

NORTHWEST ISD ATHLETICS

Title IX Coaches new to NISD July 26, 2023

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Title IX - 37 Very Important Words!

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.

Applies to Athletics in Multiple Ways!

Title IX grew out of equity in athletics for girls and boys. So when we talk about Title IX violations, we're talking about equity of facilities, money we spend on programs, time to practice, how much we pay girls' coaches v boy's coaches, etc.

AND ALSO

“Sexual Harassment”

April 2020 Regulations

- Became effective August 14, 2020
- All employees have a duty to report Title IX complaints.
- Investigations
 - Robust procedures & timelines
 - 3 administrators in every investigation (minimum)
- Defines sexual harassment specifically
- Supportive measures (formerly “interim” measures)
- Training required for all staff



New Regulations

- Changes forthcoming from Biden Administration....allegedly in October 2023
- Will require re-training for all staff



Sexual Harassment Definition

Conduct on the **basis of sex** that satisfies one or more of the following:

1. **Quid pro quo:** An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
2. **Hostile environment:** 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 recipients education program or activity; or
3. **Sexual violence:** sexual assault, dating violence, domestic violence, stalking

Response: No deliberate indifference



Schools must promptly respond in a manner that is **not deliberately indifferent** when they have **actual knowledge** of sexual harassment in an education program or activity, against a person in the **United States**.



Notice of Complaint

When a formal complaint is received, notice must be given to the parties, stating:

- The grievance process, including any informal resolution process.
- Allegations of sexual harassment
- The respondent is presumed not responsible for the alleged conduct
- The determination of responsibility is made at the conclusion of the investigation process
- Parties may have an advisor/attorney
- Consequences for submitting false information



Supportive Measures

- Offered to the complainant or the respondent before and after the filing of a formal complaint or where not complaint is filed.
 - Counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus chaperones, mutual restrictions on contact, increased security and monitoring of certain areas of the campus....

IN THE ATHLETIC WORLD, SUPPORTIVE MEASURES WILL LIKELY INVOLVE **CLOSER SUPERVISION AND INCREASED SUPERVISION.**



Equitable Treatment of Parties

Treat complainants and respondents equitably.

- Provide remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent
- Follow Title IX complaint process before imposing disciplinary sanctions against the respondent.
- Require objectivity when evaluating all relevant evidence



Investigation Timeline (Example)

- Sept. 1: Formal complaint filed
 - Sept. 1-3: Evaluate formal complaint
 - Sept. 3: Notice of allegations to parties
 - Must wait a “sufficient time” for the parties to prepare for questioning
 - Sept. 10: Interviews
 - Sept. 14: Allow parties to inspect evidence & submit questions
 - Must wait 10 business days before proceeding
 - Sept. 28: Receive & consider parties’ written response
 - Sept. 30: Issue Investigative Report (by Investigator)
 - Must wait 10 business days for parties to review report & issue written response
 - Oct. 14: Receive & consider written responses from parties
 - Oct. 16: Issue Determination (by Decision Maker)
- **Time for Appeal and Final Determination**



What to Watch For

- Language that can be categorized as harassment or discriminatory.
- An imbalance of power between players or a group of players targeting other athletes.
- Inappropriate touch - even if it has historically been seen as “messaging around”.
- Technology - Snaps, texts, emails, DM’s between players and between coaches and athletes.

What To Do If:

You witness verbal harassment/discrimination based on sex, gender or gender identity...

- Call Cindy x50567 and notify campus admin
- Implement supportive measures as appropriate

You witness inappropriate touch between students or coaches and students...

- Call Cindy x50567 and notify campus admin
- Implement supportive measures as appropriate

A student/parent/staff member reports possible harassment based on gender or gender identity...

- Call Cindy x50567 and notify campus admin
- Implement supportive measures as appropriate



What Not To Do If:

You witness verbal harassment/discrimination based on gender or gender identity...

- Ignore the behavior
- Blow off the behavior as “boys being boys” or “mean girls”
- Issue discipline before we can identify possible Title IX violations.

You witness inappropriate touch between students or coaches and students...

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Discipline and Consequences

This gets tricky with Title IX - We **cannot** issue consequences or discipline until due process is given and the investigation is complete.

- Emergency removal has to be for dangerous situations is allowed with deliberation committee.
- Some conduct will be investigated under the code of conduct/extracurricular code of conduct and Title IX.
- Supportive measures can be put in place for both parties during the investigation and should begin as quickly as possible.
- LEO may ask us to abate our process while they investigate.



Providing Safe Environments

Supervision is Key

- Locker Rooms
- Parking Lots
- Athletic Facilities
- Travel
- Team sponsored events
- Overnight Trips



Examples of *Possible* Title IX Violations

During summer vacation, the girl's soccer team had a bonfire at the team captain's house. Paige, a freshman member of the team, says she was sexually assaulted that night by Aidan, a football player at a neighboring high school. Paige's parents want you to investigate the assault under Title IX. They are threatening to sue the school if you don't, noting that the assault occurred at a soccer team party.



Examples of Possible Title IX Violations

In the 8th grade, Jane sent a topless picture to her then boyfriend, Jim, who was in high school at the time. Jane's freshmen year, she and her boyfriend break up and to "get back at her", he sends her topless pictures to his friends. Jane reports that Jim's friends are "looking at her funny" and whispering "boobs" everytime they are in class with her or walking by her in the hallway.



Examples of Possible Title IX Violations

During 4th period, friends John and Jay are in the restroom at the same time. John starts to masturbate while using the stall. Jay slides his cell phone under the door and records John, without John noticing, while he is masturbating. During lunch, Jay shares the video with several other students. John is completely caught off guard when a friend sends him the video.



Real Life Examples of Title IX Violations

Upper-class football players sexually assaulted a freshman teammate at a school sponsored camp by blowing pressurized air into his rectum with a battery-powered air pump. The teammates also groped him in the shower and beat him on the head and face with a pillowcase full of heavy objects. After the weekend, the freshman became the target of anti-gay taunts.



Real Life Examples of Title IX Violations

Doe v Hutchinson (2018)

Coach made “gender-based, sexually charged comments to Student despite the District’s instruction to stop making such comments.

Hutchinson asked Student to ‘twerk’ for the class, implied to the class that Student was sexually active, called her ‘dumb,’ and encouraged Student’s boyfriend to discuss their sexual lives.” Court found against Coach.



Real Life Examples



Real Life Example of Title IX - What Not to DO

An eighth-grader at Sedgwick Middle School was repeatedly sexually assaulted in and around the locker room during gym class. On one occasion, the student was grabbed by three other students in gym class who were yelling out to rape him. They dragged him into a closet where they assaulted him with a broom and groped him. A teacher entered the closet, told the boys to knock it off, and took no further action.



Real Life Example of Title IX - **What Not to DO**

Five former high school students were sexually abused by their water polo coach. At least seven school administrators were aware of allegations, **but failed to report to CPS or interview alleged victims.** After a former student emailed a teacher allegations against the same coach, the school launched an investigation that it completed in less than 24 hours finding the coach not responsible. The coach went on to harass and abuse several other students in subsequent years because of the district's failure to take action.



Example of Title IX - Not Sexual Harassment But Equity

- **June 28, 2021 - Grant High softball coach, players sued a Portland school district, alleging discrimination over off-campus dirt field**
- This case was initiated in 2005, when a girls' softball team in the Sweetwater Union High School District asked their school to provide the same resources as the boy's baseball team. Their request was denied, and their coach fired. This landmark case was the first to prevail under the three-part test of Title IX's mandate for equity in athletics. Specifically, the mandate requires equal opportunities for girls to play, equal treatment and benefits for female athletes, and no retaliation for raising concerns about Title IX violations.



DUTY TO REPORT

Anyone in the district who is told means the district is PUT ON NOTICE.

You should contact your campus administrator AND Cindy Bauter.



TRAINING TRAINING TRAINING TRAINING

If you would like for me to come talk to your team or program, I am happy to do so.



What if.....

At this point, do you have questions about how to handle certain scenarios?

Resources

[Ted Talk - Redefining Manhood - One Locker Room at a Time](#)

[Banning Trans Girls From School Sports is Neither Feminist Nor Legal](#)

[The Fight for The Future of Transgender Athletes](#)

[Title IX Guiding Principles](#)

[Changing the Game Documentary](#)

[List of Cases Where District's Were Found at Fault - Monetary Settlements](#)

Questions?

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