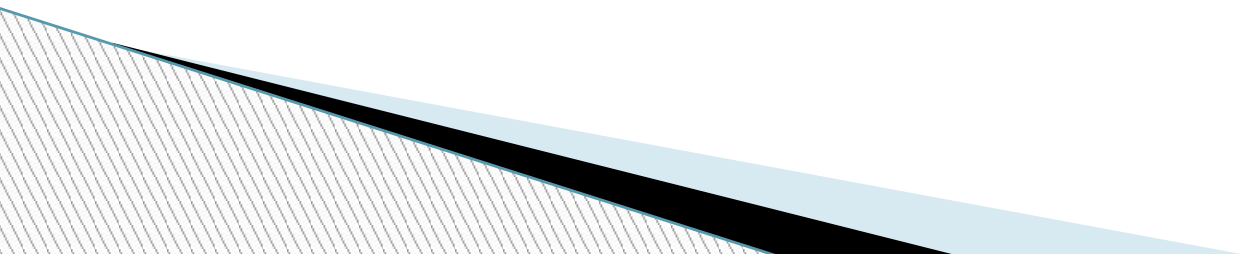


# Part 1 of 2

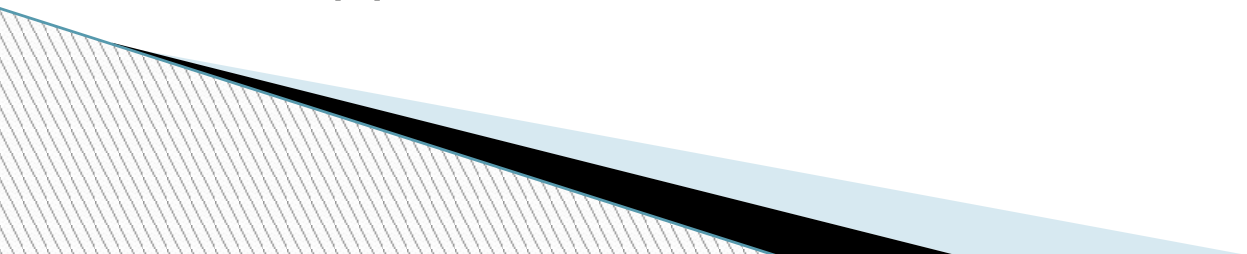
# Overview of

# Title IX

# Required Training

- ▶ Training is mandatory for all school-based Title IX Coordinators, investigators, decision-makers, hearing officers, and appeals decision-makers
  - ▶ All training materials must be made available to the public on request and be placed on the District's website
- 

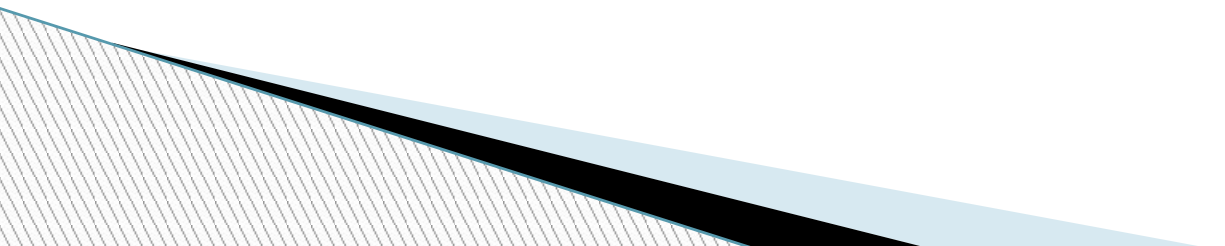
# Required Title IX Job Roles

1. District Title IX Coordinators:
    - a) Student Issues Only- John Fanelli
    - b) Any Employee Involvement- Robert Ouellette
  2. School Based Title IX Coordinator- Assistant Principal (#2 & #3 can be the same person.)
  3. School Based Investigator- Assistant Principal
- 
1. School Based Decision-Makers: Principal
  2. Appeals Decision-Maker: District Administrator
- 

# Publication

- ▶ District's must prominently display the name, office address, electronic mail address and telephone number of the District Title IX Coordinators on the District's website

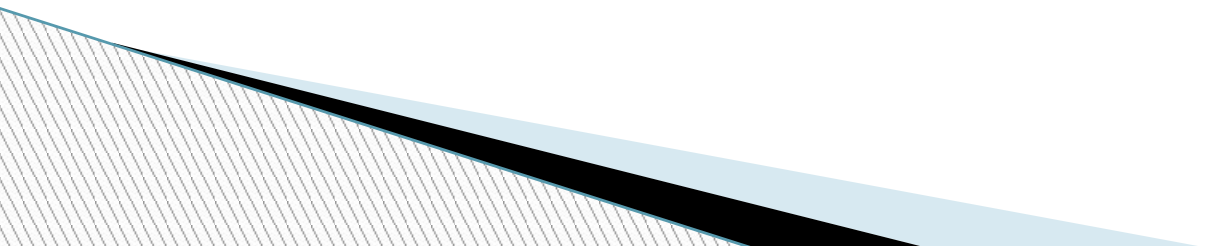
# Title IX of the Education Amendments of 1972

- Is a federal law prohibiting discrimination on the basis of sex in all education programs and activities operated by recipients of federal funds.
  - The law states: “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.”
  - Enforced by the U.S. Department of Education’s Office for Civil Rights (OCR)
- 

## New Title IX Regulations

- ▶ Department of Education released new Title IX Regulations on May 6, 2020
- ▶ First significant changes to Title IX since 1975
- ▶ The effective date for the new regulations was August 14, 2020
- ▶ Brookings Institute has deeper dive into the changes and why:
- ▶ <https://www.brookings.edu/research/analyzing-the-department-of-educations-final-title-ix-rules-on-sexual-misconduct/>

# Old Guidance...

- ▶ The most controversial elements of OCR's policy required schools to use the "preponderance of the evidence" standard ("50% plus a feather")
  - ▶ Both OCR and the White House pressured schools to employ a "single investigator" model that gives one person appointed by the school's Title IX coordinator authority not just to investigate alleged misconduct, but to determine guilt and innocence.
  - ▶ OCR's expansive definition of sexual harassment included "verbal conduct" (i.e., speech) such as "making sexual comments, jokes or gestures," "spreading sexual rumors," and "creating e-mails or Web sites of a sexual nature."
- 

# WHAT CONSTITUTES “SEXUAL HARASSMENT” UNDER TITLE IX?

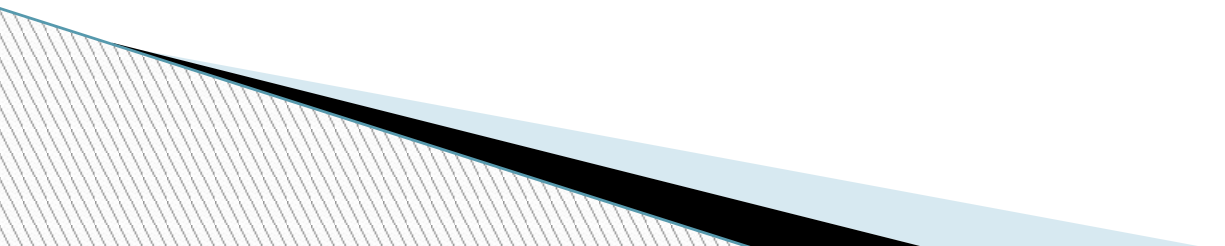
- ▶ What forms of harassment require a response from educational institutions?
  - Occasional name-calling on a school playground? Probably not.
  - Sexual assault in a college dorm? Definitely yes.
  - But there are many types of misconduct that fall between these extremes.
  - While the Supreme Court held that harassment must be “severe, pervasive, and objectively offensive” to trigger Title IX, the OCR pushed schools to address harassment before it “becomes severe or pervasive” in order to prevent the creation of “a hostile environment.”



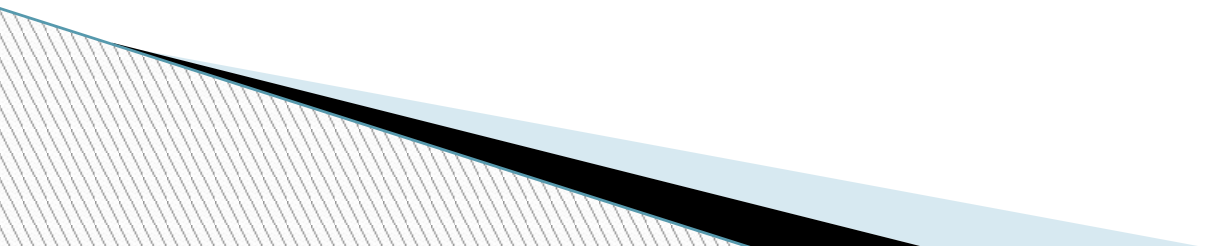
# What Department of Education says about new guidelines...

- ▶ Title IX, it argued, “does not represent a ‘zero tolerance’ policy banning sexual harassment as such,” but rather offers “effective protections to individuals against discriminatory practices, within the parameters set forth under the Title IX statute and Supreme Court case law.”
- ▶ Schools remain free to include more restrictive provisions in their student conduct codes—for example, prohibiting micro-aggressions—but they may not include them in their Title IX rules.

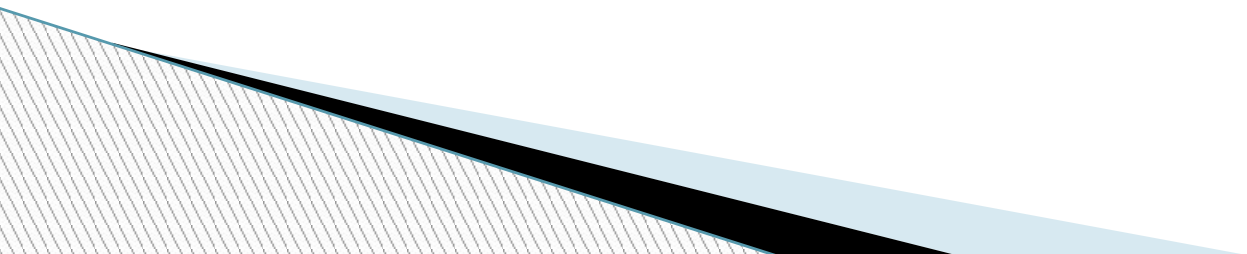
# Scope of Title IX

- Includes 16,500 local school districts, 7,000 post secondary institutions, as well as charter schools, for-profit schools, libraries, and museums
  - Title IX obligations include: recruitment, admissions, counseling, financial assistance, athletics, sex-based harassment, treatment of pregnant and parenting students, discipline, single sex education, and employment
  - Retaliation is considered a violation of Title IX
- 

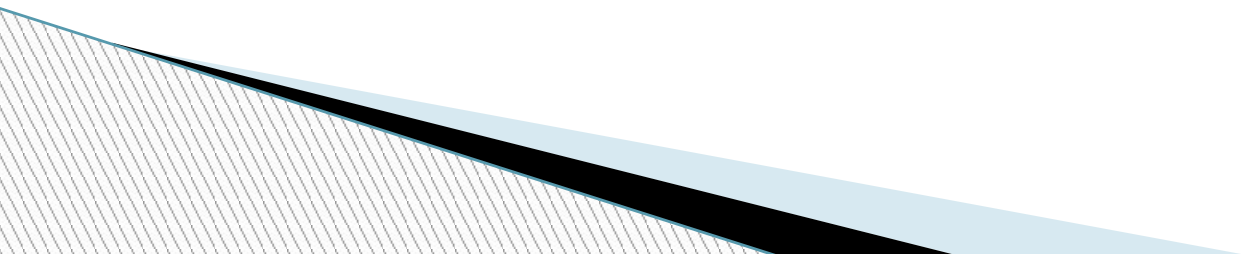
# Title IX = Equal Treatment

1. **Comparable Educational Opportunities** – Equal access to courses that promote college and career readiness
  1. **The Right to Equal Treatment** – Schools must treat students equally on the basis of sex in all program areas, including academic and extracurricular activities.
  2. **Athletics** – Equal access to athletic opportunities and benefits at all levels.
  3. **Sexual violence** – Schools must protect students from and adequately respond to sexual violence.
  4. **Sexual and Gender-Based Harassment** – Enforcing the prohibition against sexual harassment as well as bullying and harassment based on gender or sex stereotypes.
- 

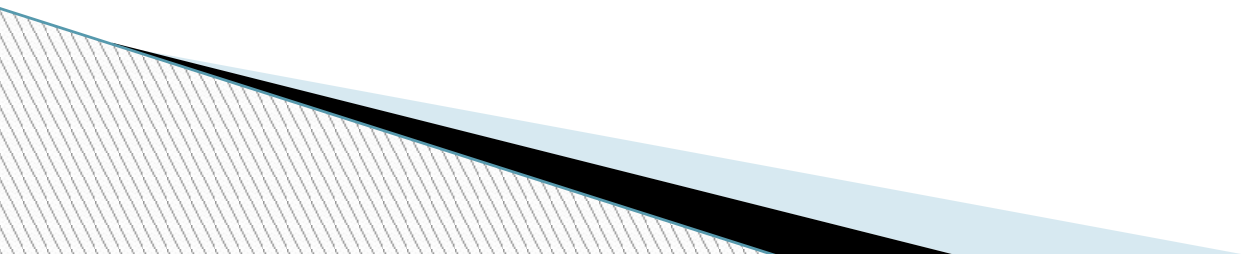
# Equal Access to Athletic Opportunities and Benefits

- Accommodation of athletic interests and abilities - athletic interests and abilities of male and female students must be equally and effectively accommodated
  - Equipment and supplies
  - Scheduling of games and practice times
  - Travel and per diem allowances
  - Opportunity for coaching and academic tutoring
  - Assignment and compensation of coaches and tutors
  - Locker rooms and other facilities
  - Medical training services
  - Housing and dining services
  - Publicity
- 

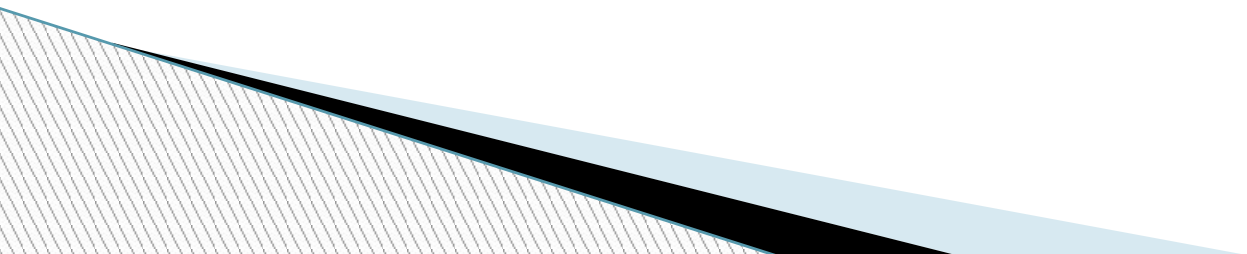
# Examples of Title IX Athletic Complaints:

- A high school's booster club raises money for the school's "athletic" programs however 75% of the money they raise goes to support the boys varsity football team.
  - A male student is told he can not tryout for the high school's competitive cheer team.
  - The school's Athletic Director only provides bus transportation for boys sports teams.
- 

# Sexual Harassment

- ▶ Sexual harassment is defined as conduct on the basis of sex that satisfies one (1) or more of the following:
    - A school employee conditioning the provision of aid, benefits, or services on the individual's participation in unwelcome sexual conduct;
    - Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it denies a person equal access to the education program or activity; or
    - Sexual assault, as defined in the Clery Act, or dating violence, domestic violence or stalking, as defined in the Violence Against Women Act.
- 

# Sexual Violence

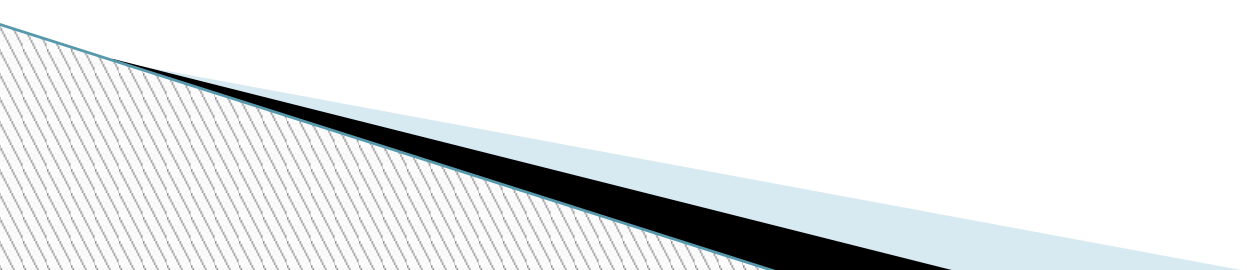
- Requires that schools protect students from sexual violence and adequately respond and investigate allegations of sexual violence.
  - Schools should ensure that victims of harassment are provided services – counseling, academic support services, interim remedies
  - Sexual violence doesn't just happen on college campuses and it isn't only male on female.
- 

# Sexual and Gender-Based Harassment

- Enforces the prohibition against sexual harassment as well as bullying and harassment based on gender or sex stereotypes.
- Includes sexual harassment and gender-based harassment of lesbian, gay, bisexual and transgender (LGBT) students because of their nonconformity to sex stereotypes.

Example: A female student repeatedly calls another female student “butch” because she dresses masculine and is on the weightlifting team.

Example: A male student makes comments almost daily, in P.E. class, about the size of a female student’s breasts. Their P.E. teacher hears the comments and does nothing to stop the behavior.





# Retaliation

- When a recipient or other person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because he or she has made a complaint, testified, assisted, or participated in any manner of an investigation, proceeding or hearing.
- Example: The parents of a star female athlete file a Title IX complaint claiming the school is not providing the same amount of funding for girls sports as it is for the boys. Shortly after, the student is benched for the remainder of the season.

# FERPA

- ▶ Where a true conflict exists, the obligation to comply with Title IX is not obviated or alleviated by the FERPA statute or federal regulations.

# Where to go for assistance?

1. District Title IX Coordinators:
  - a) Student Issues Only- John Fanelli
  - b) Any Employee Involvement- Robert Ouellette

# Title IX and Equity Protocols

Name Usage that differs from legal designation.

(NAMES AND PRONOUNS)

## Topic

## State or Federal Guideline in Place, or case law cited

## Recommended Best Practice Flagler

**Name Usage that differs from legal designation.  
(NAMES AND PRONOUNS)**

Documentation from a Florida Court is required to reflect a change in name and/or gender in a student's official school records.

Schools will only modify student records to reflect a change in name or gender upon receipt of such documentation from a Florida court.

While official student records must contain the student's legal name, schools should permit the use of a preferred name in unofficial student records to assist staff in calling the student by the preferred name.

This preferred name will be added by the parent on the emergency form.



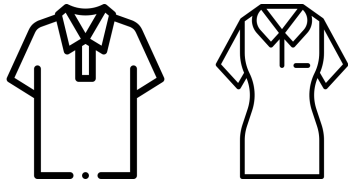
# Dress Code

**Topic**

**State or Federal Guideline in Place, or case law cited**

**Recommended Best Practice Flagler**

**Dress Code**



Gender expression is protected by the U.S. Constitution and Title IX. This right to free expression includes choice of clothes.

All students may dress and act in ways that are consistent with their gender identity and expression, while still abiding by the district code of appearance, including at any school sponsored events and functions. This includes dances, graduation, uniforms, etc...

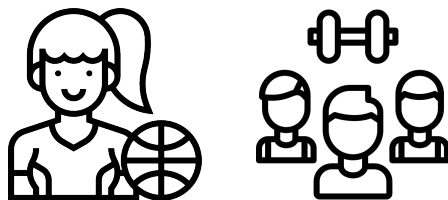
# Athletics

Topic

State or Federal  
Guideline in Place,  
or case law cited

Recommended  
Best Practice  
Flagler

## Athletics



FHSAA Policy 16.8  
16.8 GENDER IDENTITY PARTICIPATION  
All eligible students should have the opportunity to participate in interscholastic athletics in a manner that is consistent with their gender identity and expression, irrespective of the gender listed on a student's birth certificate and/or records. Should a situation arise regarding a student's request to participate in a gender-segregated athletic event consistent with his/her gender identity and expression, a student may seek review of his or her eligibility for participation through the procedures set forth below: (Procedure detailed in FHSAA policies manuel).

Participation in school sports is determined by FHSAA guidelines. Students may seek review of his or her eligibility through the FHSAA eligibility review process.

# Clubs

Topic

**State or Federal Guideline in Place, or case law cited**

**Recommended Best Practice Flagler**

## Clubs



Under the Federal Equal Access Act, a public school permitting any non-curricular club must also allow students to form a GSA. The school must also treat the GSA the same as it does any other non-curricular club in terms of access to facilities, resources, and opportunities to advertise. see - Carver Middle School GSA v. School board of Lake County, FL, 842F.3d 1324 (11Cir., Dec. 2016) -Equal Access Act, 20 U.S.C. Section 407. Court held that middle schools that offer high school course credit for graduation are subject to the Equal Access Act.

Schools will permit students to form GSA clubs. The clubs will comply with School Board Policy 405, "Student Clubs and Organizations".



## Extra-Curricular and Special Events (PROMS/DANCES)

Topic

State or Federal  
Guideline in Place,  
or case law cited

Recommended  
Best Practice  
Flagler

**Extra-Curricular  
and Special  
Events (PROMS/  
DANCES)**

The Federal law Title IX and First Amendment Federal court cases prohibits excluding same-sex couples from school-sponsored proms and dances.

All students may bring same-gender dates to any school sponsored events or functions.



# Identity/Confidentiality

**Topic**

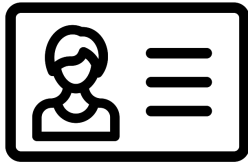
**State or Federal Guideline in Place, or case law cited**

**Recommended Best Practice Flagler**

**Identity/  
Confidentiality**

The U.S. Supreme Court recognizes the federal constitutional right to privacy, which extends to students in a school setting.

School personnel will not unnecessarily disclose any information about a students' sexual orientation, transgender identity or questions they may have about their sexual orientation or gender identity to third parties. For administrative and/or educationally related purposes, the information may be shared with appropriate Flagler School employees.



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