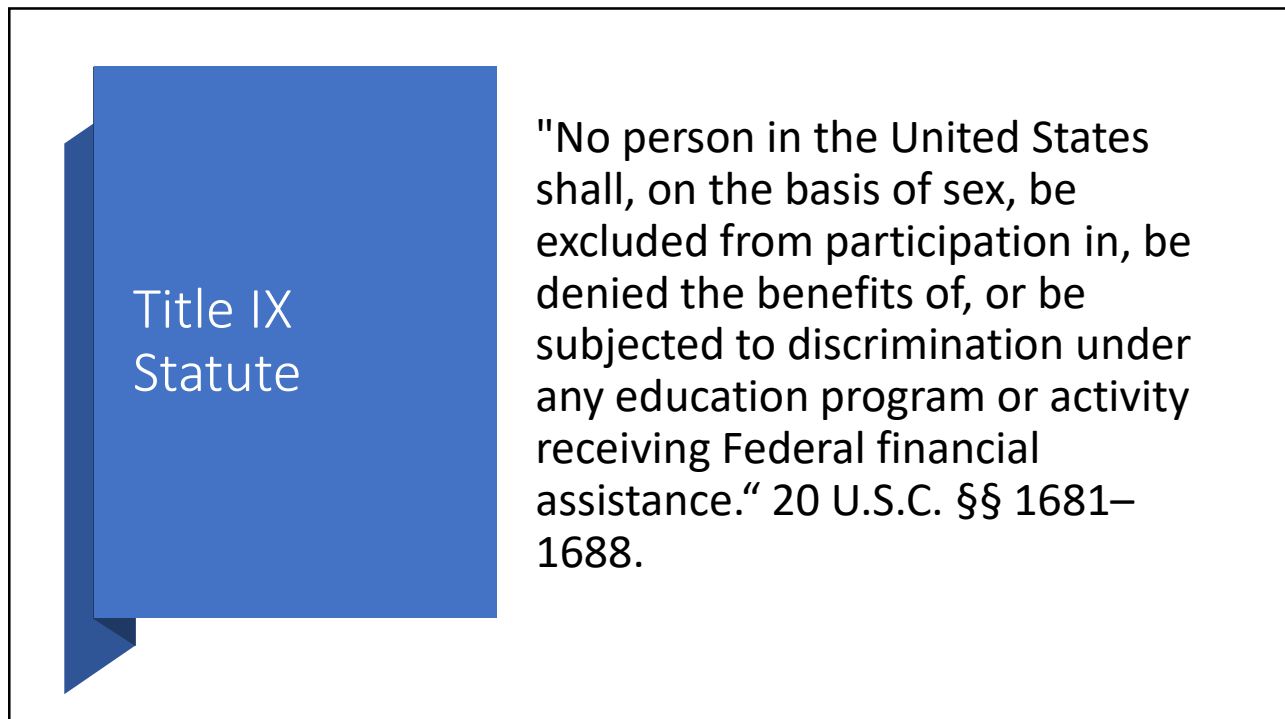




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## What falls under Title IX?

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**Recruitment, Admissions, and Counseling**

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**Financial Assistance**

---

**Athletics**

---

**Sex-Based Harassment**

---

**Treatment of Pregnant & Parenting Students**

---

**Discipline**

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**Single-Sex Education**

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**Employment**

---

**Retaliation**

---

3

## 2020 Amendments

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4

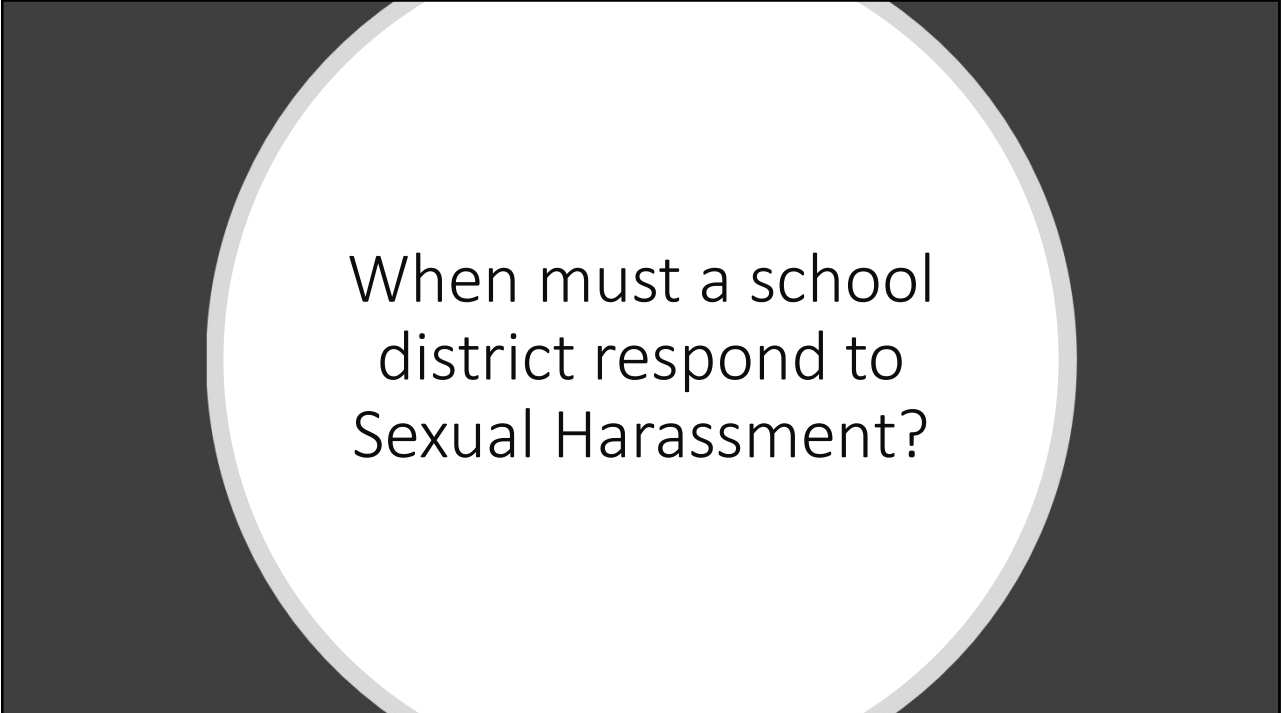


## **Title IX Regulations**

(34 C.F.R. Part 106 – Amended as of 8/14/2020)

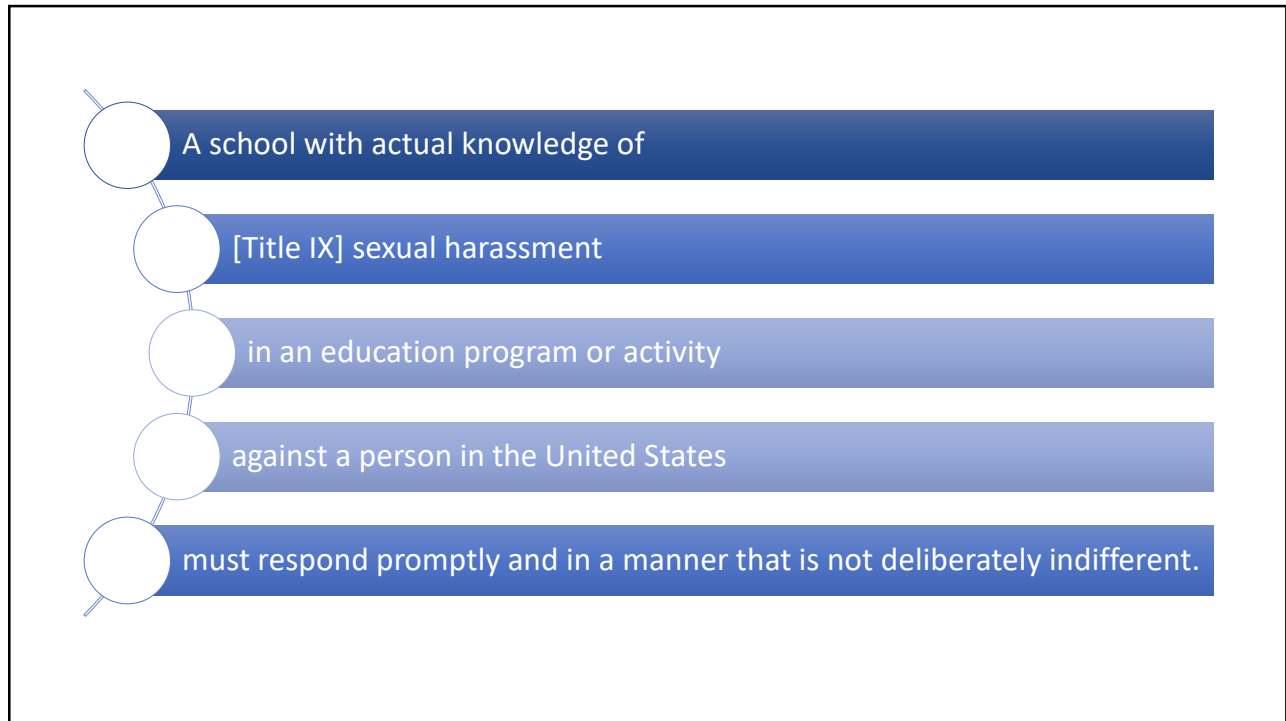
- Prohibit discrimination on the basis of sex
- Establish procedural requirements
  - Policy + detailed grievance procedure
  - Designation of Title IX coordinator(s)
  - And many more requirements!

5



When must a school  
district respond to  
Sexual Harassment?

6




7

## What is Actual Knowledge?

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- Sense
- Report



8

## Reporting: Who, How, and When?

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Any person may report sex discrimination, regardless of whether the person is the alleged victim of the reported conduct

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Reports can be made by mail, by telephone, or by email, using the contact information listed for the Title IX Coordinator

---

Or by any means that results in the Title IX Coordinator receiving the person's report

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Such a report may be made at any time, including during non-business hours, by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator

9



### Official with Authority

- Title IX Coordinator
- K-12: All employees

10

## Title IX – What is Sexual Harassment?

Hostile Environment

Quid pro quo by an  
employee

Sexual Assault  
Domestic Violence  
Dating Violence  
Stalking

11

## Title IX Quid Pro Quo

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**Definition:** An employee of the school conditioning an aid, service, or benefit of the school on an individual's participation in unwelcome sexual conduct

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Only an employee (not a volunteer, another student, etc.)

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Severity and harm presumed

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---

Quid = Something

---

Pro = For

---

Quo = Something

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12



## VAWA “Big Four”

Sexual Assault 20 U.S.C. 1092(f)(6)(A)(v)

Domestic Violence 34 U.S.C. 12291(a)(8)

Dating Violence 34 U.S.C. 12291(a)(10)

Stalking 34 U.S.C. 12291(a)(30)

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## Title IX Hostile Environment

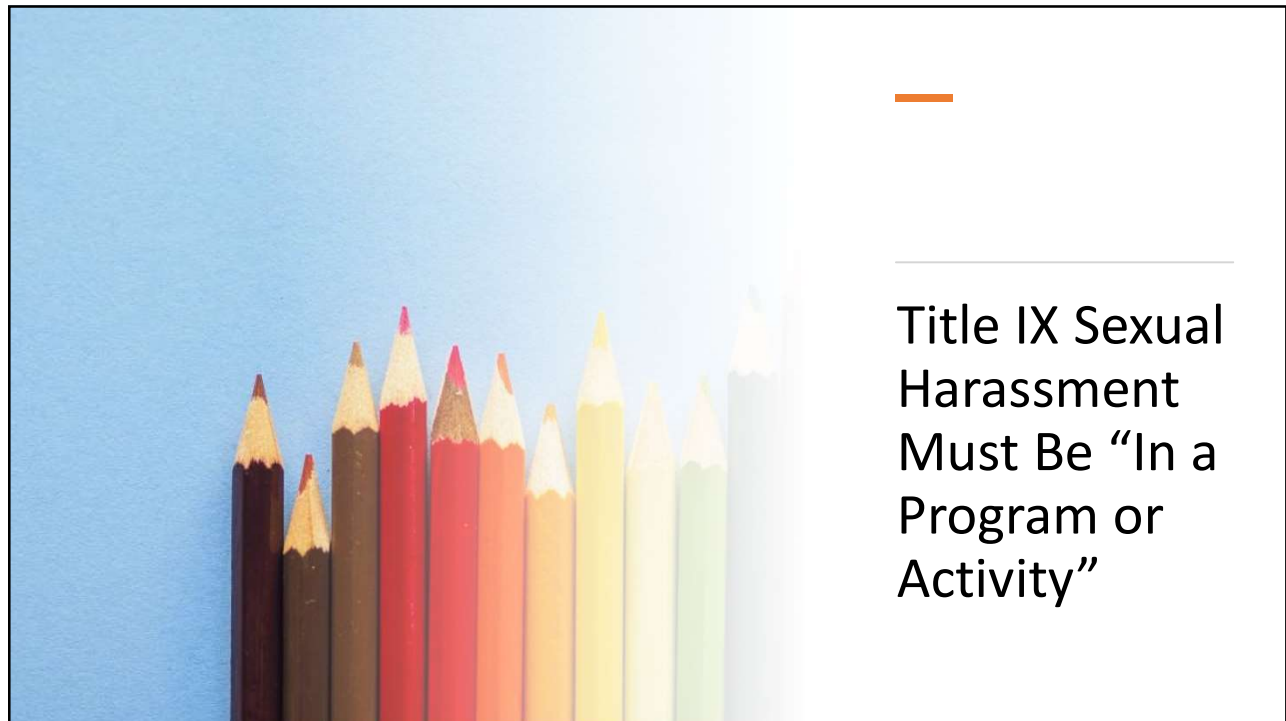
- Unwelcome conduct
- determined by a reasonable person to be so
- severe,
- pervasive, and
- objectively offensive
- that it effectively denies a person’s equal access to the recipient’s education program or activity



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16






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## Program or Activity

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Any location, events, or circumstance over which the recipient exhibits substantial control over both the alleged harasser and the “context” in which the harassment occurred

17



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## Online & Off Campus

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Substantial control over the context?

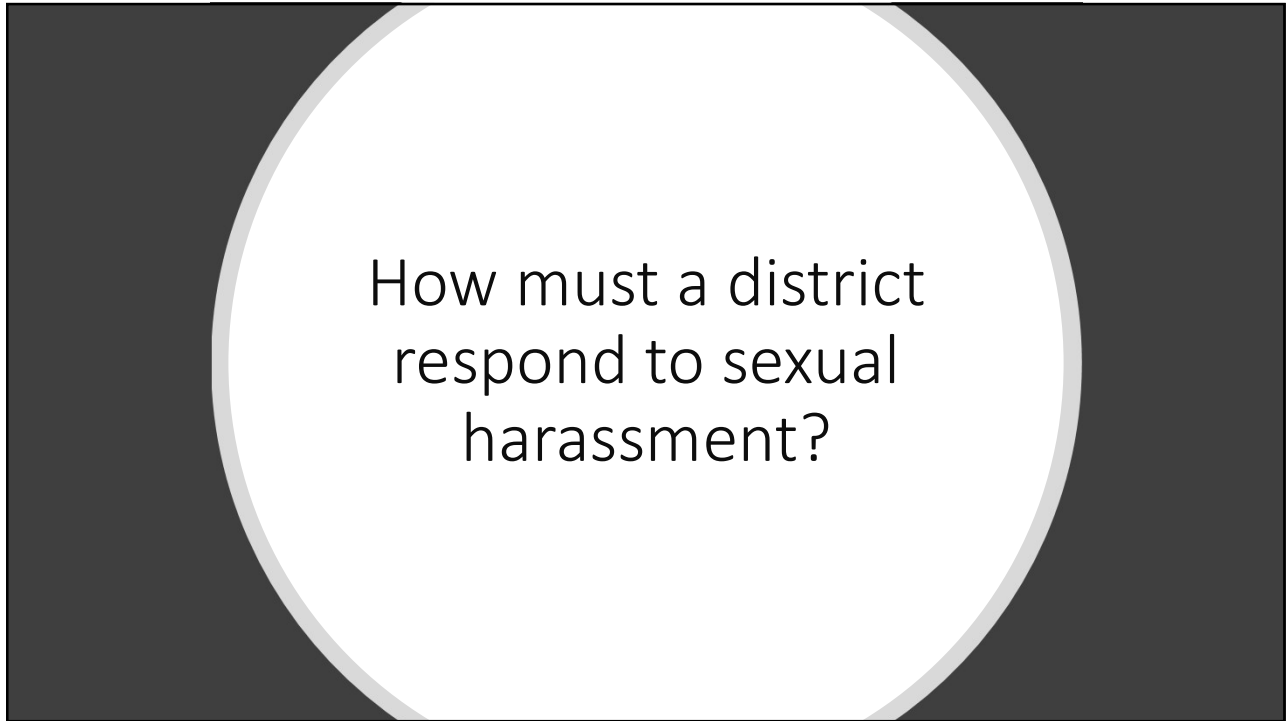
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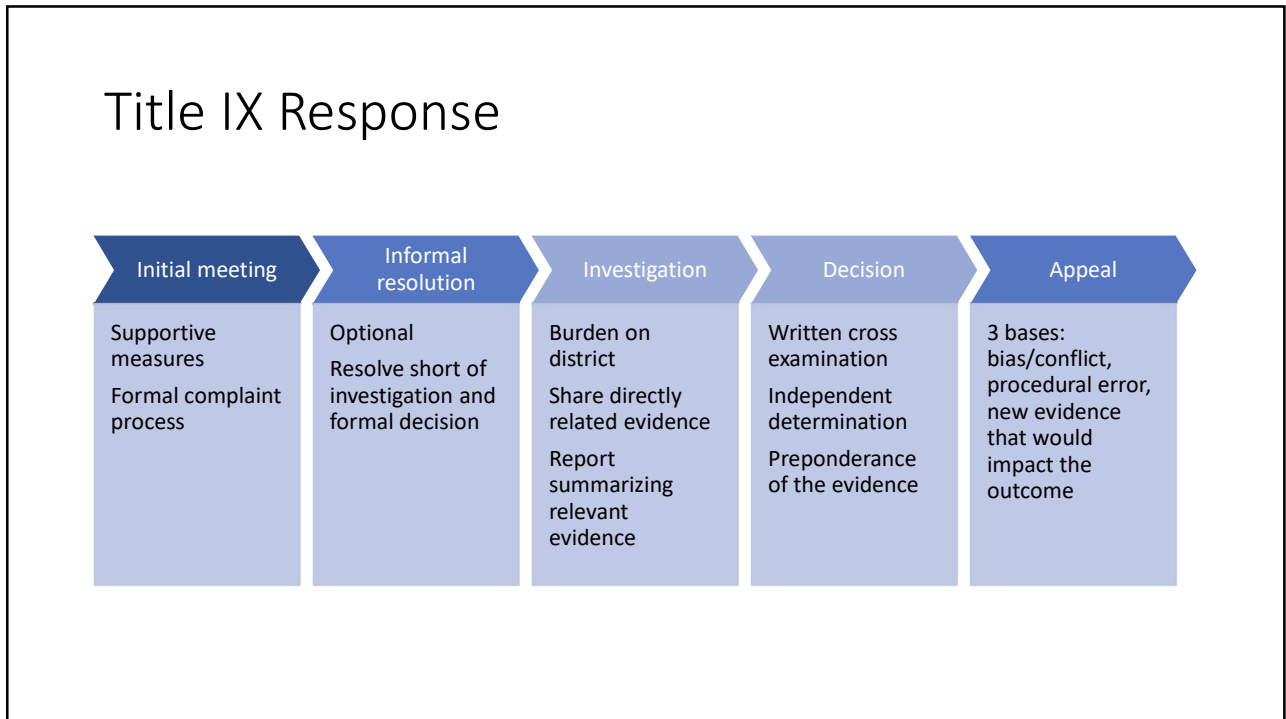
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New New  
Rules

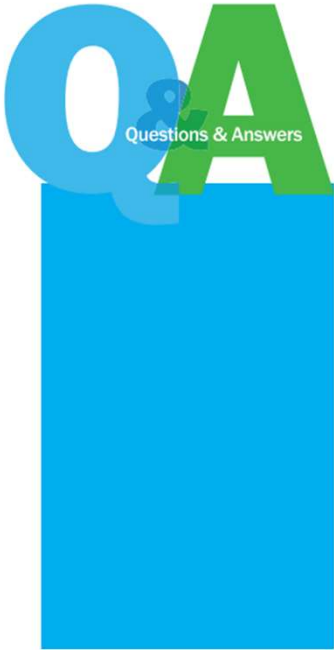


OCR Request  
for Comments



Notice of  
Proposed  
Rulemaking

25



Questions & Answers

## Questions and Answers on Civil Rights and School Reopening in the COVID-19 Environment

Helping schools reopen safely and in ways that support equity among students is a top priority for the Department of Education. The purpose of this Q&A is to help students, families, schools, and the public support all students' rights in educational environments, including in elementary and secondary schools and postsecondary institutions, during the COVID-19 pandemic.<sup>1</sup>

This question and answers (Q&A) document provides answers to common questions about schools' responsibilities under the civil rights laws the Office for Civil Rights (OCR) enforces.<sup>2</sup> These laws prohibit discrimination based on race, color, national origin, sex, disability, and age by state and local recipients of Federal financial assistance.<sup>3</sup>

- Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination based on race, color, or national origin;
- Title IX of the Education Amendments Act of 1972 (Title IX), which prohibits discrimination based on sex; and
- Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibit discrimination based on disability.<sup>4</sup>

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## U.S. Department of Education Confirms Title IX Protects Students from Discrimination Based on Sexual Orientation and Gender Identity

JUNE 16, 2021

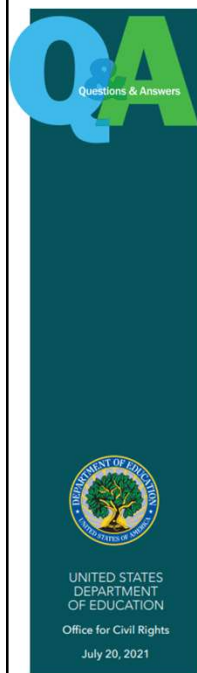
Contact: Press Office, (202) 401-1576, [press@ed.gov](mailto:press@ed.gov)

The U.S. Department of Education's Office for Civil Rights today issued a [Notice of Interpretation](#) explaining that it will enforce Title IX's prohibition on discrimination on the basis of sex to include: (1) discrimination based on sexual orientation; and (2) discrimination based on gender identity. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any education program or activity offered by a recipient of federal financial assistance.

The Department's interpretation stems from the landmark U.S. Supreme Court decision in *Bostock v. Clayton County*, issued one year ago this week, in which the Supreme Court recognized that it is impossible to discriminate against a person based on their sexual orientation or gender identity without discriminating against that person based on sex.

"The Supreme Court has upheld the right for LGBTQ+ people to live and work without fear of harassment, exclusion, and discrimination – and our LGBTQ+ students have the same rights and deserve the same protections. I'm proud to have directed the Office for Civil Rights to enforce Title IX to protect all students from all forms of sex discrimination," said U.S. Secretary of Education Miguel Cardona. "Today, the Department makes clear that all students—including LGBTQ+ students—deserve the opportunity to learn and thrive in schools that are free from discrimination."

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Questions and Answers on Title IX Regulations on Sexual Harassment (July 2021)

- Reiterates information in the preamble to the 2020 amendments
- OCR highlights

28

## Non-Title IX Sexual Harassment

Must address sexual misconduct that does not meet the definition of sexual harassment under the 2020 amendments

- Code of conduct
- Prevention efforts

29

## Definitions

Sexual  
assault

Dating  
violence

Domestic  
violence

Stalking

30

Sexual  
Harassment  
Occurring Prior  
to 2020  
Amendments

Amendments are not retroactive

Only applicable to complaints of sexual harassment occurring on or after August 14, 2020

31

Denial of Access to an Education Program or Activity

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Reasonable person standard

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No actual loss needed

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Does not require total access to be denied

---

No concrete injury required

32

## Notice

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No limit to the manner in which an institution may receive notice of sexual harassment

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Indirect avenues of information may constitute “actual knowledge”

33



### Enrollment Status of Complainant

Institutions are required to accept a formal complaint of sexual harassment from a complainant that is not currently enrolled or attending, as long as they are *attempting to participate* in the school’s education program or activity *at the time they file the complaint*.

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## Enrollment Status of Respondent

- Required to take action even if a Respondent has left the school prior to the complaint being filed:
  - Inform complainant of supportive measures
  - Discretion to assess facts prior to complaint dismissal

35

## Signing a Formal Complaint as a Title IX Coordinator

- OCR may find a school to be deliberately indifferent if it has actual knowledge of a pattern of alleged sexual harassment by a perpetrator in a position of authority if the school's Title IX Coordinator does not sign a formal complaint, regardless of the complainant's relationship with the school or interest in participating in the Title IX grievance process.

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## Written Cross-Examination Questions

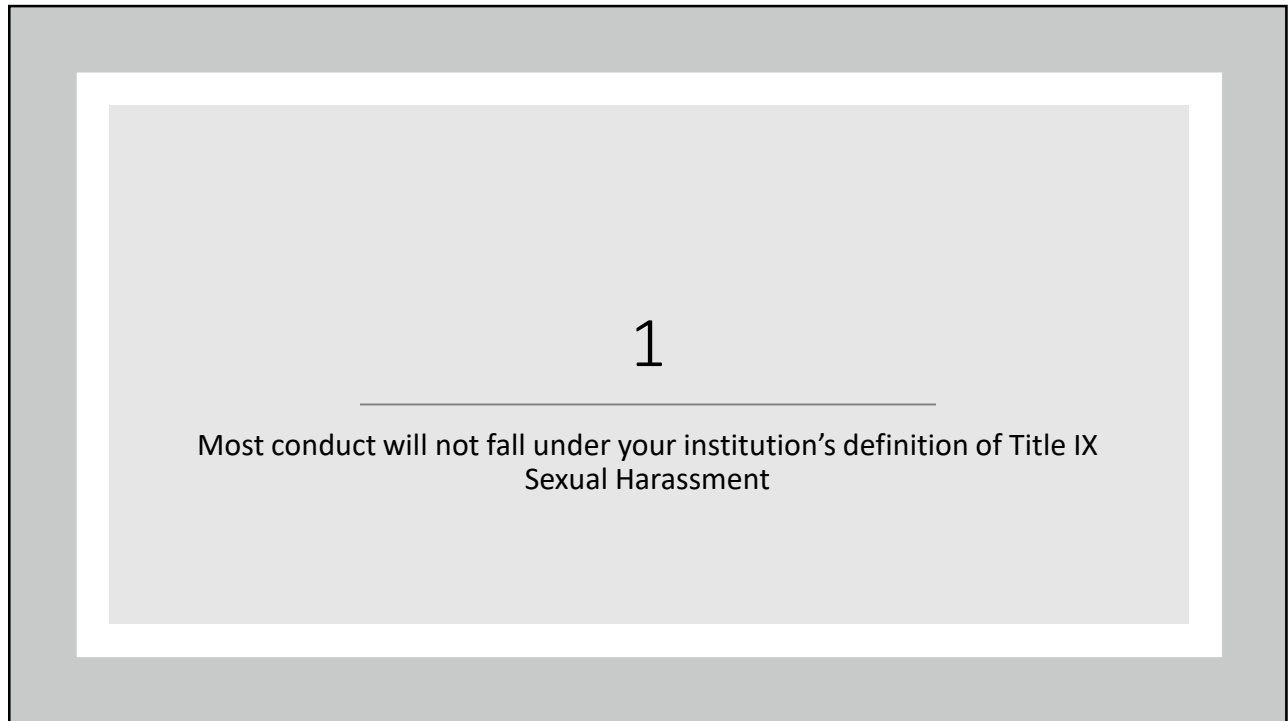
K-12 schools must provide parties the opportunity to submit written, relevant questions

Parents/guardians may act on behalf of a party

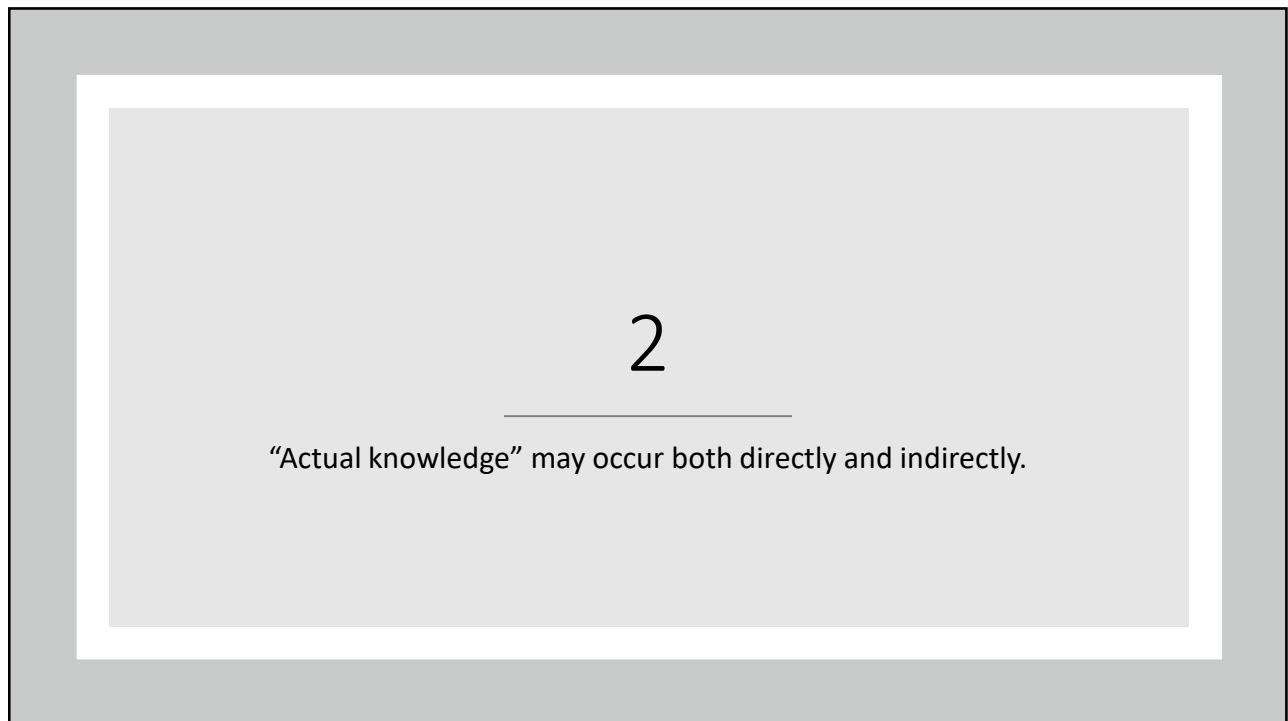
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## Top Takeaways

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Identifying and training personnel for on your Title IX team is crucial.

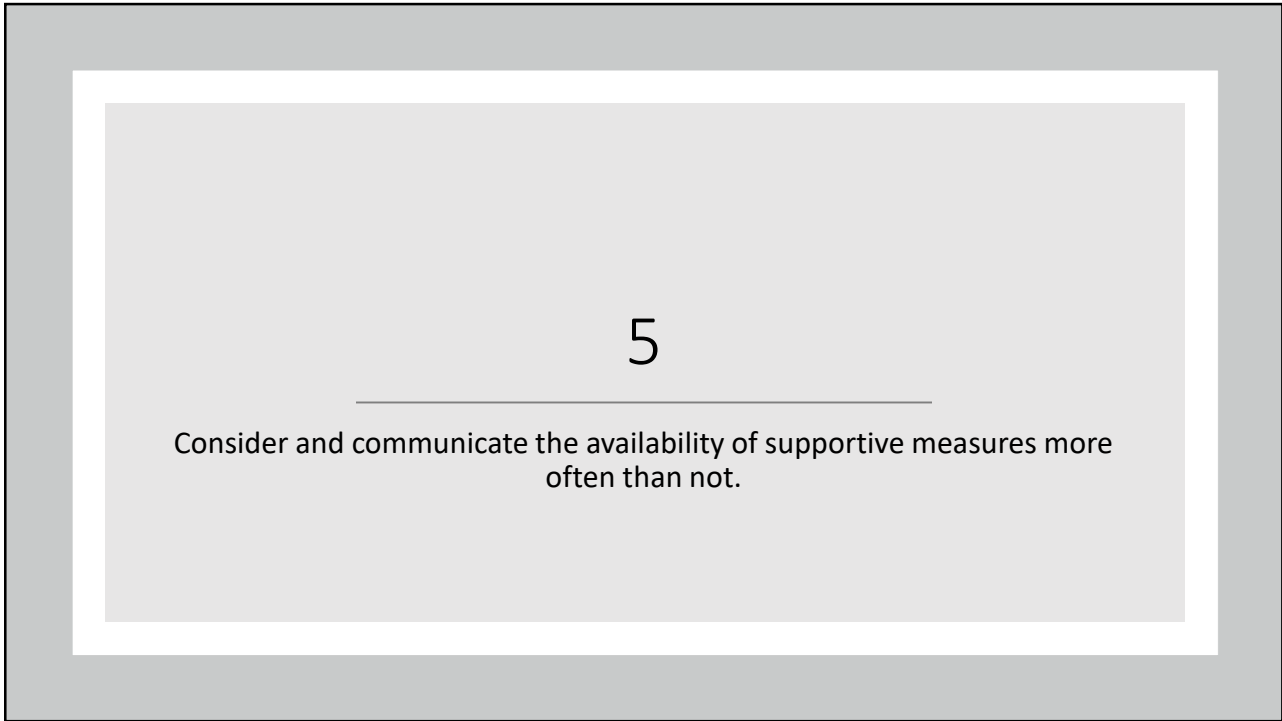
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Carefully consider, but don't automatically disregard, obligations to respond to conduct occurring off-campus

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