

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY # 8

COMMON QUESTIONS PART 3 AND INFORMAL RESOLUTIONS

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FINAL MEETINGS

- ▶ May

- ▶ 4th Tuesday at 9 am MT/8 am PT

- ▶ 4th Thursday at 12 pm MT/11 am PT

- ▶ What topics would you like covered?

UPDATES

NPRM and updates to TIX

Anything else?

SEXUAL ASSAULT DEFINITIONS – COMMON CHALLENGES

REQUIRED DEFINITIONS FOR SEXUAL VIOLENCE

- ▶ Sexual assault – forcible or nonforcible sex offense
 - ▶ Any sexual act including Rape, Sodomy, Sexual Assault With An Object, or Fondling directed against another person, without the consent of the victim, and **including instances where the victim is incapable of giving consent**
 - ▶ Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
 - ▶ Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent

COMMON CHALLENGES IN APPLICATION OF SEXUAL VIOLENCE DEFINITION

- ▶ What is “stealthing” and where does it fit?
- ▶ How are you applying the statutory rape requirement in your school?
- ▶ How are you assessing if one of the required definitions is met if there is no criminal charge or there is a different criminal charge?
 - ▶ Example – L & L v. Statutory Rape

INFORMAL RESOLUTIONS

INFORMAL RESOLUTION

- ▶ **May** be offered after formal complaint and prior to any decision regarding responsibility
- ▶ Must provide to parties a written notice disclosing:
 - ▶ Allegations
 - ▶ Process requirements
 - ▶ When a party is precluded from resuming a formal complaint – right to withdraw from informal process
 - ▶ Consequences resulting from participating in process
- ▶ Must have voluntary written consent of parties

TITLE IX FORMAL GRIEVANCE PROCESS – MUST PROVIDE FOR “PROMOTE AND EQUITABLE RESOLUTIONS OF STUDENT AND EMPLOYEE COMPLAINTS”

TIX Coordinator

Report

- Voluntary
- Mandatory

Supportive Measures

- Referrals
- Safety plans
- No-Contact
- Class/schedule change
- School escort
- Parking mods
- Academic help
- Education
- Etc.

Formal Complaint

- Intent
- Allegations
- Signature*

- Not sexual harassment;
- Not in United States; or
- Not education program/activity

Dismissal*

- HR
- Supervisor
- Principal
- Counselor

Referral

Notice of Allegations

Investigation

- Interviews
- Evidence
- Preliminary Report
- Final Report

Decision Process

- Written Questions
- Decision
- Sanctions
- Outcome Letter

Appeal

- Paper only
- Uphold
- Change sanctions
- Remand

Sanctions & Remedies

- Only applied after appeal concluded
- May be disciplinary

Notice

Informal Resolution

INFORMAL RESOLUTION

- ▶ Informal resolution cannot be:
 - ▶ Required
 - ▶ Offered unless a formal complaint is filed
 - ▶ Used to resolve allegations that an employee sexually harassed a student

INFORMAL RESOLUTION

- ▶ What might the consequences of engaging in informal resolution be?
 - ▶ What does this say about what staff should be involved?
- ▶ What do you foresee as things that may be outcomes in an information resolution?
- ▶ Are there times that you may not want to engage in the informal resolution process?

QUESTIONS?

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