

TITLE IX TRAINING

2020 Regulations

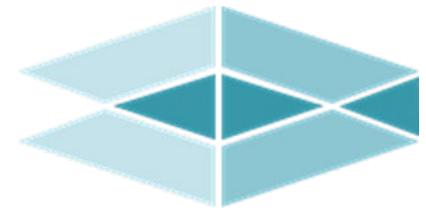
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ATTORNEY TESS O'BRIEN-HEINZEN (TOBRIEN@LAW-RLL.COM)

ATTORNEY ALANA LEFFLER (ALEFFLER@LAW-RLL.COM)

ATTORNEY CHAD WADE (CWADE@LAW-RLL.COM)

(THANKS TO ATTORNEY BENNETT THERING WHO ASSISTED IN DRAFTING THESE MATERIALS)



RENNING
LEWIS & LACY

Legal Update

- In May 2020, the Trump Administration issued Title IX regulations specifying how schools must respond to allegations of sexual harassment.
- In April 2024, the Biden Administration issued changes to the Title IX regulations, expanding its application (e.g., gender identity, student pregnancy) and changing certain procedural requirements. The updated Title IX regulations went into effect on August 1, 2024.
- In January 2025, a Federal District Court in Kentucky vacated the Biden Administration's 2024 Title IX regulations, holding that the regulations violated the Administrative Procedure Act and the First Amendment.
- The Biden Administration did not appeal the decision, presumably concluding that the Trump Administration would withdraw the appeal once President Trump took office.
- With the 2024 Title IX regulations vacated, the most recent version of the Title IX regulations (2020) went back into effect.

Title IX - Generally

“No person in the U.S. 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.”

- Prohibits recipients of federal funds (“recipients”) from discriminating against any person in any education program or activity on the basis of sex. Examples of types of discrimination covered:
 - Sexual Harassment
 - Failure to provide equal opportunity in athletics
 - Pregnancy discrimination
 - Retaliation

Title IX - Sexual Harassment

- Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:
 1. Conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (quid pro quo).
 2. Unwelcome conduct (of a sexual nature) 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.
 3. Any of the following, as defined by reference to other federal statutes: (a) sexual assault; (b) dating violence; (c) domestic violence; or (d) stalking.

Recipient Duties

- **Designate a Title IX Coordinator.** Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with the recipient's Title IX obligations. The Title IX Coordinator shall be the primary point of contact for persons making a complaint of sex discrimination under Title IX, and shall allow complaints made by mail, telephone, electronic mail, or in person. 34 C.F.R. § 106.8(a).
- **Adopt a Grievance Procedure and Grievance Process.** Each recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging sex discrimination as defined by Title IX, and a grievance process for formal complaints of sexual harassment under 34 C.F.R. § 106.8. *(Note: For districts that use NEOLA, the grievance procedure in Board Policy and/or Administrative Guideline 2260 addresses sex discrimination and Board Policy and/or Administrative Guideline 2266 addresses sexual harassment.)*

Recipient Duties

- **Provide Annual Public Notice.**

- Nondiscrimination. Each recipient must notify all persons participating or seeking participation in the recipient's education programs/activities, that: (1) the recipient does not discriminate on the basis of sex in any of its education programs/activities; (2) that the recipient is required by Title IX and 34 C.F.R. § 106.8 not to discriminate in such a manner; (3) the requirement not to discriminate in the education program or activity extends to admissions and employment; and (4) that inquiries about the application of Title IX to the recipient may be referred to the Title IX Coordinator, the Assistant Secretary for Civil Rights at the Department of Education, or both. 34 C.F.R. § 106.8(b).
- Grievance Process. Each recipient must prominently display the recipient's grievance procedure and process for resolving complaints of sex discrimination and sexual harassment on its website (if any) and in each handbook or catalog that it makes available to participants or persons seeking to participate in the recipient's education programs or activities.
- Title IX Coordinator. Each recipient must prominently display the Title IX Coordinator's contact information (physical mail address, email, office address, phone number) on the recipient's website (if any) and in each handbook or catalog that it makes available to participants or persons seeking to participate in the recipient's education programs or activities.

- **Training**. Provide or facilitate training for the Title IX Coordinator, investigator, decision maker, appeal decision maker or any person designated by a school district to facilitate the informal resolution process.

Grievance “*Procedure*” v. “*Process*”

- Grievance Procedure. Each recipient must adopt and publish a grievance procedure that provides for the prompt and equitable resolution of student and employee complaints alleging conduct in violation of Title IX.
 - Does not apply to persons outside the United States (e.g., students abroad).
 - Must permit complaints in person, by mail, by telephone, or electronic mail, and shall be consistent with the contact information of the designated Title IX Coordinator. This does not, however, necessarily indicate a “formal” complaint was made.
 - The grievance procedure must include a process for formal complaints of sexual harassment, consistent with 34 C.F.R. § 106.45, but shall cover *all* forms of sex-based discrimination.
 - Formal complaints of sexual harassment have their own specific process, referred to as the “grievance process”.
- Grievance Process. The grievance “process” refers to the specific process within the District’s grievance procedure that resolves *formal* complaints of sexual harassment.
 - Only required to use the grievance process for formal complaints of sexual harassment.

Definitions

- **Complainant:** An individual alleged to be the victim of conduct that could constitute sexual harassment.
- **Respondent:** An individual reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Complaint:** A document filed by a complainant or signed by a Title IX Coordinator alleging sexual harassment against a respondent and requesting the recipient to investigate.
- **Title IX Coordinator:** Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its Title IX responsibilities. This individual must be referred to as the Title IX Coordinator. The Title IX Coordinator has specific responsibilities throughout the Title IX complaint process, such as the responsibility to receive complaints, assign an investigator, and coordinate and oversee the effective implementation of supportive measures and remedies.
- **Investigator:** The individual who conducts the investigation, prepares an investigation report, and submits the report to the decision-maker. The investigator is assigned by the Title IX Coordinator and/or administration. The Title IX Coordinator may assign himself/herself as the investigator.
- **Decision-maker:** The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility.
- **Appeal decision-maker:** The appeal decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator, the investigator(s), or the decision maker(s), must issue a written determination regarding an appeal.
- **Facilitator of Informal Resolution:** The individuals who facilitates an informal resolution with the parties after a formal complaint is filed.

Title IX Coordinator Duties

- The Title IX Coordinator is generally responsible for ensuring and overseeing the recipient's compliance with Title IX. Duties include, but are not limited to:
 - Promptly contacting complainants to discuss the availability of supportive measures and the process for filing a formal complaint
 - Oversee the effective implementation of supportive measures and remedies
 - Receiving a formal complaint (or signing a formal complaint, as appropriate)
 - Issuing notices during the grievance process
 - Assigning an investigator
 - Referring disciplinary or punitive measures to the appropriate administrator.
 - Effective implementation of any remedies
 - Make training materials available on the District's website
 - Comply with recordkeeping requirements
 - Being a resource for students and employees who seek information relating to the recipient's grievance procedures, process, and obligations under Title IX.

Response to Notice of Sexual Harassment

“A recipient with actual knowledge of sexual harassment in an education program or activity against a person in the U.S. must respond promptly in a manner that is not deliberately indifferent.”

34 C.F.R. § 106.44(a).

Actual Knowledge

- A recipient has “actual knowledge” of sexual harassment in an education program or activity if notice of sexual harassment or allegations of sexual harassment is given to a Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, **or to any employee of an elementary and secondary school.**
- This may come from an employee witnessing sexual harassment, receiving a report of sexual harassment, or the filing of a formal complaint under the recipient’s grievance process, among others.

Education Program or Activity

- Education programs and activities include all operations of each recipient of federal funds covered by Title IX.
 - Applies only to those programs or activities for persons inside the United States.
 - Applies to all aspects of each program of activity, such as eligibility, location, events, and circumstances.
 - Off-campus activities may be “education programs or activities” if: **(1)** the off-campus event/incident occurs as part of the school district’s “operations” and **(2)** if the school district exercised substantial control over respondent in the context of alleged sexual harassment that occurred off-campus. **Example:** Homecoming Parade/Activities.
 - When recipients are uncertain whether an activity is covered by Title IX, the recipient should consider factors such as whether the recipient is funding/promoting/sponsoring the activity/program and the amount of control the recipient exercised over the circumstances.

Deliberately Indifferent

- A District may not be deliberately indifferent in responding to a report of sexual harassment.
 - Deliberately Indifferent: The “deliberately indifferent” standard requires that the recipient respond in a manner that is not “clearly unreasonable” in light of the circumstances. The response should be reasonably calculated to stop any harassment, prevent it from recurring, and remedy its effects.

Response to Report of Sexual Harassment

- In response to notice of allegations of sexual harassment, the Title IX Coordinator must:
 - Promptly contact the complainant to discuss the availability of supportive measures, with or without the filing of a formal complaint.
 - Provide Title IX policy and explain the process for filing a formal complaint and the grievance process.
 - Identify wishes of complainant regarding supportive measures.
- Grievance process is only initiated once a formal complaint is filed.

Response to Report of Sexual Harassment

Supportive Measures

- The Title IX Coordinator is responsible for offering, coordinating, and implementing supportive measures for the complainant and/or respondent.
 - Limited to what the recipient deems to be “reasonably available.”
 - Supportive measures must be designed to protect the safety or educational environment of the parties or provide support during the recipient’s grievance procedure/informal resolution process.
 - May not unreasonably burden the complainant or respondent.
- The recipient must provide the complainant or respondent with a timely opportunity to seek modification or reversal of the recipient’s decision to provide, deny, modify, or terminate supportive measures applicable to them.
- Supportive measures must remain confidential except to the person to whom they apply, unless disclosure is necessary to implement the supportive measure or restore access to the education program or activity.
 - **Example:** Notifying the classroom teacher of the parties’ no-contact agreement.

Initiating the Grievance Process

Formal Complaint

- A “*Formal Complaint*” is defined as a document that is filed by a complainant or signed by the Title IX Coordinator, requesting that the recipient investigate the allegation of sexual harassment.
- The phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint.
- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the recipient.
- Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a part.
- **NOTE:** Filing a formal complaint and implementing the grievance process is a prerequisite for the District’s ability to impose disciplinary action/penalties against the respondent.

Dismissal of Formal Complaint

- **Mandatory:** The recipient **MUST** dismiss the formal complaint if:
 - **(1)** the allegations in the formal complaint, if true, would not constitute sexual harassment as defined by Title IX;
 - **(2)** the sexual harassment did not occur within the scope of the recipient's programs or activities; or
 - **(3)** the sexual harassment did not occur against a person in the United States.
- **Permissive:** The recipient **MAY** dismiss the formal complaint if, at any time during the investigation or hearing:
 - **(1)** the complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - **(2)** the respondent is no longer participating in the recipient's programs or activities/or employed by the recipient; or
 - **(3)** specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination.

Grievance Process

Notice of Formal Complaint

- When processing a formal complaint, the recipient must provide notice of the following to the parties that are known at the time of the complaint:
 - Notice of the recipient's grievance process, including the informal resolution process.
 - Notice of the allegations of sexual harassment as defined by Title IX, with sufficient time to prepare a response before any initial interview. Notice of allegations should include the date, location, and the conduct giving rise to the allegations of sexual harassment.
 - Notice that the respondent is presumed not responsible for the alleged sexual harassment and that such responsibility is determined at the completion of the grievance process.
 - Notice that the parties may have an advisor of their choice who may be, but is not required to be, an attorney, who may review evidence.
 - To the extent the recipient has a policy/rule against making false statements/representations, notice of such policy or rule.
 - In the event of mandatory or permissive dismissal, written notice to both parties providing the reasons for dismissal.
 - Provide written notice of the date, time, location, participants, and purpose of all hearings, interviews, or other meetings with sufficient time for the party to prepare and participate.

Grievance Process

General Requirements

- Each recipient's grievance process shall abide by the following:
 - Equitable Treatment. Treat the complainant and respondent equally and require that the respondent only face penalties or consequences upon a finding of responsibility through implementation of the grievance process (excludes supportive measures).
 - Objective Evaluation. Objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence, and decide issues of credibility without reference to status as a complainant, respondent, or witness (e.g., cannot favor complainant simply because they are the complainant).
 - Conflicts of Interest. All persons handling the complaint (e.g., Title IX Coordinator) shall be free from conflicts of interest or bias against complainants and respondents generally, but the individuals therein.
 - Presumption of No Responsibility. The respondent shall be presumed not responsible for the alleged sexual harassment throughout the grievance process until the time of the decision

Grievance Process

General Requirements

- Prompt Time Frames. Provide reasonably prompt time frames for conclusion of the grievance process, including that for filing and resolving appeals and the informal resolution process, and a process that allows for the temporary delay of the grievance process or extensions of time frames for good cause. Process must comply with 90-day deadlines in Wis. Stat. 118.13 (pupil nondiscrimination law)
- Timelines Established under Grievance Process.
 - 10-days for review of evidence.
 - Investigative Report due to decision-maker at least 10 days before issuance of decision.
- Standard of Proof. Determine whether the standard of proof used to determine responsibility is based upon the “preponderance of the evidence” standard or the “clear and convincing evidence” standard, then apply the chosen standard. Must be the same for employees and students.
 - Preponderance of the Evidence Standard: More likely than not (i.e., 51% or more).
 - Clear and Convincing Evidence Standard: Something in between preponderance of the evidence and beyond a reasonable doubt, (i.e., 70-80% or more).

Grievance Process

General Requirements

- Basis for Appeal. Provide procedures and permissible bases for the complainant and respondent to appeal.
- Range of Consequences. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility.
- Supportive Measures. Describe the range of supportive measures available to complainants and respondents.
- Evidentiary Exceptions. Prohibit reliance on privileged and/or irrelevant information.
 - Generally, reliance on either parties' prior history of sexual conduct is NOT permitted (Rape Shield).
 - "Relevant" evidence is any information that could reasonably impact the outcome of the decision relating to the complainant's specific allegations of sexual harassment.

Grievance Process

Investigation of Formal Complaints

- When a formal complaint is made alleging sexual harassment, the recipient shall do the following as it pertains to the investigation process:
 - Recipient's Burden. Ensure that the burden to investigate the allegations and the burden to reach a determination (i.e., recipient investigating sexual harassment on behalf of complainant) rest solely with the recipient. Also, the recipient may not restrict the respondent or complainant from discussing the allegations or gathering/presenting relevant evidence.
 - Equal Opportunity. Provide the complainant(s) and respondent(s) an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.
 - Advisor Present. Provide both parties an equal opportunity to have others present during any grievance proceeding, including the opportunity to be accompanied by an advisor of their choice. However, the recipient may establish restrictions equally among both parties that limit how the advisor(s) may participate in any proceedings.

Grievance Process

Investigation of Formal Complaints

- Right to Inspect and Review. Prior to completion of the investigation report (below), the recipient must send each party (or the party's advisor) all evidence subject to inspection. Each party must be provided an equal opportunity to inspect and review relevant evidence obtained as part of the investigation, including the evidence upon which the recipient does not intend to rely on in reaching its determination regarding responsibility.
- Written Response(s). Upon both parties' receipt of the evidence subject to review, allow at least ten (10) days for the parties to submit a written response which the investigator must consider prior to the completion of the investigation report.
- Investigation Report. Create an investigation report that fairly and accurately summarizes relevant evidence and, at least ten (10) days prior to a determination of responsibility, send to each party and their advisor, the investigation report for their review and written response.

Considerations *Before* the Investigation

- Consider complaint dismissal—do the allegations contained within the complaint, if true, constitute sexual harassment?
- Consider emergency removal—is there a serious and imminent threat to the physical health or safety of any person?
- For sexual harassment allegations against a staff member, consider whether it would serve the complainant's interests (e.g., minimize hostile environment) to place the staff member on administrative leave.
- Ensure that the recipient carries the burden of proof and the burden of gathering evidence sufficient to make a decision.
 - Although the investigator can request information from the parties (interviews, emails, etc.), the interviewer cannot require that the parties gather evidence on their own behalf—this role is specifically left to the recipient.
 - The respondent shall be presumed not responsible for the allegations in the formal complaint until a determination of responsibility is made.

Selecting an Investigator

- Title IX Coordinators may, but are not required to, serve as the investigator for a formal Title IX complaint.
- At a minimum, the investigator must be trained in accordance with Title IX.
- Ensure that no actual or perceived conflicts of interest or bias exist against complainants and respondents generally, or the individual complainant(s) and respondent(s).
- Review policy—does it set out any additional criteria for who should be named the investigator?
- Is the investigator qualified based on the nature of the complaint allegations? Consider the following:
 - The legal complexities of the investigation;
 - The potential cost of the investigation;
 - The competency of the investigator, including their experience with past Title IX investigations;
 - The political aspects of who conducts the investigation; and
 - The potential of the investigator serving as a witness in a future proceeding (less likely, but important if a party appeals).

The Investigation

- The investigator must gather all relevant evidence.
 - Videos, text messages, emails, attendance records/timesheets, computer files, social media posts, surveillance records, phone logs, etc.
 - May not restrict either party's ability to gather and provide relevant evidence.
 - Provide equal opportunity to the parties to present inculpatory and exculpatory evidence.
- The investigator must consider all possible witnesses.
 - The order of witness interviews is important. Oftentimes, witness interviews provide leads on additional information to seek from other witnesses. It is advised to start general, then work toward more specific findings of fact.
 - Title IX does not require the investigator to interview character witnesses (i.e., those individuals that can "vouch" for the person's character).
- The investigator must provide notice to all witnesses before any interview or meeting.
 - Must include the date, time, location, the participants, and the purpose of the interview.
 - Must give notice that provides sufficient time for the witness to prepare for the interview.
 - The notice should also contain a statement that cooperation in the investigation is expected and that retaliation for their participation is prohibited, citing to the recipient's policies.

The Investigation

- The investigator must provide the parties with an opportunity to have an advisor.
 - Parent(s), attorney, advocate, etc.
 - May restrict the extent to how an advisor may participate in the proceeding, applied equally to all parties.
 - Additional, unique issues arise if the advisor is a law enforcement officer.
- For allegations of employee sexual harassment, consider Weingarten rights and Garrity Warning.
 - Weingarten rights refer to a unionized employee's right to have a union representative present where discipline or termination could be a result. The Wisconsin Employment Relations Commission interprets the applicability of Weingarten rights in statutory provisions for municipal employees under Wis. Stat. 111.70(2).
 - The Garrity Warning seeks to separate criminal admissions of guilt (i.e., admissions of illegal conduct in the law enforcement context) from other investigatory contexts, such as investigations into employee conduct. Keep in mind you cannot compel testimony or make negative inference based on refusal to participate in Title IX grievance process.

Tips for Effective Interviews

- Remind the interviewee of the purpose of the interview.
- Identify that you, as the investigator, are looking to make factual determinations, and will make conclusions only at the end of the grievance process.
- Ask open-ended questions—let the interviewee lead the narrative.
- Start with broad questions, then move to specific topics.
- Allow the interviewee to answer each question fully and in detail.
- Avoid leading, compound, or accusatory questions.
- In the investigation notes, indicate how the interviewee knows this information (e.g., gossip, rumors, conjecture, personal experience).
- Be careful not to disclose confidential student information to the extent such disclosure is unnecessary for the point of the investigation.
- Ask repetitive questions—this allows the interviewee to clarify their previous response or the investigator to identify inconsistencies.
- Complete the interview by asking the interviewee whether they have anything else they would like to share or that they think would be pertinent for the investigator to know.
- Take notes during the interviews.

Investigation Analysis

- Evaluate credibility. Whose testimony is most believable? Do you trust that the witness is telling the truth?
- Evaluate witness demeanor. Is the witness fidgeting, avoiding eye contact, stumbling over words, etc.?
- Analyze the consistency of:
 - The witness's testimony against itself;
 - The witness's testimony compared to the testimony of other witnesses; and
 - The witness's testimony compared to available physical evidence.
- Apply policy and handbook standards and expectations.
- Confer with other individuals involved with the investigation (except the decision maker).

Choosing a Decision Maker

- The decision maker **CANNOT** be the same person as the Title IX Coordinator or investigator.
- The decision maker may not have any conflicts of interest or bias against complainants and respondents generally, or the individuals who are the complainant or respondent.
- The decision maker must receive training in accordance with Title IX's training requirements.
- The recipient shall review its policies to determine if a specific individual serves as the decision maker.
- Furthermore, consider the following:
 - The legal complexities of the allegations and parties involved;
 - The competency of the decision maker candidates;
 - The political aspects of who shall serve as the decision maker;
 - The potential that the decision maker could serve as a witness in a future legal proceeding.

Considerations *Before* the Decision-Making Process

- The decision maker must presume that the respondent is not responsible for the conduct alleged in the formal complaint until a determination of responsibility is made.
 - For the decision maker, this is most important when reviewing the evidence gathered by the investigator.
- The decision maker must consider the standard of evidence chosen by the recipient to overcome the respondent's presumption of no responsibility.
- Receive and review all *relevant* evidence, including pertinent recipient policies.
 - Consider—did the investigator provide sufficient information for the decision maker to reliably determine responsibility? E.g., did the investigator interview all key witnesses?

The Decision

- The decision maker must issue a *written* decision regarding responsibility, using the recipient's chosen standard of proof and the decision must :
 - identify the allegations that may constitute sexual harassment.
 - contain a description of the procedural steps taken, including all notifications provided to the parties, interviews with the parties and witnesses, site visits, and methods used to gather evidence.
 - include a findings of fact section to support the decision.
 - include conclusions regarding the recipient's code of conduct applied to the specific set of facts.
 - contain a statement of, and rationale for, the result of each individual allegation, including a determination regarding responsibility.
 - any disciplinary sanctions imposed on the respondent, and whether additional remedies will be provided to the complainant specifically or incorporated in the recipient's programs/activities generally.
 - a statement regarding the recipient's procedures and bases for the aggrieved party to appeal.
- The decision shall be provided to both parties simultaneously.

Grievance Process

Appeal

- **A recipient must offer the aggrieved party a method to appeal 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 of responsibility (or dismissal) was made that could have affected the outcome of the matter; and
 - The Title IX Coordinator, investigator, or decisionmaker 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.
- **For ALL Appeals, the Recipient Must:**
 - Notify the other party in writing when an appeal is filed and implement the appeal procedures equally for both parties.
 - Ensure that the decision-maker for the appeal is NOT the same person as the Title IX Coordinator, the investigator, or the decision maker that reached the initial determination of responsibility or dismissal.
 - Ensure that the new decision maker is free of conflicts of interest or bias against respondents and complainants generally, or the individual parties to the complaint specifically.
 - Provide both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the initial decision.
 - Issue a written decision describing the results of the appeal and the rationale for the result.
 - Provide the written decision simultaneously to both parties.

Grievance Process

Informal Resolution

- General. Title IX's informal resolution process essentially allows both parties to reach a mutual agreement on measures to address the situation, oftentimes facilitated by the Title IX Coordinator or their designee.
- Requirements for Facilitation of Informal Resolution.
 - The complainant must file a formal complaint.
 - Each party must be notified of the following: the allegations; the requirements of the informal resolution process; the circumstances by which the parties may be precluded from further engaging in a formal complaint; and that at any point prior to a final agreement, either party may revoke consent for participation in the informal resolution process.
 - The recipient (by and through the Title IX Coordinator) shall obtain each parties' voluntary, written consent to participate in the informal resolution process.
 - Each party must have the ability to revoke consent to participate in the informal resolution process at any time during the informal resolution process before a final agreement is made.
 - The recipient, as a condition of enrollment or participation in a program or activity, may NOT require participation in the informal resolution process for formal complaints of sexual harassment.
- **NOTE:** The informal resolution process is NOT available for allegations of employee-to-student sexual harassment.

Emergency Removal & Administrative Leave

- Emergency Removal. Emergency removal procedures allow for a recipient to remove the respondent from its education program or activity, including during the pendency of the grievance process. Emergency removal is only permitted if the recipient:
 - Completes an individualized safety and risk analysis;
 - Determines that a serious and imminent threat to the physical health or safety of a complainant or any students, employees, or other persons justified removal; and,
 - Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- Emergency Removal and Suspension/Expulsion. If a recipient is seeking expulsion of a respondent based on a determination of responsibility under the recipient's Title IX grievance process, the recipient needs to comply with the requirements of Wisconsin state law *and* Title IX's emergency removal procedures above
- Students with IEPs or 504 Plans. Emergency Removal under Title IX does not modify any rights under the IDEA or Section 504.
- Administrative Leave. This provision applies to respondents employed by the recipient (e.g., teacher, principal, aid) and allows the recipient to place an employee on administrative leave, but only during the pendency of the grievance process.

Training Requirements

- Each Title IX Coordinator, investigator, decisionmaker, and/or person designed to facilitate an informal resolution process must receive training on the following:
 - The definition of sexual harassment under 34 C.F.R. § 106.30.
 - The scope of the recipient's education programs/activities.
 - How to conduct investigations and the comply with the recipient's grievance process, including hearings, appeals, and the informal resolution process, as applicable.
 - How to serve impartially, including avoiding prejudgment of facts, conflicts of interest, and bias.
- Each investigator must receive training on issues of evidentiary "relevance" in connection with the investigator's duty to create an investigation report that fairly summarizes relevant evidence.
- Decision-makers must receive training on issues of relevance and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant (with narrow exceptions).
- The materials used to train the individuals listed herein shall not rely on sex stereotypes and shall promote impartial investigations and adjudications of formal complaints of sexual harassment.
- The recipient must maintain all training materials for at least seven (7) years and shall make such materials publicly available on its website.

Thank you.
