School Requirements Under Title IX--2024

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Title IX Regulations

- What will we discuss today:
  - What Is Title IX?
  - 2020 Regulatory Requirements under Title IX
  - Responsibilities of District Personnel
  - Effective Implementation
  - 8/1/2024 Amendments

Required topics of training for all employees, per Fed'l regulations:

- The District's obligation to address sex discrimination in its educational programs and activities;
- The scope and type of conduct that constitutes Title IX sex discrimination, including sex-based harassment;
- An employee's responsibility to provide a student or guardian with the Title IX coordinator's contact and other information upon notice of a student's pregnancy; and
- An employee's responsibility to notify the Title IX coordinator and/or provide the coordinator's contact information upon notice of sexual misconduct, depending on the employee's role and the level of their institution.

Required topics of training for investigators, decisionmakers, etc:

- **Investigators, decisionmakers, any employee who is responsible for implementing grievance procedures, and any employee who has the authority to modify or terminate supportive measures** must complete the all-employee training and training on:
- The District's obligations in responding to allegations of sex discrimination, including but not limited to sexual misconduct;
- The District's grievance procedures pursuant to § 106.45 of the new Title IX regulations;
- How to carry out their roles in an impartial manner, including by avoiding prejudgment, conflicts of interest, and bias; and
- Issues of evidentiary relevance under the Title IX regulations.

Title IX:

- "[n]o 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." 20 U.S.C. § 1681(a) .

2024 Amendments

- Issued on April 19, 2024 by the U.S. Dept. of Education, effective on August 1, 2024 for all non-excluded school districts
  - New and modified definitions—includes gender identity and protection for pregnant students
  - New and revised procedures
  - References students with disabilities
  - Districts are required to address all sex discrimination/harassment in programs or activities subject to the District's disciplinary authority

School District Obligations Under Title IX

- A School is required to respond when it has "knowledge of conduct that may constitute sex discrimination."
  - **any knowledge**, not just "actual knowledge."
    - Oral and written statements are sufficient
- Must respond "promptly and effectively."
  - Suggested that "promptly" means "**without unreasonable delay**."
  - Formerly required schools to not respond in a manner that was "not deliberately indifferent."

Notification Requirements

- All employees who are not "**confidential employees**" must notify the Title IX coordinator when they have information about conduct that may reasonably constitute sex discrimination
  - **Confidential employee**: an employee of the school whose communications are privileged or confidential under federal or state law

Confidential Employee

- School must notify all participants in its education program or activity about how to contact its confidential employees
- Confidential employee must explain:
  - Employee's status, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that may constitute sex discrimination
  - How to contact the Title IX Coordinator and how to make a complaint of sex discrimination and
  - The Title IX Coordinator's ability to offer and coordinate supportive measures, initiation of an informal resolution process, or an investigation under the recipient's grievance procedures

District Obligations Under Title IX

- Notice of nondiscrimination statement must:
  - Adopt, publish, and <u>implement</u> …
    - (1) Nondiscrimination on the basis of sex and
      - Defined as sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity
    - (2) Prohibition of discrimination in any education program or activity that it operates
      - School cannot separate students or treat them differently in a manner that causes "more than ***de minimis harm***," such as precluding the student from participating in program or activities that align with the student's gender identity

District Obligations Under Title IX

- Notice of nondiscrimination statement must (cont.):
  - Refer questions to Title IX coordinator, Office for Civil Rights, or both
  - Include the name or title, office address, email address, and number of the Title IX coordinator
  - Explain how to locate the nondiscrimination policy
  - Describe how to report conduct or make a complaint

Training

All Employees:

- Title IX obligations
- Conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment and
- All applicable notification and information requirements in responding to sex discrimination

When?

- "Promptly" upon hiring or a change in position that alters one's duties under Title IX, and **once a year** thereafter

*training must not rely on sex stereotypes

Disclosure of Personally Identifiable Information

- Title IX investigations involve the obtaining and investigation of matters which include personally identifiable information. School districts are **prohibited** from disclosure of this information **unless**:
  - It obtained prior written consent from a person with a legal right to consent to the disclosure
  - The information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures
  - It is necessary to carry out the purposes of Title IX
    - Includes action taken to address conduct that reasonably may constitute sex discrimination under Title IX
  - It is required by federal law, regulations, or the terms and conditions of an award (grant/other funding agreement) **or**
  - It is required under state or local law or is permitted under FERPA (to the extent such a disclosure would not otherwise conflict with Title IX)

Recordkeeping

- Schools must keep record on **all** complaints of sex discrimination, and not just sexual harassment investigations
  - Including any notification
  - Must be kept for at least 7 years

Sex-based Harassment

- Any type of harassment on the basis of sex, including harassment that is based on sex stereotypes, sex characteristics, sexual orientation, and gender identity
  - Formerly sexual harassment

Sex-based Harassment

- (1) Quid Pro Quo harassment: An employee of the recipient conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct

- (2) Hostile Environment Harassment: Unwelcome sex-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is **so severe or pervasive** that it **limits or denies a person's ability to participate in or benefit from the school's education program or activity**; or

- (3) Sexual assault, dating violence, domestic violence, or stalking
  - Are not subject to the "severe pervasive and objectively offensive" standard

Additional Definitions

Sexual Assault – "any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent"

Dating Violence - Dating violence means violence committed by a person: **A**. **who is** or **has been** in a social relationship of a romantic or intimate nature with the victim, and **B**. where the existence of such a relationship shall be determined based on a consideration of the following factors:

- i. The length of the relationship
- ii. The type of relationship, and
- iii. The frequency of interaction between the persons involved in the relationship.

Additional Definitions

- **<u>Domestic Violence</u> – felony or misdemeanor crimes of violence** committed by a…
  - Current or former spouse or intimate partner of the victim,
  - Person with whom the victim shares a child in common,
  - Person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
  - Person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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"

Additional Definitions

- **Stalking** – "engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - A. fear for his or her safety or the safety of others; or
  - B. suffer substantial emotional distress"

Other Key Terms

- **Complainant** (formerly alleged victim) – an individual who makes a complaint of sex discrimination, which may include sex stereotypes, sexual orientation, and gender identity, as opposed to just sex-based harassment
  - Includes authorized legal representatives from state law, court orders, & child custody agreements
- **Respondent** (formerly alleged perpetrator) – no longer an individual accused of sexual harassment, but anyone who allegedly violates Title IX's prohibition against sex discrimination
- **Recipient** – Recipient of federal funds who Title IX applies to; will be used interchangeably with "school" or "entity"

Jurisdictional Obligations

- School's obligations under Title IX apply in or during "locations, events, or circumstances over which the school exercises substantial control over both the respondent and the context in which the sexual harassment occurs"
  - If the respondent (student or employee) leaves or is no longer with the District, Title IX does not apply
  - Compliance with Title IX takes precedence over any state or local laws or other requirements that conflict with it

Mandatory Reporters

- **DO NOT FORGET YOUR ROLE AS A MANDATORY REPORTER**
  - Report to Police and CYS acts of suspected or known child abuse
  - Even if the alleged acts occur outside of school

Reports of Sex-based Harassment

- Any person may report sex discrimination
  - Regardless of whether the person reporting is the alleged victim
  - Can include a student, parent, friend or someone who witnessed the alleged harassment occur
- Reports can be made in person, by mail, telephone or emails

Reports of Sex-based Harassment

- Review Policy 103
  - Includes an attached reporting form; but specifies that verbal reports are accepted and documented and that the policy still applies
  - Reports should initially be made to the Building Principal
    - If the Building Principal is the subject of the complaint, the individual reporting should report directly to the Title IX Coordinator
  - Building Principal shall promptly notify the Title IX Coordinator of all reports

Reports of Sex-based Harassment

- Title IX Coordinator Role
  - Contact complainant
  - Discuss supportive measures
    - Taking into consideration the wishes of the complainant
    - Offered whether complainant files formal complaint or not
  - Explain process
  - Explain filing formal complaint

Students with Disabilities

- A student who is an individual with a disability as defined in Section 504 or the IDEA
- Identifies procedures a school must follow when a Title IX complaint involves a student with a disability
  - Title IX Coordinator must consult with 1 or more members of the student's IEP team or Section 504 placement team (as appropriate) to determine its compliance while implementing grievance procedures

Supportive Measures

Nondisciplinary, nonpunitive individual services offered as appropriate, as reasonably available and without fee or charge to the complainant or respondent before of after the filing of a formal complaint or where no formal complaint has been filed

Designed to restore or preserve equal access to the educational program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the education environment or to deter sexual harassment

Supportive Measure Guidelines

- May vary depending on what the recipient deems to be **reasonably available**
- Protects the safety of the parties or provides support during the recipient's grievance procedure or an informal resolution process
- School may **modify, terminate, or continue supportive measures** at the end of the grievance procedure or informal resolution process
- Complainant or respondent must be given a **timely** opportunity to modify or reverse its decision to provide, deny, modify or terminate supportive measures
- School cannot disclose information about any supportive measures to others **except** when necessary to provide, restore, or preserve a party's access to the education program or activity
- If the student has a disability, Title IX Coordinator must seek guidance from IEP team or Section 504 team

Examples of supportive measures

- Counseling
- Extensions of deadlines or other course related adjustments
- Modifications of class work or schedules
- Campus escort services
- Mutual contact restrictions
- Changes in work locations
- Leaves of absence
- Increase security
- Monitoring of certain areas of campus
- Assistance from domestic violence or rape crisis programs
- Assistance from community health resources including counseling resources

Supportive Measures

Can also include assessments or evaluations for special education or 504 services

Or review of current IEPS or 504 Plans

Emergency Removal

Schools are authorized to remove a respondent from the school's education programs or activities on an **emergency basis**, with or without a grievance process pending, as long as notice and opportunity to challenge the removal is given to the respondent following the removal.

- Consider consultation with Solicitor prior to emergency removal under Title IX

The decision to initiate an emergency removal will also be evaluated under the deliberate indifference standard.

An emergency removal may be appropriate when there is **an immediate threat to the physical health or safety of any students or other individuals arising from the allegations of sexual harassment.**

Prior to the emergency removal, a school must

- Conduct an individualized safety and risk analysis
  - Must be more than a "generalized, hypothetical, or speculative belief that the respondent may pose a risk to someone's physical health or safety" and
  - Must be individualized with respect to the particular respondent and must examine the circumstances "arising from the allegations of sexual harassment"
- Determine 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
- Provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

Emergency Removal

Emergency Removal Revisions & Comments

- Applies to health and safety threats relating to allegations of sex discrimination in general, not just sexual harassment
- Allows a school to consider whether the respondent's continued presence poses an imminent health and safety risk to employees (as well as any student or other individual)
- Does not modify any rights that students with disabilities may have under the IDEA, Section 504, or ADA Title II (including manifestation determination review)
- School may need to treat emergency removals of students with disabilities different than those of nondisabled students
- School is not required to remove a respondent student with a disability if it determines that the threat posed is a manifestation of the student's disability

Informal Resolution Process

- No requirement that a school establish or offer an informal resolution process
- A party can decide at any time before final determination to no longer proceed with the informal resolution process.
- Process is managed by an informal **resolution facilitator**

- **Not an option in cases involving an employee or other adult**

Discretion to Offer Informal Resolution - New

- It is available so long as:
  - School makes the offer before determining in a grievance procedure that sex discrimination occurred
  - Complaint does not include allegations that an employee engaged in sex-based harassment and
  - The informal resolution process would not conflict with federal, state, or local law
- A school that receives information about conduct or complaint of sex discrimination has discretion to determine when to offer
  - May decline to offer process regardless of the parties' wishes
  - Can be offered at any time it believes that doing so would be appropriate, and not just in response to the filing of a formal complaint

Resolution Facilitator Training

Must receive training required for all employees

The rules and practices associated with the school's informal resolution process and

How to serve impartially, including by avoidance of conflicts of interest and bias

Consolidation of Complaints

Complaints are allowed to be consolidated alleging any form of sex discrimination

Only requirement is that the allegations of sex discrimination arise out of the same facts or circumstances

Investigating Complaints

- Purpose of the Regulatory Revisions
  - Stress Due Process , including notice and a meaningful opportunity to be heard
  - Ensure the right to an impartial investigation before unbiased officials
  - Establish procedures to
    - Improve the perception that Title IX sexual harassment allegations are resolved fairly and reliably
    - Avoid intentional and unintentional sex-based stereotypes into Title IX proceedings; and
    - Promote accurate, reliable outcomes to protect from discriminatory practices

Grievance Procedure

- Schools must develop a transparent grievance procedure that must:
  - Treat complainants equitably by providing remedies any time a respondent is found responsible
  - Treat respondents equitably by not imposing disciplinary sanctions without following the grievance process
  - Provide complainant with remedies designed to maintain equal access to education
  - Include an objective evaluation of all relevant evidence
  - Avoid credibility determinations based on a person's status as a complainant, respondent or witness
  - Require that Title IX personnel are free from conflicts of interest or bias

An administrative law judge is <u>not</u> required to participate in these procedures.

Grievance Procedures

- Grievance process must:
  - Include training
  - Include a presumption that a respondent is not responsible for alleged conduct until a determination is made at the conclusion of the grievance process
  - Include a reasonably prompt time frame for the **major stages** of the grievance process
    - A process that allows for the reasonable extension of time frames on a case-by-case basis for good cause with notice to the parties that includes the reason for delay
  - Must be adopted, published, and implemented

Grievance Procedures - New

School must take reasonable steps to protect the privacy of the parties and witnesses provided that the steps do not restrict the parties' ability to:

- Obtain and present evidence (including by speaking to witnesses)
- Consult with their family members, confidential resources, or advisors, or
- Otherwise prepare for or participate in the grievance procedures

Exclude the following types of evidence and questions seeking that evidence as impermissible regardless of whether they are relevant:

- Evidence that is protected under a privilege
- Records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with providing treatment to a party or witness (unless the recipient obtains consent) and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct

Grievance Procedures - New

General grievance procedures apply to all complaints of sex discrimination under Title IX	When a complaint involves **sex-based harassment**, the grievance procedures <u>also</u> needs to:
• May include provisions that are not required under Title IX • Must apply equally to both parties	• Describe the range of supportive measures available to complainants and respondents; and • List or describe the range of possible disciplinary sanctions the school might impose and the remedies it might provide following a determination that sex-based harassment occurred

Conducting the Investigation

- Schools must investigate the allegations of any formal complaint and send written notice to both parties of the allegations upon receipt of the formal complaint
  - Investigation focuses on evidence that is relevant and not otherwise impermissible
  - School no longer needs to provide the parties with an electronic or hard copy of relevant evidence
  - The 2020 provision that prohibited a school from restricting either party's ability to discuss the allegations under investigation has been omitted
  - The 2020 provision that required a school to allow the parties to have other individuals present during the grievance process has been omitted

Title IX Roles – Title IX Coordinator

- Title IX Coordinator is designated to ensure compliance with regulations and receive complaints
  - Monitor schools' compliance with Title IX
    - If >1 Title IX coordinator, 1 coordinator must be designated to have ultimate oversight
  - Ensure training is provided
  - Coordinate investigations and resolution of reports
  - Ensure appropriate prompt actions and effective steps to eliminate sex discrimination and to prevent recurrence
  - Review efforts to ensure the educational setting is free from sexual harassment
    - No longer required to "self-evaluate" or maintain this file

Title IX Coordinator

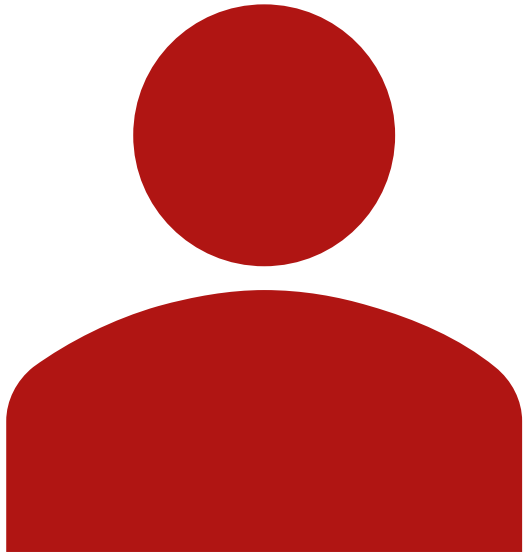
- Offer and coordinate with complainant and respondent to discuss supportive measures
- Considers the complainant's wishes regarding such measures
- Explains formal complaint process to complainant
- Notifies the complainant of grievance procedures or informal resolution process
- Treats complainants and respondents equitably
- Implement remedies where there is a founded case of sexual harassment
- May impose disciplinary sanctions

Title IX Coordinator

- Initiate the grievance procedures or, if available and appropriate and requested by all parties
- In the absence of a complaint (or withdrawal of any allegations), determine whether to initiate a complaint of sex discrimination under Title IX
- Notify the complainant before initiating any complaint and appropriately address reasonable concerns about the complainant's safety or the safety of others
- School may delegate or allow the Title IX Coordinator to delegate specific duties to designees

Title IX Coordinator Training

- All training mentioned in this presentation
- Specific responsibilities as Title IX Coordinators and designees
- School's recordkeeping system and the related requirements and
- Any other training needed to coordinate the school's compliance with Title IX



Barriers to Reporting

- Title IX Coordinator must:
  - Monitor its education program or activity for barriers to reporting information about conduct that may constitute sex discrimination
  - Take steps reasonably calculated to address those barriers
  - Includes barriers that students with disabilities might encounter

Investigator

- Investigator is assigned by the Title IX Coordinator
  - Has received appropriate training
  - Impartial, unbiased and free from conflicts
  - Oversees prompt gathering of facts based on the filing of the formal complaint
  - Communicates with all participants throughout the investigation
  - Provides notice of any delays in processing the investigation
  - Understands “relevance” and “standard of proof” in order to create a report that summarizes relevant evidence

Decision Maker

- Must understand how to accurately evaluate the relevant evidence
- Must use independent judgment
- Must be free from conflicts of interest, or bias for or against complainants or respondents and receive special training on impartiality
- Has received appropriate training

Investigator & Decision Maker Training

- School's obligations in response to sex discrimination
- School's grievance procedures
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of evidence

Determine Standard of Proof

- School must choose standard of proof for claims
  - Clear and Convincing Evidence: the evidence is highly and substantially more likely to be true than untrue
    - Higher standard than preponderance of the evidence, but less than beyond a reasonable doubt
  - Preponderance of the evidence: claims have a greater than 50% chance to be true
    - Lowest standard of proof
    - Recommended by PSBA

Investigation Begins Upon Initiation of Grievance Procedures

- Formerly began upon filing of a formal complaint
  - Formal complaint: document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.
    - "Document filed by a complainant:" a document or electronic submission that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

Dismissal of Complaint

Must Dismiss if:

- Would not constitute Title IX sexual harassment as is defined in the regulations
- Did not occur in a School District education program or activity

May Dismiss if:

- Respondent is no longer enrolled or employed by the School District
- School District is unable to identify the respondent after taking reasonable steps to do so
- Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw formal complaint or allegations
- Title IX Coordinator declines to initiate a compliant
- School District determines that, without the complainant's withdrawn allegations, the conduct that remains would not constitute sex discrimination under Title IX even if proven
  - Similar for conduct alleged in the complaint, even if proven (upon reasonable efforts made to clarify allegations)

Dismissal Process

the school must promptly send written notice of the dismissal and the reason for dismissal to both parties simultaneously

Both parties have a right to appeal this decision

Must include appeal process in dismissal notice

Providing Required Notice

- When a school begins an investigation, it must provide **both the complainant and respondent** with notice of:
  1. The school's Title IX grievance process and if applicable, its information on the informal resolution option
  2. Sufficient information to allow the parties to respond to the allegations
     1. Key details of alleged sexual harassment of incident (date/location; alleged misconduct; who was involved)
  3. Statement that retaliation is prohibited and
  4. Statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of that evidence
  - **Any investigation into additional allegations to the parties whose identities are known**

Retaliation

- Must be prohibited in education programs or activities
- Grievance procedures must be initiated if school receives information suggesting retaliation in violation of Title IX and if it receives a complaint alleging unlawful retaliation
- "free speech" provision has been removed
  - Suggests that schools must address any retaliatory conduct, even if an individual claims that conduct is protected by the First Amendment

Initial Notice

Initial Notice must also contain:

- Initial Notice **must** be provided prior to the initiation of and investigation, and give respondent sufficient time to prepare before an investigatory interview

Investigation

- Both parties must be given the opportunity to provide evidence, have access to an advisor, and participation of advisor for any meetings or hearings

Investigation

- Provide written notice, including date, time, location, participants, and purpose of all hearings, **interviews,** or other meetings, with sufficient time for the party to prepare.
- Provide equal opportunity for parties and advisors to inspect and review evidence obtained by the school as part of its investigation if the information is directly related to the allegation raised in the formal complaint and a right to respond to the evidence

Gathering Evidence

- Witness interviews and statements
  - Interview ALL relevant witnesses
- Review any video footage or any school based emails or computers
- Review any evidence provided by either party
  - E-mails, texts, social media
- May review outside reports if they are provided, but school does not otherwise have right to access such reports (medical report, police report, etc.)

Relevant Evidence

- Evidence is relevant if:
  - It has any tendency to make a fact more or less probable than it would be without the evidence; and
  - The fact is of consequence in determining the action

Relevant Evidence

Relevant Information:

- Inculpatory evidence
  - Information that shows a person's involvement in an act or evidence that establishes guilt
- Exculpatory evidence
  - Evidence that shows a person's innocence

Irrelevant information

- Information protected by privilege (attorney/client, medical)
- Questions about Complainants prior sexual behavior or sexual predisposition, unless its offered to provide someone other Respondent is responsible or offered to prove prior consent was provided (Rape Shield)

Credibility Determinations

- Decision makers must make credibility determinations:
  - Observe the witness's demeanor
  - Note consistencies and inconsistencies
  - Consider biases or motive to lie
  - Probability or improbability of the statement of events

Investigative Report

- Must be prepared after investigation
- Must summarize all steps taken during interview process
- Report cannot be issued until evidence sharing has occurred
  - If a written response to the evidence is provided, this must also be included in the investigation, and summary of such included in the report
- After these steps have occurred then report can be provided to the parties* at least ten (10) days prior to the determination of any responsibility
  - ***2024 Regulations state that school no longer must provide parties with electronic or hard copy**

Decision Making

- The decision maker must:
  - Objectively weigh the relevant evidence and decide whether it meets the school's standard of evidence for sexual harassment allegations
  - Use independent judgement that is free from conflicts of interest or bias

Decision

- Largely eliminated former content requirements
- Decision must only include:
  - A written determination that includes the rationale for that decision and the procedures and permissible bases for the complainant and respondent to appeal, if applicable.

Review of Sex-based Harassment complaints

Assistant Secretary will not find a school district to be in violation of Title IX solely because it would have reached a different conclusion based on an independent weighing of the evidence

Decision

Must be sent to both parties simultaneously with information regarding how to appeal	A decision is final if parties do not appeal or at the conclusion of the appeal process	Title IX Coordinator is responsible for ensuring remedies stated within decision are carried out
• Must be in writing • Must include name and contact information of appeal officer (cannot be Title IX coordinator, investigator, or decision-maker)	• School has discretion to set appeal deadlines	

Appeal

- Either party is entitled to appeal:
  - A final determination
  - A Dismissal of the formal complaint
  - Dismissal of any allegation in the formal complaint

Basis for Appeal

- No longer lists the acceptable reasons for appeals
- Only states that the appeals process must, at minimum, **mirror** the appeals processes for all other comparable proceedings
  - (including to those relating to other types of discrimination complaints)

Appellate Decision Maker

- Different person from Title IX Coordinator, Investigators or decision makers
- Must be trained
- Must be free from conflict or bias

Appeal Process

If party files an appeal, both parties are notified in writing

Both parties have opportunity to submit a written statement supporting or challenging outcome

After reviewing written statements Appellate Decision-Maker must issue a written statement affirming or overturning the decision-maker's decision

Following this written response, the decision is final