

Sexual Harassment: The Law, 2020 Regulations, and More

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Agenda

2020 Title IX Regulations

1. How do regulations define sexual harassment?
2. When should districts respond to sexual harassment allegations?
3. How should districts respond to sexual harassment allegations?
4. What else should districts know about what 2020 regulations require?

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

The 2024 Title IX regulations are no longer in effect.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

A district does not have to have actual knowledge of alleged sexual harassment to investigate sexual harassment.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

Sexual harassment is a form of sex discrimination.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

A district's Title IX coordinator is responsible for investigating allegations of sexual harassment, writing an investigation report and being the decision-maker regarding whether there was sexual harassment.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

Title IX – The Law

- **Title IX of the Education Amendments of 1972** (20 U.S.C. § 1681) –
“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 prohibits sex discrimination in education and in employment.

Title IX – Regulations

- On January 9, 2025, federal district court vacated 2024 Biden-era Title IX regulations and reinstated 2020 Title IX regulations, which were promulgated during President Trump's first term.
- On January 20, 2024, President Trump issued an Executive Order("EO"), "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government."
 - EO ordered federal agencies to rescind all guidance inconsistent with EO and stated that federal government should only recognize sex assigned at birth and two sexes – male and female – (excluding nonbinary identities).
- On February 4, 2025, DOE issued a Dear Colleague Letter ("DCL") in compliance with the January 20th Executive Order. The DCL confirmed that, effective February 4th, education institutions should ensure all policies and investigations are consistent with 2020 regulations.
- DOE no longer interprets Title IX prohibition of discrimination "on the basis of sex" as including discrimination on the basis of sex stereotypes, sexual orientation, gender identity (including transgender status) or sex characteristics.

What entities are covered by Title IX?

- Institutions receiving federal funding
- School districts, colleges/universities, charter and for-profit schools and athletic associations
 - Including organizations receiving “significant assistance” from these
- Educational programs offered by non-education institutions that receive federal funds, such as libraries, prisons, and museums



Who is protected by Title IX?

- Elementary through professional school
- Staff and students
- Men/boys and women/girls
- Individuals with and without disabilities
- Individuals of different races, ethnicities and national origin



What are some of the risks of violating Title IX?

- Private litigation
 - Students (and parents on behalf of their children) may sue districts. These lawsuits may seek money damages when in the students or parents' opinion, districts violate Title IX by failing to respond appropriately or to address adequately sex discrimination.
- Office for Civil Rights (“OCR”) complaints/investigations
 - A student, parent, or third party may submit a complaint to OCR, and OCR may investigate.
 - OCR may initiate its own investigations.
 - OCR may refer a case to the U.S. Department of Justice (“DOJ”).
- DOJ complaints/investigations

More on OCR

- The U.S. Department of Education's Office for Civil Rights
- What OCR does:
 - Policy guidance
 - Technical assistance
 - Civil Rights Data Collection ("CRDC")
 - Enforcement
 - Complaint process
 - Compliance reviews

"The mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights."

TRUE/FALSE POLL



A federal court vacated the 2024 Title IX regulations and reinstated the 2020 Title IX regulations.

TRUE/FALSE POLL



DOJ and OCR may investigate complaints of sexual harassment.

2020 Title IX Regulations

- How do regulations define sexual harassment?
- When should districts respond to sexual harassment allegations?
- How should districts respond to sexual harassment allegations?
- What else should district know about what 2020 regulations require?

2020 Title IX Regulations

How do the 2020 regulations define sexual harassment?

“Sexual harassment” is conduct on the basis of sex that is...

Category 1

Quid pro quo harassment by a school employee to a student – the employee conditions some type of aid, benefit, or service on the student’s participation in unwelcome sexual conduct

Category 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”

Category 3

Other conduct defined by federal law:

- Sexual assault
- Dating violence
- Domestic violence
- Stalking

“Where conduct is sexual in nature, or where conduct references one sex or another, that suffices to constitute conduct ‘on the basis of sex.’”

85 Fed. Reg. at 30,146

YES/NO POLL: Is this sexual harassment?

Quid pro quo harassment is not a type of sexual harassment.

**Putting the
regulations into
practice**

YES/NO POLL: Is this sexual harassment?

After every afterschool staff meeting, an office assistant asks a colleague to go for a drink with her. The colleague always declines the invitation.

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YES/NO POLL: Is this sexual harassment?

Every day, a female teacher remarks about the physical appearance of a male student in her class, including making sexually suggestive comments.

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YES/NO POLL: Is this sexual harassment?

A teacher tells a failing student that he will give her a passing grade if the student sends nude pictures to his personal cell phone.

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YES/NO POLL: Is this sexual harassment?

A custodian finds graffiti depicting sexual content and images in a bathroom stall.

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2020 Title IX Regulations

When should districts respond to sexual harassment allegations?

“Actual knowledge”

A district must respond when it has “**actual knowledge**” of sexual harassment.

A district has actual notice when notice or allegations of sexual harassment are reported to any school employee; or any employee personally observes such behavior.

A district employee includes the Title IX Coordinator, administrators, teachers, teacher’s aides, bus drivers, cafeteria workers, counselors, school resource officers, maintenance staff workers, or any other employee.



“Actual knowledge” (continued)

Actual knowledge is met when any employee:

- Witnesses the conduct;
- Hears about conduct from alleged victim or anyone else (e.g., parent, friend, peer, anonymous reporter);
- Receives written report of the conduct from the alleged victim or anyone else.

Any person may report to Title IX Coordinator in person or by email, phone or mail.



“Dangerous Words,”

- Just ignore it.
- He puts his arms around everyone.
- Why can't you learn to accept a compliment?
- You must have wanted it - otherwise you would have told him no.
- That's how they do things where he comes from.
- It's a joke. Lighten up.
- No one's filed a charge so our hands are tied.
- We've never had a complaint, so we don't have a problem.
- This kind of behavior is all a part of growing up.
- It's a matter of hormones, we can't control that.
- If we had to discipline every student who used bad language we'd never get anything else done.
- It's just a prank that got out of hand.
- Oh well, boys will be boys.

YES/NO POLL: Is this actual knowledge?

A custodian witnesses a male coach hitting the buttocks of a female basketball player after the girls' team won a basketball game.

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YES/NO POLL: Is this actual knowledge?

A male student reports to his guidance counselor that he has been repeatedly called derogatory names by girls in his Algebra class.

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YES/NO POLL: Is this actual knowledge?

Based on a text message that parents see on their daughter's phone, the student's parents speculate that a teacher is having sexual relations with their child's friend.

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“Education program or activity”



- A district must respond when it has actual knowledge of sexual harassment that occurred within the district’s **“education program or activity.”**
- “Education program or activity” includes locations, events, or circumstances over which a district exercises substantial control over the alleged perpetrator and the context in which the sexual harassment occurred.
- Depending on the circumstances, may cover incidents that occur off school district property or online (e.g., field trip, school district’s digital platform).

YES/NO POLL: Education program or activity?

A group of 2nd graders takes a field trip to the zoo. That evening, a student's parent reports that their child was sexually harassed by one of the chaperones, a teacher's aide.

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YES/NO POLL: Education program or activity?

A female 7th grade student reads a text on her phone. The teacher sees the student reading the text and notes that the student becomes visibly upset. The teacher asks the student what the problem is and the student says that a male classmate repeatedly has been sexually harassing her online. She tells the teacher that, as a result of the online sexual harassment, she has been skipping the classes they have in common.

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2020 Title IX Regulations

How should schools respond to sexual harassment allegations?

Key Roles in Responding to Sexual Harassment Allegations

- Title IX Coordinator
- Investigator
- Decision-maker

District must ensure that Title IX Coordinator, Investigators, and Decision-makers have professional development regarding their Title IX obligations.

Who's who – Title IX Coordinator

- Regulations require that district have at least one district-level Title IX Coordinator. In Connecticut, it is preferred practice, but not required, that there be a Title IX Coordinator at each school.
- Title IX Coordinator's overall responsibility is to coordinate compliance requirements that include:
 - Posting name and contact information for District Title IX Coordinator;
 - Developing materials and ensuring that professional development occurs for staff involved in Title IX efforts;
 - Creating systems to centralize records and gather relevant data;
 - Meeting with alleged victim and parents/guardians once made aware of alleged sexual harassment (cannot be delegated to support staff);
 - Coordinating implementation of supportive measures; and
 - Signing formal complaint to initiate grievance process (cannot be delegated to support staff).

Who's who – Title IX Coordinator (continued)

- District may determine that certain Title IX Coordinator duties may be more carried out at either district level or school level if there is a school-based Title IX Coordinator.
- If there is no school-based Title IX Coordinator, District-level Title IX Coordinator should carry out duties of school-based Title IX Coordinator.
- District-level Title IX Coordinator should, for example:
 - Develop materials and ensure that professional development occurs for staff involved in Title IX efforts and
 - Create systems to centralize records and gather relevant data.
- School-based Title IX Coordinator, if there is one, may, for example:
 - Meet with alleged victim and parents/guardians once made aware of alleged sexual harassment (cannot be delegated to support staff);
 - Coordinate implementation of supportive measures; and
 - Sign formal complaint to initiate grievance process (cannot be delegated to support staff).

Who's who – Investigator

- Investigator responsibilities include:
 - Interviewing involved victim or victims and individual or individuals accused;
 - Interviewing witnesses;
 - Collecting documentary and other evidence and
 - Drafting an investigative report.
- Investigator may be district-level or school-based Title IX coordinator.
- Investigator may be an administrator at school.
- If investigator at school is typically an assistant principal and the decision-maker typically is principal, district should monitor how often, if at all, principal disregards investigators recommendations.
- If investigator is from central office and decision-maker is building principal, investigator should not be in direct supervisory chain over principal.

Who's who – Decision-maker

- Decision-Maker provides opportunity for involved individuals and their parents/guardians to prepare written questions to be answered by the other side.
- Decision-maker reviews all materials and makes a written responsibility determination – an impartial determination as to whether the alleged conduct occurred – including sanctions.
- Decision-maker makes responsibility determination by applying standard of evidence selected by district: “preponderance of the evidence” or “clear and convincing.”
- Neither the district-level Title IX Coordinator, school-based Title IX Coordinator, nor Investigator may also be the Decision-maker. However, the Investigator may offer recommendations to the Decision-maker.
- The Decision-maker may be school-based or a central office administrator.

Title IX Coordinator, Investigator and Decision-Maker in Action

1. Title IX Coordinator meets with alleged victim or victims to discuss supportive measures and process for filing formal complaint.
2. Investigator leads the investigation after the formal complaint is in place and written notice is given to the involved individuals and their parents/guardians. Investigator gathers and reviews evidence, allows responses to the evidence, and prepares an investigative report; the involved individuals and their parents/guardians review and respond to the report.
3. Decision-Maker provides opportunity for involved individuals and their parents/guardians to prepare written questions to be answered by the other side. Decision-maker reviews all materials and makes a written responsibility determination – an impartial determination as to whether the alleged conduct occurred – including sanctions.
4. *Districts must provide professional development for Title IX Coordinators, Investigators and Decision-Makers to ensure compliance with 2020 Title IX regulations.*

The investigator may also be the decision-maker.

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The Title IX Coordinator is required to offer the alleged victim with supportive measures.

Putting the regulations into practice

The decision-maker must provide parents/guardians of victim and respondent with opportunity to prepare written questions for the other party to answer.

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regulations into
practice**

How should districts respond to sexual harassment allegations?

The basic command

- If district has actual knowledge of sexual harassment allegations, district must respond promptly and in a manner that is not deliberately indifferent (i.e., not “clearly unreasonable in light of the known circumstances”).
- District must offer “supportive measures” to the alleged victim (complainant) and follow a grievance process that meets certain minimum requirements before imposing discipline or other actions that are not supportive measures against an alleged perpetrator (respondent).
- District may not continue with the grievance process in the absence of a formal complaint.

How should districts respond to sexual harassment allegations?

First, ensure that procedures comply with 2020 regulations.

- Regulations require district to notify stakeholders and publish on its website and in its handbooks and catalogs:
 - Title IX Coordinator's contact information: names, office address, email address and ,phone number.
 - General statement regarding nondiscrimination on the basis of sex.
- District must adopt and publish grievance procedures that provide for prompt and equitable resolution of student and employee complaints alleging sex discrimination and a grievance process specific to sexual harassment allegations that meets certain minimum requirements.
 - The grievance procedures and grievance process must describe how to report or file a complaint of alleged sex discrimination, how to report or file a formal complaint of alleged sexual harassment, and how schools will respond.

How should districts respond to sexual harassment allegations?

Overview of select general requirements for the grievance process.

- Provide for the “prompt and equitable” resolution of student and employee complaints.
- Treat complainants and respondents equitably.
- Require an objective evaluation of all relevant evidence.
- Require that Title IX Coordinator, Investigator, Decision-maker, or any other key player have no conflicts of interest or bias for or against complainants or respondents, and that all such individuals receive specified professional development.
- Include a presumption of innocence for respondents.

How should districts respond to sexual harassment allegations?

Overview of select general requirements for the grievance process.

- Designate reasonably prompt time-frames for resolution and the range of possible disciplinary actions.
- Use either the “preponderance of the evidence” or “clear and convincing” standard and apply it equally to employee and student complaints.
- Provide complainant and respondent (and their parents/guardians) an equal opportunity to review any evidence obtained that is directly related to the allegations raised in a formal complaint.
- Address certain other procedural steps enumerated at 34 C.F.R. § 106.45 of the new regulations, many of which we address below.

How should districts respond to sexual harassment allegations?

Revisiting the basic steps outlined in the regulations

1. District receives actual knowledge of conduct that may constitute sexual harassment.
2. Title IX Coordinator meets with alleged victim to discuss supportive measures and the process for filing a formal complaint.
3. Investigator leads the investigation after the formal complaint is in place and written notice is given to the involved individuals and their parents/guardians. Investigator gathers and reviews evidence, allows responses to the evidence, and prepares an investigative report; the involved individuals and their parents/guardians review and respond to the report.
4. Decision-maker provides opportunity for involved individuals and their parents/guardians to prepare written questions to be answered by the other side. Decision-maker reviews all materials and makes a written responsibility determination – an impartial determination as to whether the alleged conduct occurred – including sanctions.

Meeting to offer supportive measures

- Title IX responsibilities are triggered once District has actual notice of alleged sexual harassment. Title IX Coordinator must “promptly” contact the alleged victim and parents/guardians to discuss availability of and opportunity for supportive measures.
- The grievance policy must describe the range of available supportive measures. Examples include:
 - Counseling;
 - Extensions of deadlines or other course-related adjustments;
 - Changes to class schedules and
 - Increased monitoring/security of certain areas.
- District must inform alleged victim and parents/guardians that supportive measures are available with or without the filing of a formal complaint and explain process for filing formal complaint.

Formal complaint to initiate the rest of the grievance process

- No investigation of alleged sexual harassment may occur until after a formal complaint filed.
- Formal complaint must be filed by the alleged victim or parent/guardian. Complaint must describe sexual harassment allegations and request that District investigate.
 - Formal complaint may be filed at any time as long as the alleged victim is “participating in or attempting to participate in the education program or activity” of District at time of filing (e.g., current student or current employee).
 - District should create formal complaint form.
- Title IX Coordinator may initiate a formal complaint and investigation on his or her own if the decision is not clearly unreasonable in light of known circumstances (e.g., alleged respondent may pose an ongoing safety threat).

YES/NO POLL: Continue with grievance process?

A female 8th grader believes that she has experienced alleged sexual harassment. The alleged respondent is someone in her theater class, but she doesn't know exactly who it is. She wants to file a formal complaint.

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YES/NO POLL: Continue with grievance process?

A female student experiences alleged sexual harassment by a male teacher who is chair of the science department. He is known within the department for his sexually explicit jokes. The student does not want to file formal complaint.

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YES/NO POLL: Continue with grievance process?

An anonymous report names a male high school junior as sexually harassing several female sophomores. None of the alleged victims is identified.

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YES/NO POLL: Continue with grievance process?

A fifth grade female student experiences alleged sexual harassment by a male teacher's aide. The alleged victim is embarrassed and parents/guardians don't want that information to get out, so they decline to file a formal complaint.

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regulations into
practice**

Grievance process after a formal complaint is filed

- What are basic parts of grievance process after formal complaint is filed?
 - Notice
 - Investigation
 - Written questions and answers
 - Responsibility determination
 - Appeal
- District must set reasonably prompt timeframes for carrying out the grievance process.

Notice

- Once a formal complaint is filed, district must provide notice to known involved individuals, including parents/guardians:
 - Written notice of sexual harassment allegations in sufficient detail by including identities of involved individuals (if known), conduct allegedly constituting sexual harassment, and date and location of incident (if known).
 - Copy of the grievance policy.
- Written notice also must:
 - Include statement that respondent is presumed not responsible for alleged conduct and that determination regarding responsibility is made at conclusion of grievance process.
 - Generally, no disciplinary action may be taken against a respondent until after grievance process is carried out. Grievance policy must describe range of possible sanctions or remedies.
 - Inform involved individuals that they may have an advisor of their choice and may inspect and review evidence.
 - Inform involved individuals of any code of conduct provision that prohibits knowingly making false statements or knowingly submitting false information during grievance process.

Investigation

General requirements to remember

- District has burden of proof and burden of gathering evidence sufficient to reach responsibility determination; these burdens do not belong to involved individuals.
- District must not restrict the ability of the involved individuals to discuss the allegations under investigation or gather and present relevant evidence.

Investigation

What must the Investigator do?

- Provide an equal opportunity for involved individuals to present witnesses (including fact and expert witnesses) and other inculpatory and exculpatory evidence. Privilege considerations apply.
- Provide an equal opportunity to the involved individuals and their parents/guardians to inspect and review evidence and respond prior to completing investigative report.
- Draft investigative report that fairly summarizes relevant evidence.
- Share with the involved individuals and their parents/guardians for review and response.

Investigation: Step #1

Review applicable statutes, regulations, and district policies and procedures. Follow all applicable policies and procedures throughout the investigation.

- As Investigator, your first step is to review District's sexual harassment policies and procedures, which should incorporate the federal requirements. Follow those procedures throughout your investigation!



Investigation: Step #2

Ask the complaining student or staff member for narrative of the facts to supplement information provided in complaint.

- Investigator should double-check to ensure that the complainant has provided all relevant information, including:
 - Who, what, when, where;
 - Students, teachers, or other staff involved;
 - Witnesses to incident; and
 - Details of alleged sexual harassment.
- Investigator should review the complainant's responses carefully before conducting any further interviews.



Investigation: Step #3

Review student/staff files of individuals allegedly involved in incident.

- Reviewing files will provide Investigator with key background facts that can inform his or her questioning of the alleged victim, alleged respondent and witnesses.



Investigation: Step #4

Interview all alleged victims.

In addition to standard factual questions, the Investigator should consider asking the victim(s) the following questions:

- How did you react to sexual harassment?
- How has alleged sexual harassment affected you and your experience at school?
- Are there any other students, teachers, or staff that might have relevant information?
- Do you have any notes, emails, text messages, documentation, or other physical evidence related to incident?
- How would you like to see this situation resolved?

Note: Hold separate interviews with each alleged victim.

Provide interviewees – whether they are the victim, a witness, or the alleged perpetrator – with appropriate translation services if the interviewee is an English Language Learner.



Investigation: Step #5

Interview other witnesses individually.

- A full investigation includes interviews with potential witnesses, even if first few witnesses interviewed have provided identical information.
- Investigator should explain briefly the reasons for interview and ask whether the witness has any relevant information about alleged incident.
- Investigator should consider asking following questions:
 - Describe alleged respondent's general behavior toward alleged victim.
 - What, if anything, did alleged victim tell you about incident?
 - Do you know of anyone else who might have relevant information?
 - Are you aware whether alleged respondent has ever engaged in similar conduct in past?
- Be sure that you have captured all potential witnesses by encouraging your interviewees to list any other students or school personnel who could possibly have information about incident.



Investigation: Step #6

Interview the alleged respondent(s).

- Investigator should inform alleged respondent(s) of the allegations.
- Investigator should ask alleged respondent(s) about basic facts surrounding the incident and give the alleged respondent(s) opportunity to explain reasons for actions.

Note: Hold separate interviews with each alleged respondent.



Investigation: Step #7

Review notes from interviews.

- Follow up on any factual inconsistencies. Re-interview witnesses as necessary.
- If alleged respondent says something that directly contradicts what alleged victim reported to you, circle back with alleged victim to clarify version of events.



Investigation: Step #8

Allow alleged victim and alleged perpetrator to review evidence.

- Any evidence obtained as part of investigation that is directly related to allegations raised in formal complaint must be made available to each party in electronic or hard copy form.
- Investigator must allow the parties 10 days to submit a written response to evidence.
- Investigator must consider responses prior to completion of an investigative report.



Investigation: Step #9

Prepare investigative report and share with alleged victim and alleged respondent.

- Investigative report must summarize relevant evidence.
- Investigative report must be sent to parties in electronic or hard copy form for review and written response. Parties must have at least 10 days to respond before continuing on with grievance process.



Written questions and answers

- District must use written questions and answers as part of grievance process.
- Decision-maker must:
 - Allow involved individuals and their parents/guardians to submit written, relevant questions to ask other side (including witnesses).
 - Decision-maker must explain any decision to exclude a question as irrelevant.
 - Alleged victim's prior sexual behavior is not relevant unless offered to prove that someone other than the alleged respondent committed alleged conduct or to prove consent. Consent is not defined in regulations.
 - Provide each side with answers to their questions.
 - Allow for additional, limited follow-up questions.

Responsibility determination

- District must use a Decision-maker who is not same person as Title IX Coordinator or Investigator.
- Decision-maker must apply the standard of evidence selected by the district – “preponderance of the evidence” or “clear and convincing standard” – to reach a determination as to whether alleged conduct occurred.
- Decision-maker must issue a written determination that:
 - Identifies the allegations:
 - Describes the procedural steps taken by District;
 - Provides responsibility determination, including findings of fact, disciplinary sanctions, applicability of code of conduct, and remedies.
 - Outlines appeal procedures.

Response checklist

- Incident-specific response:
 - Victim(s) and parents
 - Respondent(s) and parents
- School-wide response:
 - Students
 - Staff
 - Parents



Steps to be taken will depend on the ages/status of the victim(s) and respondent(s), and context of sexual harassment.

Appeal

- Appeal of responsibility determination or dismissal of a formal complaint must be offered involved individual or his or her parents/guardians assert that:
 - A procedural irregularity affected the outcome:
 - New evidence may affect outcome and was not previously reasonably available and
 - Title IX Coordinator, Investigator or Decision-maker had a conflict of interest or bias that affected outcome.
- Decision-Maker on appeal may not be initial Decision-Maker, Investigator or Title IX Coordinator.

When must or may a school dismiss a formal complaint?

- A school must dismiss a formal complaint for purposes of Title IX sexual harassment under certain circumstances, including:
 - The alleged conduct, even if true, would not constitute sexual harassment.
 - The alleged conduct, even if true, did not occur in the school district's education program or activity.
 - The alleged conduct, even if true, did not occur against a person in the United States.
- A school has discretion to dismiss a formal complaint during the grievance process under certain circumstances, including:
 - The alleged perpetrator is no longer enrolled or no longer employed by the school district.
 - The alleged victim and his or her parents/guardians notifies the Title IX Coordinator in writing that the formal complaint or any allegations therein are withdrawn.
 - Specific circumstances prevent the school district from gathering evidence sufficient to reach a determination regarding the formal complaint or allegations therein.

TRUE/FALSE POLL



Only the alleged victim can file a formal complaint of sexual harassment.

TRUE/FALSE POLL



Supportive measures must be offered to an alleged victim, even if a formal complaint is never filed.

TRUE/FALSE POLL



The Title IX Coordinator can also be the Decision-maker, but cannot be the Investigator.

TRUE/FALSE POLL



A district can decide whether it wants to offer an appeal process.

Professional development requirements

- District must provide professional development to individuals designated as a Title IX Coordinator, Investigator and Decision-Maker.
- Training materials must be made publicly available District website.
- As best practice, District should provide professional development to other employees who are not part of the core Title IX team.

Professional development requirements

- Required professional development topics for individuals designated as a Title IX Coordinator, Investigator and Decision-Maker include:
 - Definition of sexual harassment;
 - Scope of the District's education program or activity;
 - Requirements of grievance process;
 - Process for conducting investigation;
 - Safeguards to ensure avoiding prejudgment of the facts, conflicts of interest and bias and
 - Relevance determinations, both for questions and evidence, and for information to be included in investigative report.

Recordkeeping requirements

District must maintain certain records for a seven-year period. Examples of required recordkeeping include:

- Investigation reports, appeals, and any informal resolution records;
- Records of any actions – including any supportive measures – taken in response to formal complaint of sexual harassment;
 - This should include documentation regarding why District's response was not deliberately indifferent or “clearly unreasonable in light of the known facts.”
- Records of professional development training materials.

THINK ABOUT IT: Professional development, recordkeeping

At the district level, how will you:

- Create standardized approaches to professional development and recordkeeping practices?
- Prepare appropriate professional development materials for the Title IX team?
- Ensure that public-facing materials remain accurate and up to date?
- Facilitate effective communication between the school district and individual schools?

**Putting the
regulations into
practice**

What do the regulations require?

- When are school districts required to respond to sexual harassment allegations?
- How are school districts required to respond to sexual harassment allegations?
- **What else should schools know?**

What else should Districts know?

Emergency removal and administrative leave

Generally, District may not sanction alleged respondent until after grievance process is completed. Regulations, however, provide exceptions for emergency removal and administrative leave under certain circumstances and in compliance with disability laws.

- Emergency removal may occur if District has (1) undertaken individualized safety and risk analysis; (2) determined that immediate threat to physical health or safety of a student or other individual arising from allegations justifies removal; and (3) provided alleged respondent with notice and opportunity to challenge decision immediately following removal.
- District may place employee on administrative leave for duration of grievance process without having to follow emergency removal criteria outlined above.

What else should Districts know?

Informal resolution process

Though not required, a District may offer informal resolution process to involved individuals and their parents/guardians after a formal complaint has been filed.

- Informal resolution cannot be offered if the alleged respondent is employee.
- District must develop and share procedures for informal resolution.
- District must obtain voluntary, written consent from involved individuals and their parents/guardians to participate in informal resolution after sharing:
 - Allegations;
 - Requirements of the informal resolution process and
 - Any consequences resulting from participation in informal resolution process (e.g., records that will be maintained or could be shared).
- Any individual may withdraw from informal resolution process and resume grievance process with respect to formal complaint.

What else should Districts know?

Other aspects of regulations

- Regulations contain provisions prohibiting retaliation.
- District may consolidate formal complaints where sexual harassment allegations arise out of same facts and circumstances.
- Hearings are discretionary. A district “retain[s] discretion to decide how to conduct hearings if [it] selects that option” as long as the hearing rules apply equally to both sides.

What else should Districts know?

Relation to other laws

- District may not restrict rights protected under U.S. Constitution, including First, Fifth, and Fourteenth Amendments.
- Regulations set minimum requirements for Title IX compliance. State and local law may prescribe additional responsibilities related to a district's response to sexual harassment allegations. In cases of conflict, however, 2020 regulations preempt state and local law.
- When employees are involved in alleged sexual harassment, District may need to consider its obligations under both Title IX and Title VII.



2020 Title IX Regulations

Examples of District actions to ensure compliance



Review policies to ensure compliance with 2020 regulations



Review codes of conduct and handbooks to ensure compliance with 2020 regulations



Conduct professional development for Title IX team and staff at central office and local schools



Educate and train students and parents/guardians.



Provide via the District website information such as Title IX Coordinator contact information, grievance process, and professional development materials.

Wrap-Up and Q&A

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

The 2024 Title IX regulations are no longer in effect.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

A district does not have to have actual knowledge of alleged sexual harassment to investigate sexual harassment.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

Sexual harassment is a form of sex discrimination.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

POLL: Fist to Five

On a scale of 0–5, how accurate is the following statement from your perspective?

A district's Title IX coordinator is responsible for investigating allegations of sexual harassment, writing an investigation report and being the decision-maker regarding whether there was sexual harassment.

0 – Completely inaccurate

1 – Pretty inaccurate

2 – Slightly inaccurate

3 – Not accurate, but not inaccurate

4 – For the most part accurate

5 – Completely accurate

Questions?

