

Title IX Investigator Training

January 15, 2026



Title IX Training Series – January 2026



Jan
8

~~Title IX Coordinator~~

~~Thursday, January 8th 9AM – 12PM~~

Jan
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Title IX Investigator

Thursday, January 15th 9AM - 12PM

Jan
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Title IX Decision-Maker and Appeal Officer

Thursday, January 22nd 9AM - 12PM

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Title IX Informal Resolution Facilitator

Thursday, January 30th 9AM - 12PM



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Agenda



- 2025-26 Title IX Updates
- Title IX Law
- Title IX Sexual Harassment under 2020 Title IX Regulations
- Title IX Roles and Parties
- Title IX Investigator's Role and Responsibilities




Title IX Updates

Review of 2025

Looking forward to 2026

Return to 2020 Regulations



- ❖ Detailed process that addresses Title IX complaints of sexual harassment, as further defined in the regulations, ONLY
 - ❖ Does not provide required process for other Title IX complaints, such as sex discrimination
 - ❖ Does not address some of the areas that were expanded in the 2024 regulations, including pregnancy
 - ❖ Prohibitions against sex discrimination are not extended to discrimination/harassment based upon gender identity
- 



Title IX Law and Regulations

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 education program or activity receiving Federal financial assistance."

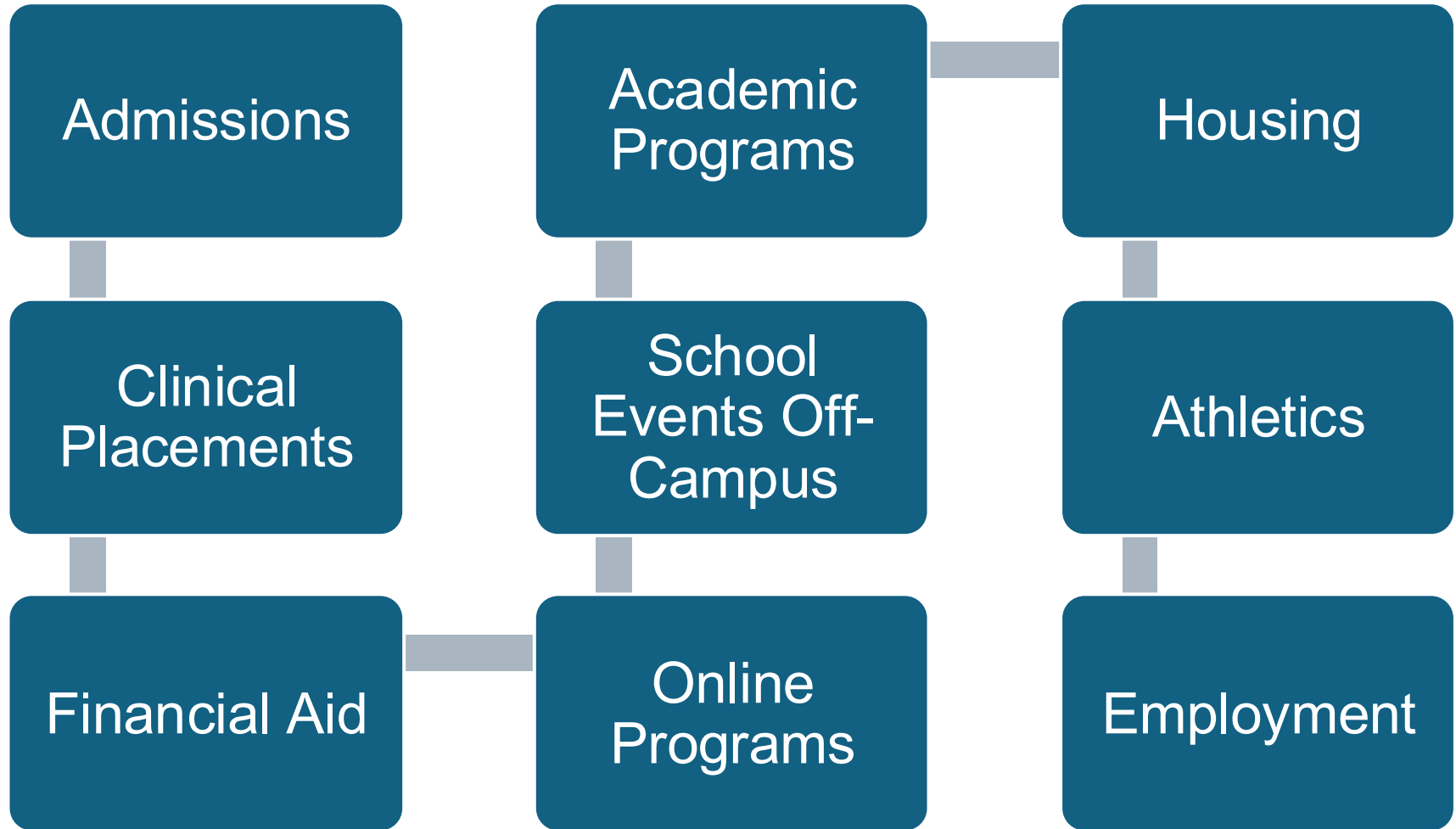
- Title IX of the Education Amendments of 1972

Enforced by the Office for Civil Rights (OCR)



Title IX

•Prohibits sex discrimination in educational programs and activities.



Title IX: Scope of the Education Program or Activity

Locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution.

Off-campus activities covered if one (1) of three (3) requirements are met:

1. The off-campus incident occurs as part of the school's operations;
2. The school exercised substantial control over the respondent and the context of alleged sexual harassment that occurred; or
3. *The incident of sexual harassment occurs at an off-campus building owned or controlled by a student organization officially recognized by a college.*

TIXGP: Jurisdiction Defined

Occurring in the institution's
education program or
activity

- includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred

Against a person in the
United States

Title IX and California Education Code Jurisdiction



Title IX – Sexual Harassment

- Occurring in the institution's education program or activity

CA Education Code – Sexual Harassment

- Any prohibited conduct that occurs off campus or outside of district-related or district-sponsored programs or activities will be regarded as sexual harassment in violation of district policy if it has a continuing effect on or creates a hostile school environment for the complainant or victim of the conduct.

Impact of Jurisdictional Differences



- Dismissal from Title IX does not automatically dismiss matters from CA Education Code
- CA Education Code has a more expansive jurisdiction and even off-campus behavior can require investigation
- Practically speaking, on-campus behavior after an off-campus event could result in applicable jurisdiction under Title IX and CA Education Code

Title IX Legal Obligation



Educational institutions must respond in a manner that is not **deliberately indifferent** when it has actual knowledge of sexual harassment occurring in the institution's education program or activity against a person in the United States.

Failure to respond to a complaint following the Title IX process could be evidence of deliberate indifference.

Reporting Obligations of K12 Employees



Non-Confidential Employees

All employees, except Confidential Employees, have an obligation to report to Title IX Coordinator upon notice about Title IX complaint

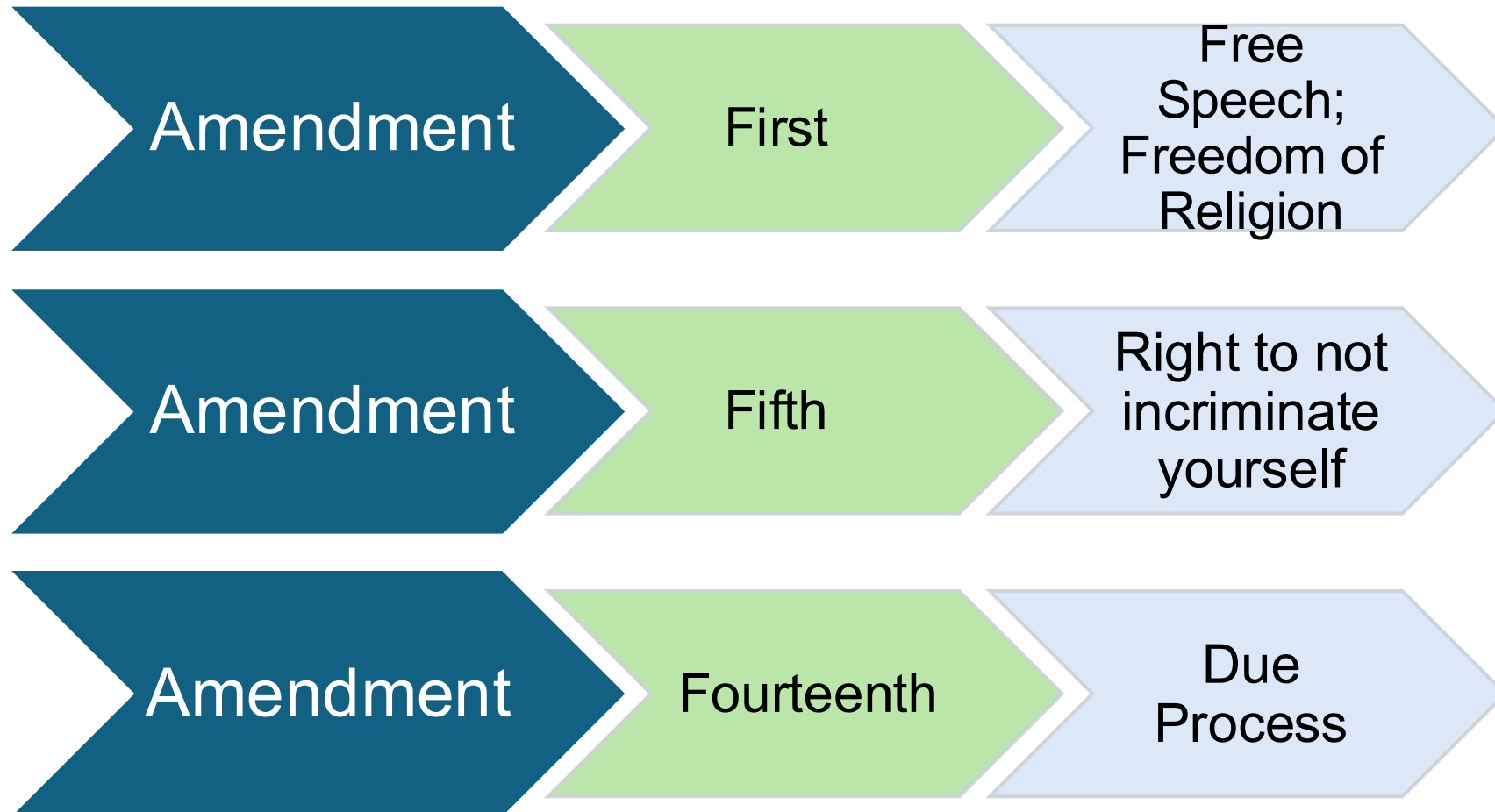
Confidential Employees

Mental Health professionals with a license

No duty to report to Title IX Coordinator

Title IX Enforcement and Federal Constitutional Protections

Title IX process may not limit or restrict constitutional protections

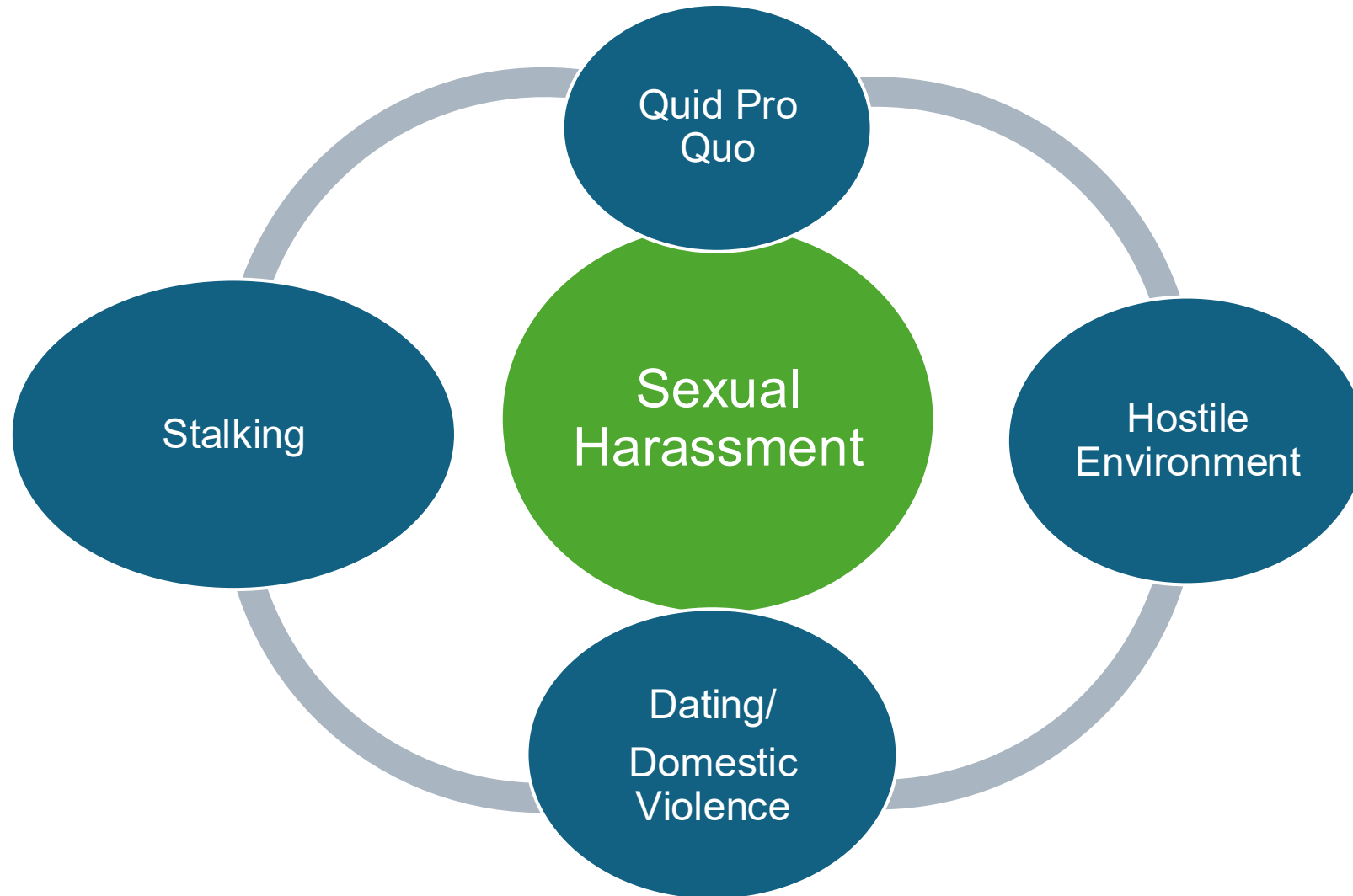




Title IX Sexual Harassment

Important Definitions

Title IX (TIX) Definition of Sexual Harassment



Quid Pro Quo Harassment



Defines conduct “on the basis of sex” and includes:

- Quid pro quo - An employee of the school conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct.

Hostile Environment Harassment



- Hostile environment - 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 school's education program or activity.

Key Definitional Distinction

Title IX - Hostile Environment

- 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 school's education program or activity.

CA Ed Code – Hostile Environment

- Sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, under any of the following conditions: (Education Code 212.5; 5 CCR 4916)
 - Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
 - The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.

Impact of this Distinction on Investigations



- Hostile environment matters rarely rise to the level of Title IX sexual harassment hostile environment and will be dismissed from Title IX.
- Many of the hostile environment claims will meet the threshold under CA Ed Code and violation will be found.
- **REMEMBER** – for any investigation, analysis must be done under both policies to determine potential violations.

Specific Acts



- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking



Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the FBI.

- Any sexual act directed against Complainant, forcibly, against Complainant's will, or without consent, including

- Rape

- Sodomy

- Sexual Assault with an object

- Criminal Sexual Contact (formerly

- Fondling)

- Offenses that do not involve force where the Complainant is incapable of giving consent, including statutory rape and incest.



2020 through Summer of 2025

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 their age or because of their temporary or permanent mental incapacity.

Fall 2025

Criminal Sexual Contact

- The intentional touching of the clothed or unclothed body parts OR
- The forced touching by the victim of the actor's clothed or unclothed body parts
- For the purpose of sexual degradation, sexual gratification, or sexual humiliation
- Without consent of the victim
- Including instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication.

Impact of New Definition



- Expanded definition means more matters will fall under Title IX
 - Students
 - Human Resources
- Fewer matters will be dismissed, and thus, will have to go through the Title IX investigation
- The dates of when incidents occurred must be examined closely to determine which definition applies
 - Statute of limitations under Title IX

Dating/Domestic Violence

Dating violence meaning violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship.

Domestic violence meaning felony or misdemeanor crimes committed by a person who:

- (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the school, or a person similarly situated to a spouse of the victim;
- (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- (3) Shares a child in common with the victim; or
- (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

Stalking



Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's safety or the safety of others; or
- (2) Suffer substantial emotional distress.

Title IX Prohibits Retaliation



- Prohibition against retaliation for any participant in the Title IX reporting and investigation process.
- Requires some level of school action.

Although retaliation is prohibited under the 2020 regulations, the 2020 grievance process does not include retaliation, leaving it up to a district as to which process will be used.

Title IX Roles and Parties



Title IX Roles



Administration of Claims

- Title IX Coordinator
- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appeal Officer
- Title IX Informal Resolution Officer

Training required for all of these administrators of Title IX matters

Parties

- Complainant – alleged victim/survivor
- Respondent – responds to the allegation(s)
- Advisor to parties

Other Participants

- Fact Witnesses
- Expert Witnesses

Advisors to the Parties



- Parties must be advised that they can have an advisor present for the entire investigation process including the interview.
- Parties select an “advisor of choice.”
- Advisor may be, but need not be, an attorney.
- Advisor provides advice and counsel to the party during the process.
- Advisor has a more active role in cross-examination if a hearing takes place.
 - K12s are not required to hold hearings.

Conflicts of Interest



Relationship
to parties or
witnesses

Professional
conflicts

Personal
conflicts

Actual and
perceived

Impartiality



- Be neutral – neither pro-Complainant nor pro-Respondent
- Consider all of the evidence as presented
- Maintain an open mind regarding potential conclusions

Stereotypes

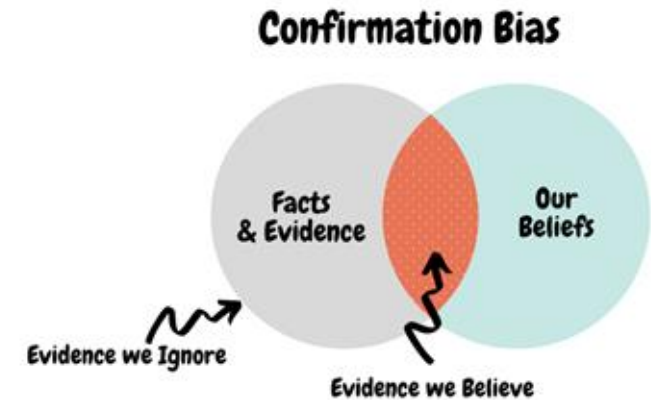


- “A fixed, over generalized belief about a particular group or class of people.” (Cardwell, 1996)
- Stereotypes around sexual assault
- Stereotypes around sexual harassment
- Complainant and Respondent

- No administrator in the Title IX process can rely on stereotypes to reach a conclusion

Bias

- Over 800 types of bias
- Conscious/Explicit
 - Discriminatory intent
 - Stated preferences
- Unconscious/Implicit
 - For the most part, most people are unaware of these drivers
 - Developed over a period of time and can influence many factors in hearing
 - Shortcuts developed by the brain and often play a role in:
 - Immediate response to conflict
 - Often mimics fear responses



Title IX Investigation Process



Overview of Title IX Grievance Process (TIXGP)

- Respond promptly in a manner that is not deliberately indifferent
- Due process and fundamentally fair procedures to adjudicate the allegations
- Upon notification, supportive measures offered
 - Emergency removal
- Offer of formal process (upon signing of Formal Complaint)
 - Complainant files or Title IX Coordinator may file
- Both parties receive notice of the allegations
- Both parties participate in investigation and can inspect information gathered
- Separate Decision-Maker(s)
- Completed in a prompt time-frame
- Retaliation prohibited - define the retaliation complaint process

TIXGP: How Matters Can Proceed



Formal Complaint
Process



Title IX Initiated
Investigation



Informal Resolution
Process

TIXGP: Dismissal - Mandatory and Permissive



Mandatory dismissal

- Would not constitute sexual harassment as defined in regulations
- Did not occur in education program or activity
- Did not occur against a person in the U.S.

Permissive dismissal

- Complainant notifies Title IX Coordinator in writing that Complainant would like to withdraw formal complaint or allegations
- Respondent is no longer enrolled or employed by school district
- Specific circumstances prevent the school district from gathering evidence sufficient to reach a determination

TIXGP: Supportive Measures



Supportive measures are:

- **non-disciplinary, non-punitive** individualized services offered as appropriate, as reasonably available
- without fee or charge to the complainant or the respondent
- are designed to **restore or preserve equal access** to the District's education programs or activities
- without unreasonably burdening either party, including measures designed to protect the safety of all parties or the District's educational environment, or deter sexual harassment.

TIXGP: Emergency Removal Procedure



Step 1

Conduct a prompt and individualized safety and risk analysis

Step 2

Immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual harassment is identified

Step 3

Evaluate the applicability of disability laws to the removal decision

Step 4

Consider the appropriateness of supportive measures in lieu of an emergency removal

Step 5

Provide the respondent with notice and an “immediate” opportunity to challenge the emergency removal

TIXGP: Receipt of Formal Complaint



Form
completed



Verbal report



Phone call



Email



Other

**SEE SOMETHING?
SAY SOMETHING!**

TIXGP: No Formal Complaint Filed

Title IX Coordinator may decide to proceed with an investigation
-evidence of deliberate indifference if investigation not initiated

NOTE: Title IX Coordinator does not become Complainant

TIXGP: Notice of Allegations



- Detailed allegations against Respondent and includes important investigation information.
- Normally, this letter will be drafted by the Title IX Coordinator.

TIXGP: Separate Investigator and Decision-Makers



Title IX Coordinator
may serve as
Investigator

Title IX
Coordinator may
NOT serve as
Decision-Maker to
determine policy
violation and
discipline, or as
the Appeal Officer

Hearing panels
permitted for K-
12s but not
required



Title IX Flow Chart – Investigator Stage

- What procedural steps and information sharing has happened before you are named investigator?
 - Report, Formal Investigation started (Complaint, TIXC initiated), Notice of Allegation letter, advising of allegations and advisor to parties
- What investigative process must be used?
 - Process not outlined
 - Procedural safeguards – notice and advisor
 - Transparency – both parties gain access to all relevant evidence before conclusion of investigation
- How do you know the investigation has ended?
 - Captured all available relevant information
 - Interviewed all parties and relevant witnesses
 - Sufficient information has been gathered for DM conclusion

TIXGP: Investigation



- Investigator gathers relevant and (sometimes) irrelevant information
- All information relied upon in the investigation must be shared with both parties
 - Submitted but irrelevant?
- Parties have ability to review investigation file, investigation draft and final report and can provide comments/written questions
 - Investigator discretion about what follow-up is necessary

TIXGP: Burden of Proof



Preponderance of the evidence



Clear and convincing

TIXGP: Sharing of Investigation Information



- Both parties are given the FULL investigation file to review
- Documents shared or document inspection
 - 10 days for parties to respond to the information
- Investigator prepares a draft investigation report and shares it with both parties
 - 10 days for the parties to respond to the investigation report
- Investigator prepares final investigation report and shares it with both parties and the Decision-Maker

TIXGP: Appeal Grounds

Procedural Review

Procedural irregularity in the Title IX grievance process that materially affected the outcome.

New Information

Newly discovered evidence that was not reasonably available at the time of the determination of responsibility or dismissal that could materially affect the outcome.

Conflict of Interest or Bias

Due to a bias or conflict of interest by the Title IX Coordinator, investigator, or decision-maker that materially affected the outcome.

TIXGP: Informal Resolution



- **Trained facilitators**
- Offered after formal complaint is filed
- Process must be detailed in writing
- Described to both parties
- Parties agree in writing
- Either party may end informal resolution before a formal agreement is accepted, and the matter returns to the Title IX investigation process
- **Never** available when complainant is student and respondent is employee
- Violation of an informal resolution agreement does not return you to investigation process



Best Practices in Investigations

Important Investigation Fundamentals



- Know what you are investigating
- Know the process you are following
- Document each step of the process
- Make reasoned decisions
- Don't let perfection get in the way of best investigative efforts
- Conclude the investigation properly in line with your responsibilities under applicable policy/process

Initial Review



- Formal complaint
- Notice to both parties – required?
- Supportive measures
- Timelines
- Parties (and parents) understand the process
- Other complaints?
 - Criminal matters
 - Similar complaints – consolidation
- Concurrent or parallel investigations

Organizing Your Investigation



- Gather what you can
- Determine what else you need
- Organize the interviews
 - Key element in most sexual harassment investigations
 - Strategy as to who and when interviews are taken
 - Follow-up interviews may be necessary

Gathering Documents and Other Evidence



- Emails, texts, photos, screenshots, video
- Legal implications
 - Child Pornography laws are broad
 - Differing levels of enforcement
- Support or contradict testimony
- Character evidence

Interviews



- Communications between parties through Snapchat or other applications
- Deleted texts
- Inability to review unlawful evidence (i.e., Child Pornography Laws)

- Interviews are key element of the investigation process and should be conducted thoughtfully
- Accurate notes/interview summaries will form basis for conclusions in many investigations

Interviews, cont. (Outline from Handbook)



- **PRELIMINARY INFORMATION** – your introduction, standard and provided to everyone
- **QUESTIONS ABOUT INCIDENT** – prepared in advance, based on what you know at time of interview
- **FOLLOW-UP QUESTIONS** – questions that develop during the process, reflective of testimony given
- **CONCLUSION** – ensure that you have gotten all the information accurately, closes door to later disclosures of unasked questions

Weighing and Challenging Evidence



- Authentication
- Relevance
- Credibility

Evidentiary Review



- RELEVANCE – Applying to the matter in question; affording something to the purpose (Black’s Law Dictionary)
- NOT permitted:
 - Sexual history of Complainant (see Rape Shield exception)
 - Privileged communications
 - Medical documentation
- Not repetitive

- In Title IX investigations, the Decision-Maker has ultimate responsibility for credibility determinations and may explore credibility issues with parties after your investigation report is complete
- However, in the course of an investigation, investigators are gathering important information that may impact credibility determinations, including:
 - Corroboration
 - Feasibility
 - Motivation for truthfulness/untruthfulness
 - Consistency
 - Reviewed/coached testimony

Keep in Mind: At the Conclusion of an Investigation

- After the investigation is complete but prior to issuing a draft report, the parties are given access to the full investigation file
- Parties are invited to provide comments about the extent of the investigation file
- Investigation file should include information upon which the Investigator will rely
- 10 days to inspect and submit comments
- Investigator reviews and prepares a draft report



Writing the Draft and Final Report

Investigation Report



- Convey relevant information about the allegations to the parties and their advisors
- The Department of Education takes no position on the elements required in the report beyond what is required by final regulations
- The investigative report must fairly summarize relevant evidence

Organizing the Report



- Covering required categories
- Providing the relevant information
- Including applicable policy provisions
- Staying within the parameters of the investigation report (as set forth in policy)

- 20-20 Hindsight

Title IX Investigator Required Information Sharing



Before investigation report issued, all evidence shared

Opportunity to question and provide feedback

Draft investigation report issued and shared

Opportunity to question and provide feedback on investigation report

Final investigation report issued

TIXGP: Decision-Maker

- Decision-Maker provides the parties with the opportunity to send questions or comments
 - 10 days to respond
- Decision-Maker must determine:
 - Policy violation
 - Discipline (if found in violation of policy)
- Decision-Maker issues an outcome letter to the parties
- In K-12, discipline decisions against students with disabilities may require a manifestation determination
 - A **Manifestation Determination** is a process, required by the Individuals With Disabilities Education Act (IDEA 2004), which is conducted when considering the exclusion of a student with a disability that constitutes a change of placement.

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Accessing TIXC Title IX Handbook



Instructions:

1. Login to P&C Bridge: <https://www.keenan-pcbridge.com/group/pcb/home>
2. Click on RiskAdvisor Library tab at the top
3. In Search Bar – search Title IX and the picture below shows the link to the
K12 Title IX Investigation Handbook

Once you click on that there is a green button that says, “Click here to continue reading” and it will download the handbook.

Questions?

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TIXC Newsletters and TIXC Thursdays

Additional Trainings – March 2026

[Training Survey](#) – We appreciate your feedback!