A wooden scale of justice sits on a wooden desk. The background is a blurred office or classroom setting with various educational icons like a graduation cap, pencil, and lightbulb floating around.

New Title IX Regulations: Expanding Coverage and Simplifying Processes

The U.S. Department of Education has released new Title IX regulations, significantly altering the landscape of sexual discrimination and harassment policies in educational institutions. These changes broaden the scope of Title IX coverage while simplifying investigation procedures. This presentation will explore the key aspects of these new regulations and their implications for school districts.



by John Stith



Understanding the Impact of Title IX

Title IX is a pivotal federal civil rights law that prohibits discrimination on the basis of sex in any educational program or activity that receives government funding. Enacted in 1972, this groundbreaking legislation has played a transformative role in promoting gender equity and expanding opportunities for women and girls in schools and universities across the United States.

Shift from Previous Regulations

1

Previous Regulations

Structured to give more rights to the accused, often male students

2

Investigative Process

More like a trial than a student discipline investigation

3

New Regulations

More flexible, less adversarial, and easier to coordinate with other school district procedures

4

New Regulations

Investigating returns to the same process as a discipline issue and moves away from a tribunal style process



Expanded Title IX Coverage: Protecting LGBTQ+ Students

The 2024 Title IX regulations explicitly state that discrimination based on sexual orientation and gender identity is considered sex discrimination. This broadens the scope of Title IX to protect LGBTQ+ students from harassment and ensure equal access to educational opportunities.

Implications include guidance on bathroom/locker room usage and pronoun usage, as well as a clear definition of sex-based harassment.





Broadened Definition of Sex Discrimination

1

Expanded Coverage

Includes discrimination based on sex stereotypes, sex characteristics, pregnancy, sexual orientation, and gender identity

2

Legal Context

USDOE disagrees with Eleventh Circuit Court decision in *Adams v. School Board of St. Johns County, Florida*

3

Broader Interpretation

Accepts decisions of other circuit courts defining "sex" in Title IX more broadly

Defining Sexual Harassment Under the New Regulations

- Unwelcome **quid pro quo** conduct - such as demanding sexual favors in exchange for academic or employment benefits
- Unwelcome conduct that **denies equal access** to the school's education program or activity
- Dating violence, domestic violence, **sexual assault**, or stalking that falls under the Clery Act or Violence Against Women's Act

The new Title IX regulations have clarified the definition of sexual harassment, providing schools with clearer guidelines on what constitutes prohibited conduct. This will help ensure consistent application of the law and protect the rights of all students.

What's Covered? Expanded Version

- **Sex Discrimination** - Includes sex stereotypes, sex characteristics, pregnancy and related conditions, sexual orientation, and gender identity
- **Sex-Based Harassment** - Covers quid pro quo harassment, hostile environment, and specific offenses like sexual assault, dating violence, domestic violence, and stalking
- The new regulations expand the scope of Title IX to address a broader range of sex discrimination and harassment, providing greater protections for students and staff.

Revised Definition of Sexual Harassment

Previous Definition

"Severe, pervasive and offensive"

New Definition

"Severe or pervasive" and
subjectively and objectively
offensive

Expanded Scope

Includes off-campus misconduct
and conduct outside the United
States

Expanded Scope and Jurisdiction of Title IX

- **Recipient's Education Program or Activity:** Title IX now applies to any building owned or controlled by an officially recognized student organization, as well as any conduct subject to the school's disciplinary authority.
- **Distant Conduct with On-Campus Effects:** Title IX can address sex-based hostile environments, even if some of the conduct occurred outside the education program or activity, or outside the U.S.
- **Expanded Parties:** Former participants and third parties who were participating or attempting to participate in the education program can now file Title IX complaints.
- **Timing of Incidents:** Complaints are determined based on the time of the alleged incident, not the date the complaint was filed.

Updated Reporting Requirements

Previous Requirement

Every employee required to report potential violations with "actual" knowledge

New Requirement

Any employee with information about conduct that "may reasonably constitute sexual discrimination" must report it





Simplified Investigation Process

1

Title IX Coordinator Role

Can now serve as investigator and decision maker

2

Informal Resolution

Allowed except in adult-on-student situations

3

Prompt Response

Required to respond "promptly and effectively" with basic notice requirements

4

Flexible Timeframe

Investigation and action could take place within a week or less



Legal Challenges to New Regulations

Louisiana	Preliminary injunction issued
Mississippi	Affected by Louisiana injunction
Montana	Affected by Louisiana injunction
Idaho	Affected by Louisiana injunction
Alabama	Case filed, includes Georgia as plaintiff

Next Steps for School Districts



Stay Informed

Monitor developments as August 1st approaches



Schedule Training

Prepare training on new rules for staff involved in Title IX complaints and investigations



Review Policies

Be prepared to create or revise policies and procedures



Await Court Decision

Final decisions on implementation will depend on the court case involving Georgia



Mandated Reporting and Title IX Coordinators

Mandated Reporting

Just like with child abuse, all employees are mandated reporters under Title IX. Any information about potential sex discrimination must be reported to the Title IX Coordinator.

Coordinator Visibility

Each school should clearly post the Title IX Coordinator's roles and contact information on the website and in the building. This ensures everyone knows who to report to.

Communication is Key

Schools should proactively communicate the Title IX Coordinator's role and reporting requirements to all employees, such as through email and faculty meetings.

Responding to Harassment Without a Formal Complaint

- Even without a formal complaint, districts must respond promptly and effectively if deemed to have knowledge of potential sex-based harassment.
- The Title IX coordinator must assess if the reported conduct would constitute sex-based harassment, even in the absence of a filed complaint.
- **Staff training** is crucial, as any staff knowledge of potential harassment triggers the district's obligation to respond.
- Districts should have clear protocols for responding to and investigating reports of harassment, regardless of whether a formal complaint is filed.
- Proactive steps like **policy review, staff education, and climate surveys** can help districts identify and address harassment before formal complaints arise.

Responding to Reports of Harassment

Once a district becomes aware of potential sex-based harassment, it must take prompt action to support the complainant and respondent, even before a formal complaint is filed.

This includes providing **supportive measures** to the complainant and notifying the respondent of the report or complaint.

The district must also inform the complainant of their right to file a formal Title IX complaint and the available grievance process.



Supportive Measures

Supportive measures must not unreasonably burden either party. They are designed to protect the safety of the parties or the educational environment, and to provide support, without imposing punishment or discipline.

Supportive measures can be modified or terminated, and must be appealable to a neutral party. Confidentiality must be maintained to the extent possible.



Title IX Coordinator: Roles and Responsibilities

The Title IX Coordinator plays a critical role in ensuring equity and supporting both Complainants and Respondents throughout the grievance process. They must treat all parties fairly, offer and coordinate supportive measures, and initiate the formal or informal resolution process.

The Coordinator must notify the Complainant or reporting party of the available processes, and if a formal complaint is filed, they must also notify the Respondent.



Roles and Responsibilities of Title IX Coordinators and Investigators

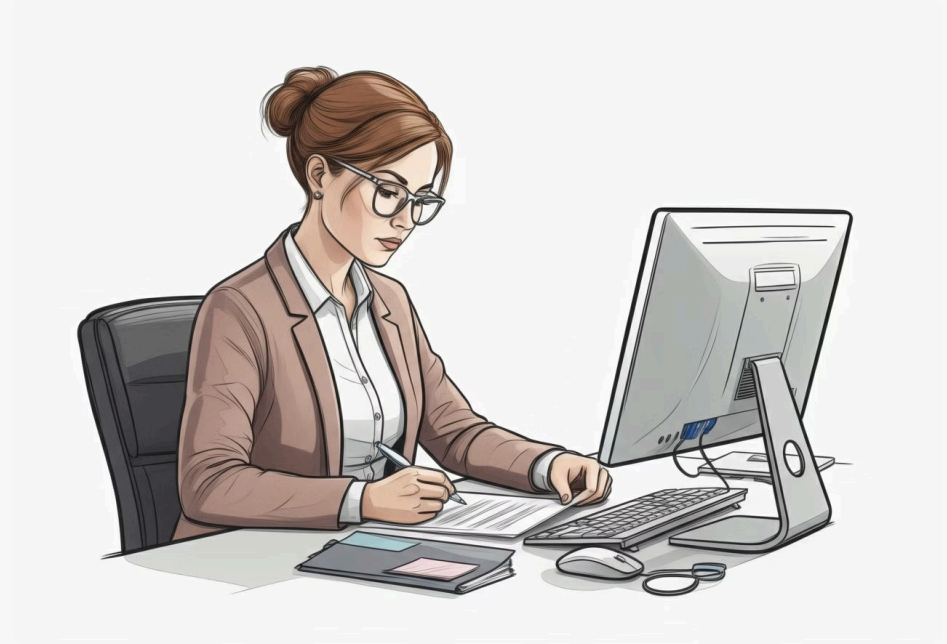
- John Stith is the district **Title IX Coordinator**, handling all Title IX complaints for staff and assisting principals.
- Principals at each school will serve as **Title IX Coordinators and Investigators**, working with their Assistant Principals.
- Brent Tuck will serve as the **Decision Maker** for Title IX cases.
- Dr. Franklin will handle **appeals** of Title IX decisions.
- It's possible that some complaints may be **discipline issues** rather than meeting the standards for sexual harassment.

Who Can File a Title IX Complaint?

Under the new Title IX regulations, a wide range of individuals can file a complaint, including:

- Complainants, parents, guardians, or legal representatives
- The Title IX Coordinator
- Students or employees, even if not directly involved
- Individuals attempting to participate in the education program

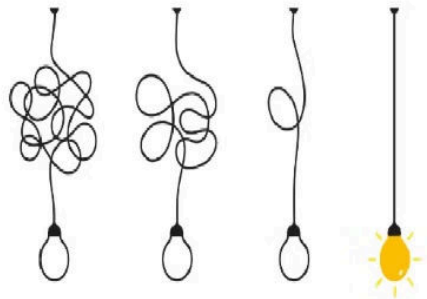
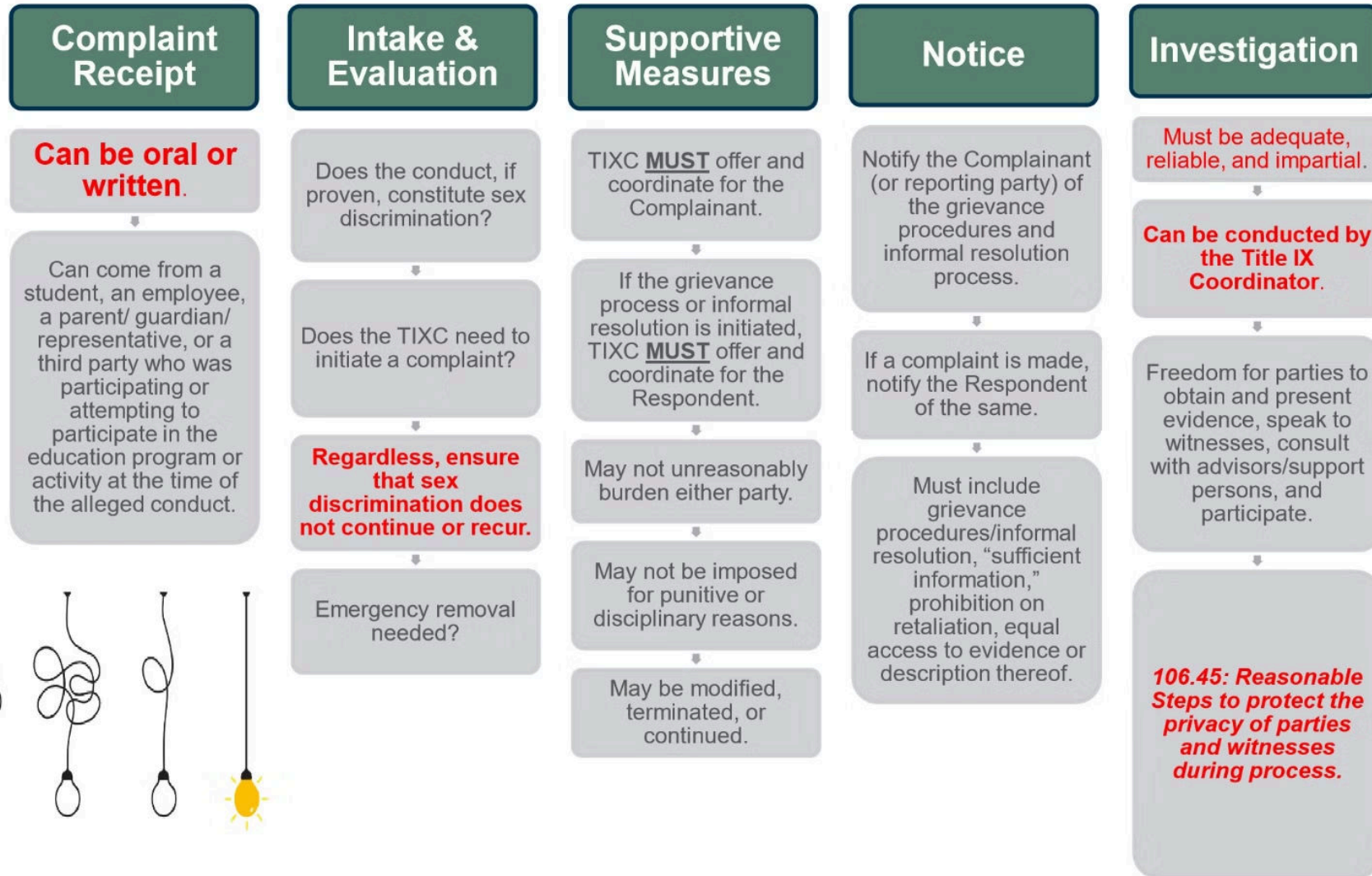
Complaints can be filed in writing or orally, and informal resolution is available in certain cases.



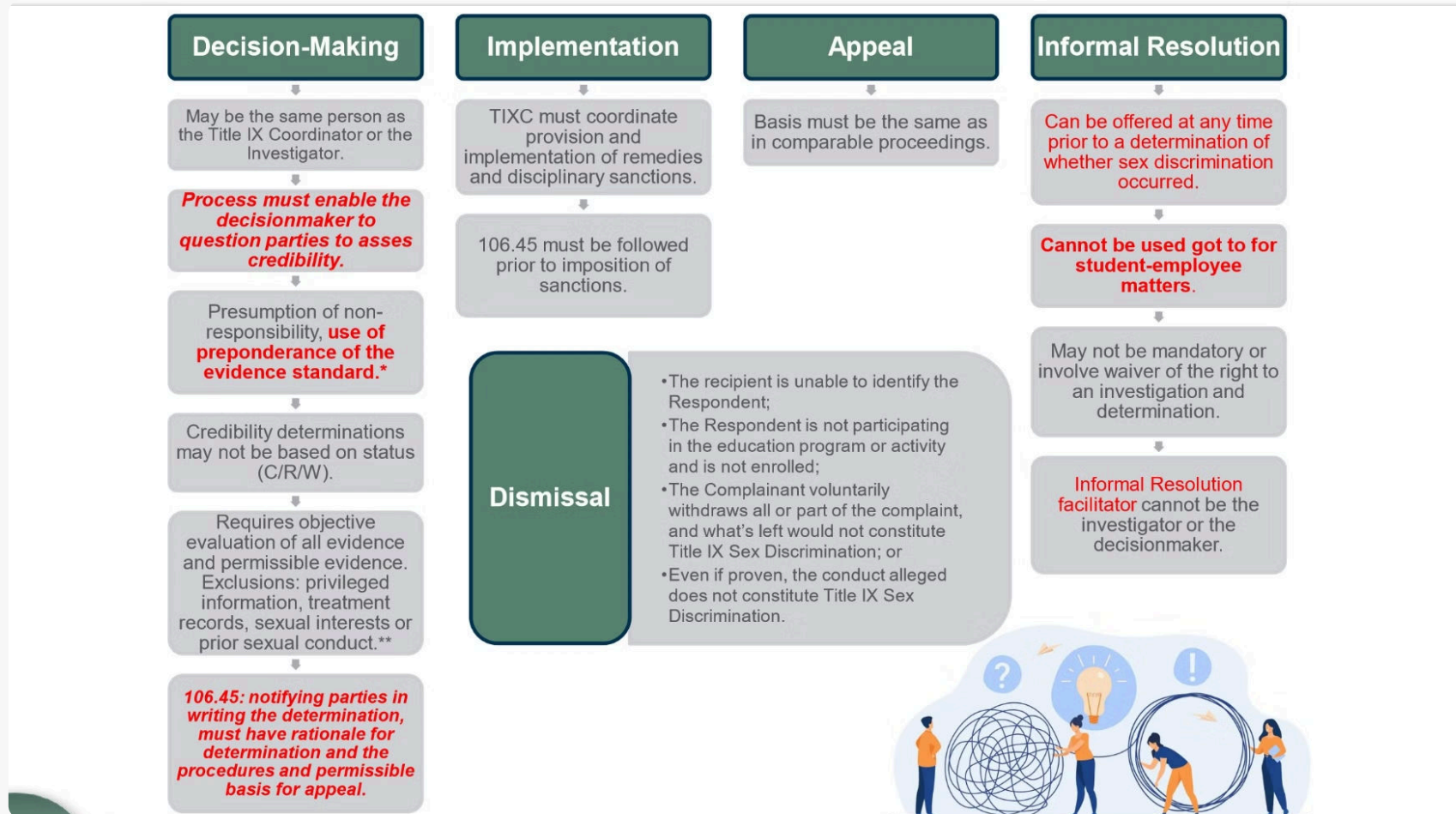
Conducting a Thorough and Impartial Title IX Investigation

- The school district bears the **burden** of conducting a comprehensive investigation and gathering sufficient evidence to determine if a Title IX violation has occurred.
- Both the **Complainant** and **Respondent** must be given equal opportunities to present relevant fact witnesses and evidence, including inculpatory and exculpatory information.
- The school must provide an **accurate description or summary of the evidence**, or allow the parties to access the underlying evidence upon request, while maintaining confidentiality.
- Parties must be given a **reasonable opportunity** to review and respond to the evidence, with no strict 10-day timelines.
- Reasonable steps should be taken to **prevent unauthorized disclosure** of sensitive information during the investigation process.

Simplified Investigation Process



The Process of Title IX



Questions? Contact John Stith

Phone

For any questions, please call
John Stith at 706-886-9415.

Email

You can also reach John Stith by
email at
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Availability

John Stith is available to assist
you and respond to any inquiries
you may have.