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Idaho K-12 Title IX PLC #4

Informal Resolution

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Informal Resolution Procedure

- Sexual Harassment reported
- Formal complaint
- Notice of allegations
- Informal Resolution Process
- Agreement in Writing
- …or not
- Notice of Outcome

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Roles in Title IX Informal Resolution

- Complainant
- Respondent
- Parent/Guardian
- Advisor
- Informal Resolution Facilitator
- Title IX Coordinator
    - Can be the same person
      NOT advised

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Title IX - Federal Law

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

- Enforced by the Office for Civil Rights (OCR)

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Scope of Title IX

1. Programs or activities
   a. Any property owned.
   b. Any event organized.
   c. "locations, events, or circumstances over which [the school/district] **exercised substantial control over both the respondent and the context in which the sexual harassment occurs** . . ."
   d. Social Media?
      i. Was it posted while at school?
      ii. Shared at school?

2. Outside events:
   a. Allowed to have a separate policy that applies to events that happen outside school programs and activities.

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Sexual Harassment Defined

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

1. Quid pro quo

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

3. "Sexual Assault," "Dating Violence," "Domestic Violence" or "Stalking" as defined in the Clery Act.

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Informal Resolution Scope

Allowed:

- Any time after complaint, before final decision
- Withdraw from informal resolution process at any time
- Must agree to all terms

Not Allowed:

- Informally resolve complaint for student against staff person
- Informally resolve without formal complaint

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Who?

Informal Resolution Facilitator cannot be the Investigator, Decision Maker or a Witness.

It can be the Title IX Coordinator, but be cautious

- Avoid pressure
- Avoid inevitability

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Written Consent Required

- Both Parties
- Title IX Coordinator
  - Why not?
  - Repeat claims
  - Multiple parties
  - Serious offense

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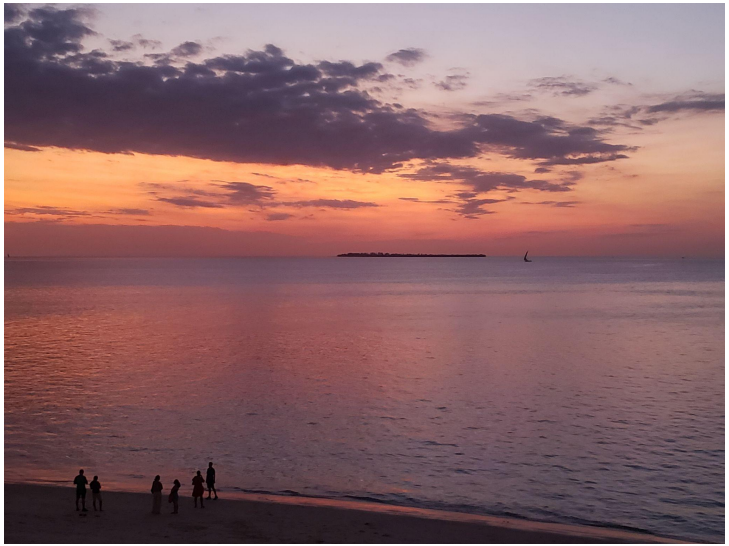
Notice

- After consent
- Include
  - Allegations
  - Overview of process
  - Right to withdraw
  - What will happen with the records
    - Negotiations and admissions are confidential
    - Results may not be
  - Consensus



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Potential Tools

- Formal Mediation
  - Set a day, all present, different rooms, work out a deal.
- Shuttle Negotiation
  - Work with each side independently
  - Act as go between
  - Propose solutions
- Offer and Response
  - Once side proposes solution
  - Other side may respond
  - Work to an agreement
- Do not force the complainant to face the respondent in person.
  - Unless requested by the complainant.

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How to Facilitate

- Listen
- Empathize
- Communicate clear expectations
  - For facilitator
  - For parties
  - For evidence
- Define goals/objectives
- Document the process
- Create a clear understanding with each party on what you will share with the other side.
- Stay flexible
  - The solution may be creative.
- Remain neutral
  - You are a "go between" or “middle person” not an advocate.

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Conflicts of Interest and Bias

Explicit bias: prior dealings?

Implicit bias: it's real.

Conflict of Interest:

- Appearance of impropriety
- Coach, Teacher, future contact.

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Be Patient

- Discussion between parties/parents/guardian in writing.
  - Follow up conversations with emails so there is a written record.
- Set deadlines
- Sometimes it's just an apology.
- Sometimes it's just being heard.

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Trauma Informed

- Find common ground
- Start broad
  - Tell me what happened
- You are not a fact finder
- Empathize
- Stereotypes are True
- Offer supports
  - Counselling
  - Safe person at school

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Potential Terms

- Voluntarily unenroll
- Transfer schools
- No Contact Orders
- No classes together
- Non disparagement agreement
- Counselling
- Education
- Restorative Practices

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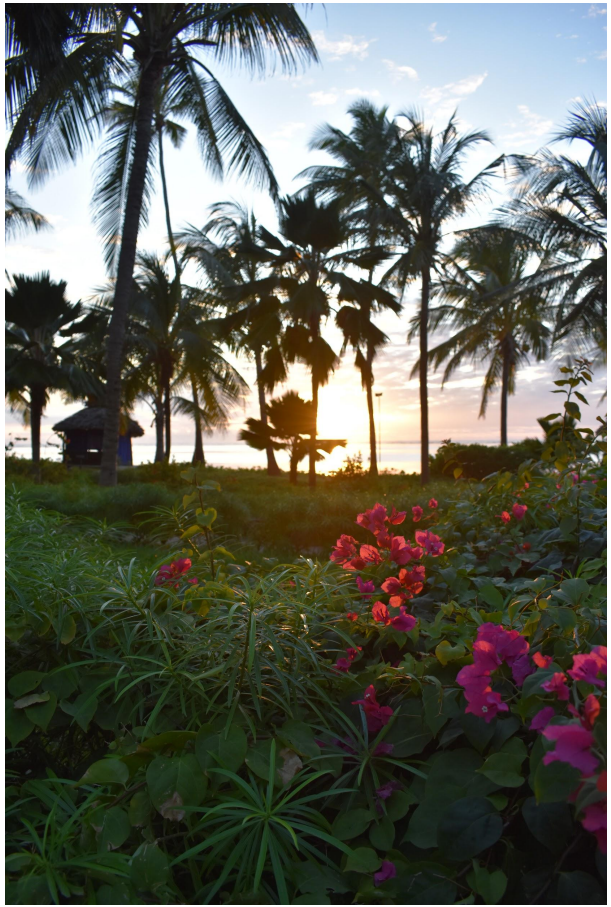
No agreement

- Requested by either party
- Any time prior to agreement
- No explanation necessary
- What records can be used in formal process when transitioning back?
    - None.
- Written notice when resuming formal process



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Written Agreement

- Parties must agree in writing to the final outcome.
- Outline all terms, all expectations of behavior, include everything agreed upon.
- Define remedies for noncompliance.
- Title IX Coordinator has review power.

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Notice of Outcome

- Include signed agreement
  - Emails work.
- Expectations of parties
- Deadlines
- Follow up requirements
- How records will be maintained
  - Federal law: 7 years
  - Forever?
- Who to contact if questions

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Questions?

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Next Training:

Advisors - February 10, 2026