

IDAHO K-12 TITLE IX PROFESSIONAL LEARNING COMMUNITY #3

TITLE IX: COMPLIANT GRIEVANCE PROCESS PT 2

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NEXT MEETINGS

- ▶ Tuesday, December 7th, at 9 am MT/8 am PT
- ▶ January – May
 - ▶ 4th Tuesday at 9 am MT/8 am PT
 - ▶ 4th Thursday at 12 pm MT/11 am PT

REVIEW

WHEN DO TITLE XI SH GRIEVANCE PROCESSES APPLY? – 34 CFR 106.44

- ▶ When you have actual knowledge of sexual harassment in an education program or activity – must respond in a way that is not deliberately indifferent
- ▶ You must:
 1. Treat complainants and respondents equitably
 2. Follow a 106.45 compliant grievance process BEFORE implementing disciplinary measures or other actions that are not supportive measures
- ▶ What if incident doesn't meet one or all parts of definition but still violates school policy?

WHEN DEFINITION IS MET, CAN YOU PROCEED? – 34 CFR 106.30

- ▶ **Formal Complaint** – A document filed by the complainant or signed by the TIXC alleging sexual harassment against a respondent requesting the school investigate
 - ▶ Complainant must be participating in or attempting to participate in an educational program or activity

RESPONSE WITH OR WITHOUT FORMAL COMPLAINT – 34 CFR 106.44

- ▶ Title IX Coordinator should promptly contact the complainant to:
 - ▶ discuss the availability of supportive measures,
 - ▶ consider their wishes, and
 - ▶ explain the process for filing a formal complaint
- ▶ Document, document, document!



CONTINUANCE – AFTER RECEIVING FORMAL COMPLAINT – 34 CFR 106.45 PT 2 ET SEQ.

NOTICE OF ALLEGATIONS

- ▶ After receipt of formal complaint
- ▶ Must provide WRITTEN notice to parties who are known
 - ▶ Grievance process
 - ▶ Statement of no presumption of guilt and determination made at end of process
 - ▶ Info re false statements
 - ▶ Right to an advisor of choice

NOTICE OF ALLEGATIONS

- ▶ Right to review and inspect evidence
- ▶ Notice of allegations of sexual harassment potentially constituting sexual harassment under 106.30
 1. Sufficient details known at time
 2. Sufficient time to prepare a response

DISMISSAL OF A FORMAL COMPLAINT

- ▶ Must investigate allegations in formal complaint
- ▶ Mandatory Dismissal
 - ▶ MUST dismiss if definitional and jurisdictional components not met
 - ▶ Dismissed as to conduct for the purposes of TIX
 - ▶ Does not preclude charges under other provisions of your student policies

DISMISSAL OF A FORMAL COMPLAINT

▶ Permissive Dismissal

- ▶ MAY dismiss all or part of complaint at any time during the investigation, if:
 - ▶ Complainant requests withdrawal
 - ▶ Respondent is no longer enrolled with the recipient
 - ▶ Circumstances prevent recipient from gathering evidence sufficient to reach a determination
- ▶ Permissive dismissal does not necessarily allow for alternative methods of adjudication

NOTICE OF DISMISSAL

- ▶ If matter is dismissed must provide notice
 - ▶ Written
 - ▶ Include reason(s) for dismissal
 - ▶ Must provide to all parties at the same time

CONSOLIDATION OF COMPLAINTS

- ▶ Formal complaints against more than one respondent OR by multiple complainants against one or more respondents
- ▶ Can only consolidate (process through same investigation/decision making process) if:
 - ▶ Allegations of SH arise out of same facts or circumstances

NEXT MONTH – GRIEVANCE PROCEDURES

PT. 3

- ▶ Investigation (continued if needed)
- ▶ Opportunity to submit questions or live hearing
- ▶ Determination regarding responsibility
- ▶ Appeals
- ▶ Informal resolution
- ▶ Record keeping

WHAT QUESTIONS OR CONCERNS HAVE ARISEN FOR YOU THIS MONTH?

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