



The Building Blocks of Title IX

PREPARED FOR
GCSD#1 BOARD OF TRUSTEES
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PRESENTED BY
JEFFRY FULLER & HOLLY LARA
TITLE IX COORDINATORS

History & Implementation

Title IX states, “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.”

- ▶ Signed into law in 1972, primarily to ensure equal funding for women’s sports.
- ▶ In 2017, Secretary of Education, Betsy DeVos, announced that new regulation pertaining to Title IX would be released.
- ▶ Under President Donald Trump new regulations which included elementary and secondary schools took effect in 2020.
- ▶ Title IX now covers a wide range of activities, including exclusion or discrimination on the basis of sex.
- ▶ In recent years, Title IX is used as a means of protection from sexual harassment and other forms of unwanted sexual activities, as well as used as a means of discipline against students and staff for cases involving certain sexual activities.



Scope of Coverage

Title IX protects any person, including ALL students and employees, from sexual harassment and applies to *all* students in the United States and across *all* grade levels

Including those who are

- ▶ Female, Male, and Non-binary
- ▶ Lesbian, Gay, Bi-Sexual, Transgender, Queer/Questioning, Intersex (LGBTQI+) Identities include asexual, demisexual, genderfluid, and members of other communities, including allies – those who support LGBTQI+ communities
- ▶ With and Without Disabilities
- ▶ Different Races and National Origins

Types of Sexual Harassment

Sexual Harassment is defined by a 1999 Supreme Court decision as actions that are “so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity.” Commonly referred to as “SPOO”

- ▶ Quid pro quo – something given or received in return for something else
- ▶ Sexual violence – Sexual assault, rape, fondling, incest, statutory rape. In all instances: penetration
- ▶ Sexual assault – any sexual act directed against another person forcibly and/or against their will, or where the victim is incapable of giving consent (physical or mental incapacity or under the age of 16)
- ▶ Domestic, Intimate partner, or dating violence – force or threat that results in injury physically and/or psychologically
- ▶ Stalking – actions that would cause a reasonable person to fear for their safety or suffer substantial emotional distress

NOT ALL SEX-BASED BEHAVIOR MAY RISE TO
THE LEVEL OF “DISCRIMINATION”

Why Title IX Knowledge is Important

As a public school district, districts are shielded from being sued and/or being held liable for a vast majority of legal claims because of sovereign/governmental immunity. However...

- ▶ Title IX, a federal statute that outlaws sex discrimination in any federally-funded educational program, can be used as the basis for a lawsuit against a District.
- ▶ A student claiming sexual harassment or sexual assault committed by either a district employee or district student on district property may pursue a Title IX case against the school district.
- ▶ A Title IX case could result in monetary damages against the District

What the District Needs to Know

- ▶ The District receives federal funds and therefore must comply with Title IX.
- ▶ “Education program or activity” includes locations, events, or circumstances wherein the District exercised substantial control over the parties and the context in which the sexual harassment occurs.
- ▶ Sexual discrimination occurring off-campus (such as during school field trips) may in some circumstances also be covered by Title IX laws.
- ▶ Title IX protections include discriminatory conduct that is:
 - Between Students
 - Between Employees and Students
 - Between the District in its capacity of employer and its employees
 - Others who would otherwise receive the benefits of or participate in educational programs
 - A failure to provide equal athletic opportunity
 - Sex-based in programs such as STEM courses
 - Based on pregnancy
 - Carried out by use of email, the internet, or other technologies, in-person, mail, handwritten (likely applies to virtual learning environments)

The District's Responsibility

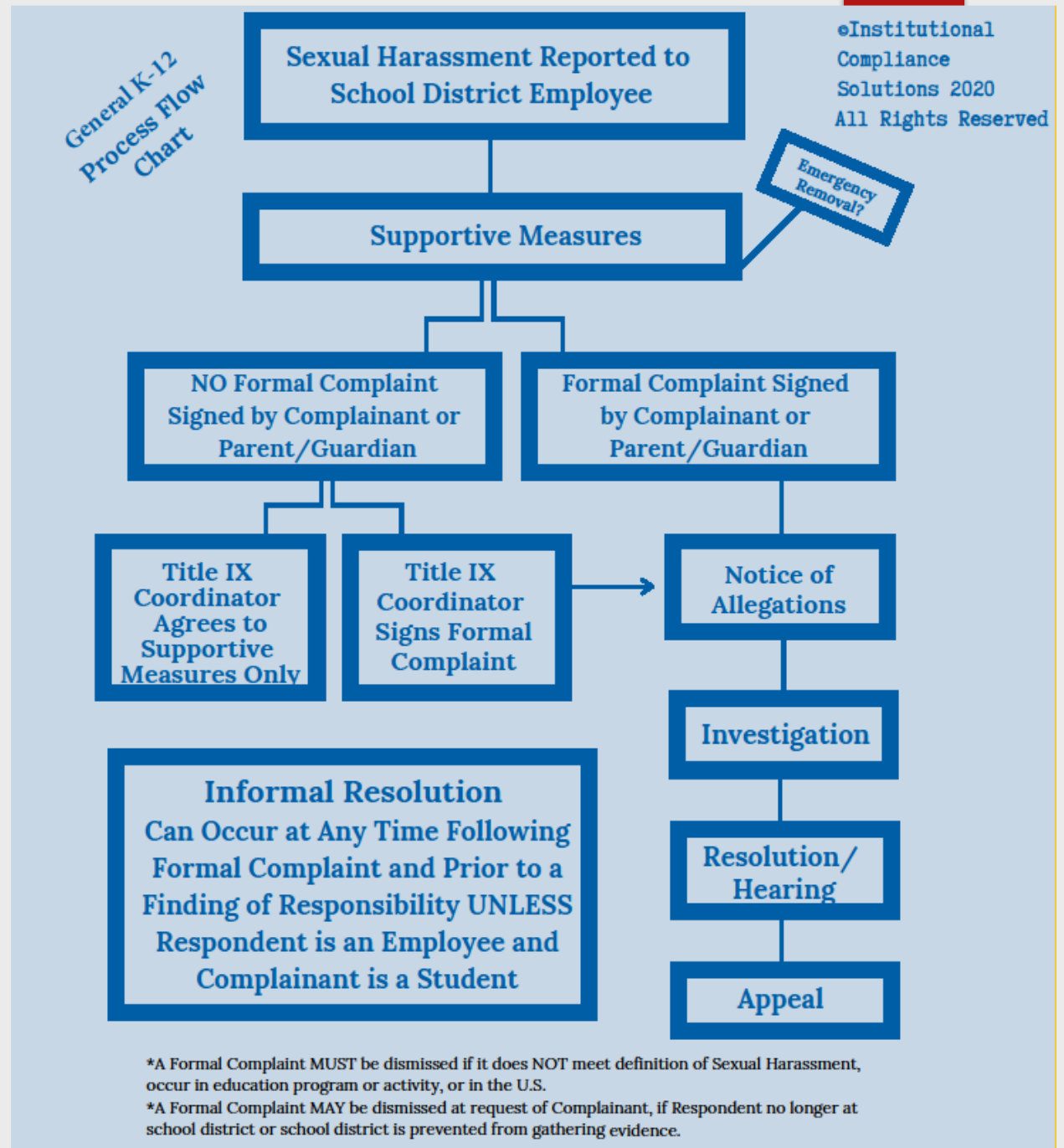
To ensure the District is *not* deliberately indifferent to allegations of sexual harassment and that it document all reasonable effort it took to address the allegations, the District's responsibility is to...

- ▶ Respond promptly and effectively - If a school knows or reasonably should know about sexual harassment or sexual violence that creates a hostile environment, the school must take immediate action to eliminate it.
- ▶ Promptly investigate to determine what occurred and then take appropriate steps to resolve the situation - Even if a student or his or her parent does not want to file a complaint or take any action on the student's behalf, if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must investigate the concern.
- ▶ Resolve complaints promptly and *equitably* - A criminal investigation into allegations of sexual harassment or sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably. THE DISTRICT'S TITLE IX INVESTIGATION AND CRIMINAL INVESTIGATION CAN OCCUR INDEPENDENTLY AND AT THE SAME TIME.

Responding as a District

- ▶ Final 2020 Rule requires schools respond whenever *any* employee has notice of sexual harassment
- ▶ Any person, including a third party, may report to a Title IX Coordinator in person, by email, phone, or mail – INCLUDING NON-BUSINESS HOURS
- ▶ notice to a Title IX Coordinator, or to an official with authority to institute measures on the claimant's behalf, charges a school with actual knowledge and triggers the school's response obligations

Title IX Complaint Flow Chart



Investigative Timeline



K-12 Investigation Flow Chart



Final Steps

- ▶ If respondent is determined to be responsible for sexual harassment, implementation of remedies such as, suspension, expulsion, other disciplinary action, or ineligibility of participation in extra curricular activities
- ▶ Title IX training *must* be provided to all administration and staff on a consistent basis – “one and done” is not sufficient to protect the District from liability
- ▶ Practices to ensure non-bias and confidentiality throughout complaint process
- ▶ Report evidence that may require a report to law enforcement

IF YOU SEE SOMETHING, SAY SOMETHING!

Questions? Thank you for your time and attention!