

Title IX Training

2025-2026

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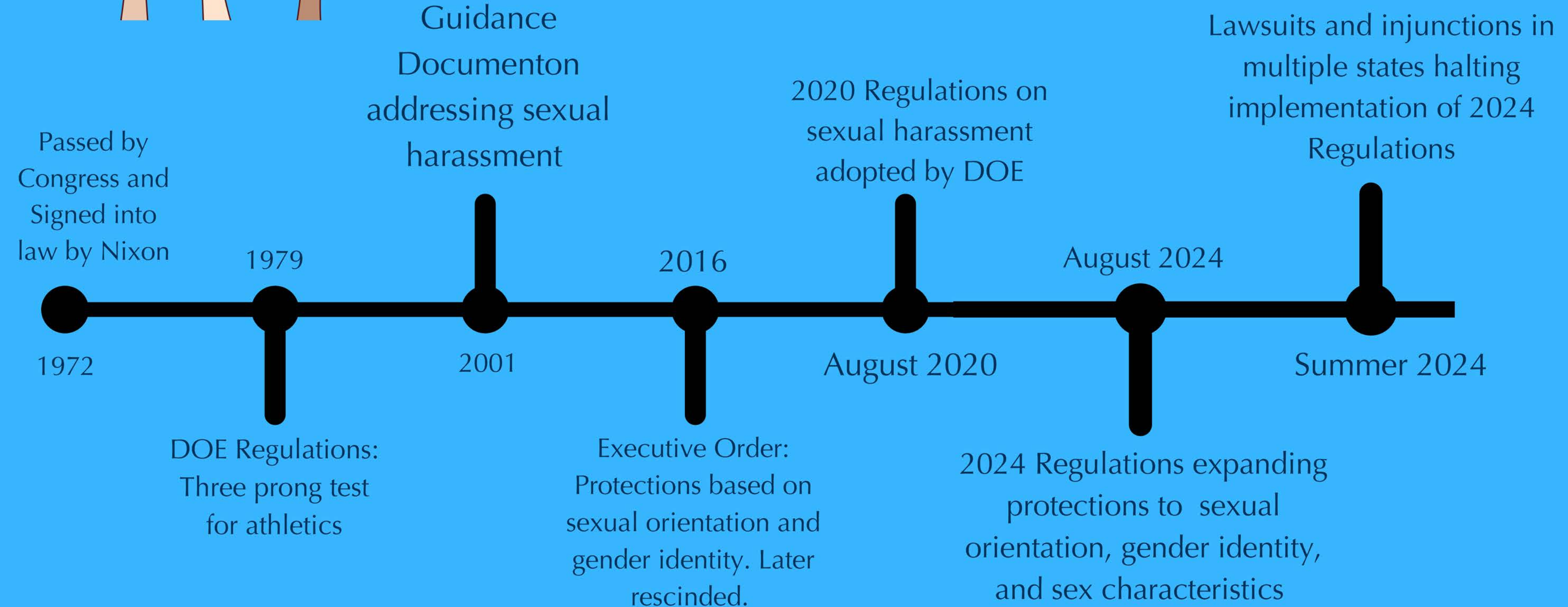
Title IX



- “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 program or activity receiving Federal financial assistance.”
- Modeled after Title VII of the Civil Rights Act of 1964.
 - Title VII of the Civil Rights Act, as amended, protects employees and job applicants from employment discrimination based on race, color, religion, sex and national origin.



PAST-PRESENT-FUTURE CIVIL RIGHTS: SEX



34 CFR 106.40 Pregnant and Parenting

Title IX prohibits discrimination based on a student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Title IX also prohibits schools from applying any rule related to a student's parental, family, or marital status that treats students differently based on their sex.

- Pregnant and parenting students cannot be excluded from participating in any part of an educational program.
- In addition, a school must excuse a student's absences because of pregnancy or childbirth for as long as the student's doctor deems the absences medically necessary.
- Any special services provided to students who have temporary medical conditions must also be provided to a pregnant student
- Schools must protect pregnant students from harassment based on sex, including harassment because of pregnancy or related conditions.

Pregnant and Parenting example Accommodations

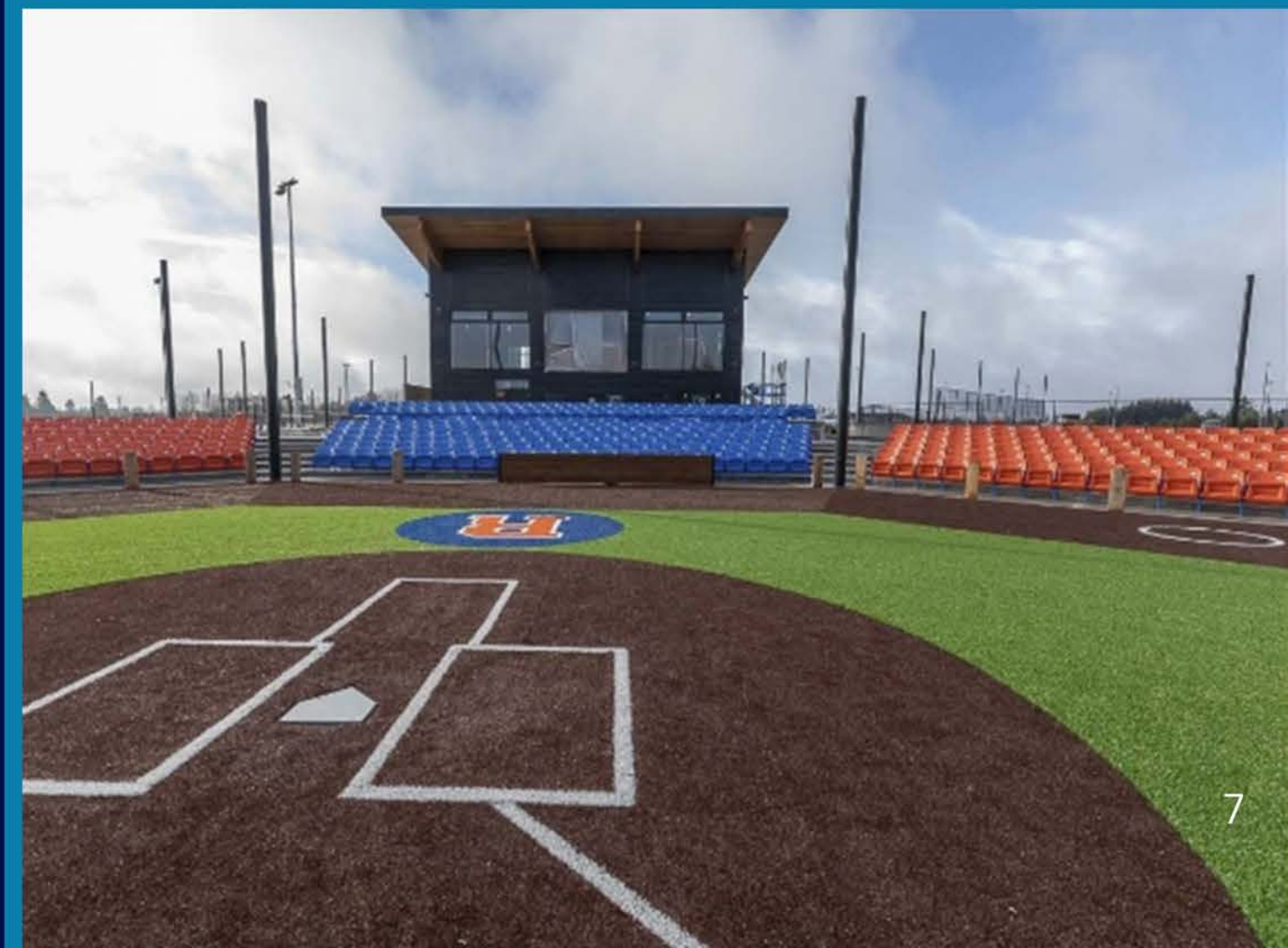
- A larger desk or chair and table as opposed to desk
- Breaks during class, as needed
- Permitting temporary access to elevators
- Excusing absences due to pregnancy or related conditions
- Submitting work after a deadline missed due to pregnancy or childbirth
- Allowing excused absences for parenting students (both male and female) who need to take their children to medical appointments or to take care of their sick children
- Reasonable accommodations for parenting students could include allowing students reasonable time for nursing and access to lactation rooms



Athletics Equal Treatment

To provide equal treatment to their male and female athletics programs, schools must make sure that the programs overall receive equal benefits and services, including with regard to:

- equipment and supplies;
- scheduling of games and practices times;
- travel and per diem allowances;
- opportunities to receive coaching and tutoring;
- assignment and compensation of coaches and tutors;
- locker rooms and practice and competitive facilities;
- medical and training facilities and services;
- housing and dining facilities and services; and publicity



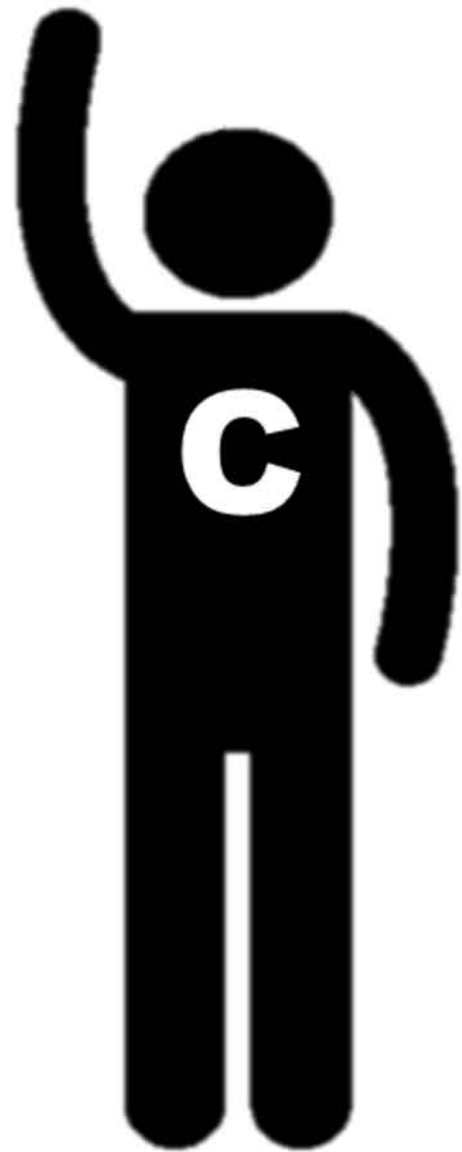
Allegation of Title IX Sexual Harassment



Conduct on the basis of sex that satisfies one or more of the following:

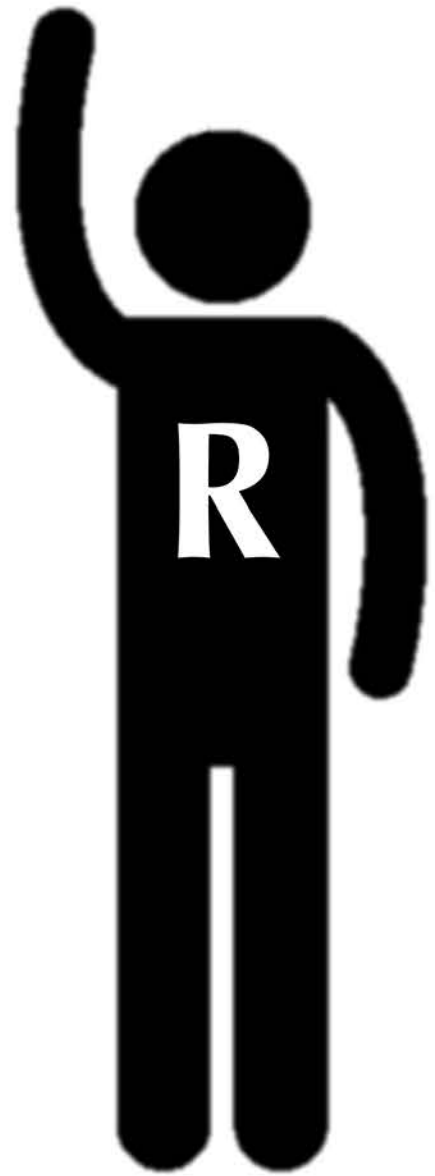
1. Quid Pro Quo Sexual Harassment: Any School District employee conditioning the provision of an aid, benefit, or service of the School District to any student's participation in sexual conduct;
2. Severe and Pervasive Sexual Harassment: Unwelcome conduct that a reasonable person would determine is so severe, pervasive AND objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;
3. Clery Act Sexual Harassment : "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.

Parties Title IX Grievance Process: Complainant



- Complainant means an individual who is alleged to be the victim of conduct that could constitute Title IX sexual harassment.
- Could be any student regardless of gender, race, age, religion, national origin, sexual orientation, transgender status
- Right to Supportive Measures regardless of whether a Formal Complaint is filed
- Right to be informed of how to file a Formal Complaint
- Right to decline to file a Formal Complaint or decline to participate in Grievance Procedures

Parties Title IX Grievance Process: Respondent



- Student alleged to be responsible for the Title IX sexual harassment
- Could be any student regardless of gender, race, age, religion, national origin, sexual orientation, transgender status
- Right to be presumed **non-responsible** for the alleged conduct
- Right to not have supportive measures be unreasonably burdensome, disciplinary, or punitive

34 CFR 106.30(a) Notice

Consistent with Supreme Court precedent and the text of Title IX, a school must respond when:

(1) the school has **actual knowledge** of sexual harassment;

- The Final Rule expands “actual knowledge” to include notice to any elementary or secondary school employee, and states that any person (e.g., the alleged victim or any third party) may report to a Title IX Coordinator in person or by e-mail, phone, or mail.

(2) that occurred within the **school’s education program or activity**;

- The Final Rule also specifies that a school’s “education program or activity” includes situations over which the school exercised substantial control, and also buildings owned or controlled by student organizations officially recognized by a postsecondary institution, such as many fraternity or sorority houses.

(3) **against a person in the United States.**

Do Not Be Deliberately Indifferent



Consistent with Supreme Court precedent, a school violated Title IX when its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Mandatory Reporting

Please be reminded that Title IX allegations may trigger your responsibility to make a mandatory report to law enforcement and/or the Department of Human Services.



Quid Pro Quo



Quid Pro Quo Sexual Harassment: Any School District employee conditioning the provision of an aid, benefit, or service of the School District to any student's participation in sexual conduct;

Examples:

- Teacher promises a good grade to a student for sex
- Assistant Coach promises a student more playing time if they send a nude photo
- Para promises to let students into a building afterhours for sexual favors

Is it Quid Pro Quo?

1. Does the allegation involve a School District Employee?

Yes

Report to HR

No

If involves adult address mandatory reporting. If involves student utilize student on student process.

2. Is the allegation sexual in nature?

No

Complaints regarding employees should follow building process.

Yes

3. Does the allegation involve a promise or benefit to the Student?

No

Address whether allegations are severe, pervasive, and objectively offense (Title IX sexual harassment) or CCSD GBEB Policy.

Yes

- The alleged conduct constitutes an allegation of **sexual harassment under Title IX**.
- Follow the Title IX Grievance Procedure.

Note: Does not have to be “severe” and “pervasive”. One incident is enough to fall under Title IX.

Severe and Pervasive Sexual Harassment



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.

1. Severe and Pervasive

- **Is the allegation sexual in nature or based on sex?**
 - Suggestive or explicit words or phrases, displays of pornography, rude gestures, unwelcomed physical contact, and demands for sexual favors
 - Touching, referencing, commenting on private parts “bathing suit areas”
 - “Dating” relationships

2. Severe and Pervasive

- **Is the alleged conduct unwelcome?**
 - Identified by the Complainant
 - Previous welcoming or consent does not mean incidents are welcome
 - “Not being bothered” is not welcoming
 - Not the same as consent
 - “Obtain consent with your words, not your hands”



3. Severe and Pervasive

- **Is the allegation Severe?**
 - Very great, intense
 - Takes into account the circumstances facing a particular Complainant, such as, age, disability status, sex, and other characteristics.
 - Title IX Coordinator must determine whether the occurrence was severe from the perspective of a reasonable person in the Complainant's position.



4. Severe and Pervasive

- **Is the allegation Pervasive?**
 - Spreading widely throughout; continuous, concerted, and not episodic.
 - Does not require a Title IX investigation into every comment/joke that harms and humiliates a person on the basis of sex.
 - Dissemination of offensive material or multiple people agreeing to potentially victimize others and taking steps in furtherance of the agreement may reach pervasiveness.



5. Severe and Pervasive

- **Is the allegation objectively offensive?**
 - Evaluated in the context of the particular factual circumstances.
 - Reasonable person standard applied and common sense approach.
 - Regardless of “intent” of the Respondent.
 - Takes into account the ages and developmental abilities of the involved parties.

6. Severe and Pervasive

- **Was the student denied access to the learning environment?**
 - Student may be physically or entirely excluded; or
 - Any situation where the sexual harassment “so undermines and detracts from the victims’ educational experience, that the victim-students are effectively denied equal access to an institutions resources and opportunities”.

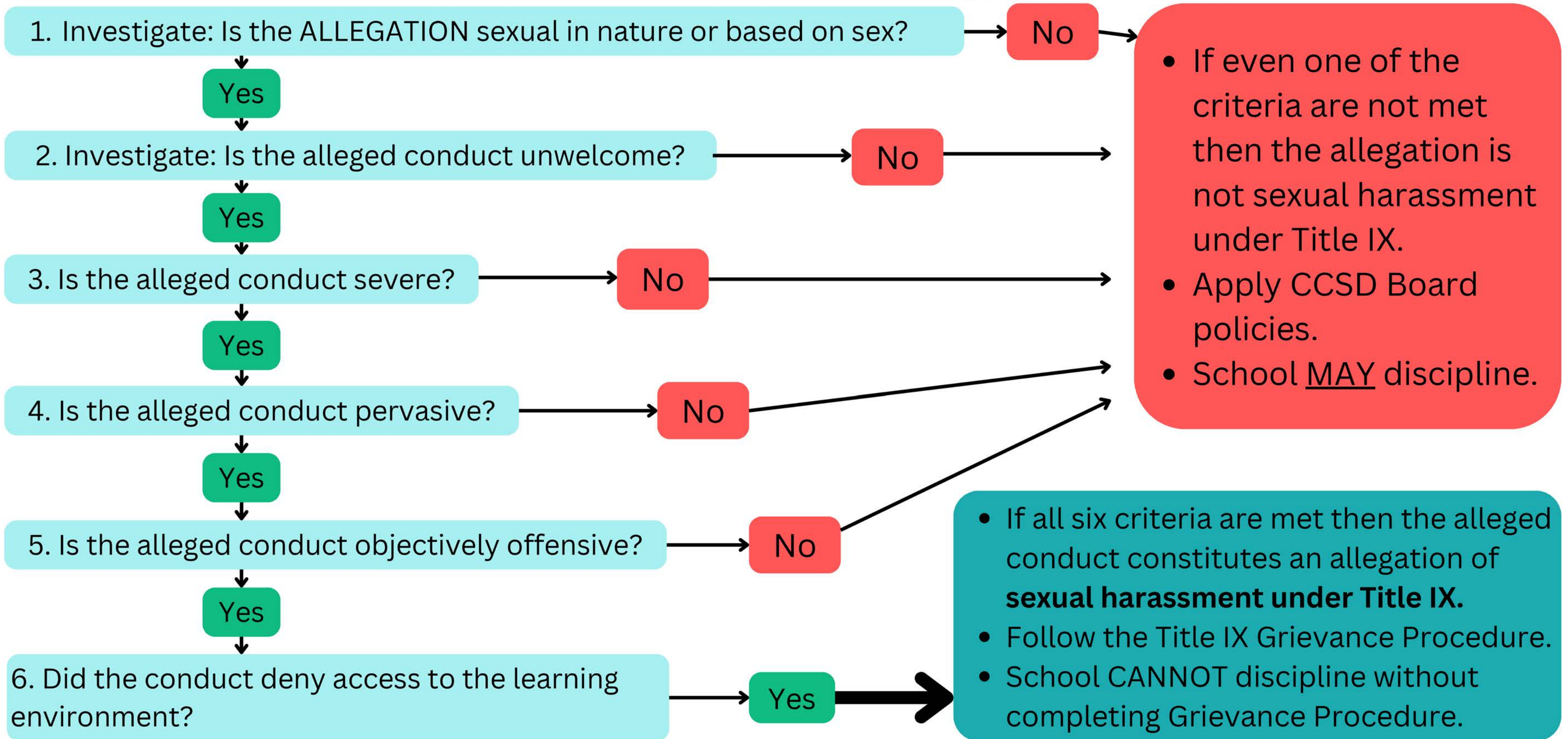


Must Occur in an Educational Program or Activity.

- To fall under Title IX, the alleged conduct must occur in school educational program or activity
 - Includes locations, events, or circumstances over which the District or School exercised substantial control over both the Respondent and the context in which the sexual harassment occurred.



Is it Severe and Pervasive Sexual Harassment?



Clery Act sexual harassment

Jeane Clery Campus Security Policy & Crime Statistics Disclosure Act

Jeane Clery was raped and murdered in her dorm room at Lehigh University in 1986. Her killer was another student. Her parents believe she would have been more cautious if he had known about other violent crimes at Lehigh.



- The act requires colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.
- The definitions for sexual harassment apply for all schools, including K-12.
 - “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)
 - “stalking” as defined in 34 U.S.C. 12291(a)(30).

Clery Act: “Sexual Assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)

The term “**Sexual Assault**” means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. *20 U.S.C. 1092(f)(6)(A)(v)*

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Clery Act: Dating Violence

Dating Violence:

The term “dating violence” means violence committed by a person -

- (A) who is or has been in a **social relationship of a romantic or intimate nature with the victim**; and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The **length** of the relationship.
 - (ii) The **type** of relationship.
 - (iii) The **frequency of interaction** between the persons involved in the relationship.

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

Clery Act: Stalking

Stalking

The term “stalking” means engaging in a course of conduct directed at a **specific person** that would cause a reasonable person to -

- (A) fear for his or her safety or the safety of others; or
- (B) suffer substantial **emotional distress**.

34 U.S.C. 12291(a)(36)

Is it Sexual Harassment under the Clery Act?

1. Does the allegation rise to the level of "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.

No

- Not Title IX sexual harassment.
- Apply CCSD Board policies.
- School MAY discipline in accordance with policies.

YES

- The alleged conduct constitutes an allegation of **sexual harassment under Title IX**.
- Follow the Title IX Grievance Procedures.
- CANNOT discipline without Title IX grievance procedure.

Note: Does not have to be "severe" and "pervasive" to constitute Title IX sexual harassment. One incident is enough to fall under Title IX.

Title IX Sexual Harassment Grievance Procedure (CCSD Board Policy AC-R-5)

Notice: Allegation of Title IX sexual harassment reported to ANY School District Employee

Report to Building Title IX Coordinator

Emergency Removal?

Supportive Measures

Complainant/Parent/Guardian **declines** to sign a Formal Complaint

Complainant/Parent/Guardian **decides** to file a Formal Complaint

Title IX Coordinator Agrees to Supportive Measures Only

Title IX Coordinator decides to proceed with signed Formal Complaint

Title IX Formal Complaint Procedure

Complaint not dismissed

Notice

Investigation

Resolution/ Decision

Appeal

Informal Resolution can occur any time with written agreement of both parties after a formal complaint and prior to a finding of responsibility. Not applicable for Employee Respondents.



Title IX Grievance Procedure Personnel

- Reporters (All School Employees)
- Title IX Coordinator(s)
- Investigator(s)
- Decision Maker
- Informal Resolution Coordinator
- Appeals Officer
- Advisors

Title IX Coordinator Response to Allegation

- **Each building has a Title IX Coordinator (Coordinator can be Investigator also, but not Decision Maker)**
 - All Title IX Coordinators are public facing and listed on the CCSD website--> Nondiscrimination--> Title IX-->[Title IX Building Coordinators](#)
- 1. Title IX Coordinator will promptly contact the Parents/Complainant to discuss Title IX information and rights, including the availability of Supportive Measures;**
 - 2. Consider the Complainant's wishes with respect to supportive measures;**
 - 3. Inform the Complainant of the availability of supportive measures with or without the filing of a Formal Complaint;**
 - 4. And explain the process for filing a Formal Complaint and Grievance Procedure (CCSD Board Policy AC-R-5).**

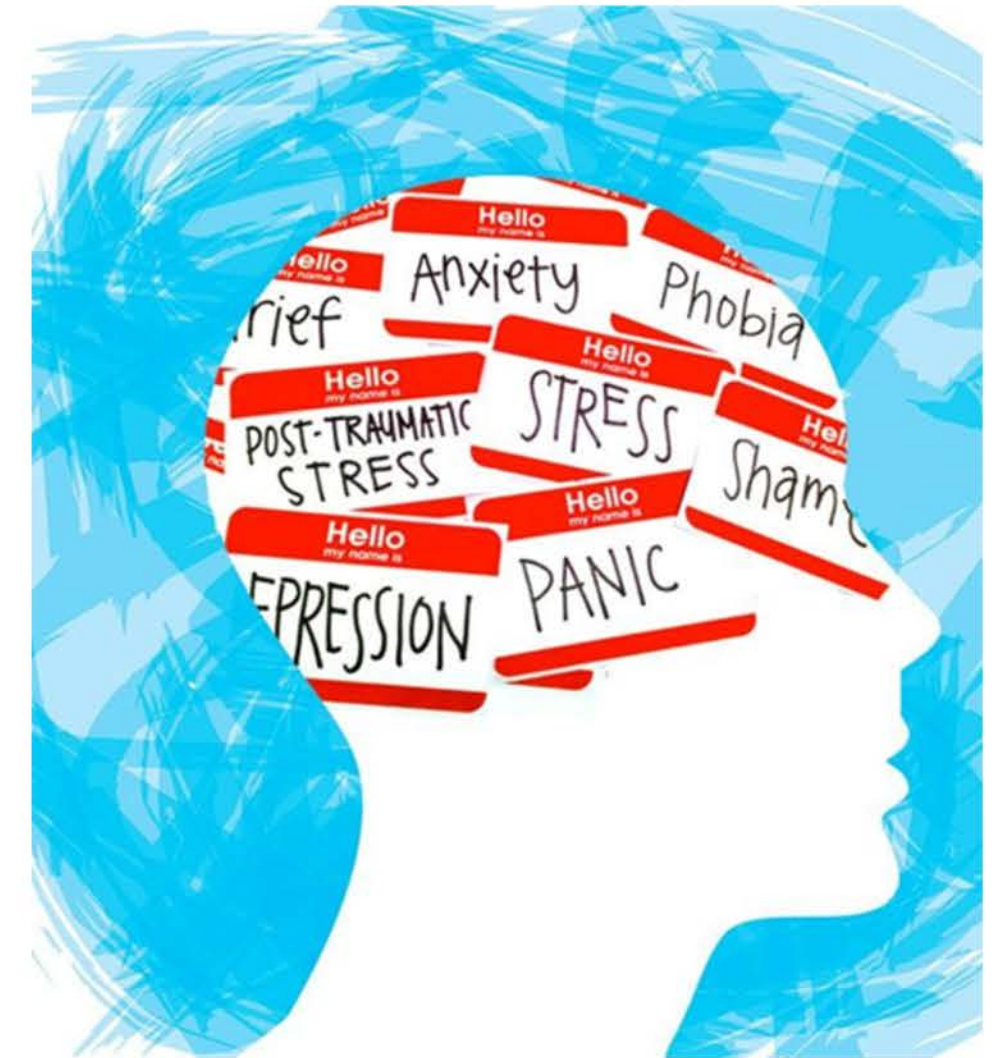
The Title IX Coordinator will also explain any supportive measures will be kept confidential, provided maintaining confidentiality would not impair the ability of the School to provide supportive measures.

Supportive Measures

- Non-disciplinary, non-punitive individualized services offered as appropriate to the **complainant** or the **respondent** before or after the filing of a **formal complaint** or where **no formal complaint has been filed**.
 - Designed to restore or preserve equal access to the recipient's education program or activity without **unreasonably burdening** the other party.
- The School must **maintain as confidential** any **supportive measures** provided to the **complainant or respondent**, to the extent that maintaining such confidentiality would not impair the ability of the School to provide the supportive measures.

Supportive Measures May Include:

- Mental Health or Check-Ins
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services or para escort for Complainant
- Mutual restrictions on contact between the parties (no contact-agreements)
- Leaves of absence
- Increased security and monitoring of certain areas of the School
- Cannot be disciplinary, punitive, or unreasonably burdensome on the Respondent.



Formal Complaint



Dedicated to Excellence
Cherry Creek Schools

- Complainant must be provided with information of how to file a Formal Grievance (Complaint Form: <https://www.cherrycreekschools.org/cms/lib/CO500000184/Centricity/Domain/1422/1C%20-%20Complaint%20Form.pdf>)

○

Complainant Declines to File a Formal Complaint

- Complainant is always entitled to Supportive Measures
- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a Complainant or otherwise a Party.
- Title IX Coordinator chooses to accept or deny a Complaint

Formal Complaint Filed



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

Consolidation of Formal Complaints

- Formal Complaints may be consolidated when the allegations involve multiple Respondents or multiple Complainants and arise out of the same facts or circumstances.

Dismissal of Formal Complaint



- Must Dismiss if:
 - Would not constitute Title IX sexual harassment or as is defined in the regulations.
 - Did not occur in a School District education program or activity.
 - Did not occur against a person in the U.S.
- May Dismiss if:
 - Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw formal complaint or allegations.
 - Respondent is no longer enrolled or employed by the School District.
 - Specific circumstances prevent the School District from gathering evidence sufficient to reach a determination.
- Upon Dismissal of a Formal Complaint, the School District will provide written notice of the dismissal and the reason(s) for the dismissal to the Complainant and the Respondent, simultaneously.

Formal Complaint: Required Notice To Respondent

- Notice of the CCSD Grievance process including the informal resolution process. (CCSD Board policy AC-R-5 <https://www.cherrycreekschools.org/cms/lib/CO50000184/Centri-city/Domain/1422/AC-R-5.pdf>)
- **Notice of the allegations of Title IX sexual harassment potentially constituting sexual harassment, including:**
 - Sufficient detail known at the time and with sufficient time to prepare a response before any initial interview.
 - Sufficient details include:
 - The identities of the parties involved in the incident, if known.
 - The conduct allegedly constituting Title IX sexual harassment.
 - Date and location of the alleged incident, if known.

Formal Complaint: Notice to Respondent

- Notice that the Respondent maintains a presumption of not responsible for the alleged conduct, and that the determination regarding responsibility is made at the conclusion of the grievance process.
- Notice that the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard.
- Notice that the Complainant and Respondent may have an advisor of their choice, who may be, but is not required to be an attorney, and may inspect, review evidence.
- Notice and time to prepare for any interview of Respondent and witnesses

Emergency Removal §106.44

If there is an immediate threat to a person's physical health or safety arising from the allegations of sexual harassment a Respondent may be removed from educational opportunities and benefits.

Emergency Removal §106.44

- Requires individualized safety risk or safety analysis
- School must determine:
 - An immediate threat exists
 - The threat justifies removal
- Cannot be speculative
- May be determined through a SRA/SEIS or Threat Assessment process



After Emergency Removal §106.44

- Respondent must be provided **notice** and **opportunity to contest** removal
 - Notice does not need to be in writing
 - Opportunity to contest removal does not have to be formal hearing process
- Respondent must show that the removal decision was incorrect.
- Emergency removal cannot be indefinite without use of Grievance Procedure

Advisors



- Parents/Guardians have the right to act on behalf of minor Complainants, Respondents, and or Witnesses during a Title IX grievance procedure.
- Both Parties may be accompanied by other individuals, including an Advisor, to any related meeting or proceeding.
- Advisors are not required to be attorneys.
- The School District maintains the right to establish restrictions regarding the extent the Advisor(s) may participate in the proceedings.
- Any restrictions on Advisor(s) will apply equally to both Parties.

Informal Resolution

- A Formal Complaint must be filed prior to proceed with an Informal Resolution.
- An Informal Resolution Process may not be offered to resolve allegations involving a School District employee sexually harassing a student.
- At any time prior to reaching a determination regarding responsibility the School may facilitate an informal resolution process.
- Parties must both provide voluntary written consent to the informal resolution process.
- Parties are not required under any circumstances to participate in an informal resolution process.

Informal Resolution

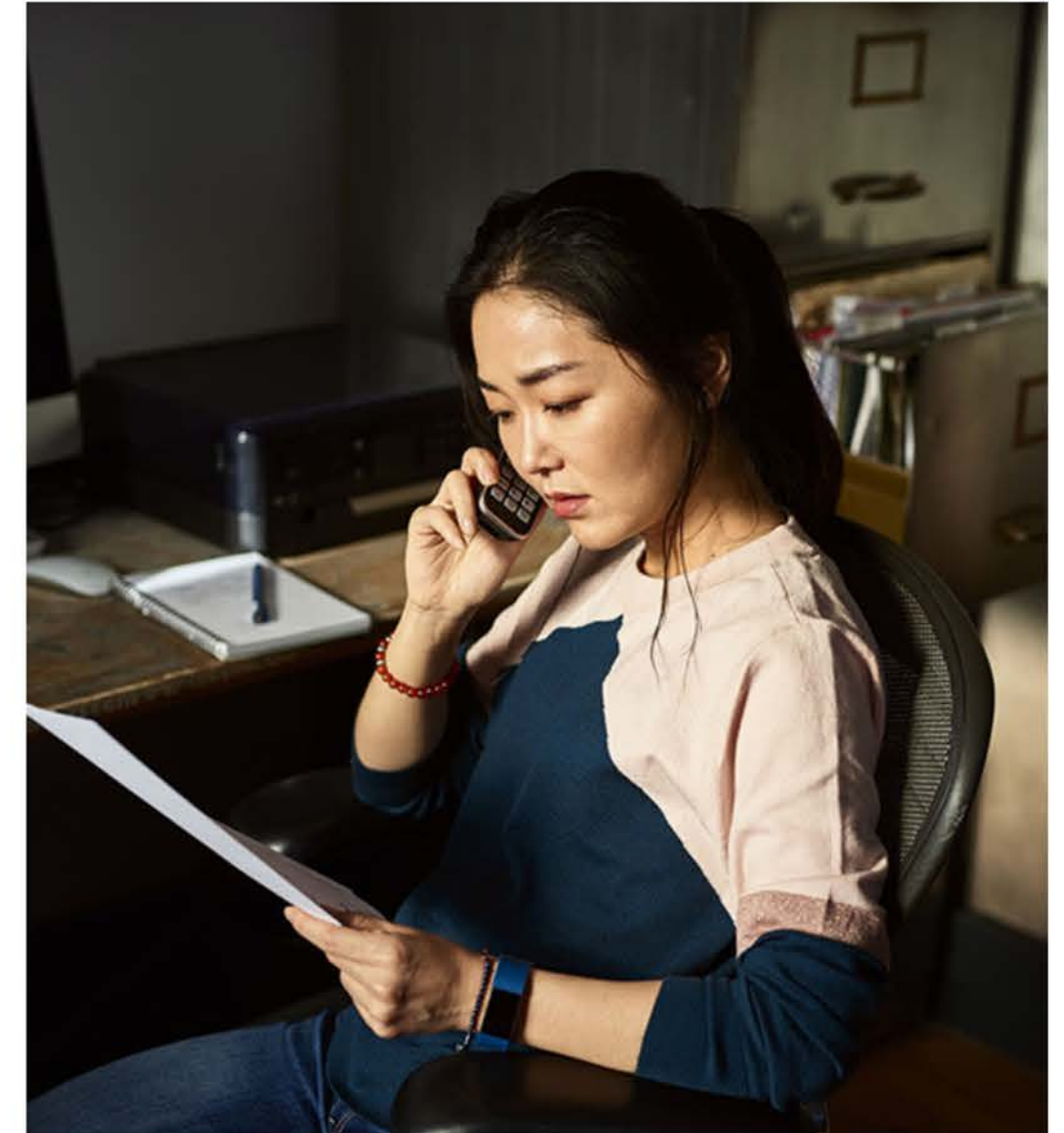


The Informal Resolution must include:

- Written notice to the Parties disclosing the allegation;
- Information 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 with respect to the formal complaint;
- And any consequences resulting from participating in the informal resolution process, including the records that will be maintained or shared;

Investigator

- Investigator may be the Title IX Coordinator
- The Investigator must not have a conflict of interest or bias for or against Complainants or Respondents generally, or an individual Complaint or Respondent.
- Investigator must have received the District Title IX Training prior to Investigating a formal complaint.
- Will conduct the investigation and provide a written investigatory report to the Parties and the Decision-Maker.



Investigation of Formal Complaint

- **The burden of proof and the burden of gathering evidence rest on the Investigator, and not on the Respondent or Complainant**
 - Neither Party is restricted from discussing the allegations under investigation or gathering and presenting relevant evidence (No Contact Agreement*).
- Each Party will be provided with written notice of the date, time, location, participants, purpose of investigative interviews, and sufficient time to prepare for such interviews, when their participation is invited or expected.
- Both Parties will be provided an equal opportunity to present witnesses and other inculpatory or exculpatory evidence.



Evidence and Investigative Report

- Each Party will be provided an equal opportunity to inspect and review any evidence
- Prior to the Completion of the Investigatory Report, the Investigator must provide opportunity for each Party to review all evidence.
- The Parties will have ten (10) School Days to submit a written response, which the investigator will consider prior to the completion of the investigative report.
- After the inspection and response by the Parties, the Investigator shall complete and Investigative Report that fairly summarizes relevant evidence.

Consent (Not the same standard as “welcome”)



- **Did the Complainant identify whether they consented?**
- **Can the Complainant consent based on age?**
 - Colorado law does not criminalize consensual sex when both parties are 17 years old or older.
 - Colorado law allows for 15-and 16-year olds to lawfully engage in sexual behavior with partners who are less than ten years older, and minors younger than 15 to engage in sexual acts with those less than four years older.
- **C.R.S. § 18-3-401. Definitions (1.5) “Consent”** means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act.
 - A **current or previous relationship** shall not be sufficient to constitute consent.
 - Submission under **the influence of fear** shall not constitute consent.
 - The **age of consent is also based on the age** and relationship of the alleged actor engaging in sexual contact or conduct with the alleged victim.

Title IX Investigator Procedures

Formal Complaint Filed and/or Accepted by Title IX Coordinator

Investigation:

- Notice to Parties of all meetings and interviews with time to prepare.
- Gather evidence: witness statements, video, pictures, documents, texts, e-mails, or any other information related to the allegations.

Investigator: **Draft Investigatory Report**

Review: Opportunity for Parties to inspect, review, and respond to all evidence directly related to allegations and opportunity to provide written response within 10 school days.

Investigator: **Finalize Investigative Report:**

- Consider the responses to review of evidence
- Identifies relevant evidence
- Summarizes the relevant evidence
- May include a recommended finding for Decision Maker

Investigatory Report provided to Decision-Maker

Decision-maker



- Cannot be the Investigator or Title IX Coordinator
- After the Investigator provides the Investigative Report to the Parties and the Decision Maker, and before the Decision Maker makes a determination regarding responsibility, the Decision Maker will provide the Parties with **an opportunity to respond with written relevant questions each Party wants to ask of any Party or Witness, answers to those questions, and an opportunity for follow-up questions (cross-examination process)**.
 - The Decision Maker must explain to the Party proposing the question any decision to exclude a question as not relevant.

Written Determination

- The Decision Maker will issue a written determination regarding responsibility to Parties simultaneously.
- The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

Written Determination

- The Written Determination Includes:
 - Allegations potentially constituting Title IX sexual harassment;
 - A description of the procedural steps taken from the School of the formal complaint through the determination, including any notification to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;



Written Determination

- The standard of evidence to be applied;
- Findings of facts supporting the determination;
- Conclusions regarding the application of the recipient's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility
- Any disciplinary sanctions the recipient imposes on the respondent,
- Any remedies provided to the recipient and complainant.
- Appeal procedures and basis for appeal, including timeframes and permissible extensions of time frames.

Remedies

- Remedies are provided to the Complainant to restore or preserve equal access to the Recipient's education program or activity;
- If the Respondent was found responsible, remedies may burden the Respondent and be punitive or disciplinary in nature.
- May be same as Supportive measures and supportive measures may continued to be provided.



Appeals



- **The School District 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:**
 - 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, that could affect the outcome of the matter; and
 - The Title IX Coordinator, Investigator, or decision-maker had conflict of interest or bias for or against complaints or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- The appeal process may not be utilized to solely challenge findings based only on disciplinary consequences, including suspensions and expulsions, and must meet one of the listed above criteria.

Appeal Procedures

- Both Parties will be informed in writing when an appeal is filed and appeal procedures will be implemented equally between Parties;
- The decision-maker for the appeal will not be the same decision-maker that reached the determination regarding responsibility or dismissal, the investigator, or the Title IX Coordinator.
- Both Parties will be provided a reasonable and equal opportunity to submit written statements in support of, or challenging, the outcome.
- The decision-maker for the appeal will issue a written decision simultaneously to the Parties describing the result of the appeal and the rationale for the result.

Documentation

Send all Documentation to The Equity Compliance Liaison.

The District is required to maintain:

Each sexual harassment investigation including any determination regarding responsibility, as well as,

- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designated to restore or preserve equal access to the Recipient's education program or activity;
- Any appeals or informal resolutions.
- Records of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment.
- Documentation that the basis for the conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity.

Confidentiality

The School must keep confidential the identity of any individual who:

- Made a report or complaint of sex discrimination
- Any individual who has been reported to be a Respondent
- And any witness, except as may be permitted under FERPA 20 U.S.C. 1232g, or the implementing regulations, 34 CFR part 99, or as required by law.



Retaliation



- Intimidation, threats, coercion, or discrimination, including disciplinary action against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment for the purposes of interfering with any right or privilege secured by Title IX or this policy, constitute retaliation.
- The exercise of rights protected by the first Amendment of the United States Constitution does not constitute prohibited retaliation.

Retaliation Examples

- **Female student reports** to Teacher her concerns that the **Teacher favors male** students in class. Later that week, **Teacher gives student a failing grade on an assignment, despite the fact that she completed it accurately.**
- Parent receives reports from her Student that the **Student is being sexually harassed by other students.** Parent schedules a meeting with the **Principal to discuss her concerns.** Three days after **the Principal and Parent meet, the Principal enacts a limit letter on the Parent.**
- **Respondent is accused of sexual assault** by another student. **The School immediately suspends the Respondent prior to completing the Title IX sexual harassment grievance procedure.**

Parallel Processes: Title IX & Criminal Investigations

Law Enforcement /Criminal	Title IX Grievance Procedures
- Trying to address violations of criminal law. - Criminal law penalizes the individual. - Individuals are responsible for not violating criminal laws.	- Addresses allegations of sexual harassment under Title IX. - Student may be disciplined for Title IX sexual harassment but CCSD is responsible for complying with Title IX.
Perpetrator has a presumption of innocence.	Respondent has a presumption of non-responsibility for the conduct.
A Perpetrator must be found guilty beyond a reasonable doubt.	A Respondent must be found responsible by a preponderance of the evidence (more likely than not).
Criminal court may order a protection order that protects victim at all times (home, school, work, community) and violations can lead to further criminal charges. They are enforced by police.	No contact agreements are an option for a supportive measure under Title IX. It is an administrative process that requires both students to stay away from each other at school/CCSD programs. Violations of no contact agreements may lead to more restrictive supportive measures, but cannot lead to discipline because discipline cannot be given in the Title IX process until the Grievance procedure is complete.
Victim may have resources to victim advocate and victim services which may provide support in accessing rape kits, medical care, counseling, support in court proceedings, or mental health treatment.	Title IX Coordinator will implement supportive measures to ensure the student can access CCSD programs and activities. Remedies will be identified by the Decision Maker to support preventing sexual harassment in the future and preventing discrimination in CCSD programs and activities.



CCSD BOARD POLICY ACD
PROTECTED CLASSES/BIAS
C.R.S. §22-1-143 & C.R.S. §22-34-601

- Discrimination under State Law (C.R.S. §22-1-143 & C.R.S. §22-34-601)
 - Disability
 - Race, Color
 - Sex
 - Sexual Orientation, Gender Identity, Gender Expression
 - Religion
 - Creed
 - Age
 - National Origin, Ancestry
 - Family Composition

Title IX Sexual Harassment Allegations vs. CCSD Board Policy ACD Allegations

Severity of Alleged Conduct

Allegation of Title IX Sexual Harassment and Grievance Procedure must apply.

Clery Act Violations
Quid pro Quo
Severe, pervasive, objectively offense, and denies access to educational environment

Inappropriate touching
Groping
Showing pornographic materials
Drawing obscene images
Derogatory terms
Sexual comments
Questions about sexual experience
Requests for sexual favors
Gender-focused jokes
Inappropriate advances
Leering

Harassment and Discrimination under CCSD Board Policy ACD

Examples of Allegation of Sexual Harassment



NOT HARASSMENT UNDER ACD

- Harassment under ACD and C.R.S. § 22-1-143 do not include petty slights or bad manners.
- Harassment does not include conduct that is welcome.
 - However, such conduct may still violate school rules of the Student Code of Conduct and require intervention.
 - If in doubt, discuss with your building administrator.
- *Welcome interactions may become unwelcome, including if a student escalates the interaction, and therefore may then constitute harassment and require additional intervention.*

HARASSMENT BASED ON PROTECTED CLASS/BIAS UNDER ACD AND C.R.S. §22-1-143

- Under C.R.S. § 22-1-143, harassment of students includes **unwelcome conduct by students or staff** that may,
 - include verbal abuse, graphic or written statements, physical assault, or other conduct that may be threatening, harmful, or humiliating
 - based on a student's **actual or perceived protected class/bias**.
- Under C.R.S. §22-1-143, harassment does not require an intent to harm, have to be directed at a specific target, or involve repeated incidents.

WHEN DOES CONDUCT RISE TO THE LEVEL OF HARASSMENT OR DISCRIMINATION UNDER ACD AND C.R.S. § 22-1-143?

- Based on the totality of the circumstances:
 - Conduct is **severe or pervasive**; or
 - **Submission** to the conduct or communication is **explicitly or implicitly** made a **term or condition of the student's access to an educational service, opportunity, or benefit**; or
 - **Submission to, objection to, or rejection** of the conduct or communication is used or **explicitly or implicitly** threatened to be used as a **basis for educational decisions affecting the student**; or
 - The conduct or communication **has the purpose or effect of unreasonably interfering with the student's access to their educational service, opportunity, or benefit or creating an intimidating, hostile, or offensive educational environment.**

ACD ALLEGATIONS



Student
Support Plans

- Allegation of harassment or discrimination based on a **protected class/bias**.
- May be reported by student, parent/guardian, staff member, or contractor.
- All allegations must be entered in Student Support Plans Tile as a Student Referral
 - Include Administrator as Team Member
- *Comply with any Mandatory Reporting Requirements*
- *Report any instances involving an employees to HR*

ACD PROCEDURES

1. **Intervene:** Stop the harassment
2. Provide **Supportive Measures**
3. **Investigate**
4. **Provide Findings** to Family (ACD Letter)
5. **Document** in PowerSchool
6. **Send** ACD Letters to equitycompliance@cherrycreekschools.org

SUPPORTIVE MEASURES

- Supportive Measures: Accommodations and supports provided to a students that are designed to protect the safety of all students and that preserves and, if necessary, restores equal access to education environment.
- If allegations constitute sexual harassment under Title IX, Supportive Measures must be offered to the Respondent, and Supportive Measures cannot be disciplinary or punitive.

*You may always contact your Executive Director for additional support or to determine Supportive Measures.

Examples :

- Access to mental health staff or safe adult
- Check-ins with school staff
- No Contact Agreements
- Restorative conversations
- Modifications to schedules
- Assigned seating
- Cell phone contracts
- Increased supervision
- Restriction of off-campus privileges
- Review of IEP or Section 504 plans



SUPPORT FOR BIAS/PROTECTED CLASS: DISABILITY

Bias/Protected Class	Definition	Department Contact for Support
Disability	Student on a Section 504 plan or IEP (or suspected/being evaluated for a disability).	Section 504 Disabilities: Section 504 Liaison Students on IEPs: Special Education Office





SUPPORT FOR BIAS/PROTECTED CLASSES: ECCE OFFICE

Bias/Protected Class	Definition
Race	Race is a social construct based on ancestry and shared physical characteristics.
Color	Color refers specifically to skin tone or pigmentation.
Religion	Refers to actual or perceived religious beliefs that are sincerely held and includes all aspects of religious observance and practice.
Creed	Refers to actual or perceived religious, moral, or ethical beliefs that are sincerely held and includes all aspects of religious observance and practice.
National Origin/ Ancestry	Actual or perceived societal identifiers that attempts to distinguish people based on physical characteristics such as skin color, facial features, or hair (including hair texture, hair type, or hairstyle) that are commonly or historically associated with race.
Family Composition	Family composition discusses the role of family structure (e. g. single parent, married couple, married couple parents, kin co-residence); union formation (i. e. marriage, divorce and cohabitation)



SUPPORT FOR BIAS/PROTECTED CLASSES: LEGAL/EQUITY COMPLIANCE OFFICER

Bias/Protected Class	Definition
Sex	Sex characteristics: physiological sex-based characteristics, including a person's anatomy, hormones, and chromosomes associated with male or female.
Sexual Orientation	An individual's identity, or another individual's perception thereof, in relation to the gender or genders to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.
Gender Identity	Gender identity to describe an individual's sense of their gender, which may or may not be different from their sex assigned at birth.
Gender Expression	An individual's way of reflecting and expressing the individual's gender to the outside world, typically demonstrated through appearance, dress, and behavior.
Age	Chronological age

ACD INVESTIGATION AND DETERMINATION



- **Investigation:** Include whether there were interviews, statement, documents, video reviewed, or any other information considered.
- **Determination:** Apply preponderance of the evidence standard (more likely than not)- whether the conduct occurred as alleged and whether the conduct constitutes harassment or discrimination under ACD.

FINDINGS

- **Finding:** Complete the ACD Notice and Findings letter for each student involved in the incident (Not witnesses).
 - **Update (If necessary):** Provide a written update every fifteen (15) school days from the date of the allegation until the findings are made.
 - **Extensions (If necessary):** If the investigations exceed 60 days, including to facilitate law enforcement investigations, provide a notice in writing for the extension.

CLOSING DOCUMENTATION STEPS

- Document in PowerSchool
 - If conduct also constitutes violation of **Student Code of Conduct** → Follow Consequences Guide → **Document as incident in PowerSchool**
 - Update Student Referral to reflect discipline
 - Include Supportive Measures in PowerSchool entry
 - If there is no discipline → Enter **Supportive Measures** as Student Note in **PowerSchool**
- Send the ACD letter to each parent (separate letters for each student involved)
 - Use Student identifiers (“Student A”, “Student B”)
 - You may also send Board policy ACD.
- SEND ACD LETTERS to equitycompliance@cherrycreekschools.org.

Team Section

Behavioral Codes

Select Code(s) Below

08- Disobedient/Defiant or Repeated Interference, 09- Detrimental Behavior

Is this referral related to bullying or harassment?

Yes

Investigation Time

Within 60 school days

Bias Type(s)

☒ Disability

☐ Color

☐ Gender Identity

☐ Religion

☐ Ancestry

☐ Race

☐ Sex

☐ Gender Expression

☐ Age

☐ No Bias Reported

☐ Creed

☐ Sexual Orientation

☒ Family

☐ National Origin

Action Codes

Action	Notes
+ Add Action	

Referral to Other Resources

Additional Participants

Name	Role
+ Add Participant	

Student Info



Easley Holzmaster (12)

Enrollment Info

20214846

West Middle School

Grade 7

Demographics

Female

06/07/2013

White

Plans

No active plans found

Referrals **MUST** be completed in the Referral Tile AND PowerSchool

EXAMPLE: HARASSMENT BASED ON GENDER IDENTITY



Teacher refuses to call Ash by her identified name, and will only call her by her name assigned at birth or her last name. Ash reports the concern to her school counselor who reports to the principal.

- **Implement Supportive Measures:** Direct teacher to use identified name and pronouns, identify adult for Ash to report further issues, and check-ins for Ash with mental health.
- **Investigate:** Obtain statements from student, teacher, and any witnesses
- **Findings:** Based on preponderance of evidence, allegation occurred, is based on a protected class, and intentional refusal to use student identified name and pronoun constitutes discrimination. Provide Supportive Measures and discuss with teacher to prevent discrimination in future.
- **Document and Provide ACD Letters.**

EXAMPLE: HARASSMENT BASED ON SEXUAL ORIENTATION



Taylor calls Pat “gay” in a derogatory way throughout the school day and on the bus. Taylor identifies it is funny and no big deal, but Pat is very upset and reports to the teacher that Pat doesn’t want to come to school anymore. The teacher reports to the vice principal.

- **Stop the conduct.**
- **Implement Supportive Measures:** Direct Taylor to stop, put in no contact agreement, review whether changing classes is necessary, provide check-ins for Pat.
- **Investigate:** Obtain statements from students, teachers, and any witnesses, review bus video.
- **Findings:** Based on preponderance of evidence, allegation occurred, is based on a protected class or perceived protected class, and is interfering with Pat accessing educational benefit. Provide Supportive Measures and determine whether violation of student code of conduct.
- **Document and Provide ACD Letters**

EXAMPLE: HARASSMENT BASED ON SEX



Peyton asks Sam if they are a virgin and have ever had sex. Sam feels uncomfortable and asks Peyton to stop. Peyton continues to ask Sam inappropriate and sexual questions. Sam reports to the teacher that the questions are making them uncomfortable and upset.

- **Review** whether constitutes sexual harassment under Title IX.
- **Stop the conduct.**
- **Implement Supportive Measures:** Direct Peyton to stop, put in no contact agreement, review whether changing classes is necessary, provide check-ins for Sam.
- **If not Title IX, Investigate:** Obtain statements from students, teachers, and any witnesses, review bus video. **If Title IX, follow Title IX Grievance Procedure.**
- **Findings:** Based on preponderance of evidence, allegation occurred, is based on a protected class, and is interfering with Sam accessing educational benefit. Provide Supportive Measures and determine whether violation of student code of conduct.
- **Document and Provide ACD Letters**

Questions?

