Title IX Compliance Training for Administrators

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September 28, 2022

RECENT DEVELOPMENTS

- Guiding Principals
  - Rulemaking process
  - Greater Clarity
  - Fair Process
- Nature of a School's Response to Sexual Harassment and Sexual Assault
  - Adopt a clear definition of sexual harassment
  - Respond meaningfully to every known complaint
- Due Process Protections and Reliable Outcomes
  - Presumption of innocence
  - Prohibition of single-investigator model

District Compliance Action

- Adopt revised Board Policies in TASB Update 115 FFH(LOCAL) and DIA(LOCAL).

- Identify administrators for Title IX roles and provide training.
  - Also train employees regarding reporting sexual harassment.

- Notice to parents, students, and employees via website.

- Publish Training on website (See sample posting requirements.)

- Adopt New Title IX Procedures (Formal Complaint, Investigation…)

Title IX Posting Requirements include "All Materials"

- To comply with new Title IX rules school district's websites must include:
  - The district's non-discrimination policy.
  - The contact information for the district's Title IX Coordinator.
  - All training materials used to train Title IX personnel.
- Merely summarizing training materials is not the same as posting "all materials."
- Districts may not choose whether to post or offer a public inspection option.
- Preserve information regarding who has been trained as part of the district's recordkeeping procedures.
- Post all training materials on your website to a Title IX page or a Legal Compliance page where you publish all other postings required by law, and include the following statement:

> ***"In compliance with the requirements of Title IX, 34 C.F.R. section 106.45(b)(10), all materials used to train the District's Title IX personnel are available here: [insert link to training materials] and are also available for inspection upon request by contacting the Title IX Coordinator."***

Changes to FFH and DIA (LOCAL)

- The definition of prohibited conduct was revised to include conduct that meets the Title IX definition of sexual harassment.
- But policies retain the broader definitions of prohibited conduct in districts' current policies to ensure that all prohibited conduct is addressed.
- A new provision that requires that ***any*** employee who receives a report or observes prohibited conduct based on sex to notify the Title IX Coordinator.
- New provisions that direct the superintendent to develop a Title IX formal complaint process that must comply with the elements in the new regulations, as included in FFH (LEGAL).
- Adopt and publish grievance procedures that provide the prompt and equitable resolution of student and employee complaints, including a grievance process for resolving formal complaints.
- Per TASB recommended local policy, most Districts will use a preponderance of the evidence standard to determine responsibility in a Title IX Formal Complaint. Can choose clear and convincing standard.
- Provisions on retaliation and records retention have been updated to reflect the new rules' requirements.

Definition of Sexual Harassment under Title IX (2020)

- *Unwelcome conduct on the basis of sex that a reasonable person would determine is so "severe, pervasive, and objectively offensive" that it effectively denies a person equal access to the district's education program or activity (hostile environment)*
- *Quid pro quo harassment – when an employee of the district conditions the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct.*
- *A type of sexual violence as defined by federal law.*

  (The Clery Act)

  1. Sexual assault

  2. Dating violence

  3. Domestic violence

  4. Stalking

  5. Attempted Sexual Assault (see https://www2.ed.gov/about/offices/list/ocr/blog/20201007.html)

Hostile environment sexual harassment

OLD DEFINITION
(OCR Guidance)

- Unwelcomed conduct.
- Determined by a reasonable person.
- To be severe, pervasive, **or** persistent, and **to interfere with or limit** a student's ability to participate in or benefit from school services, activities, or opportunities.

NEW DEFINITION
(Final Rule)

- Unwelcomed conduct.
- Determined by a reasonable person.
- To be severe, pervasive, **and** objectively offensive that it **effectively denies a person's equal access** to the recipient's education program or activity.

34 C.F.R. § 106.30

First grader inquiring into the definition of "penis" is not sexual harassment

Title IX rules were developed with the collegiate student in mind – not the elementary school student.

May not fit definition of sexual harassment (not severe, pervasive) but may still call for response under state law.

When the identity of the impacted is a mystery

- Even if no substantial control social media postings, there may be control over the context of the acts reported.
- Does the school have “actual knowledge”? 34 C.F.R. § 106.30.
- Sufficient information to investigate?
- Consider confronting host and asking for participation in established process.
- Encourage schools not to just ignore.

Anonymous Complaints & Confidentiality

How can a recipient address a complainant's request for confidentiality, including in instances where a Title IX Coordinator signs the formal complaint initiating an investigation into a complainant's sexual harassment allegations?

- The Title IX regulations balance a complainant's desire for confidentiality with a school's discretion to pursue an investigation where factual circumstances warrant an investigation even though the complainant does not desire to file a formal complaint.
- A complainant (or third party) who desires to report sexual harassment without disclosing the complainant's identity to anyone may do so, but the District will be unable to provide supportive measures without knowing the complainant's identity.
- If a complainant desires supportive measures, the District can, and should, keep the complainant's identity confidential (including from the respondent), unless disclosing the complainant's identity is necessary to provide supportive measures for the complainant (e.g., where a no-contact order is appropriate).

School cannot control Social Media Platforms, but…

- What actions occurred off-campus v. on-campus?
- Is the administration treating sexual harassment allegations the same as cyberbullying allegations?
- State law may create differences (e.g., David's Law in Texas).
- Consider offering supportive measures.
- Jurisdiction to discipline is one thing, but school may still have role in addressing through FFH policy (counseling, talking to parents).
- Is extracurricular participation the same as discipline?

Sexting

Casey and Ryan exchanged nude photos while they were dating. Casey broke up with Ryan last week. Ryan is angry and sends Casey's nude photos to friends through social media direct messages. Casey is mortified and doesn't want return to school.

Response to sexual harassment

"A recipient" (i.e., a school district)

- Which **actual knowledge** of sexual harassment.
- In an **education program or activity** of the recipient.
  - An education program or activity is a location, event, or circumstance where the district exhibits *substantial control* over both the alleged harasser and the "context" in which the harassment occurred.
- Against a person in the United States.
- Must respond **promptly** in a manner that is "**not deliberately indifferent**."

34 C.F.R. § 106.44(a)

Supreme Court to deliberate on the limits of Title IX application in schools

- Motion filed to ask the Supreme Court to decide whether schools violate Title IX when they have “knowledge” of harassment, even when a report was not filed.
- The main issue in this case is whether schools can be held liable under Title IX for sexual harassment that ceased before they were notified that it happened.
- The lower court explained that the school’s response would amount to “deliberate indifference” only if the response was clearly unreasonable in light of known circumstances.

Initial Response

Upon receipt of a report alleging sexual harassment, the District's Title IX Coordinator will promptly contact the complainant to:

- Provide information about supportive measures;
- Discuss the availability of supportive measures;
- Consider the complainant's wishes concerning supportive measures;
- Explain to the complainant the process for filing a formal complaint under Title IX; and
- Provide each complainant with a copy of the District's Title IX formal complaint process.

Initial Response

The Title IX Coordinator will document whether a complainant elects to accept or decline the supportive measure or measures offered.

The Title IX Coordinator may interact directly with the parent/guardian of the alleged victim. To comply with 34 C.F.R. § 106.6(g), it would be "clearly unreasonable in light of the known circumstances" for the recipient not to notify a parent or legal guardian of reported sexual harassment.

Equitable Treatment
The District's treatment of complainants, respondents, witnesses, and any other person involved in a formal complaint process shall not discriminate on the basis of sex. All parties involved will be treated fairly, with dignity, respect, and sensitivity and without bias, prejudice, or reliance on stereotypes.

In all aspects of the District's initial response, there should be no bias or conflict of interest. In the initial response, the Title IX Coordinator shall make no assumption of responsibility.

Supportive Measures

Supportive measures must be offered to a complainant and, as appropriate, also to a respondent.
Supportive measures must be offered regardless of whether a formal complaint is initiated, or whether the complainant participates in the formal complaint process.
A complainant is not required to show proof of allegations to receive supportive measures and is not required to accept supportive measures.
Supportive measures shall be individualized, non-punitive and offered without fee or charge.
They cannot unreasonably burden either party.
They must be designed to protect the safety of all parties or the District's educational environment or to deter sexual harassment.

Examples of Supportive Measures

Counseling	Sending a Student to the Principal's Office	Change in Seating or Class Assignments
Extension of deadlines for coursework, retaking of Tests…	Modifying Class or Activity Schedules	Increase of Security and monitoring certain areas of campus
Escorting parties when on campus	implementing mutual or unilateral restrictions on contact between parties	identifying specific campus employees to serve as regular points of contact for each party

Emergency Removal or Administrative Leave

- Removal must be based upon an individualized safety and risk analysis due to immediate threat.
- The District shall provide notice of removal to the respondent.
- The removal may continue for the duration of an ongoing threat.
- Removal under this provision must comply with all due process requirements under law and policy, including the Individuals with Disabilities Education Act (IDEA) and Section 504.
- Title IX regulations do not affect District's ability to place an employee on administrative leave pending the investigation.

Effort must me made by the District throughout the entire Formal Complaint Process to use supportive measures in order to maintain the status quo between the parties and ensure equal access to education.

Title IX Roles

In addition to adoption of Policies and Procedures-

- Superintendent must identify personnel who may serve in a Title IX role.
- Title IX Coordinator will designate personnel for necessary roles based upon each individual complaint filed.

- Title IX Coordinator
- Investigator
- Decision-Makers (Determination on Complaint and Appeal)
- Facilitator – Informal Resolution
- Appeal Officer

Putting the right people in the right roles

- Structuring training and assignment of roles to avoid bias.
- Avoiding the appearance of conflict of interest.
- Consider training multiple individuals to serve in the same role in case of conflict of interest.
- Should campus-level staff be investigating or serving as decisionmaker at their campus?

Small Town Reality

Connie lives in a small, one-high school town. Everyone knows and loves Ron since he's the star Quarterback. Connie is resistant to filing a Title IX Complaint against Ron for this reason. What can be done to alleviate concern of bias for or against a complainant or a respondent?

Basic Elements of Formal Complaint Process

34 C.F.R. § 106.4(b)

- Treat parties equitably.
- Objective evaluation of all evidence.
- No conflict of interest or bias for investigator or decisionmaker(s).
- Presumption respondent not responsible.
- Reasonably prompt time frames.
- Description or list of possible discipline/other remedies.
- State standard of evidence (Preponderance or clear/convincing).
- Appeal procedures and bases.
- Range of supportive measures available.
- No breach of privilege without waiver.

Title IX: Formal Complaint Process

The Superintendent shall ensure the development of a Title IX formal complaint process that complies with the following basic requirements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence;
3. The Title IX Coordinator, investigator, decision-maker, or facilitator must not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible until a determination is made at the conclusion of the Title IX formal complaint process;
5. Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process;
6. A description of the possible disciplinary sanctions and remedies.
7. A statement of the standard of evidence to be used (preponderance or clear and convincing);
8. Procedures to appeal a determination or dismissal of a complaint.

Perceived Disparity Regarding Discipline

Carey has filed a Title IX complaint alleging that Ron continues to sent photos of his penis through Snapchat and tries to touch her between classes. Carey has also told any student who will listen about Ron's behavior. Carey's new boyfriend decides to teach Ron a lesson and sucker punches him after football practice one day. Carey's boyfriend has been disciplined while Ron continues to go to class and play football while the Title IX Complaint process trudges forward. The principal is drawing a lot of heat from Carey's parents about the lack of consequences for Ron.

Disciplinary Sanctions

A district's response must treat complainants and respondents equitably by offering supportive measures to a complainant and by following a grievance process that complies with Title IX regulations before the imposition of any disciplinary sanctions that are not supportive measures against respondent.

34 C.F.R. § 106.44(a)

Managing Expectations

- Many school investigations take less than ten school days. Title IX will be much longer.
- Title IX coordinators should have a conversation with parents before the process begins to set expectations regarding the process.
- Get comfortable with Respondents talking about this situation in the halls.

Title IX: Formal Complaint Timeline

- The Title IX Formal Complaint Process begins with the receipt of the signed complaint form.
- The process ends with the determination of responsibility.
- Any time used for voluntary informal resolution does not count in the timeline.

DEADLINE TO COMPLETE THE FORMAL COMPLAINT PROCESS IS 60 DAYS

- The Coordinator may modify the timeline and allow for delays for good cause such as:
  - The absence of a party, a party's advisor, or a witness; **concurrent law enforcement activity**; the need for language assistance or accommodation of disabilities; or other good cause.
- Timeline must be followed unless District modifies for good cause or upon consent of all parties.

Formal Complaint

- The District should have a form in accordance with requirements of FFH(LEGAL) at Definitions, Formal Complaint.
- The Title IX Coordinator is responsible for accepting the formal complaint form and determining whether the law requires the District to initiate an investigation.
- The Title IX Coordinator may, without consent of a complainant, sign a written complaint to initiate the process. However; the written notice of allegations in § 106.45(b)(2) requires the recipient to send both parties details about the allegations, including the identity of the parties if known.
- A complainant is **not required** to participate in the formal complaint signed by a Title IX Coordinator but will **retain all the rights** of a complainant in the process.
- The Title IX Coordinator will coordinate the assignment of duties to ensure that all obligations under Title IX are completed in a timely manner.

Both the complainant and respondent must receive notice of allegations and information about the investigation process before any interview.

Notice of Allegations

Written notice must include:

The allegations of sexual harassment as defined by law, including known detail such as identity of parties, alleged conduct, and date(s) and location(s) of alleged incident(s);
A statement that the District, by law, must presume that the respondent is not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the formal complaint process;
Notification that each party may choose an advisor of choice who may be, but is not required to be, an attorney;
The right of each party to inspect and review all evidence;
The standard of evidence that will be used (District must choose either: ***preponderance or clear and convincing***);
Notification about the District's Title IX formal complaint process, including procedures for informal resolution and appealing the final determination; and
Any provision of a District code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the formal complaint process.

Dismissal

Mandatory Dismissal:
A formal complaint or allegation must be dismissed as required by law when the allegation(s), if proved:

- Would not meet the definition of sexual harassment under 34 C.F.R. § 106.30(a);
- Did not occur against a person in the United States; or
- Did not occur in the District's education program or activity.

Discretionary Dismissal:
A formal complaint may be dismissed for the following reasons:

- If, at any time, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations in the complaint;
- If the respondent is no longer enrolled or employed by the District;
- If specific circumstances prevent the District from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein; or
- If the complainant no longer has any involvement with the District.

Can parents work out a formal complaint on their own?

Ron’s father has contacted the campus administration and wants to know if all of this process is required. He’s asked for Connie’s parents’ phone number so they can work this out.

Informal Resolution

If a formal complaint has been filed, other than a complaint alleging sexual harassment of a student by an employee, and prior to reaching a determination regarding responsibility, the Title IX Coordinator may offer (but **may not require**) a voluntary informal resolution process, such as mediation.

- In addition, either party may request informal resolution by making a written request to the Title IX Coordinator, who will promptly notify the other party of this request.
- The other party is not required to agree to participate.
- If a party declines or at any time withdraws from an informal resolution process, the Coordinator will notify the other party that the informal resolution process has been terminated and resume the formal complaint process.

The Title IX Coordinator will obtain the parties' voluntary, written consent to the informal resolution process.

Off-Campus Locations

- For purposes of § 106.30, § 106.44, and § 106.45, the phrase "education program or activity" includes
  - "locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the harassment occurs;"
  - "any building owned or controlled by a student organization that is officially recognized by a postsecondary institution."

With respect to addressing such conduct via a District's code of conduct, 34 C.F.R. § 106.45(b)(3)(i) expressly authorizes a recipient to address alleged misconduct that does not meet the Title IX jurisdictional requirements (i.e., did not allegedly occur in the recipient's education program or activity, or did not occur against a person in the United States).
As to misconduct that falls outside the ambit of Title IX, nothing in the final regulations precludes recipients from vigorously addressing misconduct that occurs outside the scope of Title IX or from offering supportive measures to students and individuals impacted by misconduct or trauma even when Title IX and its implementing regulations do not require such actions.

Investigation Timeline

Determination of "Days"

Where the Title IX regulations refer to specific time frames, how are "days" calculated?

- The time frames referred to in the Title IX regulations (such as the 10-day time period in 34 C.F.R. § 106.45(b)(5)(vi)) may be measured by calendar days, business days, school days, or any other reasonable method that works best with the school's administrative operations.
- The Department of Education does not require a specific method for calculating 'days,'. Recipients retain the flexibility to adopt the method that works best for the recipient's operations; for example, a recipient could use calendar days, school days, or business days, or a method the recipient already uses in other aspects of its operations.

Investigation

The Title IX Coordinator may:

- Serve as an investigator,
- Appoint a trained District employee to serve as an investigator, or,
- In consultation with the Superintendent, appoint an external investigator, to investigate the allegations in a formal complaint.

- The burden of proof and burden of gathering evidence sufficient to reach a determination regarding responsibility rests with the District and not with the parties. All allegations in a formal complaint must be investigated.

After receiving the written complaint, the investigator will meet promptly with each party to conduct initial interviews, gather information, and collect evidence.

Investigation

Parties may submit evidence, testimony, witnesses, or other information that they wish the investigator to consider. Parties may also present fact and expert witness testimony in the form of written statements.

- The investigator must provide a party whose participation is invited or expected with written notice of the date, time, location, participants, and purpose of any investigative interview or other meetings, **with sufficient time for the party to prepare to participate.**
- Any deadlines or other restrictions related to the formal complaint process must apply equally to both parties.

Advisors

Each party may be accompanied by an advisor of the party's choice during the interview with the investigator or other meetings during the formal complaint process.

Investigation Timeline

DEADLINE TO COMPLETE THE INVESTIGATION PROCESS IS 30 DAYS

- Investigator will conduct interviews and gather evidence.
- Investigator will make evidence available to both parties and **ALLOW 10 DAYS** from the date of receipt of the evidence for party to review the evidence and respond.
- Investigator must complete the investigation report and distribute the report to both parties.
- The Investigator may take additional time in accordance with law, board policies or Title IX procedures.

Inspection of Evidence

The investigator must make evidence submitted by the parties or obtained during the investigation process available to both parties for inspection and review.

- All evidence must be shared that is directly related to the allegations raised in the formal complaint.
- This includes evidence that the decision-maker may not choose to rely on when reaching a determination of responsibility.
- The investigator will send to each party and the party's advisor, if any, the evidence subject to review and inspection in an electronic format or hard copy.
- As required by law, each party must be **allowed 10 days** from the date of receipt of the evidence to inspect and review the evidence, and to submit a written response that the investigator will consider when completing the final investigative report.

District may require a release before sharing information protected by FERPA (Family Educational Rights and Privacy Act.)

Investigation – Prior Sexual Behavior

The Title IX regulations state that with or without a hearing, questions and evidence about the complainant's sexual predisposition are never relevant, and questions and evidence about a complainant's prior sexual behavior are not relevant unless such questions and evidence are offered to

(1) prove that someone other than the respondent committed the conduct alleged by the complainant, or

(2) if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. § 106.45(b)(6)(i)-(ii). The same requirements apply at all educational levels and to all recipients whose education programs or activities are covered by Title IX.

Investigation Preparation

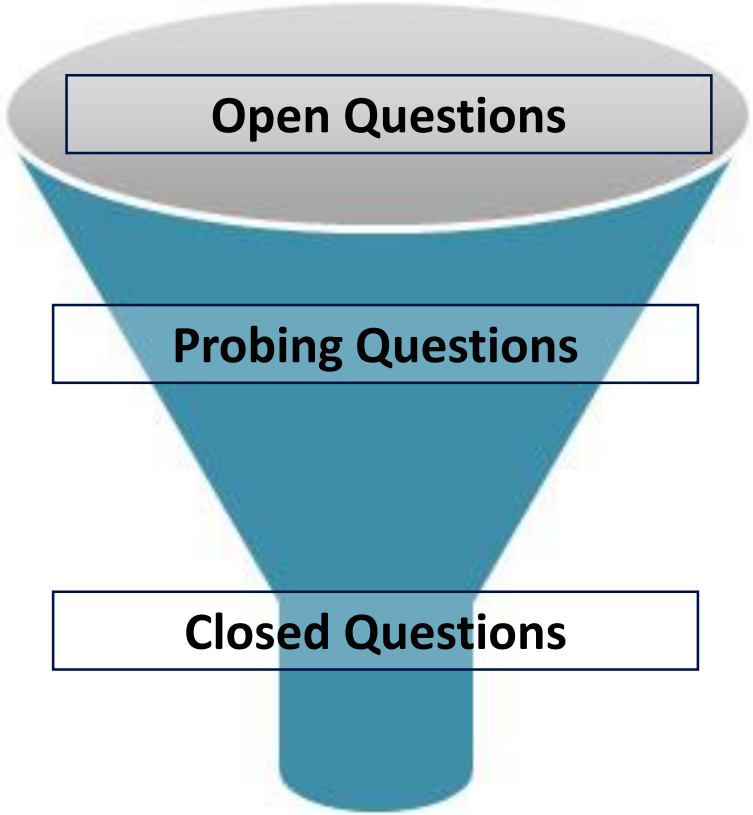
- Prepare an investigation plan;
- Identify witnesses;
- Determine likely order of witnesses;
- Identify documents/policies to collect/review;
- Determine location of interviews;
- Develop opening script/questions.

Investigation Process

- Use open-ended questions, but try to get specific answers from all witnesses, including the complainant and the accused.
- Do not let them give generalizations.
- The investigator wants to “tie them down,” so answers are unlikely to change.
- Also look for ways to test the interviewees’ honesty and recollection of the facts.
- If everyone is asked similar questions, then the answers should be similar. (If not, start doubting the person who responded differently)
- Read his/her body language- Are they fidgeting, or relaxed?

Interview Techniques for All Witnesses

Develop the facts through the FUNNEL TECHNIQUE



Interviews – The Funnel Technique

Examples of OPEN questions:

"Tell us about . . ."
"What did you hear?"
"Explain what he/she did?"
"Describe how you felt when that happened."
"Where did this incident take place?"
"Who was involved in this incident?"

After an open question, begin PROBING:

"What did you mean when you said . . ."
"Always?"
"Never?"
"Can you give me more details about . . ."
"Who else was there when this happened?"
"How did you react when this happened?"

Interviews – The Funnel Technique

After getting all of the relevant information, summarize and **CLOSE**:

"As I understand it . . ."

"Is that correct?"

"Is there anything else you would like to tell me?"

"Is there anyone else who would have further information?"

"What else haven't we discussed that I should know in order to fully evaluate this matter?"

Interview Techniques – All Witnesses

- Be patient and listen;
- Use silence to your advantage;
- Ask the tough questions;
- Be sensitive, but not sympathetic/empathetic (neutral);
- Take thorough notes;
- Conduct in private;

DO NOT

Interview witnesses in groups.

Put words in the interviewee's mouth ("But he wasn't abusive in the meeting, was he?").

Exhibit bias or make promises ("We've received a complaint that is clearly unfounded…I'd like to ask you some questions about it.").

Express any opinion regarding the truthfulness, accuracy, or legal implications of the allegations.

Interview Techniques – Complainant

- Pin down the story (who, what, where, why, when, and how).
- Determine any reason for delay in reporting.
- Did he/she ever indicate the conduct was unwelcome?
- Who else has knowledge (or was told) of conduct?

Interview Techniques – The Accused

- This is his/her opportunity to provide his/her side of the story.
- Pin down the story.
- Names, dates, witnesses, locations, times, details, details, details…
- Don't accept blanket denials.
    - Is there a reason he/she would make this up/lie?
    - "I don't recall" vs. "It did not happen"
- Be careful not to give appearance of predisposition.
- Probe for motive.
- Typically, should be interviewed last.

Interview Techniques – The Accused

- Determine the relationship the accused had with complainant prior to the allegations.
- Allow the accused to respond to each specific allegation made by complainant.
- Balancing confidentiality concerns.
- Again, don't be afraid to ask the tough question(s) about specific conduct.

Dealing with Law Enforcement and Other Agencies

- Before the need for an investigation arises, establish a relationship and a protocol with local law enforcement officials, and other agencies (i.e. District Attorney, CPS, OCR, TEA, SBEC, etc.).
- Designate a person as the liaison with these agencies.
- Relationships are a two-way street. For example, there may be situations where the police have all the evidence establishing the criminal conduct of a school employee. Unless a working relationship is established, the school district might find itself in the frustrating situation of not being able to take employment action when the police have filed criminal charges.

Investigation Report

- Identification of allegations;
- Any procedural steps taken by Title IX personnel from the receipt of the formal complaint through the conclusion of the investigation, including any notifications to the parties, interviews, site visits, and methods used to gather evidence;
- Responses of each party to the allegations in the formal complaint;
- Evidence obtained by the District;
- Relevant evidence considered by the investigator;
- The parties' responses to the evidence after review and inspection;
- Findings of fact ***(without conclusions as to responsibility)***; and
- Identification of any District policies or codes of conduct implicated by the facts.

The Title IX regulations do not require or prohibit an investigator from making a recommendation with respect to a determination regarding responsibility.

The investigator will simultaneously provide the investigation report to both parties. The investigator also will send a copy of the investigation report to the Title IX Coordinator, who immediately will assign a decision-maker and provide the decision-maker with a copy of the investigation report.

Determination of Responsibility

The Title IX Coordinator will designate the decision-maker to make an independent determination regarding a respondent's responsibility for the alleged sexual harassment.

The decision-maker cannot be the District's Title IX Coordinator or the investigator who investigated the complaint at issue.

- The determination of responsibility may not be issued earlier than 10 days from the date the parties received the final investigation report from the investigator.
- The decision-maker will give each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness noted in the investigation report.
- The decision-maker shall ensure that questioning is relevant, respectful, and non-abusive.
- The decision-maker may give a deadline to provide answers in response.
- A party or witness is not required to respond to any questions posed by the other party.
- The parties may reasonably exchange follow-up questions.

Written Notice of Responsibility

The written determination of responsibility will include:

- Identification of the allegations potentially constituting sexual harassment;
- A description of all procedural steps taken from the receipt of the formal complaint through the determination;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the District's applicable code of conduct or other policy to the facts;
- A determination regarding responsibility as to each allegation, any Title IX disciplinary sanctions the District will impose on the respondent, and whether remedies designed to restore or preserve equal access to the District's education program or activity will be provided to the complainant; and
- The permissible bases and procedures for appeal.

The determination of responsibility, and any disciplinary sanctions, is not final or effective until after the period for appeal is over.

Appeal

A party may appeal the written determination regarding responsibility or a dismissal of a formal complaint or any allegations therein on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

Title IX does not require the District to accept appeals based on any other reasons.

To initiate an appeal, a party must file a written request for appeal with the Title IX Coordinator within five days of the receipt of the final determination.

Appeals

The Title IX Coordinator will review the request for appeal and either:

- Determine that the reason for appealing the request is not mandatory and dismiss the appeal; or
- Designate an appellate decision-maker to proceed with the appeal.

- The Title IX Coordinator will notify the non-appealing party in writing when an appeal is filed, and appellate procedures will be implemented equally for both parties.
- Both parties will be provided equal opportunity to submit a written statement.

The appellate decision-maker cannot be the same person as the decision-maker that reached the determination of responsibility, the investigator or the Title IX Coordinator.

- The District's designated appellate decision-maker will review the request for appeal and issue a written decision explaining why the appeal is granted or denied.

Remedies

If a respondent has been determined through the formal complaint process to be responsible for the alleged sexual harassment, the District must provide remedies to the complainant that are designed to restore or preserve the complainant's equal access to the District's educational programs and activities.

The Title IX Coordinator is responsible for effective implementation of remedies.

Remedies may include suspension, expulsion, any disciplinary measure provided by the District's Student Code of Conduct or other remedies listed in the Title IX procedures.

Forms

The following is a list of Title IX forms that can be useful and assist in compliance with regulations:

- Intake Form
- Supportive Measures Form for Parties Involved
  - Supportive Measures acknowledgment for Parent/Guardian
- Formal Complaint Form
- Notice of Allegations
- Notice of Interview
- Investigation Report
- Notice of Evidence Review
- Determination of Responsibility Report
- Notice of Appeal
- Notice of Dismissal

REQUIRED REPORTING

At any point during a District's investigation that evidence is uncovered that requires reporting to law enforcement, Child Protective Services, State Board of Educator Certification, or another entity, District employees must take the necessary actions to do so in compliance with law or board policy.

THANK YOU!
QUESTIONS?