

Title IX Final Regulations

Step by Step Chart

Step One: Incident Report received by Title IX Coordinator

Step Two: Report reviewed and contact made with

- Complainant, if known,
- Parent/legal guardian, and
- If applicable, statewide Child Abuse Reporting Agency and/or Law enforcement

Step Three: The Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. Also, review and any other applicable policy, such as grievance process for employees under employee contract or student code of conduct disciplinary process. Recommend giving the complainant a brochure or document that contains all the information that was explained and/or how to access it on the District's website.

Step Four: Conduct a team internal assessment (i.e. Title IX Coordinator, Deputy Title IX Coordinator, Compliance Director, Principal or Asst. Principal, School Resource Officer). Use a checklist to determine what information is known:

- Is Complainant known or unknown?
- Is alleged perpetrator/respondent known or unknown?
- Has Complainant requested confidentiality or anonymity?
- If Respondent is known, based on content of report, what emergency measures need to be taken to keep parties safe (i.e. no contact order, change of classes).
- If No Contact Order is requested by Complainant or determined to be a necessary supportive safety measure, inform the Complainant in advance to note that confidentiality cannot be maintained by virtue of the nature of a no contact directive.
- If a report was made to a Child Abuse hotline or law enforcement, document if there is any directive or restriction from either entity directing the school to not proceed with outlined procedural next steps under Title IX.

- Notify school personnel who are in “need to know” roles of only the necessary information needed to ensure the safety of the parties and school community.
- Follow up with Complainant in person and via email to check in on their well-being.
- Follow up with parents of Complainant via phone, in person or email to check in on well-being of Complainant to receive any further concerns.
- Additional follow up with Complainant should be at regular intervals and with ongoing consultation with parents to make sure welcomed and not-intrusive.

Step Five: If a formal complaint is received by the school from the Complainant or Complainant’s parent, the school should:

- Review the allegations and if the allegations in a formal complaint **do not meet** the definition of sexual harassment in the Final Rule, or **did not occur** in the school’s education program or activity against a person in the United States, the school must dismiss such allegations for purposes of Title IX *but may still address the allegations in any manner the school deems appropriate under the school’s own code of conduct or any other non-Title IX disciplinary policy.*
- If there is sufficient information available to the school to conclude that the allegations do meet the definition of sexual harassment and did occur in the school’s education program or activity against a person in the United States, then the Coordinator should re-discuss with Complainant and their parents the grievance process and explain the informal resolution process as an option.

Step Six: Notify the Respondent and the Respondent’s parents of the filing of a formal complaint. Explain grievance process and the informal resolution option. Offer supportive measures.

Step Seven: If Complainant or Respondent wants to pursue the informal resolution process, determine if the other party wants to voluntarily engage in the informal resolution process as well.

- If so, then identify an impartial, neutral, trained party to serve as the informal resolution facilitator and assign the matter.

- Provide the name and information about the informal resolution facilitator to see if either party can state if there is a basis as to why the person selected cannot be fair and impartial or is biased.

Step Eight: If neither party wants to pursue the informal resolution process, then begin the formal investigation into the incident and issue a *Notice of Investigation* that states the nature of the complaint, when the complaint was received, and what school district policies are alleged to have been violated and who is conducting the investigation.

- Identify an impartial, neutral, trained party to serve as the investigator and assign the matter.
- Provide the name and information about investigator to see if either party can state if there is a basis as to why the person selected cannot be fair and impartial or is biased.

Step Nine: Provide the Investigator with access to all relevant information and contact information for witnesses.

- Make sure the Investigator, if external, has all necessary Child Abuse/FBI clearances in order to meet with students and be in the school building.
- Get periodic updates from Investigator and update parties and their parents at the same time as to the status of the investigation
- Once completed, share the draft Investigation report at the same time with the parties. Allow for parties to provide any supplemental information or request interviews of additional witnesses.
- Issue final investigation report contemporaneously to the parties

Step Ten: Identify a decision-maker who is unbiased, neutral and trained to either conduct a live hearing on the complaint or render a decision based on their review of the investigation report and all other relevant evidence.

- A live hearing is NOT required in K-12 schools. With or without a hearing, schools should provide the investigative report in advance to each party and the decision-maker must provide each party the opportunity to submit written questions to the other party and witnesses and receive an answer before a determination regarding responsibility is reached.
- A live hearing is required in post-secondary institutions with cross examination by and advisor of choice, who may be an attorney (one must be provided if the party does not have an advisor)

- Advisor should be knowledgeable about the school's Title IX policies and procedures and expectations of their role during the hearing.

Step Eleven: Receive from the decision-maker the Final Outcome Determination letter and deliver the letter to the Complainant and Respondent. Delivery should be contemporaneous to both parties.

- Final Outcome Determination should include the decision-maker's findings of fact, application of the standard of proof outlined in the policy, rationale, conclusion and sanction.
- Review the School Code to determine if, based on sanction recommendation, the school board must review and vote to approve or reject the final outcome determination and sanction recommendation

Step Twelve: Provide information to both parties about their right to appeal the decision, the basis for the appeal and when the party must file their appeal.

Step Thirteen: If a timely appeal is filed, the appeal decision maker(s) must be identified, notice given to the parties of who is handling the appeal and the time frame for when the appeal decision would be made.

- The decision-maker on appeal must be trained, impartial and unbiased.

Step Fourteen: Notify parties of the appeal decision and that the decision is final.

Step Fifteen: Secure all documents and information gathered and preserve all information for seven (7) years.

Throughout the steps outlined above, consult with the school district or University counsel as needed for any and all questions.