



Civil Rights Coordinator Webinar Series: **Title IX Deeper Dive**

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Kate Hildebrandt (she/her)
Civil Rights and Title IX Specialist
Oregon Department of Education
katherine.hildebrandt@ode.oregon.gov

This presentation is not intended as legal advice and should not be taken as such; we advise you to consult with legal counsel before making policy or process changes.

ODE is available to support with individual technical assistance following this presentation.

CRC Spring 2024 Webinar Schedule

Jan 18: Overview of State and Federal Discrimination Law

Feb 8: Title IX Deeper Dive (OPTIONAL)*

↑ YOU ARE HERE

Feb 15: Responding to Discrimination

Feb 22: Section 504 Deeper Dive (OPTIONAL)*

Mar 21: Title VI Deeper Dive

Apr 11: Preventing Discrimination

May 2: Avoiding Conflicts of Interest and Bias

*if you already hold an affiliated Coordinator role and have received training, you may wish to skip these sessions

Learning Outcomes

1. What is Title IX, and the role of the Title IX Coordinator.
2. Overview of key concepts related to Title IX, including athletics, single-sex programs, pregnant and parenting students, sexual orientation and gender identity, and sexual harassment.
3. Responding to Title IX complaints, including how the Title IX Coordinator and CRC can work together effectively.

Norms and Expectations

Participants will:

- Use the chat function to ask general questions
- Reach out to presenters for technical assistance for specific or unique questions
- Stay muted, unless invited to unmute
- Share video to their own comfort level

Presenters will:

- Provide brief answers to general questions verbally or in the chat
- Provide longer answers at the end, if time allows
- Provide individualized technical assistance upon request
- Share the slide deck with participants
- Record this content and share it when it becomes available

Terms & Acronyms



OCR - U.S. Department of Education Office for Civil Rights

Recipient - a school or educational organization that receives federal funds

Educational Programs and Activities - all the programs offered by a school, including classes, clubs, field trips, etc.

Complainant - in a complaint process, the person harmed by sex discrimination

Respondent - in a complaint process, the person reported to have engaged in sex discrimination

Remedies - measures designed to restore full access to the educational programs and activities for those impacted by discrimination, and alleviate any impacts



Title IX and the Title IX Coordinator

Title IX: Sex, Sexual Orientation, Gender Identity

1972 civil rights law that prohibits sex discrimination in federally funded education programs.

This includes discrimination based on **sex, sexual orientation,** and **gender identity.**

“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.”

Sex Discrimination

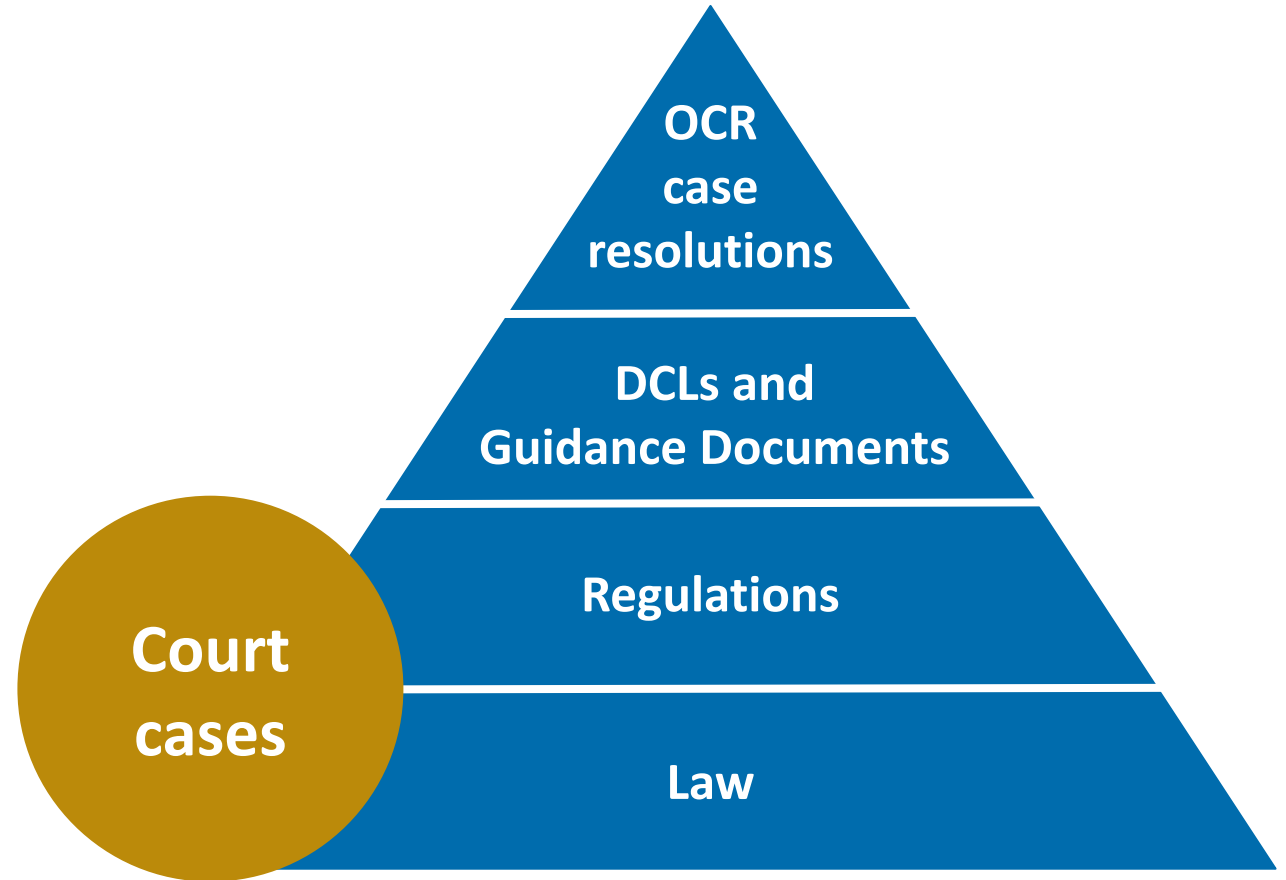
34 CFR 106.31(b) Specific Prohibitions. Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

- (1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;
- (2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;
- (3) Deny any person any such aid, benefit, or service;
- (4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;
- (5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
- (6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;
- (7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

Title IX is an evolving and living law!

Over the past 50+ years, Title IX has evolved, expanded, and changed

The Office of Civil Rights, Congress, and the Courts have all impacted how Title IX is implemented and enforced. To understand what to do at our schools/districts, we look to:



District Obligations Under Title IX

- Designate a Title IX Coordinator [34 CFR 106.8\(a\)](#)
- Provide a notice of nondiscrimination [34 CFR 106.8\(b\)](#)
- Provide training for designated personnel (investigators, coordinators, etc) [34 CFR 106.45\(b\)\(1\)\(iii\)](#)
- Adopt policies and procedures for receiving reports and resolving complaints of sex discrimination, including sexual harassment [34 CFR 106.8\(c\)](#), [34 CFR 106.45](#)
- Ensure athletic programs offer equal and equitable opportunities and benefits to boys and girls athletic programs, [34 CFR 106.41](#), [Guidance](#)
- Provide access and accommodations for pregnant and parenting students [34 CFR 106.40](#), [Guidance](#)
- Ensure compliance with Title IX regulations for any single-sex or sex-segregated programs and activities; [34 CFR 106.34](#), [Q&A](#)
- Keep records of sex discrimination and sexual harassment complaints [34 CFR 106.45\(b\)\(10\)](#)

The Title IX Coordinator

Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this [Title IX], which employee must be referred to as the “Title IX Coordinator.”

34 CFR 106.8(a)

Role of the Title IX Coordinator:

- Ensure the district/school is fully complying with Federal Title IX law, regulations, and guidance
- Coordinate responses to reports of sex discrimination
- Keep track of records and data related to Title IX compliance
- Coordinate with other roles/departments
- Monitor overlapping requirements between Title IX and other Federal/state laws

Training Requirements: Title IX Coordinator

- No specific general training requirements in rule, but must be knowledgeable enough to fulfill the duties of a coordinator.
- OCR's proposed regulations (due to be released later in 2024) will have additional training requirements.

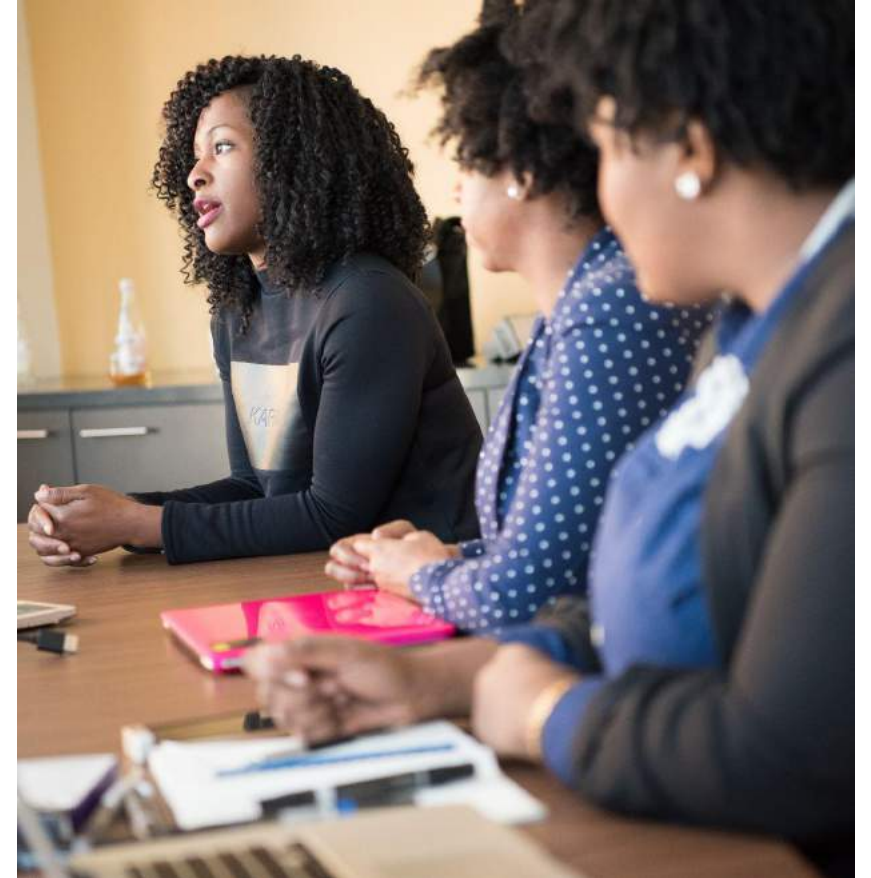
Specific training required for sexual harassment:

- definition of sexual harassment, scope of recipient's educational programs and activities, how to conduct the grievance process, and how to avoid prejudgment of facts, conflicts of interest, and bias

34 CFR 106.45(b)(1)(iii)

When the CRC is not the Title IX Coordinator...

- Title IX allows the Title IX Coordinator to delegate responsibilities for compliance; some of those may be delegated to the CRC
- If the CRC will be assisting with Title IX sexual harassment response, ensure they receive required training
- Ensure bidirectional communication and touch-points in the process
- Ensure a shared understanding of discrimination and related laws



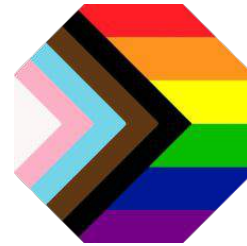


Key Concepts



Athletics

Schools have to provide equal opportunities for boys and girls teams, as well as equal benefits (facilities, equipment, travel, etc)



Sexual Orientation and Gender Identity Discrimination

SOGI discrimination is a form of sex discrimination covered by Title IX, and should be tracked as such.



Pregnant/Parenting Students

Access to all programs, supportive accommodations, and medical leave



Single-Sex (or Sex-Segregated) Programs and Activities

Single-sex programs, or separate programs by sex/gender, are only allowed in specific, limited circumstances.



Sexual Harassment

Sexual harassment is a form of sex discrimination and requires a specific response.

Example: Athletic Equity

Spruce High School's athletic teams had a great year; several teams, including girls volleyball, boys basketball, and boys soccer, made it to the state championships. All teams were encouraged to fundraise to upgrade their travel buses to luxury coaches for transportation to the tournaments. Boys basketball and boys soccer were unable to fundraise enough money, despite their best efforts. The girls volleyball coach reached out to several team parents about donating; together these parents donated enough money for the bus upgrade, and also purchased the team championship jackets, branded backpacks, and a nice dinner on the trip.



Is this a possible violation of Title IX?

Athletics: Benefits and Opportunities

The “Three-Part Test”

Schools have to provide equal opportunities for students to participate in athletics.

- Opportunities = spots on competitive athletic teams
- Schools are not required to have an equal number of spots; parts two and three offer options focusing on opportunities and support for the underrepresented sex

The “Laundry List”

Schools have to provide equal benefits for girls and boys sports teams.

- Benefits = facilities, equipment and supplies, coaching, travel, medical support, media support, etc.
- Benefits are compared overall (total program comparison), not sport-to-sport.
- ALL sources of benefits count!

TIP: Work collaboratively with your Athletic Director(s)

Example: Pregnant/Parenting Students

During the last week of the school year in June, a 10th grade student's family emails you to share that she is pregnant and will be giving birth at the end of October. Her pregnancy is high risk and she has to travel for weekly doctor's appointments that will mean missing half a day of school each week in the Fall. The student wants to continue to play on the volleyball team and continue to pursue advanced/honors classes next year as planned.



Is the student eligible to play volleyball? What support needs to be put in place?

Given that the student will miss half a day of school each week, what kind of academic supports need to be put in place? Does her schedule need to be adjusted? How will you support her rigorous schedule?

When can the school start requiring the student to attend classes again after giving birth?

Pregnant and Parenting Students

At minimum, schools must do certain things to comply with Title IX:

- schools may offer separate programs, but they must be voluntary and comparable
- “when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student’s temporary pregnancy status” such as a larger desk, allowing more frequent restroom trips, etc.
- a school may only require medical certification/release to participate in school programs or activities if also required of other students
- must excuse absences for pregnancy-related conditions, including allowing medical leave for delivery/birth recovery

[Supporting the Academic Success of Pregnant and Parenting Students](#), 2013

Is this sexual harassment?

An anonymous instagram account posts pictures of a 7th grade trans boy taken in the hallways and classrooms at school. The account calls him gender identity-related slurs and dissects whether he is “really a boy or a girl” by discussing what they can tell about his body parts, including breasts and genitals, from the photos.

Tonya shows up in the school counselor’s office crying after lunch because she got into a fight with her boyfriend “again.” They started arguing in between classes and he grabbed her so hard he left a bruise around her wrist. Tonya says she can’t stay long, because he monitors her phone and will know if she’s not in class and wonder why.

Title IX Sexual Harassment: 2020 Regulations

Sexual harassment is conduct on the basis on sex that occurs within the educational programs and activities of the school:

- quid pro quo harassment (employee respondent)
- unwelcome conduct: severe, pervasive, objectively offensive, denies equal access
- sexual assault, dating violence, domestic violence, stalking

34 CFR 106.30(a)

Specific requirements when **any employee of a school** knows about sexual harassment:

- Contact the complainant and offer supportive measures
- Discuss how to file a Title IX complaint, and initiate a complaint if necessary

Specialized, specific investigation process required by **trained** personnel.

Example: SOGI Discrimination

Several 4th and 5th grade teachers approach their Principal about setting up a Rainbow Club for LGBTQ+ students and allies at the school during lunch, because there are a number of students with LGBTQ+ family members and a couple of trans/nonbinary students in their classes, and several parents have asked if the school will start a club. The Principal is concerned about negative media attention regarding the club, so suggests they institute a policy requiring all students to get permission slips signed by their parents before participating in Rainbow Club meetings.



Is requiring permission slips for the club discriminatory?

What has OCR said about SOGI discrimination?

- *Tamalpais Union School District*, OCR Case No. 09-18-1466 (2022), [Findings](#)
 - Sex discrimination based on sex stereotyping occurred when a gender expansive student was harassed because their name, pronouns, clothing, manner of speaking, and presentation did not align with traditional gender roles.
- *Forsyth County Schools*, OCR Case No. 04-22-1281 (2023), [Findings](#) and [Resolution Agreement](#)
 - A district's response to a request to remove LGBTQ2SIA+ books from the library may have created a hostile environment for LGBTQ2SIA+ students, even though the books were not removed (or if removed/restricted, were removed for sexually explicit content)
- *Rhineland School District*, OCR Case No. 05-22-1029 (2023), [Findings](#) and [Resolution Agreement](#)
 - A nonbinary student experienced sex discrimination when they were constantly misgendered and deadnamed, harassed by other students, and removed from a class because the teacher could not control other students' harassing behavior

RESOURCE: ODE's 2023 Gender Expansive Student Guidance



Example: Single-Sex Programs

A group of high school girls approach the Assistant Principal and ask if the school can add a girls-only weightlifting class next semester. They complain that the current weightlifting class period is dominated by football players, and that the girls in the class don't get enough help from the teacher because they believe he designs the curriculum for the football team.



Can the school create a girls-only weightlifting class next semester?

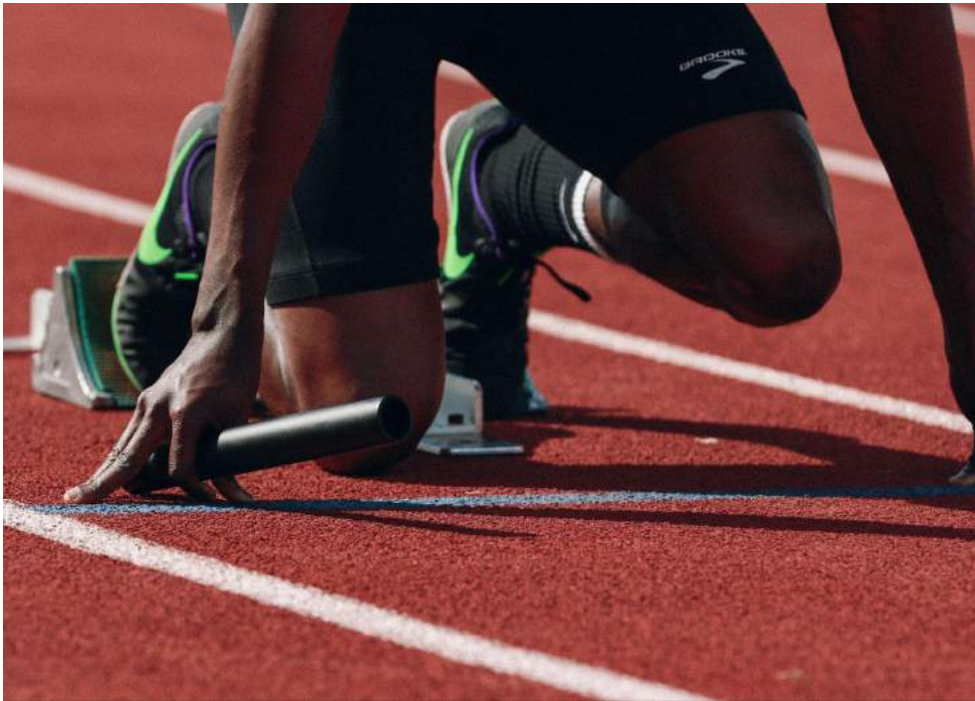
Single-Sex Programs

There are only two ways a school can offer a single-sex or sex-separated educational program (which includes classes, clubs, field trips, etc.):

- If it is [specifically allowable in regulation](#) (contact sports, instruction on human sexuality, choruses, etc.); or
- If it meets specific requirements outlined in 34 CFR 106.34(b):
 - based on an important educational objective that is implemented evenhandedly
 - enrollment is voluntary
 - excluded students are provided a substantially equal coeducational opportunity
 - it is evaluated regularly

Educational programs or activities run by external partners are also subject to these requirements. See: [Dear Colleague Letter on Voluntary Youth Service Organizations](#)

Get ready... for new regulations!



OCR is currently in the process of revising the Title IX regulations.

Most areas of Title IX will be impacted - some in small ways, some in larger ways.

OCR has most recently stated they expect the new regulations in Spring 2024.

Stay tuned!



Responding to Title IX Complaints

What counts as a report of sex discrimination?



“**Any person may report sex discrimination**, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's **verbal or written** report.”

34 CFR 106.8(a)

Recognizing Possible Title IX Complaints

Sometimes a school is put “on notice” of a possible Title IX concern/violation without the filing of a formal Title IX complaint. Examples:

Parents meeting with an elementary Principal mention that their child’s teacher regularly divides the students into boys and girls groups when he needs to split the students up for play/learning time.

An anonymous instagram account is getting media attention for posting stories of students experiencing sexual harassment at the local middle school.

A group of senior girls document inequitable facilities between boys and girls sports and present it to their class for their senior project.

A parent submits a public complaint form alleging that boys are being discouraged from enrolling in the cosmetology CTE course offered by the district.

Grievance Procedures

“A recipient must adopt and publish grievance procedures that provide for the **prompt and equitable** resolution of student and employee complaints...”

34 CFR 106.8(c)

- Districts have the discretion to adopt their own policies and procedures
- Most Oregon schools utilize a standard nondiscrimination policy and procedure that encompasses all discrimination, including sexual harassment complaints.



Sexual Harassment Complaints

Under the 2020 Title IX regulations, the Title IX sexual harassment grievance procedure is much different than other grievance processes. 34 CFR 106.45 outlines very specific requirements and steps.

Whenever a school has notice of possible sexual harassment, the Title IX Coordinator must:

- contact the complainant 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
- explain to the complainant the process for filing a formal complaint

34 CFR 106.44(a)

1 Formal Complaint

Once a formal complaint has been filed, the Title IX grievance process begins. **Title IX Coordinator** or designee must issue a written **Notice of Allegations**. Participants now have the option to opt into an informal process.

4 Appeals

Districts are required to have a one-level appeal process, which must be decided by a separate trained **Appeals Decision-Maker**.

5 Resolution

Sanctions are disciplinary measures imposed on a respondent found responsible. **Remedies** are measures designed to restore educational access for the complainant and remedy any harm done. Regardless of the findings, **supportive measures** may be kept in place.

2 Investigation

Trained **Investigator** conducts interviews and gathers evidence. Complainants and respondents are allowed to submit evidence, and review any evidence submitted by other parties. Must write and share with both parties and **Investigation Report**.

3 Decision-Making

Trained **Decision-Maker** takes information gathered in investigation, conducts a “**modified cross-examination**” process, and determines whether sexual harassment occurred. Issues a written **Determination of Responsibility**.

Recordkeeping

- All complaints of sex discrimination including: bullying/harassment, sexual harassment, athletic equity complaints, LGBTQ+ equity complaints, academic equity complaints, and employment equity complaints
 - It is a best practice to log both “formal” and “informal” reports for tracking and response purposes
 - Sexual harassment complaints have specific regulatory tracking requirements listed in 34 CFR § 106.45(b)(10)
- Athletic equity analysis (conducted regularly)
- Notifications to students and staff
- Trainings given to students, staff, and designated personnel

When the CRC is not the Title IX Coordinator...

Responsibilities for complaint response can be delegated in a number of ways

- HB 2281 does not require responsibilities to be delegated in a specific manner
- Title IX does require the TIX to be involved in certain pieces of response

Must have touch points and shared/bidirectional communication

Standardized processes and procedures

- Investigations
- Available through a manual or written format

HINT: The same complaint should come to the same conclusion no matter who is overseeing or investigating it!

Further Reading and Learning

Upcoming ODE Title IX Trainings:

- IX 101: Intro to Title IX [Thurs, Mar 7, 9-11 AM](#)
- Title IX Sexual Harassment Training: [Mon+Wed, Feb 12+14, 9-11 AM](#)

[ODE Title IX Resource Page](#)

[OCR Title IX Overview](#)

[OCR Sex Discrimination Frequently Asked Questions](#)

[OCR Back to School: Supporting Educational Environments Free from Discrimination](#)



CONTACT US

Kate Hildebrandt

Civil Rights and Title IX Specialist, ODE
(sex, sexual orientation, gender identity, pregnancy)

katherine.hildebrandt@ode.oregon.gov

503-551-5713

Visit <https://www.oregon.gov/ode/students-and-family/equity/civilrights> for additional resources.