



Title IX Annual Training 2025-2026

Southern Oregon ESD
August 6, 2025

Oregon Department of Education

Civil Rights Unit

ode.civilrights@ode.oregon.gov

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

This training is being provided on XXXX. Subsequent changes to law and policy may impact the accuracy of information in this slide deck.

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

Who ODE Serves

“My vision is to make sure every child in Oregon is successful and has a safe place to receive a high-quality public education. I’ve seen firsthand how a positive student-teacher relationship can set a child on a successful path for the rest of their life. When we collaborate and build partnerships with students, educators and families we can advance equity and lead all students toward success.”

- *Dr. Charlene Williams*

552,380 Students*

More than 340 languages spoken

86,915 Educators

Staff of Color

- 13.0% of Teachers
- 13.8% of Administrators
- 18.8% of Counselors
- 23.9% of Educational Assistants

197 Districts

1,270 Schools

131 Charter Schools

19 Education Service Districts

*Numbers represent 2022-23

Session Agenda & Materials



- Title IX Overview
- The Role of the Title IX Coordinator
- Title IX Focus Areas
 - Athletics
 - Single-Sex Programs
 - Pregnant and Parenting Students
- Title IX Complaints
- Legal and Legislative Updates
- 2020 Title IX Regulations Refresher
- FAQs and Open Q&A

Norms and Expectations

Participants

- Ask relevant questions as they arise
- Remain engaged: complete polls, participate in breakout discussions
- Be open to learning
- Understand the limited scope and time for this training
- Break as needed

Presenters

- Start and end on time
- Answer questions as they arise
- Keep to the content at a peppy-pace
- Provide a copy of the slides and additional resources - Google Folder
- Provide proof of attendance
- Schedule technical assistance for individualized questions

Content Note:

This training discusses protected class discrimination. Explicit and discriminatory language is occasionally used. All examples are solely for educational purposes and are designed to contain elements of situations you may respond to in your school/district.



Title IX Overview

Title IX: Sex Discrimination

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

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

Sex Discrimination

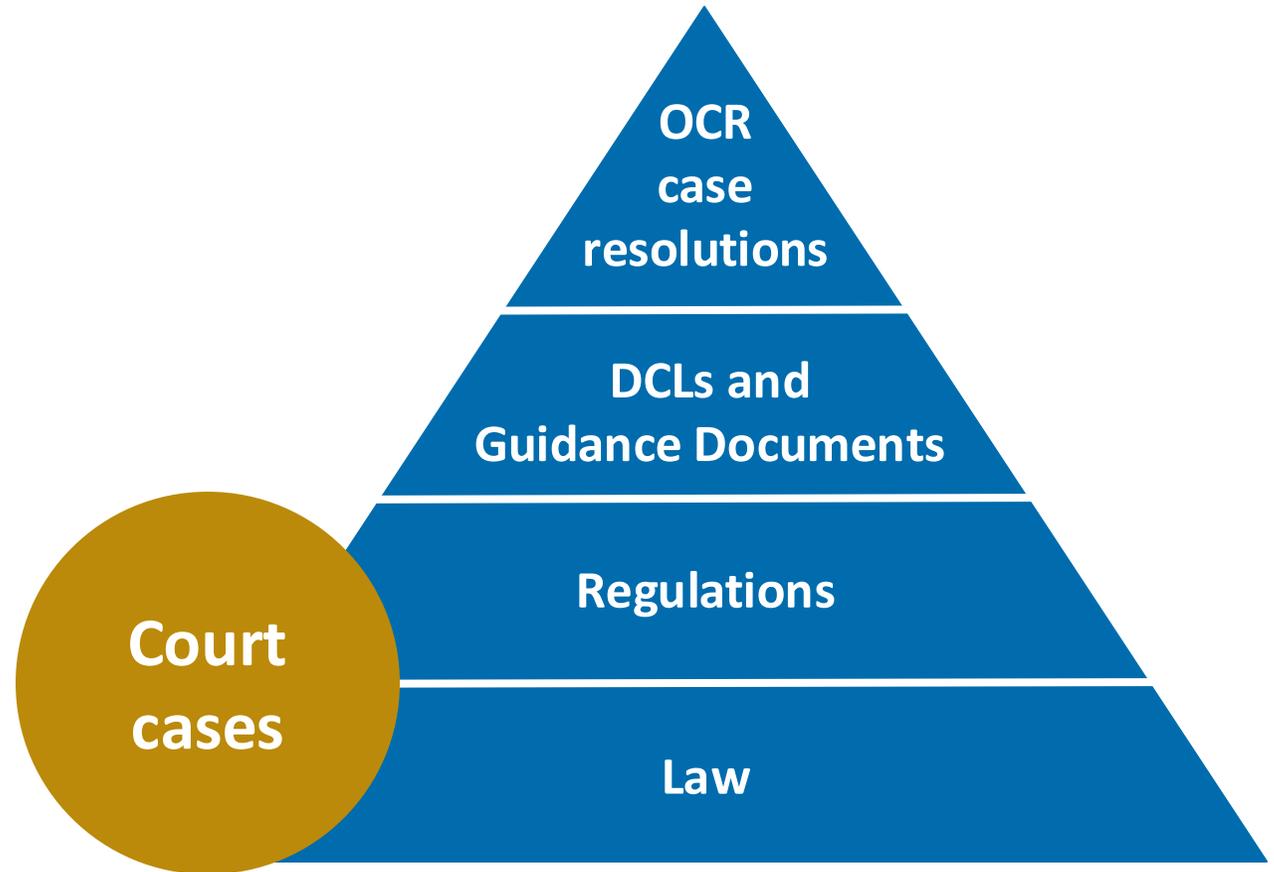
34 CFR 106.31(b) Specific prohibitions. Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

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

Title IX: The Living Law

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

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



Title IX passed as part of the Education Amendments of 1972

1972

Athletics interpretation issued

1979

OCR announces intent to update regulations in 2017, resulting in new sexual harassment regulations

2020

Tennessee v. Cardona returns schools to 2020 regulations; February 4th DCL affirms return

2025

1975

Title IX regulations passed requiring specific processes

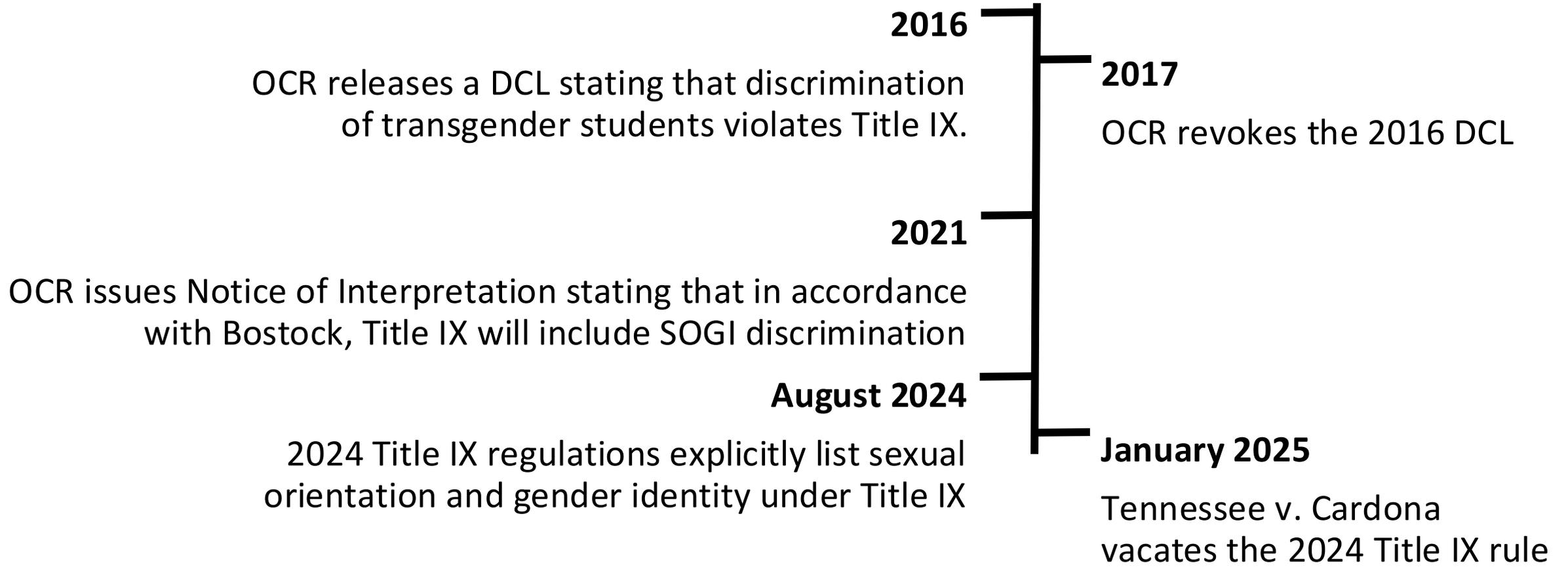
1980s, 1990s

Various Supreme Court cases add to Title IX framework (sexual harassment, etc). OCR releases guidance in response.

2024

2020 sexual harassment regulations replaced with new regulations that cover sex, sexual orientation, and gender identity discrimination

Sexual Orientation and Gender Identity in Title IX



Reading the Current Regulations

Title IX Regulations on eCFR.gov

To view the 2020 regulations:

- Click "go to date" on the side bar navigation
- Select any date the 2020 regulations were in effect (e.g., January 1, 2024)
- Click "go to date" to confirm

The screenshot shows the eCFR.gov website interface. At the top, the URL is www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106?toc=1. The breadcrumb navigation shows: Title 34 / Subtitle B / Chapter I / Part 106. A left sidebar contains navigation options: Details, Print, Search, Subscribe, Timeline, Go to Date, Published Edition, and Developer Tools. The 'Go to Date' option is highlighted. A date picker calendar is open, showing July 2025, with the 29th selected. Below the calendar, a search bar contains the text 'current' and a 'Go to date' button. The main content area displays a table of contents for Part 106, with sections like 'Subpart D Discrimination on the Basis of Sex in Education Programs or Activities Prohibited' and 'Subpart E Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited'. The page footer includes 'Oregon Department of Education' and 'ECFR CONTENT'.



Athletics

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



Sexual Harassment

Sexual harassment that meets a specific definition must be addressed through a specific process under Title IX.



Pregnant/Parenting Students

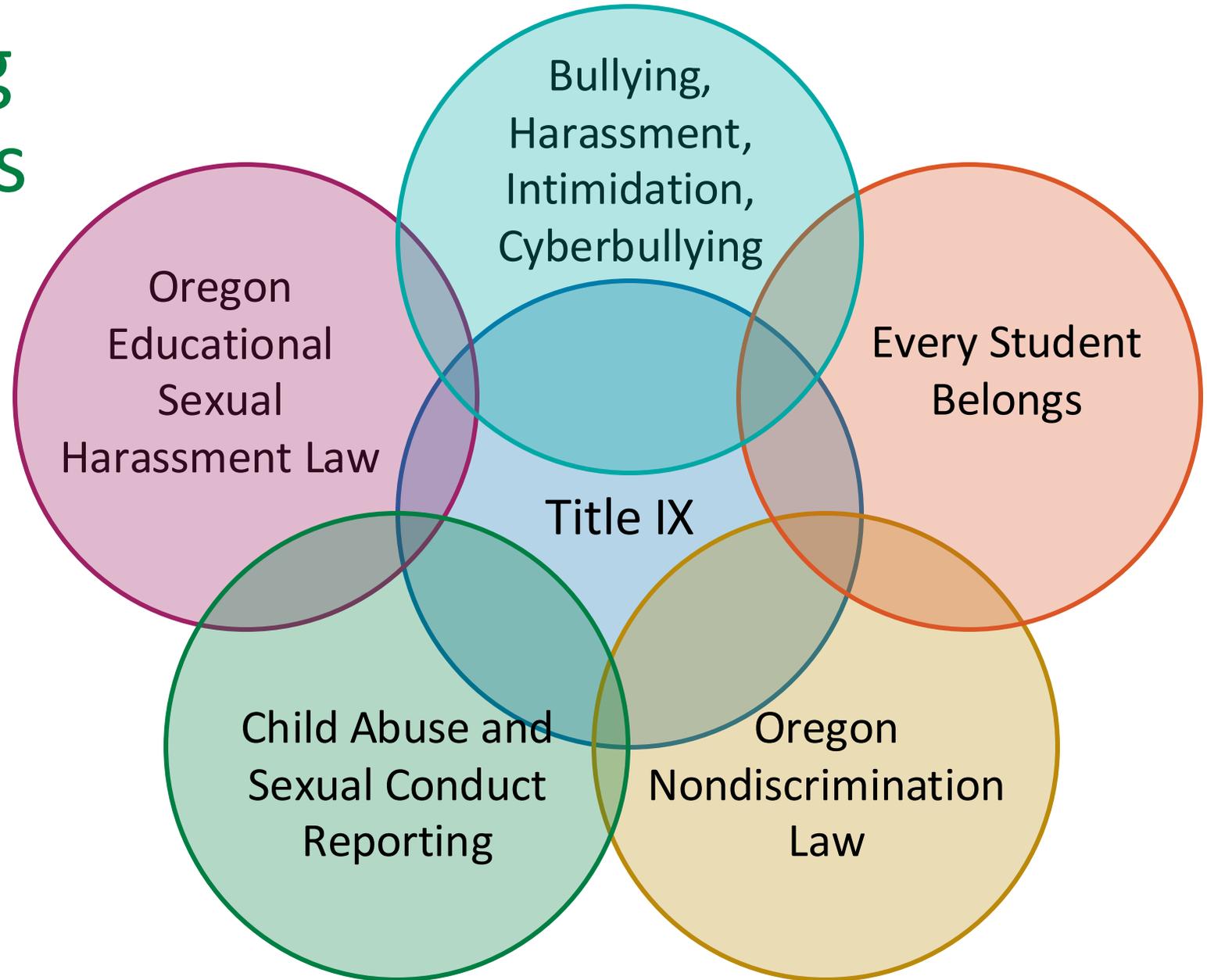
Access to all programs, supportive modifications, leave, and more.



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

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

Overlapping Oregon Laws



District Obligations Under Title IX

- Designate a Title IX Coordinator [34 CFR 106.8\(a\)](#)
- Provide a notice of nondiscrimination [34 CFR 106.8\(b\)](#)
- Adopt a policy prohibiting discrimination and adopt procedures for receiving reports and resolving complaints of sex discrimination [34 CFR 106.8\(c\)](#)
- Ensure athletic programs offer equal and equitable opportunities and benefits to boys and girls athletic programs, [34 CFR 106.41](#), [Guidance](#)
- Provide access and modifications for pregnant and parenting students [34 CFR 106.40](#)
- Ensure compliance with Title IX regulations for any single-sex or sex-segregated programs and activities; [34 CFR 106.34](#), [Q&A](#)
- Respond to all notice of sexual harassment and follow required procedures to investigate sexual harassment [34 CFR 106.8](#), [34 CFR 106.44](#), [34 CFR 106.45](#)
- Train designated staff on their roles in responding to sexual harassment [34 CFR 106.45\(b\)\(1\)\(iii\)](#)
 - Keep records of sex discrimination notice, complaints, and training [34 CFR 106.45\(b\)\(10\)](#)

Notice of Nondiscrimination

- Title IX and Oregon law ([OAR 581-021-0045\(4\)](#)) requires a notice of nondiscrimination posted on district or charter school website
- Include contact information for Title IX Coordinator and Civil Rights Coordinator
- Must be available as a direct link on the front page of the school's website or on the footer of every page on the website.

[Sample Notice of Nondiscrimination](#)



Sample Nondiscrimination Statement

Under state and federal law, Oregon K-12 school districts must post a notice of nondiscrimination. Laws and rules requiring this notice include, but may not be limited to:

- Oregon Nondiscrimination Rules at [OAR 581-021-0045\(4\)](#)
- Title VI at [34 C.F.R. §100.6\(d\)](#)
- Title IX at [34 C.F.R. § 106.8\(c\)](#)
- Section 504 at [34 C.F.R. §104.8](#)

This form serves as a sample* nondiscrimination statement *provided by the Oregon Department of Education (ODE) to assist school districts.* Under state and federal law, notice of nondiscrimination must be:

- Continuously available on the district website, either by direct link on the front page of the website, or by a direct link on the footer of every page of the website;
- Posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related application forms;
- Available in the languages served by the district;
- Disseminated annually to staff, students, and families of students as an individual notice that is accessible and written in plain language; and
- Accessible to persons with disabilities.

***Disclaimer:** Please note that this is a sample form. Its use is not mandatory, and school districts and programs may choose to develop their own forms or procedures that align with the requirements of federal and state statutes. This sample form does not constitute legal advice, and ODE encourages school districts to consult with legal counsel, as necessary.



Role of the Title IX Coordinator

The Title IX Coordinator



photo from [Christina](#); unsplash.com

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

34 CFR § 106.8(a)

In practice:

- Delegating responsibilities
- Deputy Coordinators

Role of the Title IX Coordinator

- Ensure the district/school is fully complying with Federal Title IX law, regulations, and guidance
 - Keep track of new law, regulations, and guidance, and update as needed
- Coordinate responses to reports of sex discrimination, including:
 - student and employee reports
 - sexual harassment
 - athletic equity complaints
 - single-sex education
- Keep track of records and data related to Title IX compliance
- Coordinate with other roles/departments
- Monitor overlapping requirements between Title IX and other Federal/state laws

Required Title IX Coordinator Training

With respect to the sexual harassment process, the Title IX Coordinator must receive training on:

- the definition of sexual harassment
- the scope of the recipient's education program or activity
- how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias

[34 CFR 106.45\(b\)\(1\)\(iii\)](#)

Locate your required Title IX postings!

Go to your school/district website, and locate:

- Your **Title IX Coordinator's name and contact information**
- Your **notice of nondiscrimination**
- Your **policy and grievance procedures** for resolving complaints of sex discrimination and sexual harassment

Consider:

- Were you able to find all the required information?
- How easy was it for you to find?
- When were these items last updated?

Civil Rights Coordinator

- Oregon law requires schools to designate a Civil Rights Coordinator to ensure district compliance with Oregon and federal civil rights law.
- Civil Rights Coordinators work with discrimination based on based on all of Oregon's 10 protected classes – race, color, national origin, disability, religion, age, sex, marital status, sexual orientation, and gender identity.
- Title IX Coordinators should identify your district's Civil Rights Coordinator, and will likely want to coordinate with them on responding to sex discrimination.

[ODE Civil Rights Coordinator Resources](#)



Title IX Focus Areas



Athletics

Three Analytical Standards for Athletics

1. Schools must offer male and female students **equal athletic opportunities** and effectively accommodate students' athletic interests and abilities.



The “three-part test”

2. Schools must allocate athletic financial assistance equitably.

3. Schools must provide male and female athletes with **equal benefits** and opportunities.



The “laundry list”

The Three-Part Test

Part 1: Athletic participation opportunities for males and females are substantially proportionate to their respective enrollments;

OR

Part 2: The school has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex;

OR

Part 3: The school has fully and effectively accommodated the interests and abilities of the underrepresented sex.



photo from [Caleb Mullins](#); unsplash.com



photo from [Vince Fleming](#); unsplash.com

Oregon Department of Education

The “Laundry List”

- Equipment and supplies
- Facilities
- Assignment and compensation of coaches
- Support services
- Medical and training facilities
- Scheduling of games and practices
- Travel and Per Diem
- Housing and dining
- Publicity
- Opportunity to receive academic tutoring
- Recruitment

Athletic Equity FAQs and Tips

- Athletic equity calculations should be done on a yearly basis; three-part test documentation, “laundry list” equity analysis
- Private donations, team fundraisers, and booster club donations count towards athletic equity if they result in team benefits; schools that accept funding may need to use school/district funds to address any resulting equity imbalances

Helpful Resource: [OSAA Athletic Equity Resources](#)



Single-Sex Programs

Single-Sex Programs: Core Concepts

Title IX heavily regulates single-sex programs in public education, which includes **any class, learning opportunity, extracurricular program, etc that is offered to only one sex or that separates students by sex.**

There are only two ways a school can offer a single-sex educational program:

- If it is specifically allowable in regulation: contact sports or ability grouping in PE, human sexuality education, choruses
- If it meets specific requirements

CTE programs CANNOT be offered on a single-sex basis. Athletics are administered by separate regulations, and these rules do not apply.

[34 CFR 106.34](#)

Specific Requirements for Single-Sex Programs

To otherwise provide a single-sex program, must:

- be based on an important educational objective: either student achievement and diverse educational opportunities, or to meet particular identified educational needs of students
- ensure enrollment in entirely voluntary
- provide to all excluded students a [substantially equal](#) coeducational opportunity in the same subject or activity
- evaluate the program on a regular basis (at least every two years) to ensure the educational objectives are being achieved

[34 CFR 106.34](#)

Community Partners and Single-Sex Programs

All parts of a school's education programs and activities are subject to Title IX, including those facilitated by external organizations and community partners.

- If a school is partnering with an external organization, the school is responsible for ensuring the organization's practices comply with Title IX.

Schools generally cannot provide **significant assistance** to external organizations that exclude students based on sex (i.e., single-sex programs). Analyzing significant assistance takes into account:

- financial support,
- provision of tangible resources (e.g., staff, equipment, and facilities),
- intangible benefits (e.g., recognition and approval),
- whether the school district provides similar privileges and resources to other organizations,
- whether the relationship is occasional and temporary or permanent and long-term

Community Partners and Single-Sex Programs

Schools may offer significant assistance to external programs that provide single-sex activities if the organizations are [Voluntary Youth Service Organizations](#).

*“...**tax-exempt organizations**, the membership of which has **traditionally been limited to persons of one sex** and principally to **persons of less than nineteen years of age**. A voluntary youth service organization also must **facilitate public service opportunities** for its members.”*

In order for an external organization to offer a single-sex program as part of the school's education program:

- They must be a Voluntary Youth Service Organization (VYSO)
- The school must offer a substantially equal codeducational program to excluded students



Pregnant and Parenting Students

Pregnancy or Parenting Status

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

[34 CFR 106.40\(a\)](#)

Pregnancy includes “pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.”



Photo by Media Modifier on [Unsplash](#)

Access to Programs

A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity.

[34 CFR 106.40\(b\)\(1\)](#)

“In addition, a pregnant student may not be excluded from an activity that is part of the school’s educational program even if the activity is not operated directly by the school. For example, an after-school program run by a local nonprofit agency that rents the school’s facilities at a reduced rate and is advertised and promoted by the school may not exclude a pregnant student from enrolling.”

[Guidance, 2013](#)

Reasonable Adjustments

“To ensure a pregnant student’s access to its educational program, when necessary, a school must make adjustments to the regular program that are reasonable and responsive to the student’s temporary pregnancy status. For example, a school might be required to provide a larger desk, allow frequent trips to the bathroom, or permit temporary access to elevators.”

[Guidance, 2013](#)

Examples of adjustments:

- Allowing the student to sit, stand, or carry water
- Periodic excused absences for medical appointments
- Providing a larger desk or larger uniforms
- Excusing the student to breastfeed or express breast milk

Separate Programs

“A school may offer separate programs or schools for a pregnant student, but participation in those programs or schools must be completely voluntary.”

[Guidance, 2013](#) (citing [34 CFR 106.40\(b\)\(3\)](#))



Photo by ThisIsEngineering on [Unsplash](#)

Certification to Participate

“Schools cannot require a pregnant student to produce a doctor’s note in order to stay in school or participate in activities, including interscholastic sports, unless the same requirement to obtain a doctor’s note applies to all students being treated by a doctor. That is, schools cannot treat a pregnant student differently from other students being cared for by a doctor, even when a student is in the later stages of pregnancy; schools should not presume that a pregnant student is unable to attend school or participate in school activities.”

[Guidance, 2013](#) (citing [34 CFR 106.40\(b\)\(2\)](#))

Absences

“Title IX requires a school to excuse a student’s absences due to pregnancy or related conditions, including recovery from childbirth, for as long as the student’s doctor deems the absences to be medically necessary.

When the student returns to school, she must be reinstated to the status she held when the leave began, which should include giving her the opportunity to make up any work missed. A school may offer the student alternatives to making up missed work, such as retaking a semester, taking part in an online course credit recovery program, or allowing the student additional time in a program to continue at the same pace and finish at a later date, especially after longer periods of leave. The student should be allowed to choose how to make up the work.”

[Guidance, 2013](#) (citing [34 CFR 106.40\(b\)\(2\)](#))

Troy University Pregnancy Discrimination Case

“...when the student became unable to fit into a classroom desk due to her pregnancy, she requested a table for one of her classes, but never received one. She also was penalized in a class for poor attendance and received a failing grade in another class because she was denied the ability to make up work.

OCR’s investigation identified concerns that:

- The university did not make reasonable and responsive adjustments responsive to the student’s pregnancy-related requests.*
- Those responses the university did offer to the student’s requests were ad hoc and uncoordinated.*
- The Title IX coordinator did not consistently or timely intervene when the student alerted him to issues with certain classes.*
- No evidence reflected that the Title IX coordinator responded to a professor who sought guidance in addressing the student’s requests. And,*
- The absence of available information about how to obtain pregnancy-related adjustments contributed to the university’s uncoordinated response and left the student to make multiple requests through both the university’s Title IX coordinator and individual professors.”*

[U.S. Department of Education’s Office for Civil Rights Announces Resolution of Pregnancy Discrimination Investigation of Troy University in Alabama](#)

What can we learn from Troy's OCR case?

In the resolution agreement, the school was required to:

- update and/or draft policies on addressing accommodation requests for pregnant students
- add information to their website about the rights of pregnant students and how to request adjustments/accommodations
- provide training to staff
- track requests and responses for pregnancy adjustments/accommodations

Questions to ask:

- How do you know if you are serving any pregnant or parenting students?
- What services does your school or district provide to pregnant or parenting students?
- How do pregnant or parenting students learn about their rights?
- Do you have a process in place so that pregnant and parenting students can request and receive adjustments/accommodations?



Responding to Title IX Complaints (Non-SH)

Sex Discrimination Complaint Policies

"A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with § 106.45 for formal complaints as defined in § 106.30."

Title IX, 34 CFR 106.8(c)

- Most schools chose to adopt a policy/procedure that addresses sex discrimination broadly, and a separate policy/procedure for the adjudication of sexual harassment complaints under Title IX
- Most commonly in Oregon public K-12 schools, schools adopt a broad nondiscrimination policy/procedure that addresses all protected class discrimination, including sex discrimination.

Sex Discrimination Reports

Reports of discrimination may not come through a formal complaint procedure:

- They may be orally reported
- They may be sent via email
- They may be observed by others

Reports of discrimination may be disguised as:

- Public complaints
- Reports of bullying

Tip: *If a protected class may be involved, consider the possibility that it may be discrimination.*



Image by [Nick Youngson](#) CC BY-SA 3.0 Alpha Stock Images

Supportive Measures and Safety Plans

Whenever a school receives notice of possible sex discrimination, consider whether supportive measures (and/or safety plans) are needed to immediately address any impacts of the alleged discrimination.

- Supportive measures are non-disciplinary measures that are designed to restore or preserve educational access before, during, or after a complaint of sex discrimination.
- In the context of educational discrimination, we use “safety plan” to mean a comprehensive list of supportive measures and other strategies to address the physical and mental safety measures a student needs to continue to access their education.
- The exact term your school/district uses doesn’t matter. What matters is the support.

Examples of Supportive Measures/Safety Strategies

- academic support: deadline extensions, re-doing assignments or exams, etc.
- changes in class schedules
- changes in classroom seating, supervision, etc.
- increased hallway supervision
- escort between classes or to/from bus or parking
- different parking location
- no-contact orders (mutual or directional)
- counseling
- designated support contact
- check-in meetings, designated safe space, or designated “out of class” time
- leaves of absence
- policy flexibility (transfer policy, absence policy, athletic policy, etc.)

Discrimination Complaint Process Basics

Consider all incidents of potential discrimination, **regardless of how it's reported.**

Ensure policies and procedures are clear, accessible, and implemented to fidelity.

Investigate any potential discrimination concerns.

Eliminate and remedy any hostile environment.

Address ongoing concerns and monitor campus environment.

Oregon's Requirements: Local Complaint Policies and Procedures

Discrimination complaint policies and procedures should include:

- Definitions (what protected classes are covered)
- Time limits (for submitting complaints, expected response time, etc)
- The steps of the process (levels/appeals, no more than four steps)
- A written final decision

Each school district must establish a process for the prompt resolution of a complaint by:

- A person who resides in the district;
- Any parent or guardian of a student who attends school in the district; or
- Any person who alleges that they have been subjected to discrimination, or a third party representing such persons or groups of persons.

Most schools utilize a discrimination complaint board policy and separate procedure.

[OAR 581-022-2370](#)

Complaint Timelines

Oregon administrative rules require schools to specify a timeline for the process, including at each step. [OAR 581-022-2370](#)

Extensions can be granted for good cause.

- Make sure to communicate any timeline extensions to parties.

Keep in mind: ODE may accept appeals of complaints if they are not resolved within specific periods of time (30 days at any one step, 90 days for full process).

Remedies and Disciplinary Sanctions

Remedies are measures provided to restore and preserve full access to the educational programs and activities following a determination of discrimination. Remedies may be provided to a complaint or to any other people identified to have been impacted by discrimination. They should be designed and tailored to address all substantiated discrimination.

Disciplinary Sanctions are consequences imposed on a respondent at the conclusion of a discrimination complaint process. They should be appropriate to the conduct and its consequences.

Requirements for Written Decisions

OAR 581-022-2370(4)(b) requires a written final decision:

*A final decision in **written or electronic form** that addresses each allegation in the complaint and contains reasons for the district's decision and notifies the complainant that the district's decision may be appealed to the Deputy Superintendent of Public Instruction under OAR 581—002-0023.*

A determination becomes final once the appeal window has passed (if no appeal received), or once a final decision has been issued at the final level of appeal.

The parent of a student on the girls basketball team files a complaint alleging that the boys basketball team is receiving perks and special treatment the girls team doesn't get. He states that the boys team receives new uniforms, warm-ups, and other items yearly, whereas the girls team only gets uniforms every two years. He also states that the boys team gets team dinners before or after games donated by the team booster club. The parent discussed this with the Athletic Director, who said that these benefits are all through fundraising and booster club donations, and it's each team's responsibility to raise money for these kinds of things. The parent still thinks it's unfair.

The foster parents of a junior student file a public complaint appealing the student's unenrollment from the district. The student gave birth a few weeks ago and has been at home recovering after a complex delivery. The foster parents communicated to the school that the student would be out, but about 3 weeks later they received a letter stating that the student had been unenrolled. The foster parents state that they are fed up with the district, and that the alternative school was very inflexible about the student's pregnancy – they wouldn't allow her extra restroom breaks and wouldn't excuse her absences for doctor's appointments.

For your assigned scenario, discuss:

- Who should be involved in responding to this complaint?
- Discuss and outline the steps you will take to respond and investigate.



Legal and Legislative Updates



Oregon Legislative Session

SB 867

[SB 867](#), Section 1 provides ODE with authority to order an additional type of sanction in discrimination cases. Specifically, it allows ODE to order a student-specific sanction where discrimination against a student has occurred.

Authorizes ODE to order public schools to recompense students for loss of educational services or extracurricular activities as a result of discrimination, either by:

- Directly providing those lost services or activities to the student, or

- Reimbursing the student or parent for reasonable costs incurred in securing comparable services or activities

ODE authority under the bill is limited:

- Only applies in discrimination cases (does not apply to the other types of cases that the Complaint & Appeals Resolution Unit handles).

- Only applies to students

The law takes effect on January 1, 2026.

SB 1098

[SB 1098](#)

To comply with the prohibition on discrimination required by ORS 659.850, a licensed teacher with a library media endorsement, a district school board, an administrator or any other person responsible for the selection or retention of library materials in a school library or a classroom library may not prohibit the selection or retention of, or refuse to select or retain, library materials on the basis that the library materials include a perspective, study or story of, or are created by, any individual or group against whom discrimination is prohibited under ORS 659.850

Effective upon passage



Federal and Court Updates

Court Cases of Interest

Supreme Court

- [Mahmoud v. Taylor](#) – when must schools allow opt-out for religious reasons
- [Trump v. CASA](#) - related to authority of lower courts to issue nationwide injunctions

Ninth Circuit

- [Damiano v. Grants Pass School District](#) - related to free speech, protected classes, and retaliation implications for educators who were terminated
- [Roe v. Critchfield](#) - related to Idaho's SB 1100, which requires all public-school students in Idaho to use only the restroom and changing facility corresponding to their “biological sex.”

OCR Case Resolutions

As of 07/15/21, OCR has updated their [Case Resolution Database](#) with case resolutions from 2025.

- There have been 53 case resolutions posted this year.
- 6 of the resolutions/letters pertain to sex discrimination.
 - 12 pertain to race and national origin discrimination, and 35 pertain to disability discrimination
- All 6 resolutions/letters regarding sex discrimination are focused on athletics, including athletic access for transgender students



2020 Title IX Sexual Harassment Regulations: Review

Title IX Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- (3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

34 CFR Part 106.30

Jurisdictional Requirements

Schools must respond to sexual harassment that occurs within an “education program or activity” of the school:

For the purposes of this section, §§ 106.30, and 106.45, “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 sexual harassment occurs...

34 CFR 106.44(a)

If it did not occur within the education programs or activities of the school, it must be dismissed (under Title IX):

If the conduct alleged... did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX...

34 CFR 106.45(b)(3)(i)

Is it Title IX?

For each example, decide if it falls under:

- Prong 1 (quid pro quo)
- Prong 2 (severe, pervasive, and objectively offensive)
- Prong 3 (sexual assault, domestic violence, dating violence, stalking)
- None of the above

Amina, an 8th grade student, refuses to go to school one day. She tells her mom that one of the boys on her school bus has been telling other students he has photos of Amina topless, and will show them to other students for \$10. Amina is confident he doesn't have any photos, but she's worried other students believe this boy.

Hannah is on her high school's wrestling team. Her parents report to the school that the assistant wrestling coach has been inappropriately touching Hannah during practice, and sending her inappropriate messages on Snapchat late at night. Yesterday after practice, the coach followed Hannah to her car and offered to connect her with college scouts in a way that Hannah perceived as threatening.

The 2020 Regulations: Personnel Requirements

Title IX Coordinator

Investigator

Decision-Maker

Appeals Decision-Maker

The Title IX Coordinator may also serve as the Investigator.

In each case the Investigator, Decision-Maker, and Appeals Decision-Maker must be different people.

The Decision-Maker and Appeals Decision-Maker CANNOT be the Title IX Coordinator.

Personnel Training Requirements

Training Requirements	Title IX Coordinator	Investigator	Decision-Maker	Appeals Decision-Maker	Informal Process Facilitator
Definition of sexual harassment	X	X	X	X	X
Scope of “educational program or activity”	X	X	X	X	X
How to conduct the applicable portions of the grievance process	X	X	X	X	X
Avoiding prejudgment of facts, conflicts of interest, and bias	X	X	X	X	X
How to create a fair investigative report		X			
Any technology used at hearings			X	X	
Issues of relevance for questions and evidence			X	X	

Training Paths (with ODE)

Investigators

Sexual Harassment: Foundations
(3 hours)

+

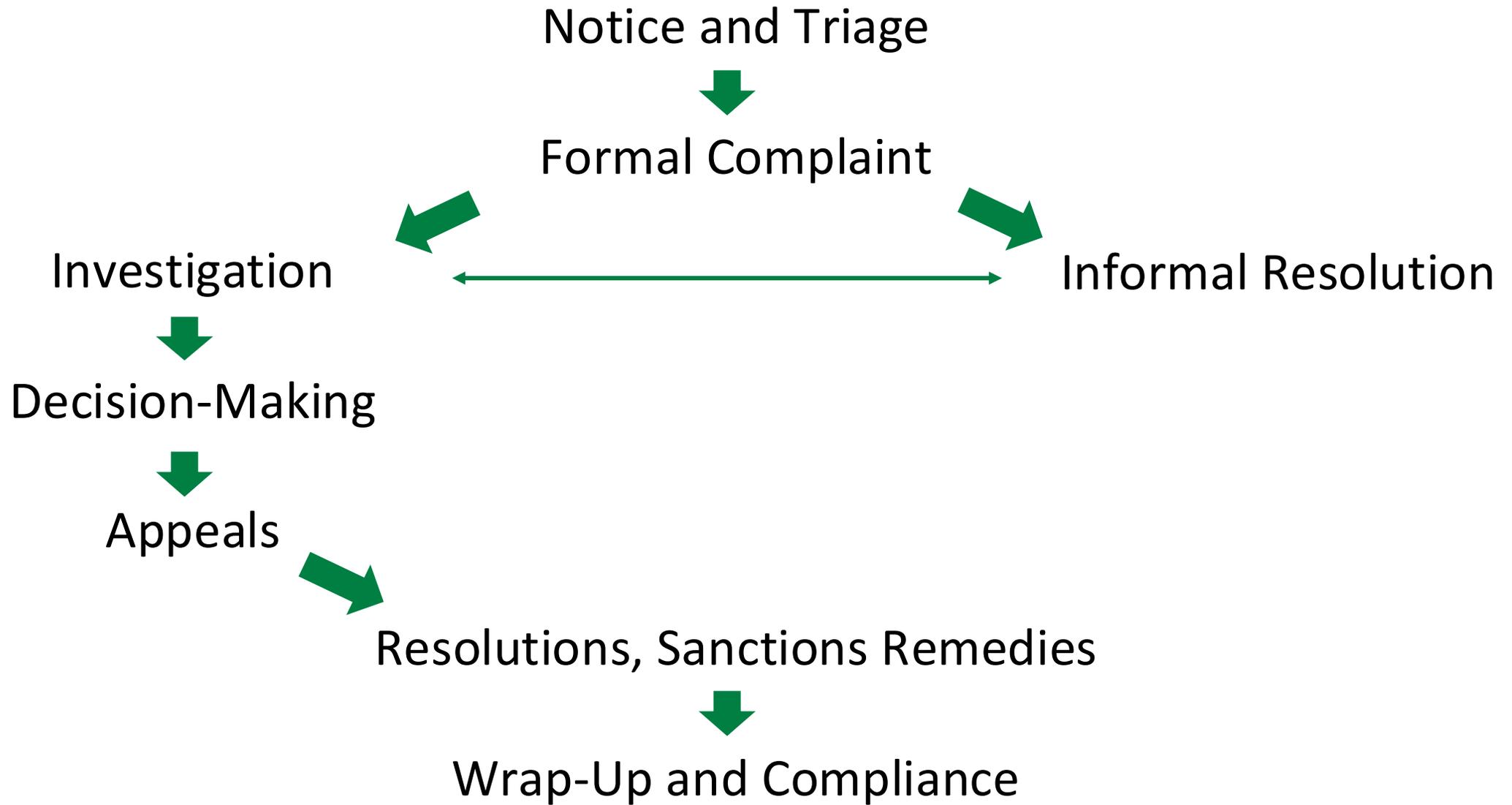
Sexual Harassment: Investigations
(1.5 hours)

Decision-Makers and Appeals Decision-Makers

Sexual Harassment: Foundations
(3 hours)

+

Sexual Harassment: Decision-Making
and Appeals
(1.5 hours)



Notice and Triage



Step 1: Notice and Triage

Who is Involved?

- All employees (could receive notice)
- Title IX Coordinator
- Complainant(s) (and family)

Required Response to Notice:

- Contact complainant to offer options
- Explain how to file a formal complaint
- Offer supportive measures

Additional Option as Needed/Required:

- Identify overlapping Oregon policies
- External reporting (child abuse, sexual conduct)
- Emergency removal of respondent

Notice and Triage: Important Reminders

- A school is “on notice” whenever any employee of a K-12 school knows of possible sexual harassment. The Title IX Coordinator should always be alerted once the school is on notice.
- Once a school is on notice, the school must meet minimal response requirements (outreach, supportive measures) to avoid being deliberately indifferent. Additional steps, including the filing of a formal complaint, may be needed.
- A school may not engage in any disciplinary action against respondent until the grievance process is concluded and a determination of responsibility has been reached. The only exceptions to this are emergency removals (student) or administrative leave (staff).

Notice and Triage: Emergency Removal (Student)

Nothing in this part precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that

- the recipient undertakes an individualized safety and risk analysis,
- determines 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
- provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 CFR 106.44(c)

Step 2: Formal Complaint

Who is Involved?

- Title IX Coordinator
- Complainant(s), Respondent(s), and Advisors (and families)

Upon Receiving a Formal Complaint

- Informal resolution processes may be utilized
- Emergency leave (students) and administrative leave (staff) continue to be option

Required Documents

- Must issue a written "Notice of Allegations"



Formal Complaint: Important Reminders

- A formal complaint is a “document filed by a complainant or signed by the Title IX Coordinator... requesting that the recipient investigate the allegation of sexual harassment.” Receiving a formal complaint obligates the district to begin the Title IX sexual harassment grievance process.
- At the time of filing a complaint, a complainant must be participating in or attempting to participate in the education programs and activities of the school.
- There are certain times a complaint **MUST** be dismissed, or **MAY** be dismissed at the school/district’s discretion. Parties have a right to appeal a complaint dismissal.

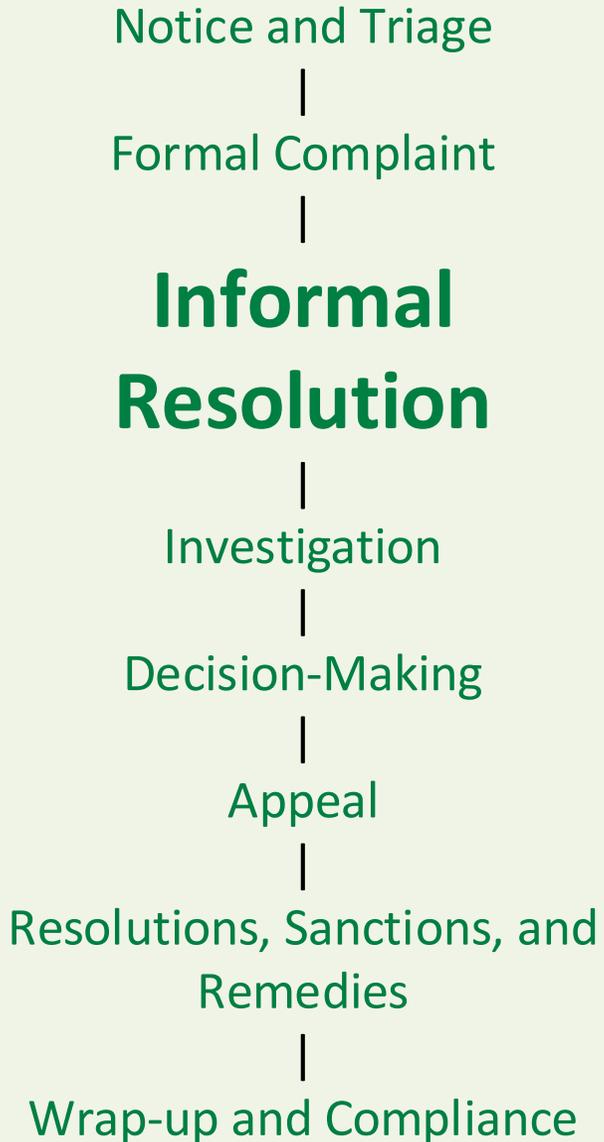
Formal Complaint: Notice of Allegations

Written notice to the parties must include:

- Notice that the recipient's grievance process complies with the 2020 Title IX regulations
- Information about any informal resolution processes available
- The allegations, including sufficient details known such as the identities of the parties involved, the alleged conduct, and the date and location of the incident(s)
- A statement that the respondent is presumed not responsible and that a determination will be made at the conclusion of the grievance process
- That parties may have an advisor of their choice who may be, but is not required to be, an attorney
- That parties may inspect and review evidence
- Any provisions within the recipient's code of conduct that prohibit knowingly making false statements or submitting false information

If additional allegations are known or additional parties are identified, an amended written notice must be provided.

34 CFR 106.45(b)(2)(i)(B)



Step 3 (*option 1*): Informal Resolution

Who is Involved?

- Title IX Coordinator
- Informal Resolution Facilitator
- Complainant(s) and Respondent(s) (and families)

What does the Informal Resolution Process look like?

- Schools may, but are not required to, offer an informal resolution
- Many options; processes may look different at each school

Required Documents

- Written document describing informal resolution rights and options

Informal Resolution: Important Reminders

- Informal resolutions may be offered as an option, but are not required. The district has discretion to offer an informal resolution at all, and within specific cases/circumstances.
- Informal resolutions may only be offered/facilitated once a formal complaint has been filed. They must be fully voluntary and cannot be compelled.
- Informal resolutions are not allowed in cases where an employee has been accused of sexually harassing a student.
- If parties wish to engage in an informal resolution, schools must provide written notice regarding the information resolution process, and must obtain written consent from all parties.

Informal Resolution: Written Notice

Written notice regarding an information resolution must include:

- The allegations
- The specific requirements of the school's informal resolution process
- Any circumstances under which parties would be precluded from resuming a formal complaint process about the same allegations
 - These circumstances must provide for that “at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process”
- Any consequences that could result from participation in the informal process, including records that would be maintained or potentially disclosed

34 CFR 106.45(b)(9)(i)



Step 3 (*option 2*): Investigation

Who is Involved?

- Investigator
- Complainant(s), Respondent(s), and Advisors (and families)
- Witnesses

What does the Investigation Entail?

- Interviewing parties and witnesses
- Gathering evidence, and determining relevance
- Keeping detailed documentation and writing reports

Required Documents

- Written "Investigation Report" with required party review period

Investigation: Important Reminders

- The burden of the investigation must be on the school, not the parties.
- Parties must be provided with an equal opportunity to present statements, evidence (inculpatory and exculpatory), and evidence.
- Parties cannot be restricted from discussing the allegations or from gathering and presenting relevant evidence.
- Parties must be provided with **written notice** of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with **sufficient time** to prepare to participate.
- Parties must be provided with the same opportunity to have others present, including the opportunity to have an advisor of choice present.

Investigation: Important Reminders, cont.

- Parties must have an equal opportunity to inspect and review any ***directly related*** evidence that is a part of the investigation.
 - Prior to completing the investigative report, parties and their advisors must be given a copy of all directly related evidence and must have at least ***10 days*** to review and respond.
- Parties must be given a copy of the investigative report and provided ***10 days*** to review and respond to the investigative report prior to the final determination of responsibility.

34 CFR 106.45(b)(5)

Investigation: Investigation Report

The investigative report must “fairly summarize relevant evidence,” and must be sent to both parties and their advisors.

34 CFR Part 106.45(b)(5)

Best practice: create an investigative report template.

- Allegations and jurisdictional statement
- Timeline
- Summary of relevant interviews and evidence
- Credibility assessments
- Findings of fact
- May include conclusions; however, separate Decision-Maker must still come to independent determination

Step 4: Decision-Making

Who is Involved?

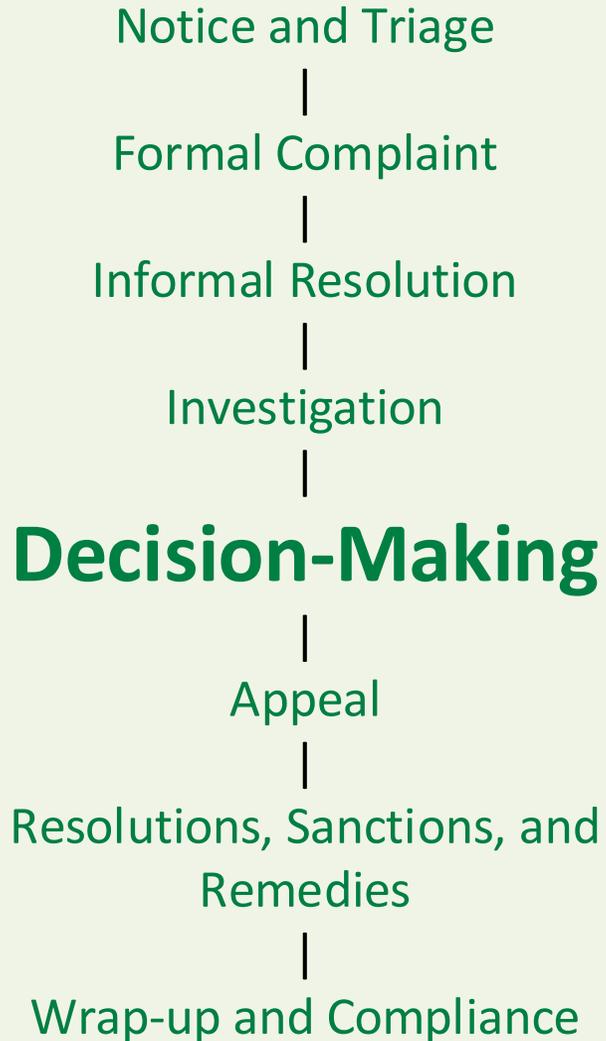
- Decision-Maker
- Complainant(s), Respondent(s), and Advisors (and families)
- Witnesses

What does the Decision-Making Entail?

- Independently reviewing the investigation report and all evidence
- Conducting a facilitated question-and-answer opportunity
- Determining results of the allegations and responsibility

Required Documents

- Written "Determination of Responsibility"



Decision-Making: Important Reminders

- In K-12 schools, a hearing is optional. May offer a hearing, but not required to.
- With or without a hearing, must offer “the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party,” aka a “modified cross-examination.”
 - The Decision-Maker must screen questions for relevance and exclusion.
- Must issue a written determination of responsibility simultaneously to involved parties.

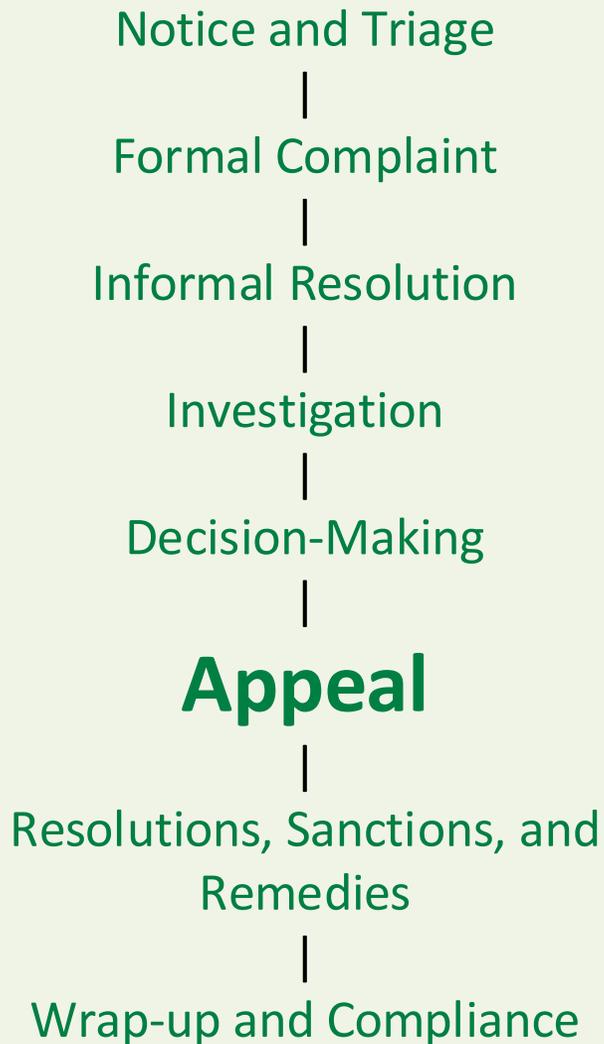
34 CFR 106.45(b)(6)(ii) and (b)(7)

Decision-Making: Written Determination

The written determination of responsibility must include:

- The allegations
- Procedural steps from formal complaint through determination (including notifications, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held)
- Findings of fact
- Conclusions applying the findings to school/district policies
- Results of each allegation and rationale (responsible or not responsible)
- Sanctions provided and if remedies provided, as applicable
- Appeal bases and procedures

34 CFR § 106.45(b)(7)



Step 5: Appeals

Who is Involved?

- Appeals Decision-Maker
- Complainant(s), Respondent(s), and Advisors (and families)

What does the Appeals Process Entail?

- Facilitating appeals review and timelines
- Independently reviewing all previous documentation and any newly submitted evidence and statements
- Determining results of the appeal and any changes needed

Required Documents

- Written "Determination of Appeal"

Appeals: Reasons for Appeal

A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

- (A) ***Procedural irregularity*** that affected the outcome of the matter;
- (B) ***New evidence*** that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, investigator(s), or decision-maker(s) 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.

34 CFR 106.45(b)(8)(i)

Schools may allow additional reasons for appeal at their discretion, as long as those rights are applied equally.

Appeals: Written Appeal Determination

As to all appeals, the recipient must:

- (E) Issue a written decision describing the result of the appeal and the rationale for the result; and
- (F) Provide the written decision simultaneously to both parties.

34 CFR 106.45(b)(8)(iii)



Step 6: Resolution, Remedies, & Sanctions

Who is Involved?

- Title IX Coordinator
- Complainant(s) and Respondent(s) (and families)
- *As Needed:* School community

Implementing Remedies, Resolutions, and Sanctions

- Designating any implementing an appropriate resolution, including any needed/appropriate remedies and sanctions

Required Communications

- Any sanctions must be shared with Respondent(s) and Complainant(s), and any individual remedies share with the Complainant(s)

Resolution, Remedies, and Sanctions

Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in § 106.30, against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in § 106.30 as “supportive measures”; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;

34 CFR 106.45(b)(1)(i)



Step 7: Wrap-Up and Compliance

Who is Involved?

- Title IX Coordinator
- *As needed:* Investigator, Decision-Maker, Appeals Decision-Maker, Informal Resolution Facilitator

Compliance and Wrap-Up

- Documentation and storage of documents and evidence (confidentiality, recordkeeping requirements)
- Tracking outcomes for larger civil rights compliance
- Follow-up and check-in procedures for parties

Recordkeeping

- Ensure all records are stored appropriately (7 year requirement)

Wrap-Up and Compliance: Recordkeeping

Records must be kept of:

- each record of actual notice and response (including supportive measures), and why that response was not deliberately indifferent
- each investigation, including the results and any sanctions or appeals
- each appeal
- each informal resolution
- all materials used to train Title IX personnel

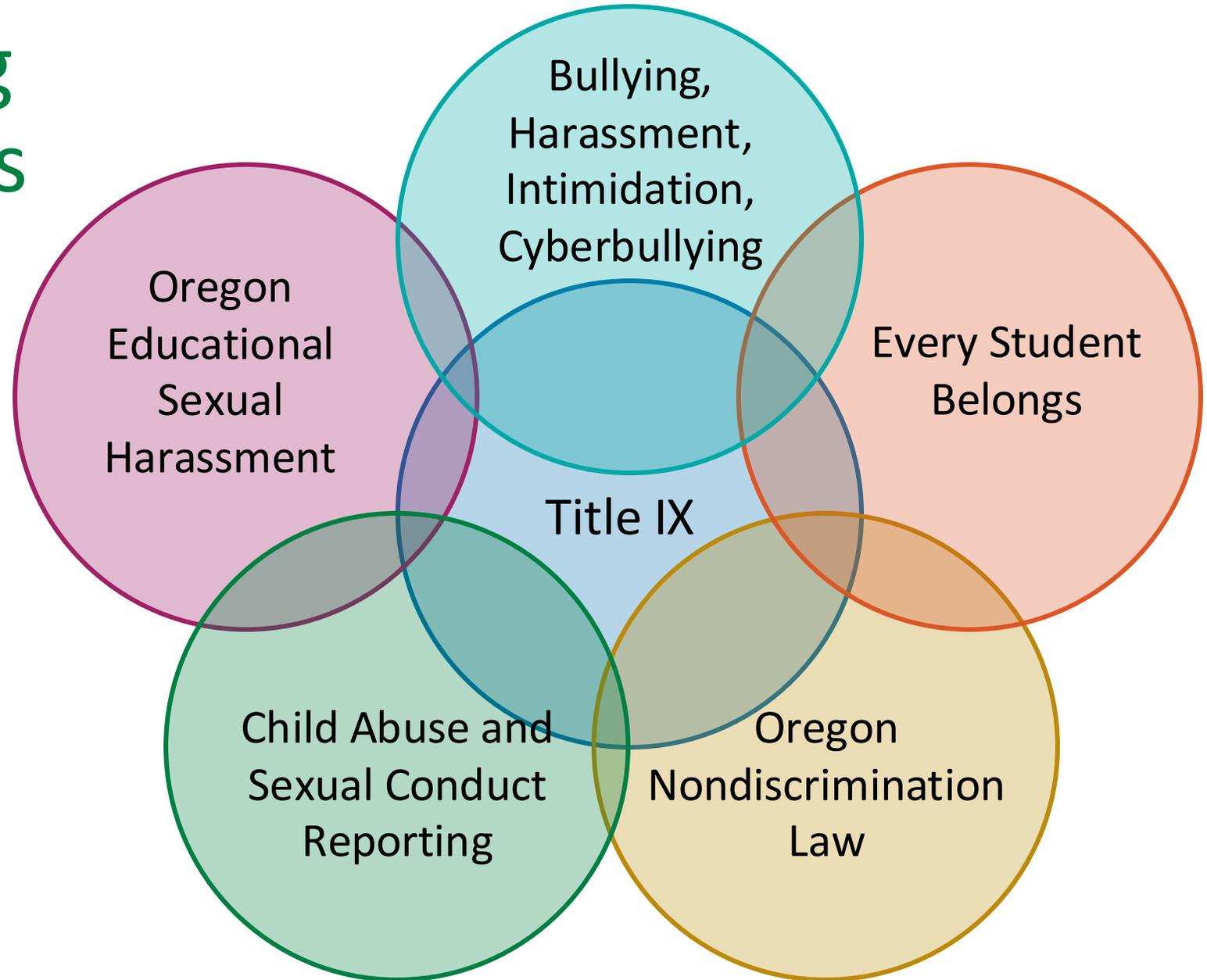
Records must be maintained for a minimum of seven years.

34 CFR § 106.45(b)(10)



Overlapping Oregon Laws

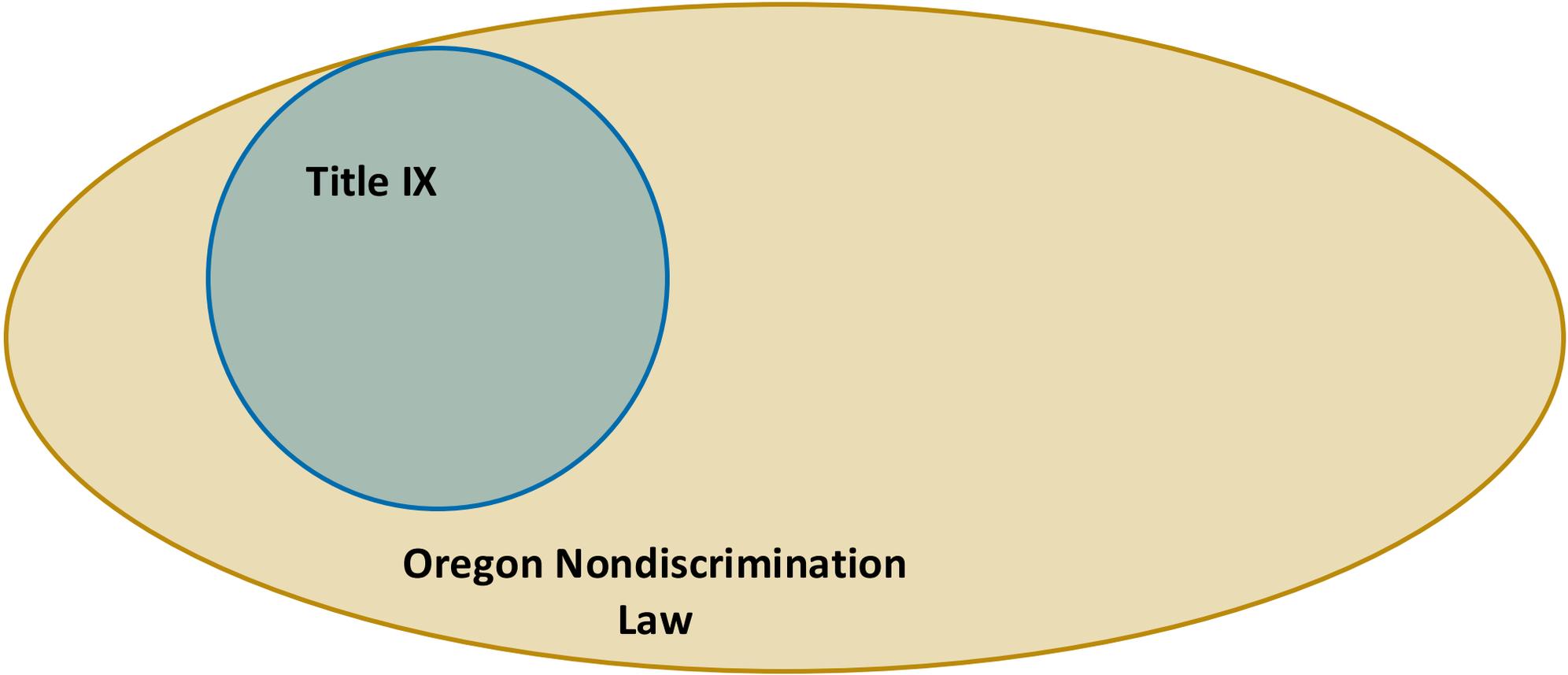
Overlapping Oregon Laws



Oregon Nondiscrimination Law

“Discrimination” means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on age, disability, national origin, race, color, marital status, religion, **sex**, sexual orientation, or gender identity.

- Schools must adopt nondiscrimination policies in compliance with [OAR 581-021-0045](#)
- In most cases, this will be the policy used to respond to sex discrimination that is not sexual harassment.



Title IX

**Oregon Nondiscrimination
Law**

Title IX Sexual Harassment

Oregon Sexual Harassment

Prong 1

An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.

A demand or a request for sexual favors in exchange for benefits.

Prong 2

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

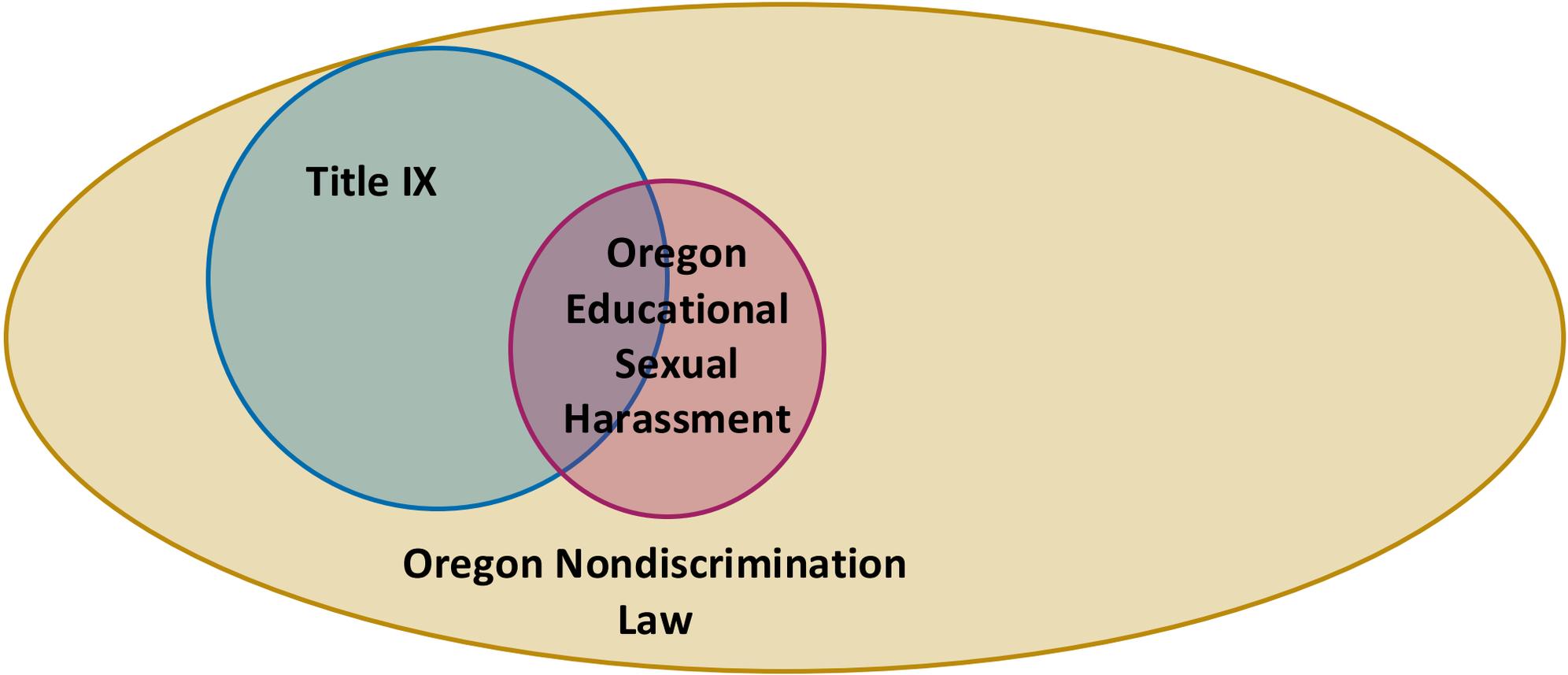
Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that:

- (I) Interferes with a student's educational activity or program;
- (II) Interferes with a school or district staff member's ability to perform their job; or
- (III) Creates an intimidating, offensive, or hostile environment

Prong 3

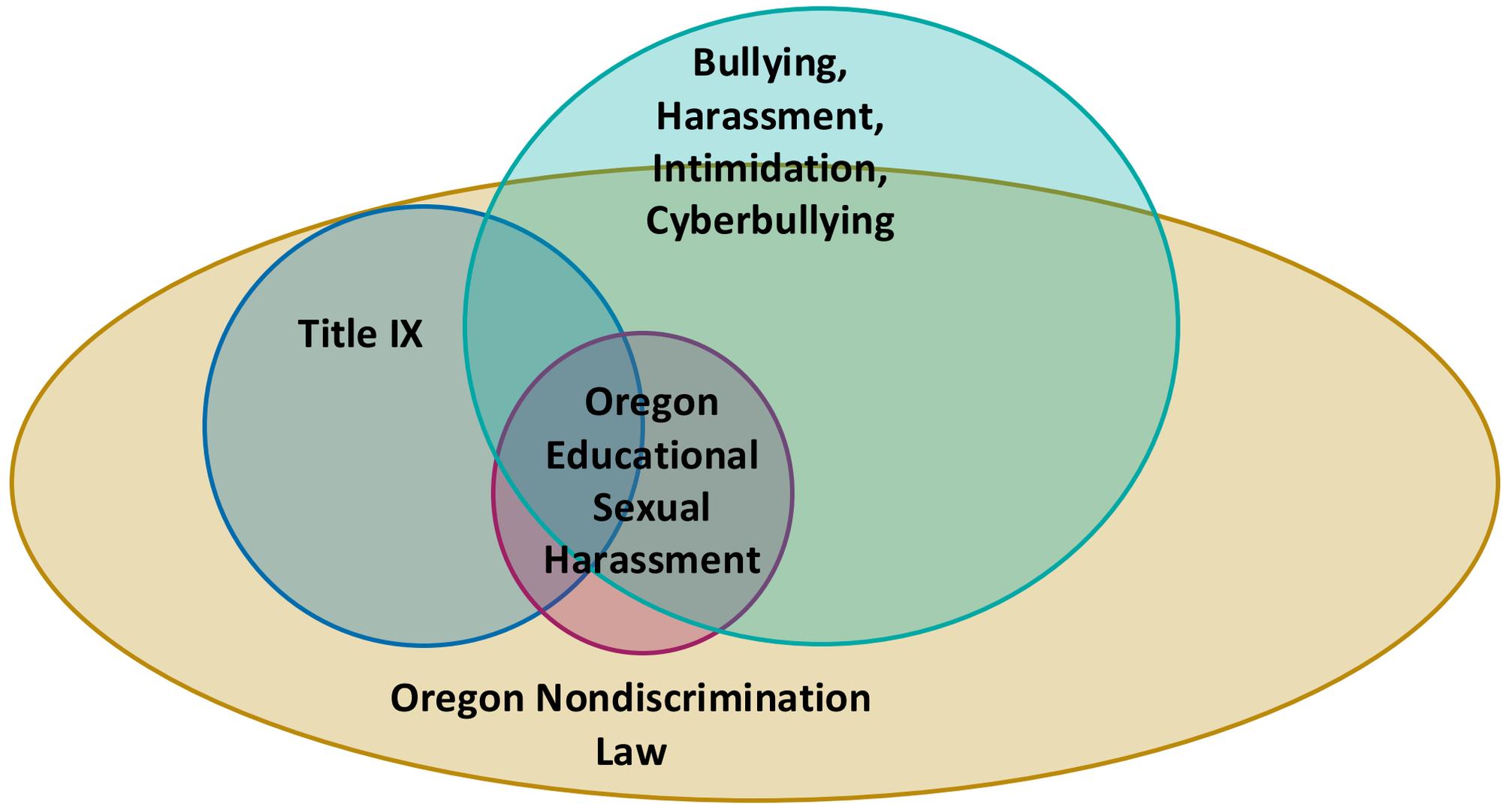
Sexual assault, dating violence, domestic violence, and stalking.

Assault, when sexual contact occurs without a person's consent.



Bullying, Harassment, Intimidation, Cyberbullying

- Substantially interferes with a student's educational benefits, opportunities, or performance;
- Takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop;
- Has the effect of:
 - Physically harming a student or damaging a student's property
 - Knowingly placing a student in reasonable fear of physical harm to the student or damage to the student's property; or
 - Creating a hostile environment, including interfering with the psychological well-being of a student; and
- May be based on, but not limited to, the protected class status of a person



Sexual Conduct and Child Abuse Reporting

“Sexual conduct” means verbal or physical conduct or verbal, written or electronic communications by a school employee, a contractor, an agent or a volunteer that involve a student and that are:

- (A) Sexual advances or requests for sexual favors directed toward the student; or
- (B) Of a sexual nature that are directed toward the student or that have the effect of unreasonably interfering with the student’s educational performance, or of creating an intimidating or hostile educational environment.

Child Abuse mandatory reporting includes:

- Neglect
- Physical abuse
- Mental injury
- Sexual abuse
- Threat of harm

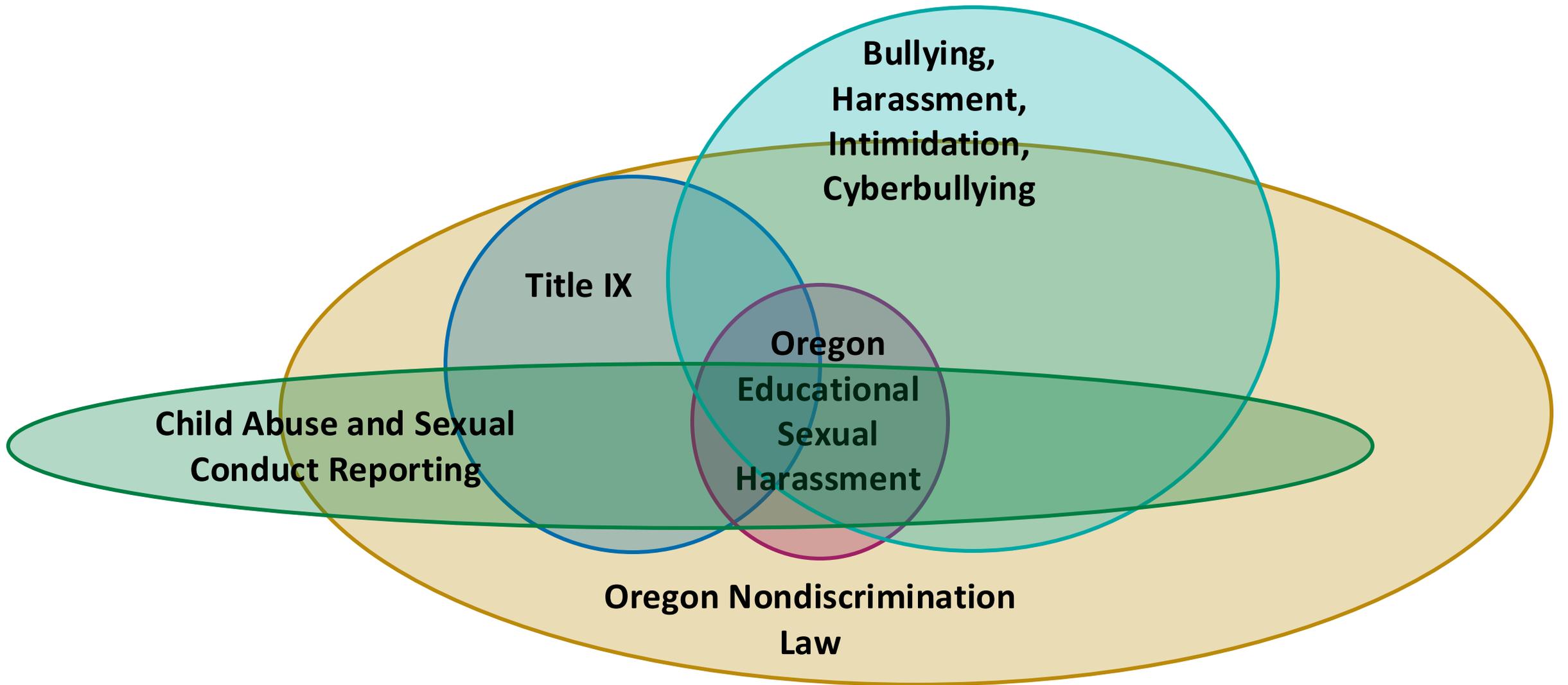
Sexual Conduct and Child Abuse Reporting

Child abuse and sexual conduct must be reported to law enforcement, DHS, TSPC, and/or ODE (depending on conduct and licensure status).

If the reported behavior is sexual conduct or abuse AND Title IX sexual harassment, the processes must be overlaid.

- Title IX's sexual harassment process allows for reasonable, temporary delays for law enforcement or DHS investigations

Reporting to law enforcement, DHS, ODE, and/or TSPC does NOT absolve the school of their Title IX responsibilities.



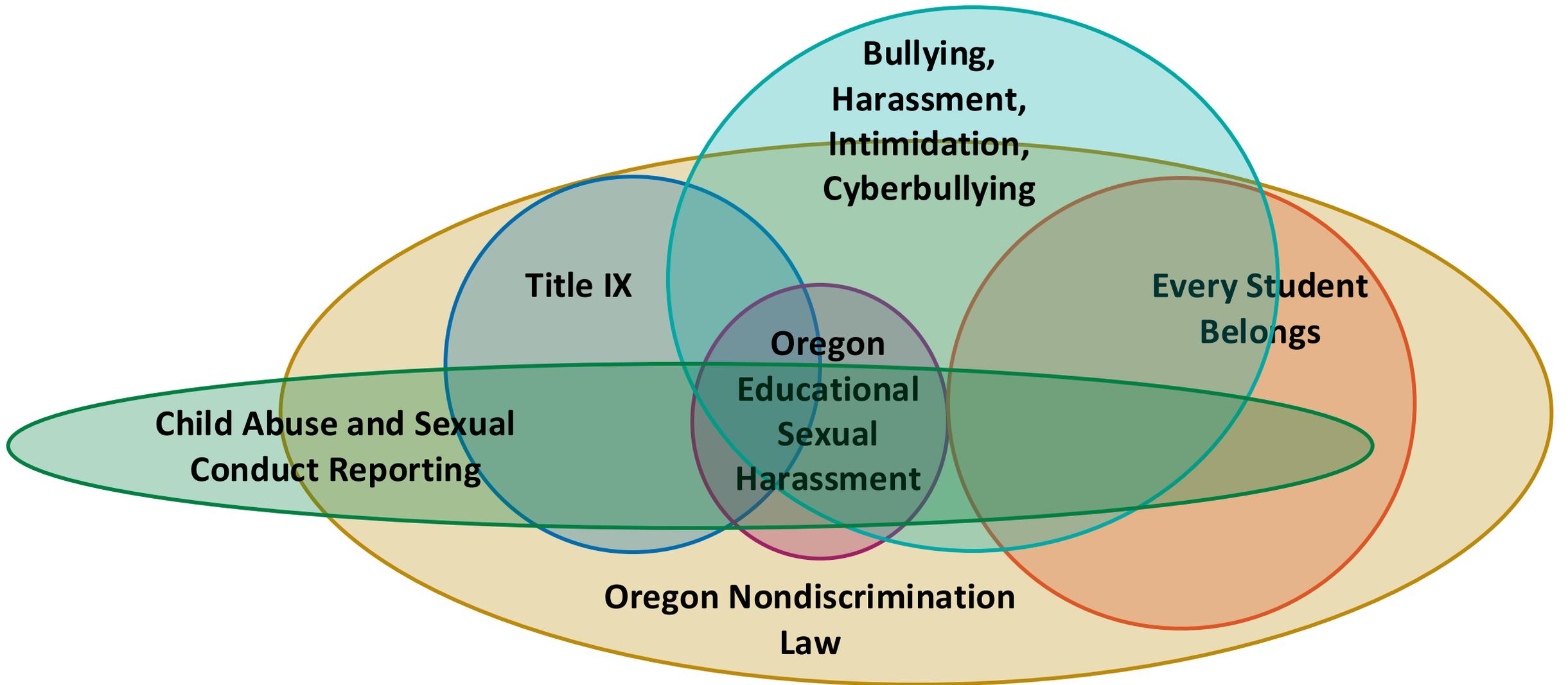
Every Student Belongs

In compliance with [OAR 581-022-2312](#), schools must:

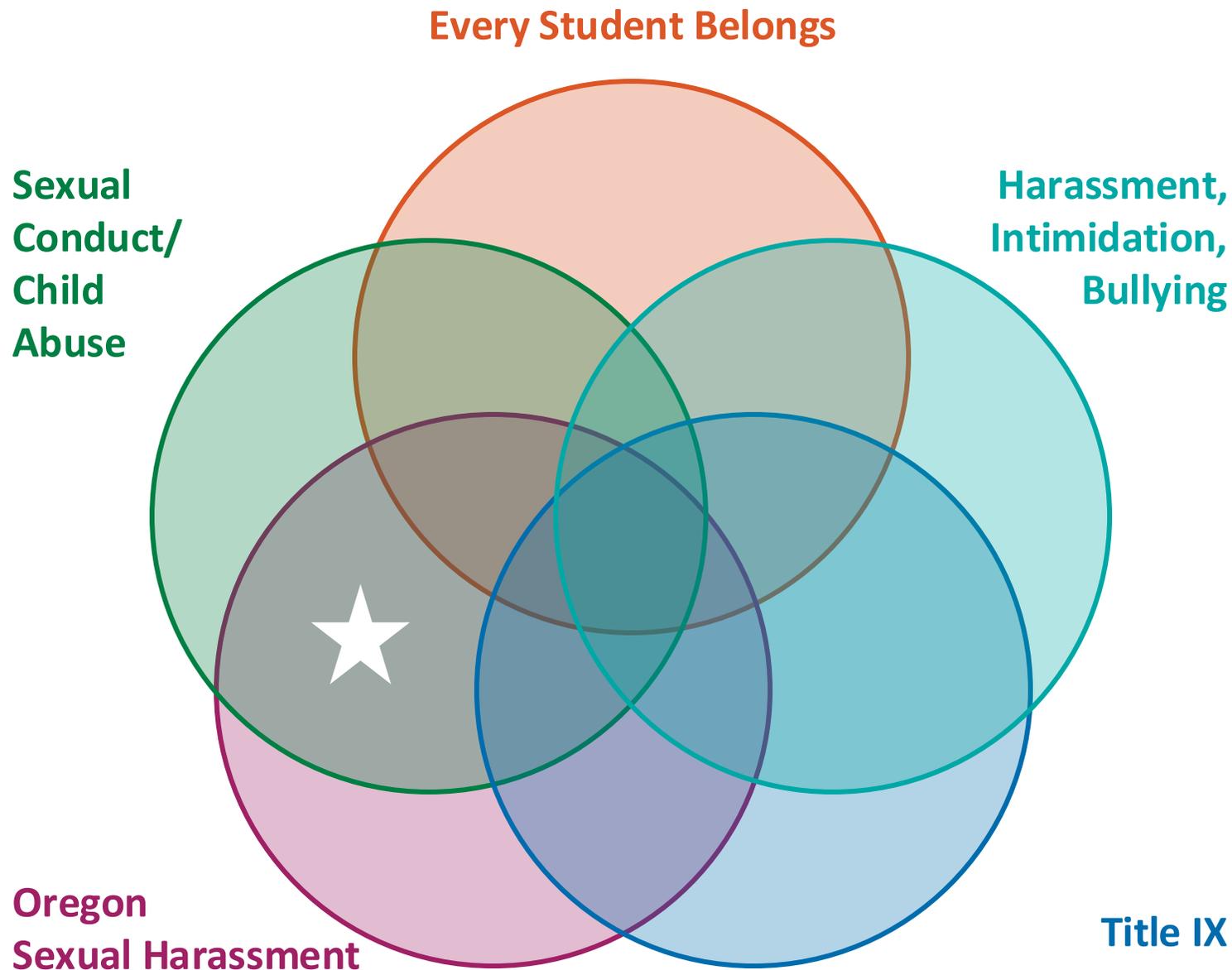
- prohibit symbols of hate
- adopt a policy for addressing bias incidents and symbols of hate

“Bias Incident” means a person’s hostile expression of animus toward another person, relating to the other person’s perceived race, color, religion, gender identity, sexual orientation, disability or national origin, of which criminal investigation or prosecution is impossible or inappropriate.

“Symbol of Hate” means nooses, symbols of neo-Nazi ideology or the battle flag of the Confederacy.



A school employee is accused of having sex with one of his students, a 17-year-old high school senior, while they are attending a church retreat together.

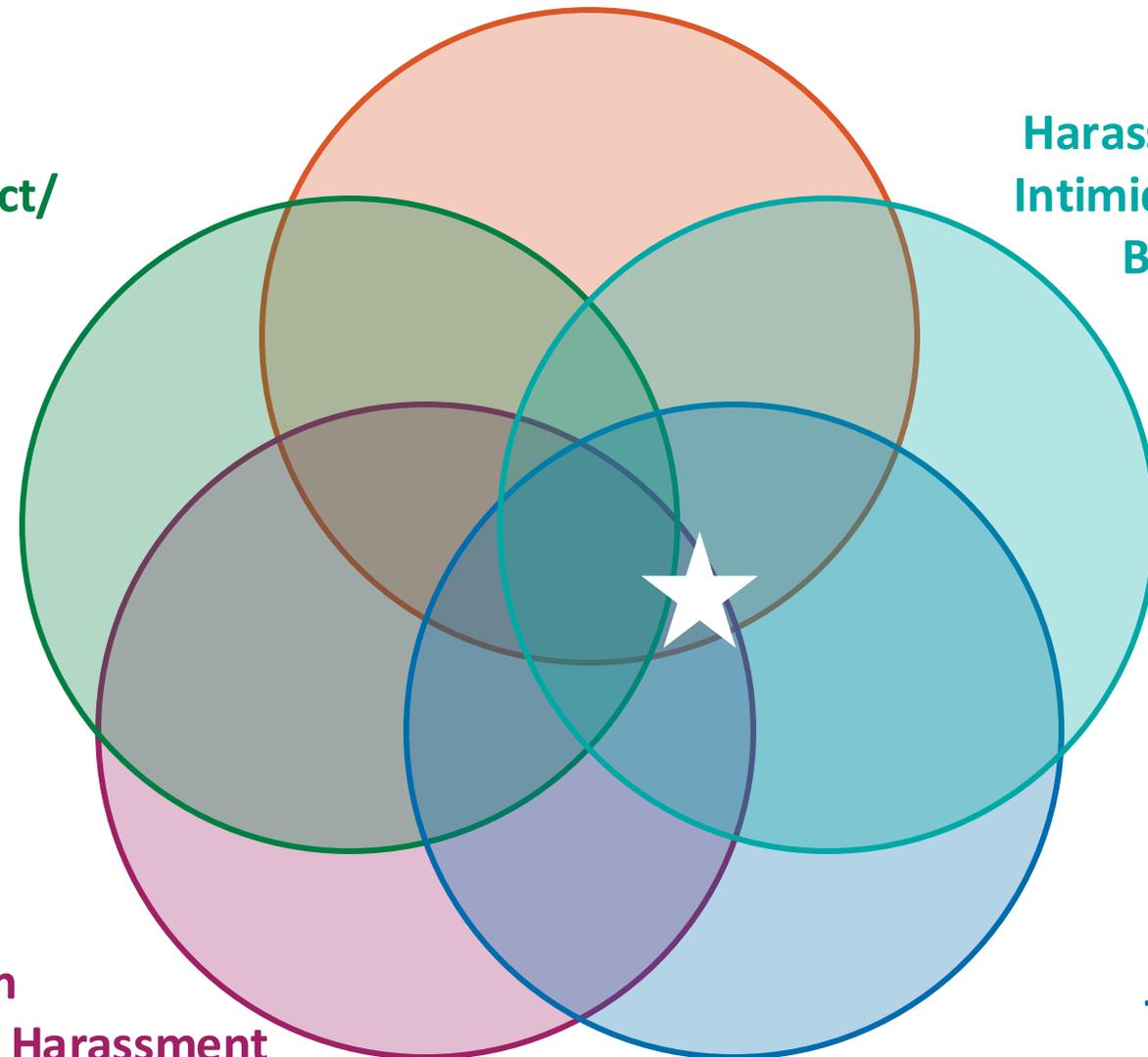


An anonymous Instagram account posts pictures of a sixth grade transgender girl taken in the hallways and classrooms at school. The account uses transphobic slurs and dissects whether she is “really a boy” by discussing what they can tell about her body parts, including breasts and genitals, from the photos.

Every Student Belongs

**Sexual
Conduct/
Child
Abuse**

**Harassment,
Intimidation,
Bullying**



**Oregon
Sexual Harassment**

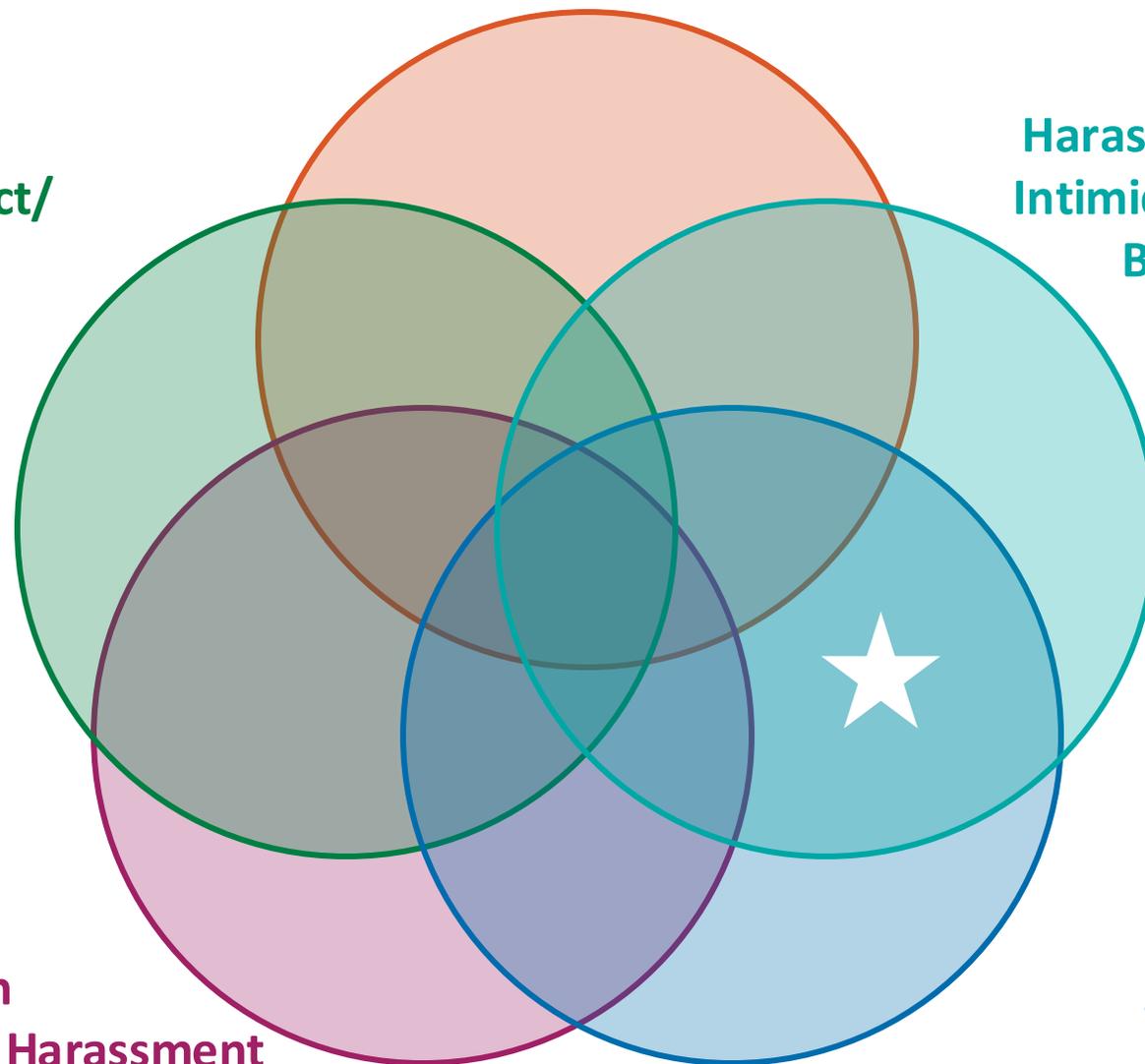
Title IX

A pregnant tenth grade student is being repeatedly teased and harassed by her peers. Other students tell her she's going to drop out and will never graduate, and put basketballs under their shirts to mock her. Students refuse to work with her on class group work and attach a "wide load" sign to her backpack without her knowledge.

Every Student Belongs

**Sexual
Conduct/
Child
Abuse**

**Harassment,
Intimidation,
Bullying**



**Oregon
Sexual Harassment**

Title IX



FAQs and Open Q&A

25-26 Title IX Trainings

Title IX Coordinator Foundations

- [Wednesday, August 13, 9-11 am](#)
- [Friday, October 3, 9-11 am](#)
- [Tuesday, January 13, 1-3 pm](#)
- [Monday, March 9, 12:30-2:30 pm](#)

Title IX Sexual Harassment Foundations

- [Thurs, Aug 21, 8:30-11:30 am](#)
- [Tues, Sept 16, 12:30-3:30 pm](#)
- [Fri, Oct 31, 8:30-11:30 am](#)
- [Wed, Jan 28, 12-3 pm](#)
- [Thurs, Apr 16, 12:30-3:30 pm](#)

Title IX Sexual Harassment: Investigator

- [Thurs, Aug 28, 8:30-10 am](#)
- [Tues, Sept 23, 12-1:30 pm](#)
- [Fri, Nov 7, 8:30-10 am](#)
- [Wed, Feb 4, 12-1:30 pm](#)
- [Thurs, Apr 23, 12-1:30 pm](#)

Title IX Sexual Harassment: Decision-Maker and Appeals

- [Thurs, Aug 28, 10:30 am-12 pm](#)
- [Tues, Sept 23, 2-3:30 pm](#)
- [Fri, Nov 7, 10:30 am-12 pm](#)
- [Wed, Feb 4, 2-3:30 pm](#)
- [Thurs, Apr 23, 2-3:30 pm](#)

25-26 Title IX 101 Webinar Series

Title IX 101

- [Wednesday, Sept 24, 1:30-2:30 pm](#)
- [Tuesday, Jan 20, 12-12 pm](#)

Addressing Sexual Harassment Under Title IX and Oregon Law

- [Wednesday, Oct 8, 1:30-2:30 pm](#)
- [Tuesday, Feb 3, 12-1 pm](#)

Title IX and Athletic Access

- [Wednesday, Oct 22, 1:30-2:30 pm](#)
- [Tuesday, Feb 17, 12-1 pm](#)

Protections for Pregnant and Parenting Students

- [Wednesday, Nov 5, 1:30-2:30 pm](#)
- [Tuesday, Mar 3, 12-1 pm](#)

Navigating the Title IX Complaint Process

- [Wednesday, Nov 19, 1:30-2:30 pm](#)
- [Tuesday, Mar 17, 12:00-1:00 pm](#)

Scan and Join!

Need to fulfill your Coordinator training requirements?

Seeking more information?

We have the listservs for you!



[Title IX Listserv](#)



[Section 504 Listserv](#)



[Title VI Listserv](#)



CONTACT US

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