



TITLE IX 2024 REGULATIONS

District 30 Administrative Team

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EXPANDED SCOPE OF TITLE IX



2020 Regulations sex discrimination prohibitions:

Sexual harassment, including quid pro quo harassment, hostile environment sexual harassment, Clery Act sexual assault, Domestic Violence and Stalking.

2024 Regulations expand prohibitions of sex discrimination to also include:

- Sex Discrimination based on sex stereotypes, sexual orientation and gender identity, pregnancy or related conditions.
- Sex-based Harassment, which includes sexual harassment under the 2020 regulations, but also any type of harassment on the basis of sex, including harassment based on sex stereotypes, sex characteristics, sexual orientation and gender identity.

EXPANDED SCOPE OF TITLE IX

District's Education Program or Activity

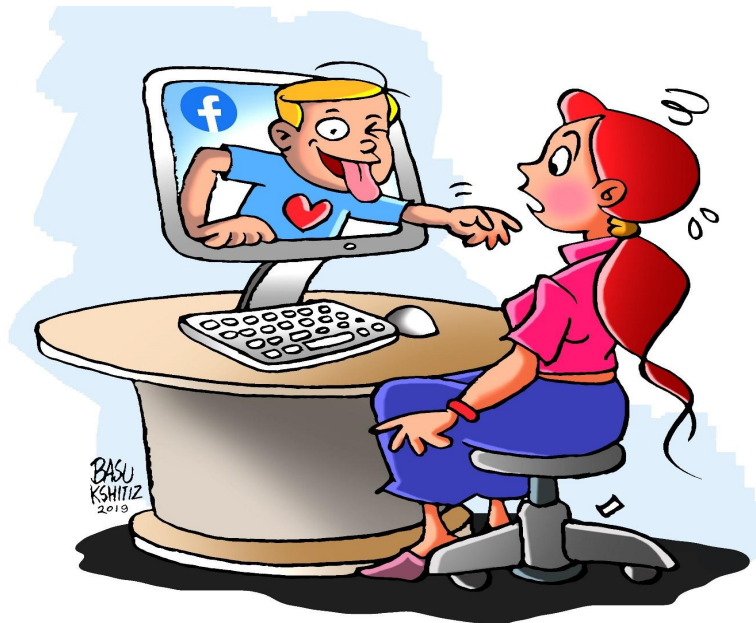
- Conduct that occurs under the district's educational program or activity
- Conduct that is subject to the district's disciplinary authority
- **District must now address sex-based harassment even if it:**
 - Occurs outside the district's educational program or activity
 - Occurs outside the United States



EXPANDED SCOPE OF TITLE IX

Regulations Commentary: Online Harassment

- If the District has knowledge of sex-based harassment among students that took place online and created a hostile environment in the District's education program or activity, the District has an obligation to address it.
- This applies to unwelcome conduct that occurs during remote learning, on school technology and on the school's website.
- Citing *Mahanoy*, the US DOE states that the district has an obligation to address speech that occurs outside of school-related activities that is severe harassment targeting particular individuals at the school.



EXPANDED SCOPE OF TITLE IX

Response to Sex Discrimination

A district with **knowledge of conduct that reasonably may constitute sex discrimination** in its educational program or activity **must respond promptly and effectively.**

- 2024 regulations delete the definition of “actual knowledge”
- 2024 regulations delete reference to “deliberate indifference”

The district also must initiate grievance procedures if it receives a complaint alleging retaliation.

Additionally, the district must address sex discrimination in its program or activity.





DEFINITIONS

2024 TITLE IX DEFINITIONS

Complainant: Student, employee or other person who is alleged to have been subjected to sex discrimination under Title IX who was participating or attempting to participate in the school's education program or activity at the time of the alleged sex discrimination.

Complaint: **Oral or Written** request to the school that can objectively be understood as a request for the school to investigate and make a determination about alleged Title IX discrimination.



TYPES OF PROHIBITED SEX DISCRIMINATION

1. Sex Based Harassment includes:

- Quid Pro Quo Harassment
- Hostile Environment Harassment
- Sexual assault under FBI uniform crime reporting system
- Dating violence
- Domestic Violence

2. Sex Discrimination

- Based on sex stereotypes
- Based on sex characteristics
- Based on sexual orientation
- Based on gender identity
- Based on pregnancy or related conditions



SEX BASED HARASSMENT: QUID PRO QUO

An employee, agent or other person authorized by the school to provide an aid, benefit or service under the school's education program or activity explicitly or impliedly conditions the aid, benefit or service on a person's participation in unwelcome sexual conduct.



SEX BASED HARASSMENT: HOSTILE ENVIRONMENT HARASSMENT

Unwelcome sex-based conduct that, **based on the totality of the circumstances**, is **subjectively and objectively offensive** and is **so severe or pervasive** that it limits or denies a person's ability to participate in or benefit from the school's education program or activity.

This is a fact specific inquiry.



SEX BASED HARASSMENT: HOSTILE ENVIRONMENT HARASSMENT

Fact specific inquiry:

- Degree to which the conduct affected the complainant's ability to access the school's education program or activity
- Type, frequency and duration of the conduct
- The parties' ages, roles within the school, previous interactions and other relevant factors about each party
- Location of conduct and context in which it occurred; and
- Other sex-based harassment in the school's program or activity



Regulations Commentary: Sex Based Harassment

- Must be discriminatory conduct
- Must be sex based
- Must be unwelcome (US DOE declined to provide a definition of consent and leaves this determination to the school)
- Impact must be far greater than bothersome or merely offensive
- Severity or pervasiveness is linked to person's access to an education program or activity



DIFFERENT TREATMENT BASED ON SEX

- District cannot separate or treat people differently on the basis of sex in a manner that subjects a person to more than *de minimis* harm.
- Adopting a policy or practice that prevents a person from participation in an education program or activity consistent with the person's gender identity subjects the person to more than *de minimis* harm on the basis of sex.



MORE TITLE IX DEFINITIONS

- **Disciplinary sanctions:** Consequences imposed on respondent following a determination under Title IX that the respondent violated the district's prohibition on sex discrimination.
- **Remedies:** Measures provided to a complainant or any other person the district identifies as having had their equal access to the district's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the district's program or activity after the district determines that sex discrimination occurred. These should be individualized and are highly fact specific.



MORE TITLE IX DEFINITIONS

Examples of Remedies in Commentary to Regulations:

- Escort
- Changes to class schedules to separate complainant and respondent
- Changes to extracurricular activities to separate complainant and respondent
- Providing counseling
- Providing academic supports
- Reviewing disciplinary actions against complainant to determine if there is a causal connection between the sex-based harassment and misconduct
- Reimbursement for counseling services
- Allow student to park in teacher's lot





NOTICE OF NONDISCRIMINATION

REQUIRED NONDISCRIMINATION POLICY

District must adopt, publish and implement a policy stating:

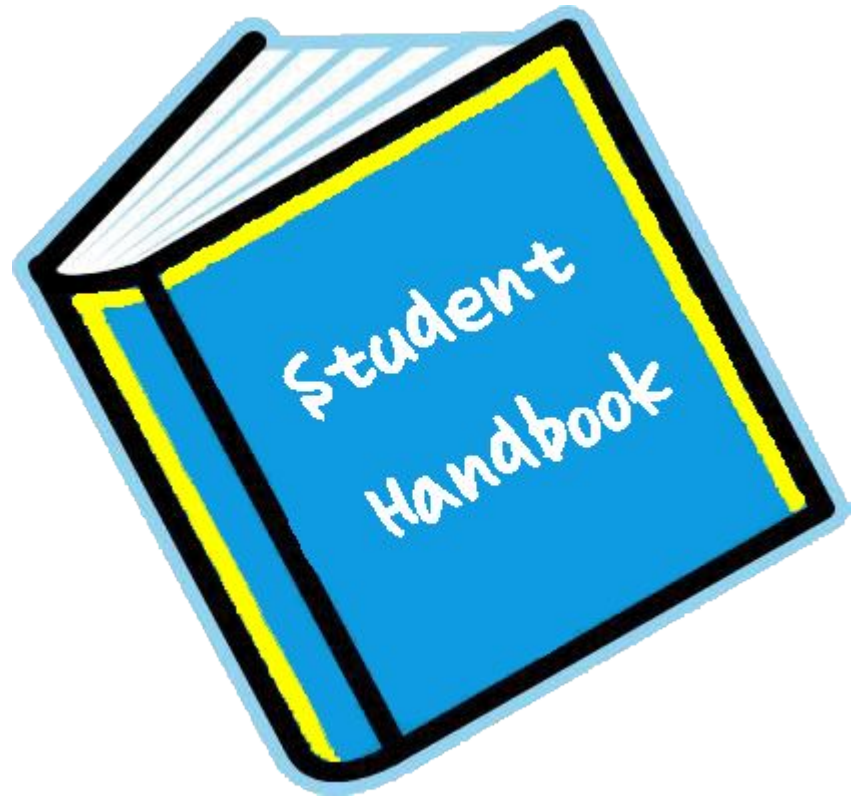
- District does not discriminate on the basis of sex.
- District prohibits sex discrimination in any education program or activity that it operates.



NOTICE OF NONDISCRIMINATION POLICY

District must provide notice of its nondiscrimination policy to:

- Students
- Parents, guardians and other authorized legal representatives of students
- Employees
- Applicants for employment
- Unions



REQUIRED CONTENTS OF NONDISCRIMINATION POLICY

- District does not discriminate on basis of sex and prohibits sex discrimination in any education program or activity that it operates.
- Inquiries about Title IX may be referred to the District's Title IX Coordinator, the Office for Civil Rights (OCR), or both.
- Name or title, office address, email address and phone number of District's Title IX Coordinator
- How to locate the District's nondiscrimination policy
- How to report information about conduct that may constitute sex discrimination and how to make a complaint of sex discrimination.



PUBLICATION OF NONDISCRIMINATION POLICY

- District must prominently include notice of nondiscrimination policy on its website and in each handbook, catalog, announcement, bulletin and application form that is made available to persons to whom notice is required and in connection with recruitment of employees.
- If the format or size of a particular print publication prevents inclusion of the entire notice of nondiscrimination, the district may include a statement that it prohibits sex discrimination in any education program or activity that it operates and that individuals may report questions or concerns to the Title IX Coordinator. The statement should also provide the location of the notice of nondiscrimination on the district's website.





TITLE IX COORDINATOR

DESIGNATION OF TITLE IX COORDINATOR

- District must designate one or more Coordinators; if more than one is appointed, one of the Coordinators must be designated ultimate oversight over the District's Title IX compliance.
- Coordinator may delegate specific duties.



RESPONSIBILITIES OF TITLE IX COORDINATOR

- Oversee Title IX grievance procedure, training and recordkeeping
- Determine and monitor supportive measures
- Monitor remedies
- Monitor district's program for barriers to reporting conduct that reasonably may constitute Title IX sex discrimination and take steps reasonably calculated to address such barriers, including barriers that students with disabilities may encounter.



RESPONSIBILITIES OF TITLE IX COORDINATOR: RESPONSE TO SEX DISCRIMINATION

- When notified of conduct that reasonably may constitute sex discrimination, must promptly and effectively end any sex discrimination in district's program or activity, prevent recurrence and remedy its effects.
- Treat complainant and respondent equitably
- Offer and coordinate supportive measures
- Notify complainant (or if complainant unknown, the person reporting the conduct) of grievance process and informal resolution (if offered).



MORE RESPONSIBILITIES OF TITLE IX COORDINATOR: RESPONSE TO SEX DISCRIMINATION

- Initiate grievance process if complaint is received
- If no complaint filed, or if complaint is withdrawn, determine whether to initiate complaint
- Regardless of whether a complaint is filed, take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur
- Responsive steps do not apply if Coordinator reasonably determines that conduct alleged could not constitute Title IX sex discrimination.



DEFINITION OF SUPPORTIVE MEASURES

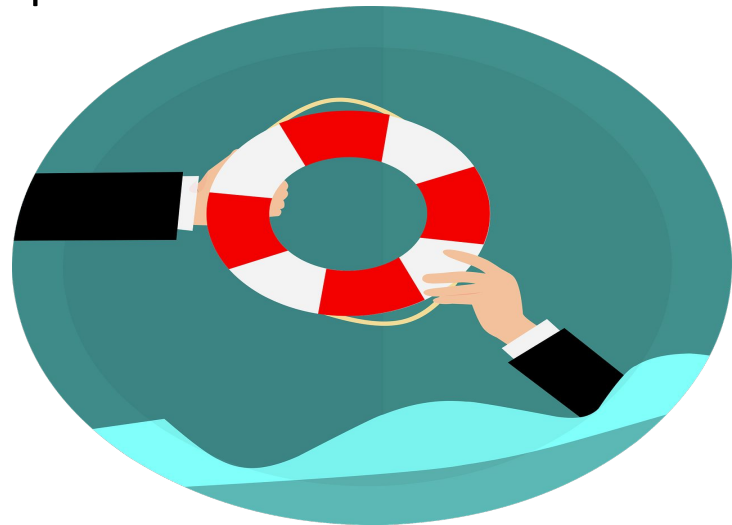
Supportive measures are individualized measures that are appropriate and reasonably available:

- Do not unreasonably burden a complainant or respondent and not for punitive or disciplinary reasons
- Free of charge to complainant or respondent
- Confidential except to extent disclosure is necessary to provide the supportive measure
- Purpose of preserving party's access to the school's educational program or activity, including measures designed to protect the safety of the parties or the school's educational environment
- May also have the purpose of providing support during the grievance process or informal resolution



GUIDELINES FOR SUPPORTIVE MEASURES

- Supportive Measures may vary depending on what the school believes to be reasonably available.
- Examples set forth in regulations and commentary: counseling, extension of deadlines, other course related adjustments, allowing retake of test; escort services, changes related to transportation; increased supervision, restrictions on contact, changes in classes, extracurriculars or other activities, access to social worker, leaves of absence, training and education programs related to sex-based harassment, educational conversations with student.
- As appropriate, district may modify, continue or terminate supportive measures at the end of the grievance process or informal resolution.



MORE GUIDELINES FOR SUPPORTIVE MEASURES

- District must provide complainant or respondent a timely opportunity to seek modification or reversal of determination to provide, deny, modify or terminate supportive measures that apply to that party.
- Title IX Coordinator must confer with one or more members of IDEA or 504 team of student with a disability in implementation of supportive measures.
- District is not required to alter the alleged discriminatory conduct if the conduct is not sex-based harassment or retaliation.



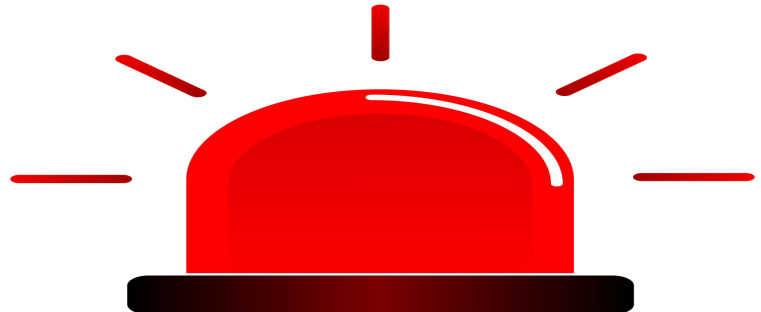
BROADENING OF EMERGENCY REMOVAL AS SUPPORTIVE MEASURE

The regulations continue to provide for emergency removal of a student in response to an allegation of Title IX sex discrimination:

- The District must perform an individualized safety and risk analysis and determine that there is an **imminent and serious threat to the health and safety** of a complainant or any students, employees or other persons arising from the allegations.
- Must provide student notice and an opportunity to challenge removal.
- Student rights under IDEA and Section 504 apply.

Change in language to delete physical safety—may be mental health safety

Revises language from immediate threat to imminent and serious





GRIEVANCE PROCESS

TITLE IX COMPLAINT

Complaint: **ORAL or WRITTEN** request to the school that can objectively be understood as a request for the school to investigate and make a determination about alleged Title IX discrimination.



WHO CAN FILE A TITLE IX COMPLAINT?

Who is entitled to file a Complaint of Sex-Based Harassment:

- Complainant
- Parent, Guardian or authorized legal representative of Complainant
- Title IX Coordinator

Who is entitled to file a Complaint of Sex-Based Discrimination (other than harassment):

- Anyone entitled to file a Complaint of Sex-based Harassment
- Any student or employee
- Any other person who was participating or attempting to participate in the district's education program or activity (e.g., parents, volunteers)



WHO CAN FILE A TITLE IX COMPLAINT?

Who Qualifies as a Parent for a person who is under 18 or who is 18 or older but is incapable of self care due to a physical or mental disability: biological, adoptive or foster parent, stepparent, legal guardian, someone in loco parentis or someone actively seeking legal custody, guardianship, visitation or adoption.

Exercise of Rights by Parents, Guardians and Legal Representatives: Nothing in Title IX should be interpreted to preclude a parent, guardian or other authorized legal representative from acting on behalf of a complainant, respondent or other person in making a complaint or in the grievance process.

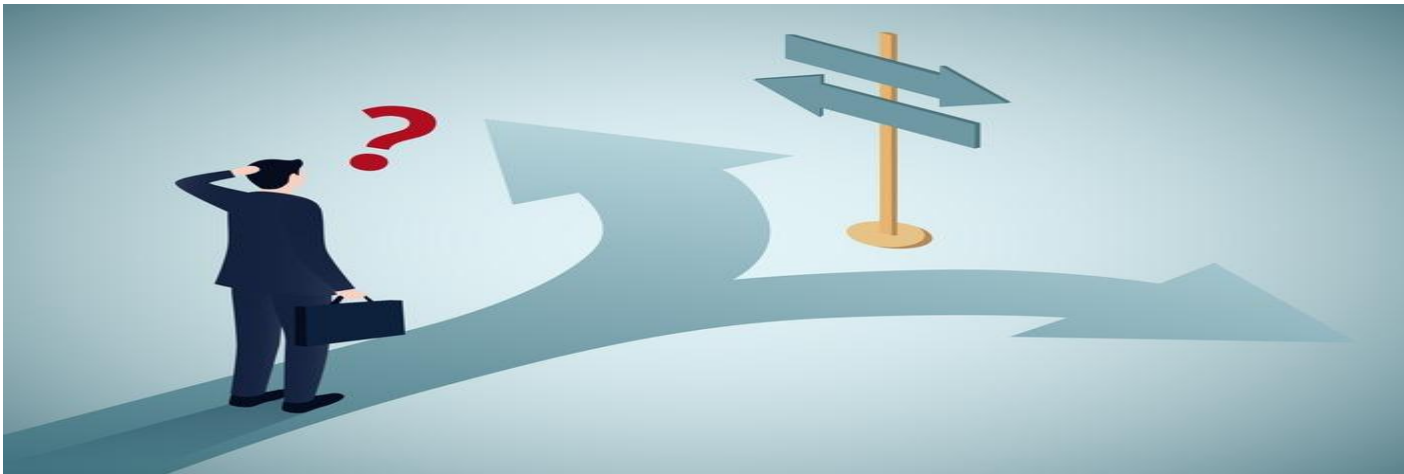
Authorized Legal Representative: not defined; may be determined from state law, court orders, child custody arrangements.



TITLE IX COORDINATOR'S INITIATION OF COMPLAINT

Title IX Coordinator should make a fact-specific decision whether to initiate the Title IX Grievance Procedure, considering, at a minimum the following:

- Complainant's request not to proceed with a Complaint
- Complainant's reasonable safety concerns in initiating a Complaint
- Risk that additional acts of sex discrimination will occur
- Severity of the alleged sex discrimination, including whether the discrimination would require removal of the respondent or other disciplinary sanctions to end the discrimination or prevent reoccurrence.



TITLE IX COORDINATOR'S INITIATION OF COMPLAINT- MORE CONSIDERATIONS

Title IX Coordinator should make a fact-specific decision whether to initiate the Title IX Grievance Procedure, considering, at a minimum the following:

- Age and relationship of the parties, including whether respondent is an employee
- Scope of the alleged sex discrimination, whether it is ongoing, and number of individuals affected
- Availability of evidence
- Whether district could end the alleged sex discrimination and prevent reoccurrence without initiating the grievance process



TITLE IX COORDINATOR'S INITIATION OF COMPLAINT

- Title IX Coordinator may initiate a Complaint if Coordinator determines that:
 - the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or another person.
 - the alleged conduct prevents the school from ensuring equal access on the basis of sex to its educational program or activity.
- If Title IX Coordinator initiates a Complaint, the Coordinator must notify the complainant before doing so and must appropriately address reasonable safety concerns, including provision of supportive measures.
- Regardless of whether Title IX Coordinator initiates Complaint, the Coordinator must take other appropriate, prompt and effective steps to ensure that sex discrimination does not continue or recur.



TITLE IX COORDINATOR'S DISMISSAL OF COMPLAINT

- Title IX Coordinator can no longer dismiss complaint because alleged conduct occurred outside of the United States.
- Regulations no longer provide situations where dismissal is mandatory.
- Coordinator MAY dismiss complaint if:
 - Unable to find the respondent after taking reasonable steps to do so
 - Respondent is not participating in district's program or activity and is not an employee.
 - Complainant withdraws any or all allegations in the complaint, Coordinator does not initiate a complaint, and any remaining allegations would not constitute Title IX sex discrimination if proven.
 - District determines, after making reasonable efforts to clarify the allegations, that the conduct alleged in the complaint, if proven, would not constitute Title IX discrimination.



ADDITIONAL REQUIREMENTS FOR GRIEVANCE PROCEDURES

- The 2024 Regulations require districts to establish prompt timeframes for the major stages of the grievance process (evaluation of complaint, investigation, determination, appeal).
- Include a process for the reasonable extension of timelines on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay.
- District must take reasonable steps to protect the privacy of parties and witnesses as long as these steps do not restrict the parties' ability to obtain and present evidence, consult with family members or advisors or otherwise participate in the grievance process.



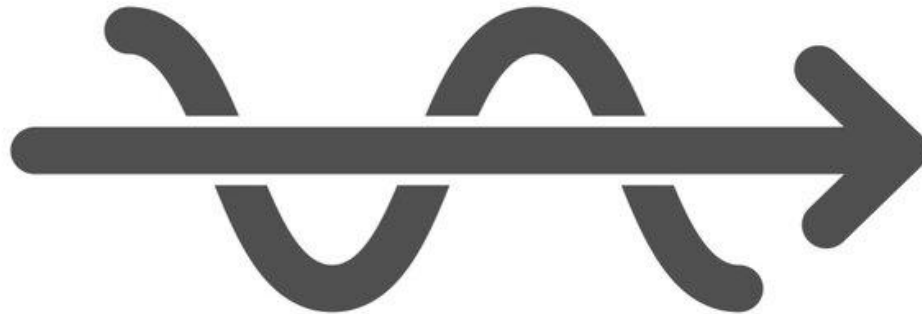
ADDITIONAL REQUIREMENTS FOR GRIEVANCE PROCEDURES

- The district must use the **preponderance of evidence standard** unless the district uses the clear and convincing standard of proof in all comparable proceedings. Commentary provides that a different standard may be used for students than for employees.
- Regulations no longer state the bases for appeal; must use reasons for appeal that are comparable to comparable proceedings in district.



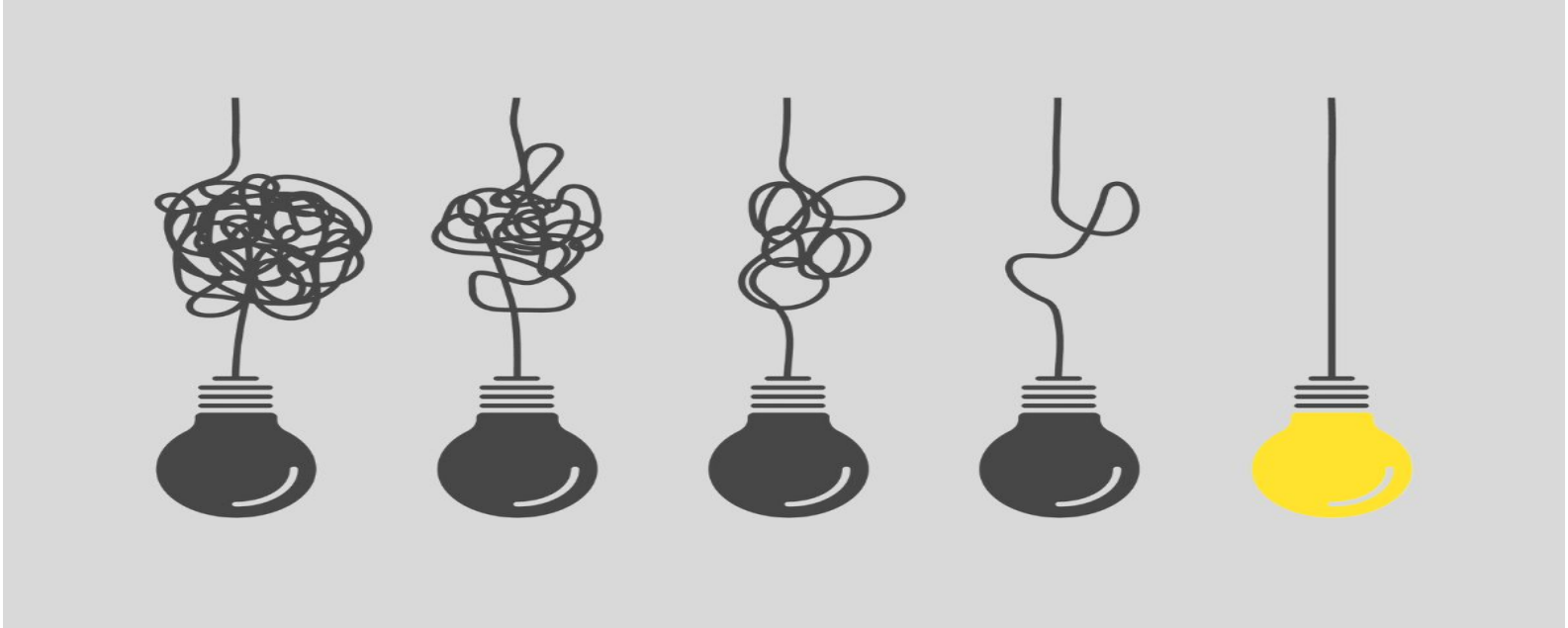
STREAMLINING THE GRIEVANCE PROCESS

- Districts may use a **single investigator model**: The decisionmaker may be the same person as the Title IX Coordinator or investigator. District must provide notice in grievance procedures of when this will apply.
- Although both parties must have an opportunity to review relevant evidence, the regulations **eliminate the requirement to give the parties 10 days to review and respond to evidence** before the investigator writes his or her report.



STREAMLINING THE GRIEVANCE PROCESS

- Written Determination of Responsibility need only contain the **determination** of whether sex discrimination occurred, the **rationale** for such determination and the **procedure and bases for appeal**.
- District may offer informal resolution when it believes it is appropriate; no longer includes requirement that a complaint is filed.
- 2024 regulations also eliminate the requirement that parties are allowed to have an advisor present during the grievance process.



NEW CONFIDENTIALITY REGULATION

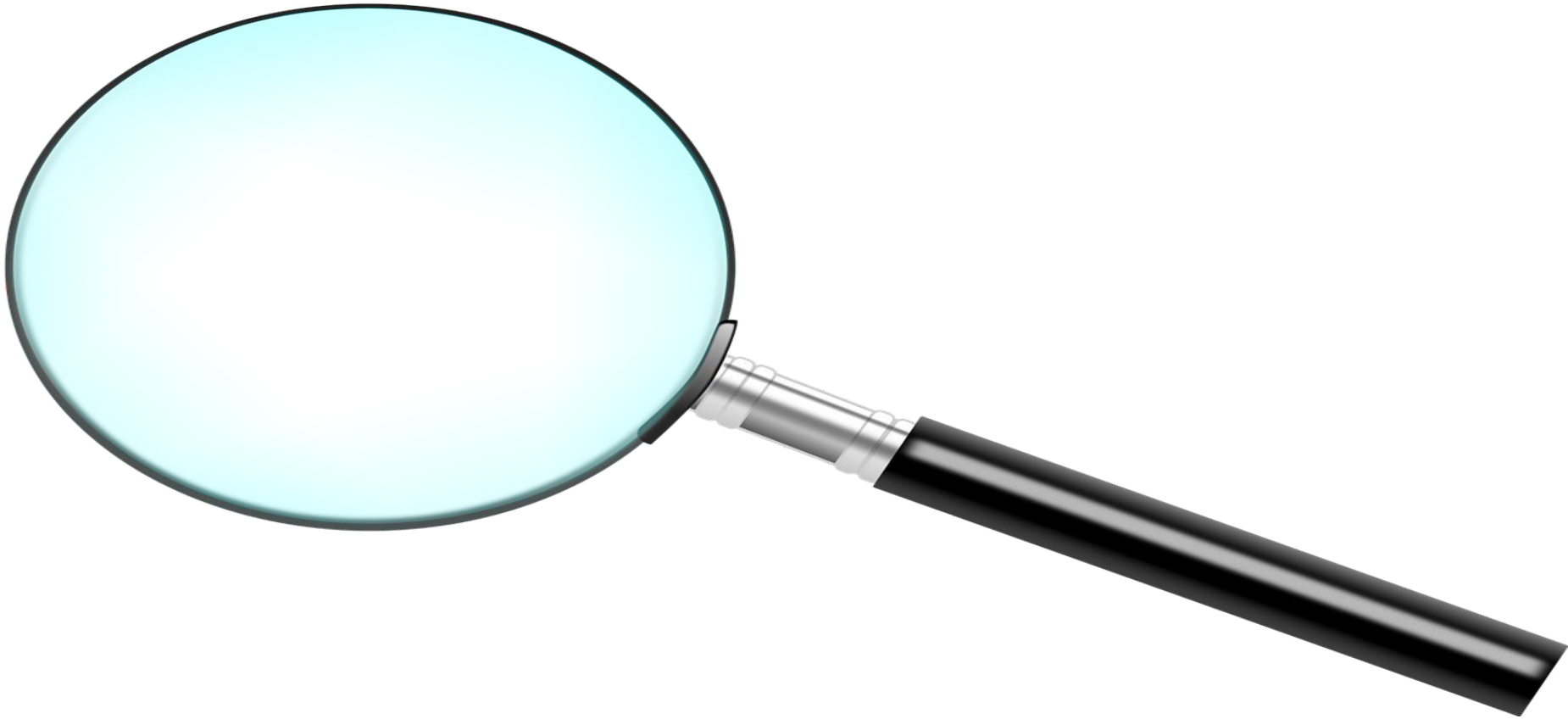
A district cannot disclose personally identifiable information obtained in the course of the Title IX process unless:

- The district has obtained prior written consent from a person with the legal right to consent to the disclosure;
- The information is disclosed to a parent, guardian or other legal representative authorized to receive disclosure on behalf of the person whose PII is at issue;
- Disclosure is necessary to carry out Title IX (*e.g.*, supportive measures);
- Disclosure is required by federal or state law; or
- Disclosure is permitted under FERPA.



NEW REGULATION ON OCR REVIEW

OCR will not find a district to be in violation of Title IX solely because OCR would have reached a different conclusion when independently weighing the evidence obtained in the Title IX grievance process.





STUDENTS WITH DISABILITIES

NEW PROVISIONS CONCERNING STUDENTS WITH DISABILITIES

Student with a disability: Student who has a disability as defined in IDEA or Section 504 of the Rehabilitation Act of 1973.

Coordination with member(s) of IEP or 504 team: If the complainant or respondent is a student with a disability, the Title IX Coordinator must consult with one or more members of the student's IEP or 504 team to determine how to comply with IDEA or Section 504 in:

- Implementing the grievance process
- Implementing supportive measures



EMERGENCY REMOVALS OF STUDENTS WITH DISABILITIES

- If a student with a disability is subject to an emergency removal such that the student will be out of school for more than ten school days during the school year, the emergency removal will be a change of placement and will require the IEP or 504 team to conduct a Manifestation Determination Review (MDR).
- The MDR must be held within ten school days of the emergency removal.
- If the threat posed is a manifestation of the student's disability, the student may not be removed.



IMPORTANT NOTE: STUDENT DISCIPLINE v. TITLE IX

Student Discipline:

- District may immediately remove student for up to ten-day suspension and/or recommend expulsion.
- District has discretion in responding to allegations.
- For student with a disability, IDEA and Section 504 protections apply (e.g., manifestation determination when student removed for more than 10 days).



IMPORTANT NOTE: STUDENT DISCIPLINE v. TITLE IX

Title IX:

- No removal of student, except for emergency removal
- No disciplinary or punitive consequences can be imposed until decisionmaker issues Determination of Responsibility against Respondent
- District must respond to allegation of sex discrimination or sex-based harassment
- For student with disability, requires consultation with one or more members of IEP or 504 team
- For student with a disability, IDEA and Section 504 protections apply (e.g., manifestation determination when student removed for more than 10 days)





REQUIREMENTS FOR CONFIDENTIAL EMPLOYEES AND OTHER EMPLOYEES

CONFIDENTIAL v. ALL OTHER EMPLOYEES

The 2024 regulations distinguish the responsibilities of confidential employees from other employees to balance the need for the district to learn about and respond to sex discrimination with the importance of ensuring that individuals can access confidential services without prompting a report to the Title IX Coordinator.



CONFIDENTIAL EMPLOYEES

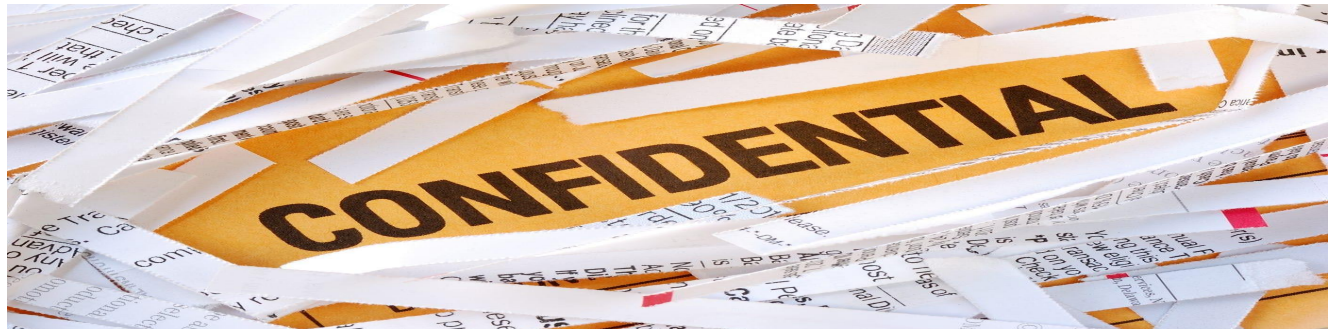
Definition of Confidential Employee:

- District employee whose communications are privileged or confidential under federal or State law. This employee's confidential status is with respect to information received while functioning within the scope of their confidential duties.
- Employee who the district has designated as confidential under Title IX for the purpose of providing services to persons related to sex discrimination. The employee's confidential status is with respect to information received about sex discrimination in connection with providing these services.



REQUIREMENTS FOR CONFIDENTIAL EMPLOYEES

- District must notify all participants in its educational program or activity of how to contact confidential employees.
- Confidential employee must explain to anyone who informs him or her of conduct that reasonably may constitute Title IX sex discrimination:
 - Employee's status as confidential employee and that he or she is not required to notify the Title IX Coordinator of conduct that may reasonably constitute sex discrimination
 - How to contact Title IX coordinator and how to make a Title IX Complaint
 - That the Title IX Coordinator may be able to offer supportive measures, initiate informal resolution or an investigation under the grievance process.



REQUIREMENT FOR ALL OTHER EMPLOYEES

All administrators and all employees who are not confidential employees **must** notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute Title IX sex discrimination.





TRAINING REQUIREMENTS

TRAINING REQUIREMENTS FOR ALL EMPLOYEES

ALL EMPLOYEES must be trained on:

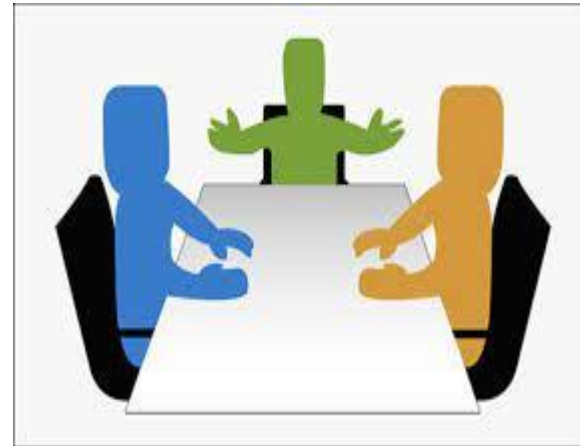
- The District's obligation to address sex discrimination in its education program or activity
- The scope of conduct that constitutes Title IX sex discrimination, including the definition of sex-based harassment
- Requirement to notify Title IX Coordinator when the employee has information about conduct that reasonably may constitute Title IX sex discrimination
- Title IX notice and information requirements

Training must occur promptly upon hiring the employee or upon a change in position that alters the employee's duties under Title IX.



TRAINING REQUIREMENTS FOR INVESTIGATORS, DECISIONMAKERS AND PERSONS WITH AUTHORITY TO MODIFY OR TERMINATE SUPPORTIVE MEASURES

- The District's obligation to respond to sex discrimination in its education program or activity
- Grievance procedures
- Avoiding Impartiality, Prejudgment, Conflict of Interest and Bias
- What is relevant evidence and types of evidence that are impermissible.



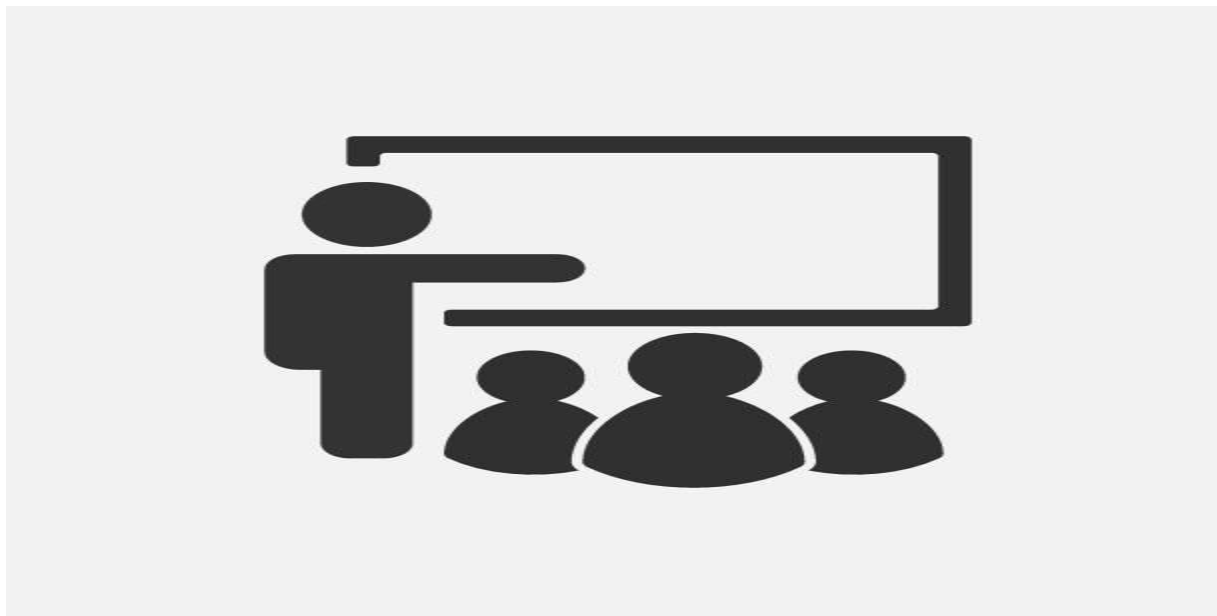
TRAINING REQUIREMENTS FOR FACILITATORS OF INFORMAL RESOLUTION

- Training required of all employees
- The District's rules and practices for informal resolution
- Avoiding Impartiality, Conflict of Interest and Bias



TRAINING REQUIREMENTS FOR TITLE IX COORDINATORS AND DESIGNEES

- Specific responsibilities of Coordinators and designees
- Title IX recordkeeping responsibilities
- Avoiding Impartiality, Conflict of Interest and Bias
- Any other training needed to coordinate the district's Title IX compliance





QUESTIONS