a determination regarding responsibility or a dismissal of a formal complaint. 34 C.F.R. § 106.45(b)(8).
- B. **Grounds for Appeal.** An appeal may be based on any of the following:
 - 1. Procedural irregularity that affected the outcome of the matter;
 - 2. New evidence that was not reasonably available at the time the determination regarding responsibility or a dismissal was made and that could affect the outcome of the matter; and
 - 3. The Title IX Coordinator, investigator(s), or decision-makers(s) had a conflict of interest or bias for or against complaints or respondents generally or the individual complainant or responded that affected the outcome of the matter.
- C. **Decision-maker on Appeal.** The person who presides over an appeal must not be the initial "decision-maker," the Title IX Coordinator, or the investigator(s). 34 C.F.R. § 106.48(b)(8).
 - 1. It could be the school board, but schools that have the school board preside over an appeal would need to ensure that board members receive the training required for "decision-makers." The required training is discussed below.

VIII. REMOVALS PENDING COMPLETION OF GRIEVANCE PROCESS

A. Students

1. The regulations do not prevent a school from removing a student from an education program or activity on an emergency basis, as long as the school does an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
2. Any such removal would be subject to any rights the student may have under the Individuals with Disabilities Education Act, Section 504, the ADA, or Minnesota's Pupil Fair Dismissal Act.

B. Employees

1. An employee can be placed on a paid suspension during an investigation, subject to any requirements in an applicable collective bargaining agreement. *See* 34 C.F.R. § 106.44(d).
2. Because the suspension would be paid, it would generally not be considered disciplinary.

IX. TRAINING REQUIREMENTS

A. Title IX Personnel and Training. Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process must be trained on:

1. The definition of sexual harassment under Title IX;
2. The scope of the district's educational programs and activities;
3. How to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes;
4. How to serve impartially, including by avoiding prejudgment of facts at issue, conflicts of interest, and bias;
5. How to determine whether questions and evidence are relevant;

6. When questions and evidence about a complainant's sexual predisposition or prior sexual behavior are relevant; and
 7. How to prepare an investigative report that fairly summarizes relevant evidence. 34 C.F.R. § 106.45(b)(1)(iii).
- B. Posting Materials.** Districts are required to post the training materials used to train their Title IX Coordinator, investigators, decision-makers, and individuals authorized to facilitate informal resolution on the district website. 34 C.F.R. § 106.45(b)(10)(i)(D). These materials must also be maintained by the district for seven years. *Id.*
- C. Training for All Employees.** Because a student report of sexual harassment to *any* staff member is considered notice to the district, districts should ensure that all staff are aware of the definition of sexual harassment and that they must report any allegations to the Title IX Coordinator immediately. The commentary to the regulations states that part of the basis for imputing knowledge based on a report to any staff member is that employees have obligations to report child maltreatment under state laws. While this is true, it is important for employees to know that there are some instances that would meet the Title IX definition of sexual harassment, but would not necessarily constitute maltreatment under Minnesota law. For example, peer-to-peer sexual harassment would not require a maltreatment report in most circumstances, but would need to be investigated pursuant to Title IX.

X. ADDITIONAL REQUIREMENTS

A. Prohibition on retaliation.

1. Districts and individuals are prohibited from intimidating, threatening, coercing, or discriminating against anyone for the purpose of interfering with a right or privilege provided by Title IX or because a person made a complaint or participated in an investigation. 34 C.F.R. § 106.71(a).
2. Complaints about retaliation should be investigated pursuant to the grievance process. *Id.*

- B. Recordkeeping.** For every incident of alleged sexual harassment that requires a response, the district must maintain records of the complaint, any discipline or other consequences, and any remedies or supportive measures offered to the complainant for seven years. 34 C.F.R. § 106.45(b)(10)(ii).

- c. **Record Retention.** Records of any investigation must be maintained for seven years. 34 C.F.R. § 106.45(b)(10)(i). These include records of every investigation, appeal, and informal resolution. *Id.*

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