

**Sexual Harassment and the
New Title IX Regulations:
Who Am I and What is My Role?**

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What is Title IX?

- ❑ Title IX of the Education Amendments of 1972
 - ❑ Title IX is all of 37 words.
 - ❑ It prohibits discrimination based on sex in educational institutions that receive federal financial assistance.
- ❑ Harassment based on sex is a form of discrimination based on sex. This has been established in the law for a long time.
- ❑ Specific guidance on compliance has been limited, until now.
 - ❑ No officially adopted regulations addressing sexual harassment or school response
 - ❑ Primary guidance from court interpretations and "Dear Colleague" letters issued by the Department of Education (DOE).



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New Regulations

- ❑ The Department of Education has developed and adopted new regulations governing a school's response to sexual harassment.
- ❑ **Effective date: August 14, 2020** the regulations went into effect.
 - ❑ The ACLU and 18 Attorneys General originally attempted to stop implementation by court order. These lawsuits were unsuccessful.
- ❑ The Biden Administration has signaled an intent to revisit these regulations. That has not happened as of yet and the rulemaking process will likely not formally be initiated until the summer of 2022. So these regulations will be in effect for a while.



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Overview

- ❑ The Title IX Coordinator ("T9C") coordinates the district's efforts to comply with Title IX of the Education Amendments of 1972.
- ❑ The regulations significantly expand and change the role and responsibilities of the Title IX Coordinator ("T9C") with regard to dissemination of information, training, setting standards, and conducting investigations.
- ❑ In this session, we will outline the key provisions of the new regulations and emphasize the practical implications for each of the roles at the district or campus level.



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The District Must Train All Employees



- ❑ All employees are potential reporters and **must** report.
- ❑ We must train ALL employees of this responsibility.
- ❑ If you do not use an outside trainer, then the T9C is likely going to be tasked with this training.



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**Sexual Harassment:
This is What You Are Looking For**



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Definitions and Terminology: 34 CFR 106.30(a)

- ❑ **Sexual Harassment** = unwelcome conduct determined by a reasonable person to be so severe, pervasive, AND objectively offensive that it effectively DENIES a person's equal access to the recipient's education program or activity
- ❑ OR → AND
- ❑ LIMITS → DENIES
- ❑ These changes are consistent with judicial interpretations but a departure from prior OCR guidance



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**Definition: Sexual Harassment
34 CFR 106.30(a)**

- ❑ Six Types of Sexual Harassment
 - ❑ Quid pro quo
 - ❑ Hostile environment
 - ❑ Sexual assault
 - ❑ Dating violence
 - ❑ Domestic violence
 - ❑ Stalking



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**Definitions: Sexual Harassment:
Quid Pro Quo**

- ❑ *Quid pro quo*: When an employee conditions favorable treatment on the acceptance of unwelcome sexual attention.
- ❑ This definition applies only to actions of employees.
 - ❑ Teacher offers good grades to student....
 - ❑ Principal offers promotion to teacher....



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Definitions: Sexual Harassment: Hostile Environment

- ❑ Conduct that it is so SEVERE, PERVASIVE **AND** OBJECTIVELY OFFENSIVE that it effectively DENIES a person EQUAL ACCESS to the program.
- ❑ What has changed from prior guidance?
 - ❑ OR → AND
 - ❑ LIMITS → DENIES
 - ❑ These changes are consistent with judicial interpretations but a departure from prior OCR guidance.
- ❑ This could be student-to-student conduct, employee-to-student conduct, or employee-to-employee conduct.
- ❑ **Note:** A lot of things happen in schools that are inappropriate and sexually oriented, but fall short of this definition.



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Definitions: Sexual Harassment: Four More

- ❑ **Sexual assault:** Forcible or non-forcible sexual offenses under the Uniform Crime Reporting System of the FBI.
- ❑ **Dating violence:** Violence done by a person who is, or has been, in a dating relationship with the other person.
- ❑ **Domestic violence:** Violence by a current or former intimate partner.
- ❑ **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for personal safety of self or others; or to suffer emotional distress.



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Sexual Harassment: The Clery Act and VAWA

- ❑ The Clery Act and the Violence Against Women Act address four types of violence that are each considered forms of sexual harassment under Title IX:
 - ❑ Sexual Assault
 - ❑ Dating Violence
 - ❑ Domestic Violence
 - ❑ Stalking



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Sexual Harassment: Sexual Assault

- ❑ **Sexual assault:** Forcible or non-forcible sexual offenses under the Uniform Crime Reporting System of the FBI.
- ❑ **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- ❑ **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is unable to consent (age, disability).
- ❑ **Incest:** Sexual intercourse between persons who are related to each other an unable to marry.
- ❑ **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.



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Sexual Harassment: Dating Violence

- ❑ Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- ❑ Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.



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Sexual Harassment: Domestic Violence

- ❑ Domestic violence: A felony or misdemeanor crime of violence committed by:
 - ❑ a current or former spouse or intimate partner of the victim;
 - ❑ a person with whom the victim shares a child in common;
 - ❑ a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - ❑ a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - ❑ 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 in which the crime of violence occurred.



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Sexual Harassment: Stalking

- ❑ Stalking: A course of conduct directed at a specific person that would cause a reasonable person to fear for personal safety of self or others; or to suffer emotional distress.
- ❑ Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
- ❑ Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- ❑ Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.



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**Definitions and Terminology:
The Title IX Process**



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Complainant and Respondent

Complainant = victim of sexual harassment

Respondent = person accused of sexual harassment



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Complainant

- ❑ This term always refers to the victim of sexual harassment, even if someone else is the one who made the complaint.
- ❑ Parent complains that Child is being harassed. Parent has made the complaint, but Child is the "complainant."
- ❑ Teacher reports that Student is being harassed. Teacher makes the Report, but Student is the "complainant."



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Respondent

- ❑ This term refers to the person accused of sexual harassment.
- ❑ Note: these terms (Complainant, Respondent) apply even when there is a Report, but no Formal Complaint.
- ❑ Example: Mom complains that Billy is being harassed by a coach based on his sex. The T9C meets with mom and explains the Formal Complaint process. Mom does not want that. T9C also decides not to initiate Formal Complaint process.
- ❑ So there is no Formal Complaint, but there is a Report. Billy is the Complainant and Coach is the Respondent.



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Formal Complaint vs. Report

<p>Formal Complaint: May be initiated by the complainant or the Title IX Coordinator</p>	VS.	<p>Report: is verbal or in writing by <i>anyone</i></p>
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Definitions and Terminology: 34 CFR 106.30(a)

- ❑ ***Actual Knowledge** = when *any* employee finds out
- ❑ **Substantial Control** = over both the alleged harasser and the context in which the harassment occurred
- ❑ **Education program or activity** = any academic, extracurricular, vocational or other education program operated by a district



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What does “actual knowledge” mean?

- ❑ This term is important because the school's duty to respond arises only when it has “actual knowledge” of sexual harassment, or of allegations of conduct that, if true, would constitute sexual harassment.
- ❑ Under the regs, the school has “actual knowledge” when *any* employee of the school--*other than the actual perpetrator of the harassment*—has actual knowledge.
- ❑ What has changed?
 - ❑ Previously, actual knowledge was imputed to the school only when it was known by someone who had the authority to address it.
 - ❑ Now, it is *any* employee.



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What does “substantial control” mean?

- ❑ The school is not responsible for responding to allegations of sexual harassment unless the school had “substantial control” over the harasser and the “context.”
- ❑ Consider how this will be applied to:
 - ❑ extracurricular activities;
 - ❑ field trips;
 - ❑ out of town, overnight trips;
 - ❑ cyberbullying off campus.
- ❑ Scenario: Student engages in cyberbullying off campus and on the weekend.
 - ❑ Does the school have “substantial control”?
 - ❑ What about state law which gives schools the authority to discipline students for certain off campus cyberbullying?



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Supportive Measures

- ❑ **Supportive Measures** = Non-disciplinary, non-punitive individualized services offered to Complainant or Respondent at no charge designed to "restore or preserve equal access to...the education program or activity without unreasonably burdening the other party" whether or not a formal complaint is filed.
- ❑ **Examples:**
 - ❑ Counseling.
 - ❑ Mutual restrictions on contact.
 - ❑ Modification of schedule.
 - ❑ Campus escort services.



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What Is the Title IX Team Going to Do After the Report is Made?



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Step 1: The Report



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Reporting and Responding

- ❑ Any person may report. Not just the alleged victim.
- ❑ A report can be verbal or written.
- ❑ Reports can be made my mail, by telephone, or by email at any time (business or non-business hours) to the T9C.
- ❑ The T9C may also receive a report from an employee of an elementary or secondary school who receives notice of sexual harassment or alleged sexual harassment: what we would consider **actual knowledge**.
- ❑ If the district has "actual knowledge" of "sexual harassment" it "must respond promptly in a manner that is not deliberately indifferent.



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Timeliness and Eligibility

- ❑ Although reports of sexual harassment should be made in a timely manner, unlike other district grievances, a sexual harassment complaint can be made as long as the complainant and respondent are either or both still enrolled in the district or are the beneficiaries of the district's programs.
- ❑ Include years in all documentation to avoid confusion.



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Step 2: You've Got a Report, Now What?



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The Duty to Respond:

- ❑ If the district has “actual knowledge” of “sexual harassment” it “must respond promptly in a manner that is not deliberately indifferent.”
 - ❑ Actual knowledge = notice or awareness of sexual harassment or allegations of sexual harassment received by *any* employee.
 - ❑ The district’s response must not be “clearly unreasonable in light of the known circumstances.”



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Responding to a “Report”

- ❑ T9C must promptly contact a complainant to discuss:
 1. The Report
 2. Supportive Measures
 3. Process to file Formal Complaint
 4. Make an initial determination if all things are taken as true, does the allegation rise to Title IX Sexual Harassment.




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Considering Emergency Removal?

- ❑ An institution may remove a respondent from educational programs on an emergency basis, provided that the institution:
 - ❑ Undertakes 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.
- ❑ May have implications in Special Education proceedings; consult your SPED attorney.



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Formal Complaint

- ❑ We are distinguishing a "report" from a "formal complaint."
- ❑ A "formal complaint" is a printed document or electronic submission filed by a complainant that alleges sexual harassment and requests the recipient school investigate the allegation.
- ❑ At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.
- ❑ The T9C may also sign a complaint, which does not make the T9C a party in the grievance process.
- ❑ A third party reporter may not file a formal complaint, but the T9C can and often may need to so to protect the District.



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**Step 3: To Dismiss or Not Dismiss,
That is the Question**



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Remember the T9C Makes an Initial Determination

- ❑ Does the formal complaint meet the definition of "sexual harassment" pursuant to Title IX?
- ❑ Formal Complaint **must** be dismissed if it does not meet definition. That is:
 - ❑ If reported conduct alleged is not "sexual harassment" even if the allegations are true.
 - ❑ If reported conduct did not occur in the school's program or activity.
 - ❑ If reported conduct did not occur in the United States.



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Formal Complaint Considerations

- ❑ **Must** dismiss a Formal Complaint if the conduct did not occur in the United States or if the conduct alleged does not constitute "sexual harassment."
- ❑ Does not preclude action under another provision of the district's code of conduct.
- ❑ **May** dismiss a Formal Complaint if:
 - ❑ Complainant notifies T9C in writing that the complainant wishes to withdraw the Formal Complaint.
 - ❑ Complainant or Respondent is no longer enrolled or employed by the district.
 - ❑ Circumstances prevent the district from gathering sufficient evidence to make a determination.



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Step 4: Notice Requirements



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Notice of Dismissal

- ❑ If the T9C dismisses the formal complaint of sexual harassment, the T9C must provide written notice to both parties.
- ❑ The notice must document the rationale for the dismissal and must detail why the dismissal is not deliberately indifferent.
- ❑ The notice must alert both parties to the possibility of appeal.
- ❑ The notice must be kept for seven (7) years.



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Provide Written Notice

- ❑ Upon receiving a formal complaint, an institution (likely the T9C) must provide written notice to the known parties, including:
 - ❑ Description of the process, including availability of informal resolution.
 - ❑ Allegations, the identities of the parties, and the date and location of the incident.
 - ❑ Statement respondent is presumed not responsible.
 - ❑ The parties' right to an advisor of their choice (who may be an attorney).
 - ❑ Parties' right to inspect evidence relevant to the allegations.
 - ❑ Notice any provision in the code of conduct/handbook that prohibits knowingly making false statements or providing false information.
 - ❑ Must allow sufficient amount of time for respondent to prepare a response before any initial interview.
 - ❑ Must be supplemented each time new allegations opened for investigation.



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Responding: Benchmarks for Response to Formal Complaint of Sexual Harassment

1. Equal Access/Treatment
2. Objective Evaluation
3. Bias Free Training
4. Presumption of Innocence
5. Reasonable Time Frames
6. Description of Possible Outcomes
7. Standard of Evidence – Preponderance or Clear and Convincing
8. Appeal
9. Supportive Measures
10. Protection of Privilege



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Step 5: The Investigation



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Investigation vs. Investigation

- ❑ Investigation #1: Initial fact finding
 - In order to determine who made the report, the contents of the report, whether the alleged conduct could constitute "sexual harassment", etc.
 - Likely conducted by a campus administrator.
 - Will determine what process should be used to respond to the report.
- ❑ Investigation #2: Title IX investigation
 - Investigation required following the filing of a Formal Complaint
 - The following slides will focus on Investigation #2, the formal Title IX investigation following a Formal Complaint.



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Key Investigation Steps

- ❑ Determine who will investigate
- ❑ Review board policies related to alleged conduct
 - *FFH (LOCAL) – Discrimination, Harassment, Retaliation*
 - *Student Code of Conduct*
 - *Employment policies/employee handbook*
- ❑ Consider whether interim actions are necessary to protect any person or to preserve the integrity of the investigation.
 - *Actions likely would have been taken by district following initial report.*



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Key Investigation Steps

- ❑ Interview the Complainant first, if possible
 - Get a clear understanding of what is being alleged, including ***who, what, where, when, why.***
 - Serves as road map for rest of investigation
- ❑ Interview the person who made the report, if different than complainant.
- ❑ Interview witnesses
- ❑ Interview the Respondent



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Key Investigation Steps

- Obtain written, signed and dated statements from each person interviewed.
- Gather any relevant documentation or evidence:
 - Email or other correspondence or notes
 - Surveillance video, cell phone video
 - Electronic messages, posts to social media
- Prepare investigation report that will be provided to parties.
- Report to law enforcement, CPS, SBEC, etc., if required.



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Documentation Tips

- Notes should be thorough and detailed
- Include date, start/end times, location and names of people present
- Use exact quotes where possible
- Label rumors as rumors
- Avoid opinions of interviewer
- Recap notes with witness to confirm understanding
- Obtain a signature of any statement made by witness



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Interview Tips

- To Record or Not?**
 - Probably NOT required to record but check your local policy
 - No secret recordings! Keep recorder in plain view and advise the witness you are recording
 - State the date, time, location and identify individuals present
 - Label and secure the recording



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Interview Tips

- Be professional.
- Address concerns or reluctance of interviewee.
- Ask open-ended questions in a non-judgmental way.
- Ask witness to be clear about what is rumor or speculation and what was seen/heard.
- Ask witness to identify other witnesses.
- Discuss concerns about on-going interaction with the Respondent, if any.
- Encourage complainant to additional information as it becomes available.
- Obtain a written statement.
- Have another administrator or employee present to witness the interview where possible, especially in regard to Complainant and Respondent.



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Interview Tips

- Obtain copies of any documents identified or referenced by witness.
- Make no promises regarding confidentiality or the outcome of investigation.
- Interview all witnesses separately.
- Explain the process and reason for meeting.
- Be factual, avoid implication that Respondent is guilty or innocent, or that a decision has already been made.
- Ensure witness that s/he has right to be free from retaliation.
- Don't identify other witnesses/discuss the merits of the complaint.



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Interviewing the Respondent

- Generally, you will interview the Respondent after interviewing the complainant, victim, and any witnesses named by the complainant.
- Make a checklist of the specific allegations to cover in the interview with the Respondent.
- If the allegations are of a criminal nature and the accused refuses or has been advised not to respond, document efforts to interview the individual.



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Investigation of Complaints

- ❑ Investigations of Title IX complaints come with additional requirements. Investigations must:
 - ❑ Place the burden of proof and responsibility to gather evidence on the institution, not on the parties; and
 - ❑ Present an equal opportunity for parties to present witnesses and other evidence.
 - ❑ **Note:** The investigation must provide opportunities for the parties to present evidence, but the burden of proof remains on the institution to gather and present evidence.



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Investigation of Complaints

- ❑ Permit parties to discuss allegations under investigation and gather relevant evidence.
- ❑ Provide parties with equal opportunity to have others present during any grievance proceeding.
- ❑ Provide advance written notice of all hearings, interviews, or other meetings to any involved party, with sufficient time for the party to prepare.
 - These provisions do not mean that a party has the right to attend interviews of others.



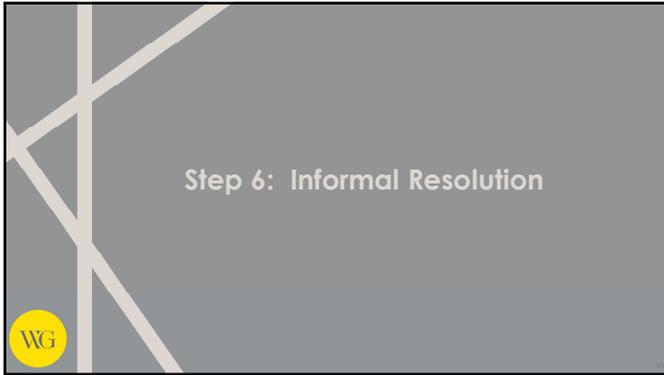
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Investigation of Complaints

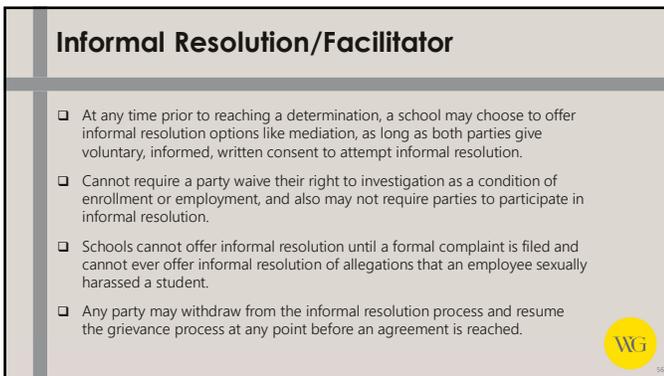
- ❑ Provide equal opportunity to both parties to inspect and review evidence obtained as part of the investigation (including evidence which the institution does not intend to rely on), and send to each party the evidence at least 10 days before completion of the investigative report.
- ❑ After 10 days and after reviewing any new information provided by either party, create an investigative report summarizing relevant evidence and submit a copy of the final report to both parties and to the T9C who will provide it to the Decision Maker.



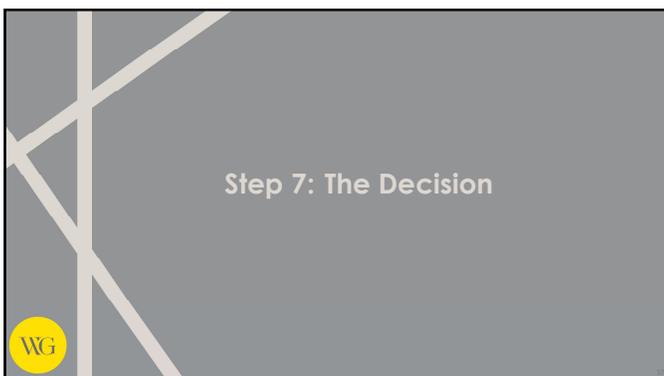
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Hearings

- Postsecondary institutions are required to hold live hearings as a component of the grievance process, **but for K-12, live hearings are optional.**




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Decision Maker/Determination of Responsibility

- The school's Decision Maker in a Title IX proceeding **CANNOT** be the T9C or the Investigator.
- Receives Investigation Report



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Follow Up Before Decision is Made

- The Decision Maker must provide each party the opportunity after completion of the investigative report to submit written, relevant questions that the party wants asked of another party or witness.
- The Decision Maker must provide each party with the answers and provided for limited follow-up questions with the exception of questions listed on the next slide.



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“Rape Shield” Provision

- Questions and evidence about a complainant’s sexual predisposition or behavior are categorically not relevant to a Title IX Investigation, **unless**:
- Evidence is offered to prove someone other than the respondent committed the alleged conduct.
- Evidence concerns the complainant’s prior sexual history with the respondent and is offered to prove consent.



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Other Required Documentation

“...the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient’s education program or activity. If a recipient does not provide a complainant with supportive measure, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.”
34 CFR 106.45(b)(10)(D)(ii).

- This may be documented in the investigation report or elsewhere.



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Rules of Thumb for Reaching a Conclusion

- Be sure to verify anything that can be verified - check the record and obtain corroborating statements.
- Review your school district’s policies, procedures, and other relevant documents.
- Confer with legal counsel regarding the application of relevant law.



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Determination of Responsibility

- ❑ The Decision Maker must use the standard of evidence selected by the district (preponderance of the evidence).
- ❑ The Decision Maker must issue a written determination of responsibility with:
 - ❑ Findings of fact;
 - ❑ Conclusions about whether the misconduct occurred;
 - ❑ Explanations of each conclusion; and
 - ❑ Any disciplinary sanctions or remedies being enacted
- ❑ Written copy of determination must be sent simultaneously to both parties and the T9C* with information on filing an appeal.



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Step 8: The Appeal



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Appeals/Appeals Decision Maker

- ❑ A school must offer both parties an opportunity to appeal a determination of responsibility
- ❑ An appeal can only move forward if it is based on one of the three following reasons:
 - ❑ Procedural irregularity that affected the outcome of the matter;
 - ❑ Newly discovered evidence that could affect the outcome of the matter; and/or
 - ❑ Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter.
- ❑ A school may offer an appeal on additional bases, as long as the appeal is offered equally to both parties.



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Notice of Appeal

- ❑ If an appeal is filed, the District must:
 - ❑ Notify the other party that an appeal was filed;
 - ❑ Implement appeal procedures equally for both parties;
 - ❑ Ensure the Appeal Hearing Officer is not the same person as the original Decision Maker, the T9C, or the Investigator;
 - ❑ Allow both parties to submit written statements in support or rejection of the determination; and
 - ❑ Have the Appeal Hearing Officer provide written notice of the decision and the rationale for the decision to both parties SIMULTANEOUSLY.



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If There is an Appeal, What Does it Mean?

- ❑ If an appeal is filed, the decision is not final and a District cannot impose disciplinary action or remedies based on the determination until the District provides both parties written results of the appeal; or
- ❑ The timeline for the opportunity to file an appeal expires.



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Record-Keeping 101



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Record-Keeping

- ❑ Maintain all documents from the Formal Complaint for seven (7) years:
 - ❑ The Determination;
 - ❑ Any Disciplinary Sanctions issued;
 - ❑ Remedies provided to the Complainant;
 - ❑ Any appeal; and
 - ❑ Any Supportive Measures implemented or if none were provided, the reasons why.
- ❑ Any materials used to train T9Cs, investigators, decisions makers, and any employee designated for facilitate an informal process must be posted on the District website.



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Retaliation



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Retaliation

- ❑ Retaliation is prohibited against any individual for the purpose of interfering with Title IX rights or because an individual has made a complaint or been involved with a Title IX investigation.
- ❑ Cannot charge an individual with a code of conduct violation not involving sex discrimination or sexual harassment but arising out of the same events as a report of sexual harassment, for the purpose of interfering with Title IX rights.
- ❑ An individual's exercise of a First Amendment right will not constitute retaliation.
- ❑ Charging an individual with a code of conduct violation for making a materially false statement in bad faith during a Title IX grievance proceeding does not constitute retaliation.



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Other State Reporting Requirements

- ❑ This presentation is specific to Title IX, but do not forget about other reporting requirements, including mandatory reporting related educator misconduct under Texas Education Code §21.006 and Texas Administrative Code §249.14 (inappropriate relationships with students).
- ❑ Reporting requirements for child abuse/neglect.



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Practical Scenarios



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Scenario 1: A student tells a counselor that she was offered a grade change by a teacher in return for giving him her cell phone number.




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Scenario 1

- This is *quid pro quo* sexual harassment as defined by Title IX. The counselor should report this to the T9C. The T9C will prepare to reach out expeditiously to the student. She plans to offer supportive measures.
- What else should the T9C do?
- Action can be taken against the teacher prior to initiation of any Formal Complaint.
- Must identify a relevant policy or rule violated in order to support this action.



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Scenario 2: Dad calls A/P alleging his daughter was called a slut, and tapped on the backside by a boy during school hours, at the school.




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Scenario 2A - Consider this....

- Dad calls A/P alleging his daughter was called a slut, and tapped on the backside by a boy during school hours, at the school. ***This is a Report of conduct that is sexual in nature.***
- T9C offers supportive measures and informs Dad of the Formal Complaint process. (Could be campus level)
- Dad just wants the behavior stopped and does not file a Formal Complaint.
- Boy admits conduct, but conduct falls short of the Title IX definition of "sexual harassment."
- Stop Title IX actions and issue "no-finding" report. Discipline in accordance with Student Code of Conduct but do not call it sexual harassment.



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Scenario 2B - But what if....

- ❑ Dad calls A/P alleging his daughter was called a slut, and tapped on the backside by a boy during school hours, at the school. ***This is a Report of conduct that is sexual in nature.***
- ❑ T9C meets with and offers supportive measures and informs Dad of the Formal Complaint process.
- ❑ Dad decides to file a Formal Complaint.
- ❑ "The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 106.30 even if proved.... then the recipient must dismiss the formal complaint for purposes of sexual harassment under Title IX or this part; such a dismissal does not preclude action under another provision of the recipient's code of conduct." 34 CFR 106.45(b)(3)(i).



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Scenario 2C - But what if the conduct went further...

- ❑ Dad calls A/P alleging his daughter was called a slut, and tapped on the backside by a boy during school hours, at the school. ***This is a Report of conduct that is sexual in nature.***
- ❑ T9C meets with and offers supportive measures and informs Dad of the Formal Complaint process. During this meeting it is alleged that the boy is also leaving sexually explicit notes in the student's notebook, sending sexually suggestive text messages and tweets.
- ❑ Dad is not satisfied that supportive measures are enough and decides to file a Formal Complaint.



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Scenario 3: A male teacher is the only AP human geography teacher at the District. He begins texting a female student offering his tutoring services. He eventually asks her on a "secret" date. She refuses. Her grades become markedly lower in his class and he tells her he needs hugs and that date for her grades to improve.




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Scenario 3 - Discuss

- ❑ How does the District approach this?
- ❑ What type of sexual harassment, if any, is this?
- ❑ What supportive measures could be offered?



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Questions?



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