

SCCPSS

Title IX Current Training

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Assessment

Legal Office



Assessment- Question 1

Under Title IX “Quid Pro Quo” sexual harassment involves conditioning a benefit on sexual conduct.

- A. True
- B. False

Assessment- Question 2

When a district employee has knowledge of sexual harassment or is on notice of allegations of sexual harassment, they must report it:

- A. Promptly to the Title IX Coordinator or site administrator
- B. After gathering as much information as possible
- C. Only if the complaining party wants it reported

Assessment- Question 3

Hostile Environment sexual harassment is sexual conduct that is:

- A. Severe
- B. Persistent or wide-spread
- C. Objectively offensive
- D. All of the above

Assessment- Question 4

Title IX is a law that protects against discrimination based on sex.

- A. True
- B. False

Assessment- Question 5

Under Title IX discipline can be imposed only after the grievance process has concluded and the accused is determined to be responsible for sexual misconduct.

- A. True
- B. False



SY 26 Title IX Training- All Staff

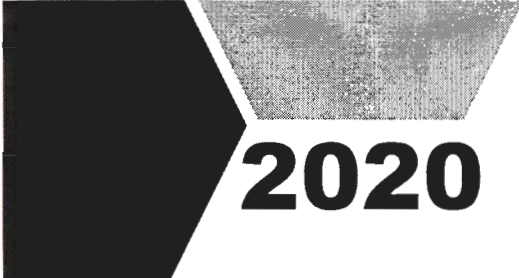
Doreen Oliver, Legal Compliance Officer



What is Title IX?

It's a federal law. It 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.” **20 USC §1681**



2020 Regulation

- In effect as of August 14, 2020
- Applies to K-12 schools in addition to post-secondary schools
- Requires mandatory reporting of sexual harassment
- Outlines a formal grievance process for sexual harassment
- Allows informal resolution, with exceptions



Core Requirements of Title IX

- Designate a Title IX Coordinator
- Train
- Report Sexual Harassment
- Respond to Complaints
- Provide Supportive Measures
- Provide Due Process for those Accused of Sexual Harassment

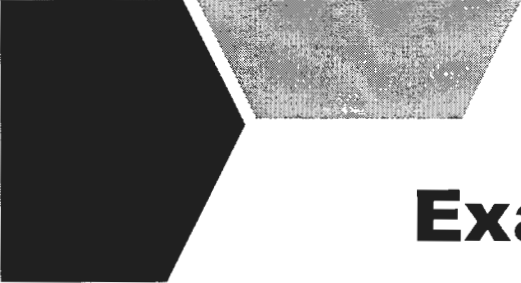
Mandatory Reporting

When a district employee has knowledge of sexual harassment or is on notice of allegations of sexual harassment, they must promptly report it to the Title IX Coordinator or a site administrator.



What is Title IX's Definition of Sexual Harassment? (2020)

- A school employee providing a benefit or service in exchange for a person's participation in unwelcomed sexual conduct (**Quid Pro Quo**); or
- Unwelcomed sexual conduct that is severe, AND persistent or widespread, AND objectively offensive AND basically denies a person equal access to the school's education program or activity (**Hostile Environment**); or
- Federally Defined Criminal Acts (Sexual Assault, Dating Violence, Domestic Violence, Stalking)



Examples of “Quid Pro Quo” Sexual Harassment

- A supervisor offers an employee a pay raise in exchange for a sexual favor.
- A coach promises a student-athlete a scholarship or a starting position if they agree to engage in sexual activity.



Examples of “Hostile Environment” Sexual Harassment

- A student receives sexually explicit texts from a classmate, which causes significant distress and interferes with their ability to focus on schoolwork.
- A teacher repeatedly makes comments about students' appearances, calling them sexually suggestive names or making comments about their bodies.



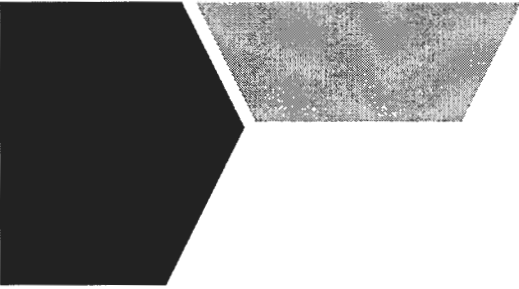
Examples of Federally Defined Criminal Acts of Sexual Harassment

- A teacher or student touches another person's private parts without consent for sexual gratification. (Sexual Assault- Fondling)
- A student sends repeated threats to their partner, coercing them into staying in the relationship or demanding sexual acts.(Dating Violence)
- A person harasses their ex-partner by sending them threatening or persistent messages through social media, texts, or phone calls, making them feel unsafe.(Stalking)



Supportive Measures (2020)

- Individualized services reasonably available that are non-punitive, non-disciplinary. Examples include, but are not limited to, services such as counseling, work or class schedule modifications, or academic support.
- Supportive measures should be considered for both the victim and the accused.
- Supportive measures can be offered regardless of whether a formal or informal grievance happens.



Title IX and Discipline (2020)

- Under Title IX discipline cannot be imposed until after the grievance process determines the accused is responsible for sexual misconduct.
- Examples of premature disciplinary action could include:
 - Involuntary reassignment of a student to another class when the complaint is reported.
 - Suspension prior to a determination of responsibility in a Title IX grievance.

Title IX: Why Special Educators Need to Keep Their Eye on the Ball

**Presented by:
Samantha Lewis**

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45th Annual
LRP's National
INSTITUTE
on Legal Issues of Educating Individuals with Disabilities

MAY 5 - 8, 2024
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MEET THE PRESENTER



Samantha Lewis

Partner

Parker Poe Adams & Bernstein LLP

AGENDA

- 1 Title IX: Basics**
- 2 Title IX: Changes and student discipline**
- 3 Respondents: Emergency removals & MDRs**
- 4 Complainants: Consent & supportive measures**

Title IX: Background and basics

What is Title IX?

Federal law that protects ALL PEOPLE from discrimination based on sex in education programs or activities that receive federal financial assistance.

20 USC §1681.

What does Title IX say?

- “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[.]” 20 USC §1681.
- **NEW (2024):** Sex discrimination includes discrimination based on sex stereotypes, sex characteristics, pregnancy/related conditions, sexual orientation, and gender identity. 34 CFR 106.10.

Why are we talking about Title IX?

- In Spring 2020, the Office for Civil Rights amended Title IX as it pertains to schools' disciplinary responses to sexual harassment allegations.
- On April 19, 2024, ED released its long-awaited revisions that go into effect Aug. 1.
- This presentation will focus on changes pertinent to K-12 schools related to student discipline.
- This presentation will further focus on how Title IX interacts (or doesn't) with IDEA/Section 504 for discipline of special education students.
- This presentation will highlight some of the new 2024 revisions.

What does Title IX require?

NEW STANDARD - 34 CFR 106.44(a)

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

Sexual Discrimination: 3 Categories

34 CFR § 106.2

Quid Pro Quo Specific Offenses

- “This for that”
- “Classic” sexual harassment
- Requires employee respondent
- Sexual assault. 20 USC 1092(f)(6)(A)(v).
- Stalking. 34 USC 12291(a)(30).
- Dating/Domestic violence. 34 USC 12291(a).

Hostile Environment **NEW**

- “Unwelcome sex-based conduct that, based on 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 or benefit from an education program or activity (*i.e.*, creates a hostile environment).”
- Much broader than prior definition

Who does Title IX protect?

STUDENTS



STAFF



PARENTS/
VOLUNTEERS, ETC.



Knowledge

34 CFR § 106.30(a)

NOTICE TO ANY EMPLOYEE

- Anytime ANY K-12 employee is made aware of sexual discrimination, the district **MUST** respond:

- Administrator
- Title IX coordinator
- Teacher/parapro/classroom aide
- Office staff/cafeteria staff/bus drivers

NEW: Exception for Designated Confidential Employees. 34 CFR 106.44(c)(1).

- *See Questions and Answers on the Title IX Regulations on Sexual Harassment, 121 LRP 25013 (OCR 07/20/21) (Q&A No.5 and Q&A No.14).*

Educational program or activity

NEW Application 34 CFR § 106.11

- **Includes all conduct that occurs under a district's education program or activity**
- **Includes all conduct subject to a school district's disciplinary authority**
- **Districts must now address sex-based hostile environment behavior even if:**
 - It occurs outside USA
 - It occurs outside the District's educational program or activity

School district's response

NEW – Districts must respond “promptly and effectively” 34 CFR § 106.44.

- This replaces the prior “deliberate indifference” requirement
- Districts should create a Title IX process/policy to address disciplinary incidents involving sex discrimination.
- Doing nothing is neither prompt nor effective.

Title IX: Changes in student discipline

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Before the Title IX amendments...

School received report of disciplinary infraction involving sexual harassment or sexual offense.

- **School handled as discipline:**
 - Accused student would be given notice of the charges
 - Accused student suspended 10 days
 - Disciplinary hearing scheduled
 - MDR scheduled

NOW, pursuant to Title IX amendments, schools cannot proceed with discipline. MUST go through a Title IX investigation and decision process!

Title IX: Special terms

34 CFR § 106.2

COMPLAINANT

- **Title IX “Victim”**
- **Rights:**
 - Be kept informed
 - Submit evidence/witnesses
 - Investigation meeting
 - Review and inspect all evidence (unredacted)
 - Know assigned discipline
 - Appeal

RESPONDENT

- **Title IX “Accused student”**
- **Rights:**
 - Be presumed “innocent” until determination is made
 - Stay in school until decision – unless emergency removed
 - MDR before removal or exclusionary discipline
 - PLUS ALL complainant’s rights

Discipline vs. Title IX

Student Discipline

- District can remove student 10 days pending hearing
- Districts have flexibility in response to accusations
- State/federal laws address interaction with IDEA and Section 504

Title IX

- Cannot remove student
 - Exception: Emergency removal
- Districts **MUST** respond or be in violation of Title IX requirements
- **NEW 34 CFR § 106.8(e)** – Requires consultation with a member of the IEP/504 team if either complainant or respondent is a student subject to IDEA or Section 504 protections

Discipline rules for Title IX

Sexual assault

- All non-consensual sex
- Non-consensual touching
- For consent:
 - Consider age(s)
 - Consider disabilities

Dating violence

- If students are, were, or may be in relationship, then incidents of:
 - Battery
 - Assault/threat
 - Bullying
 - Physical violence

Stalking

- Title IX doesn't define
- Look at local laws regarding stalking
- Typically requires:
 - Course of conduct
 - Specific target
 - Unwanted attention

Sexual harassment (i.e. Hostile environment)

NEW definition

- “Unwelcome sex-based conduct that, based on 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 or benefit from an education program or activity (*i.e.*, creates a hostile environment).”

34 CFR § 106.2

Sexual harassment: Considerations

- **Many discipline rule violations can apply (not just harassment)**
- **Ex: Student recording others in bathroom is technology offense but could also be Title IX sexual harassment**
- **Consider if you have a student who has repeated sexual behaviors**
- **Consider if you have a student who is repeatedly targeting a particular student or student(s)**
- **One incident can be significant enough**
- **Put yourself in Complainant's shoes**

Informal Resolution

34 CFR § 106.44(k)

- School Districts have the option of offering informal resolution (NOT required)
- Cannot require either party to participate
- Must obtain signed consent of both parties
- Regs don't define "informal resolution" or offer guidance of how this should be conducted
- Can expedite the grievance process if successful
- Gives parties sense of involvement/control
- Determine if Appropriate

Respondents: Emergency removals and MDRs

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Respondent placement during Title IX

- If a case is going through the Title IX process, **NOTHING** disciplinary or punitive can be imposed until decision rendered.
- Removing a respondent from school or putting them in another placement due to a Title IX complaint could be disciplinary or punitive.
- Respondents **GENERALLY** have a right to remain in school in their same placement until the Title IX decision maker renders a decision.

34 CFR § 106.45(b)(1)(3)

Exception: Title IX emergency removals

34 CFR § 106.44(h)

- **Emergency removal of a respondent from school is permissible if the district:**
 - Undertakes an individualized safety and risk analysis,
 - Determines that an imminent and serious threat to the health or safety of a complainant or any students or other individual arising from the allegations of sex discrimination justifies removal, and
 - Respondent has notice and an opportunity to challenge the decision immediately following the removal.
 - This provision does not modify/alter rights pursuant to IDEA or Section 504.

Emergency removal under IDEA/Section 504

Students with IEP/504 plans are subject to Title IX regulations JUST LIKE general education students.

THAT MEANS: A student with an IEP/504 plan CAN BE emergency removed pursuant to Title IX.

But how do we still provide IDEA/504 protections?

New 34 CFR § 106.44(g)(6)(i) -
Title IX Coordinator must consult
with at least one member of
student's IEP/504 team
AND...

HOLD AN MDR!

MDRs: The Basics

34 CFR § 300.530(e); and 34 CFR § 300.536

- ☐ MDR required for “disciplinary change of placement” of a disabled student for more than 10 cumulative days in a school year.
- ☐ Emergency removal would be in excess of 10 days
- ☐ Emergency removal would be a “disciplinary change of placement”
- ☐ Must hold an MDR within 10 days of emergency removal.

MDRs: The Basics (cont'd)

34 CFR § 300.530(d)(1)(i)

- ❑ If MDR team finds the disciplined behavior was NOT a manifestation:
 - *Can impose the emergency removal*
 - *Still must provide Interim FAPE services (for IDEA)*
 - *Hold an IEP meeting to determine how services will be provided and any supportive measures*
- **NOTE:** Emergency removals can take a student out of school for a lengthy time.
- **TIP:** Your district should develop a method to provide ALL students who are emergency removed a place to receive education.

MDRs: The Basics (cont'd)

34 CFR § 300.530(f)

- ☐ If MDR team finds the disciplined behavior **WAS** a manifestation of disability:
 - *Cannot impose the emergency removal*
 - *Must conduct FBA/BIP to address behavior*
- ☐ **BUT, you now have a determination under Title IX that this student is an “immediate threat to health/safety”**
What to do?!
 - *May make adjustments to IEP via an IEP meeting*
 - *This may include a change of placement*
 - *Provide additional supports*
 - *Create a safety plan?*

**What if student is not
subject to emergency
removal?**

Do we give them an MDR?

IT DEPENDS...

Title IX MDR

20 USC § 1415 (k)(1)(E)

- If respondent is NOT subject to an emergency removal, they will stay in school in their typical placement until decision is rendered.
- If Title IX decision-maker finds NO violation, NO discipline should be imposed, and NO MDR is required.
- If Title IX decision-maker finds a Title IX violation AND assigns more than 10 days discipline, then MDR would be required.

MDR: What are we trying to determine?

- If the conduct was caused by, or had a direct or substantial relationship to the child's disability; or
- If the conduct in question was the direct result of the school's failure to implement the IEP.

20 USC § 1415(k)(1)(E)(I)

20 USC § 1415(k)(1)(E)(II)

If the answer to either of the above questions is
"yes," the behavior is a manifestation.

However...

85 Fed. Reg. 30,026 (2020).

- **Even if manifestation, district still needs to go through Title IX grievance**
- **“[A] respondent’s lack of comprehension that conduct constituting sexual harassment violates the bodily or emotional autonomy and dignity of a victim does not excuse the misconduct, though genuine lack of understanding may (in a recipient’s discretion) factor into the sanction decision affecting a particular respondent, or a recipient’s willingness to facilitate informal resolution of a formal complaint of sexual harassment.”**

Complainants: Consent & Supportive Measures

What is consent?

- Title IX does not provide or require a definition for “consent.”
See generally 34 CFR § 106.30.
- Any definition/consideration of “consent” should be mindful of disability laws to ensure no conflict/violation. 85 Fed. Reg 30,026 (2020).

Consent: Special Education

- When reviewing a Title IX complaint, consider if disability has any impact on consent
- Special circumstances:
 - Non-verbal students and communication disabilities
 - Intellectual disabilities — Do they understand?
 - BE MINDFUL: High school years

***Doe v. Dennis-Yarmouth Reg'l Sch. Dist.*, 80 IDELR 72 (D. Mass. 2022)**

- Jane Doe was 16-year-old student with mental capacity of a 6-year-old
- District was supposed to provide 1:1 assistant all day, including when using the restroom
- District had a history of not providing substitute assistants or assistant during staff lunch break
- Jane was sent to use restroom during her lunch period without her 1:1
- Student C.C. was also supposed to have 1:1, but 1:1 was absent that day
- C.C. had asked Jane to go to boys' restroom with him and the two were found by an aide, naked in a large bathroom stall
- The school treated it as a case of mutual consent and did not investigate

***Doe v. Dennis-Yarmouth Reg'l Sch. Dist.*, 80 IDELR 72 (D. Mass. 2022)**

- Jane Doe's family filed a suit arguing that the district was deliberately indifferent in their failure to supervise and in their failure to investigate
- The District Court agreed that the district's failure to investigate could be considered deliberately indifferent
- Given Jane's disability and reduced mental capacity, the district's determination that the sexual activity between Jane and C.C. was "mutual" illustrates "an investigation that was so deficient as to be unreasonable"

***Doe v. Dennis-Yarmouth Reg'l Sch. Dist.*, 80 IDELR 72 (D. Mass. 2022)**

- Failure to supervise
- Ultimately the court rejected the family's argument that "but for" the district's failure to provide the 1:1 assistant, the sexual assault would not have happened
- Court rejected this because the family failed to claim that the district had knowledge that sexual harassment could occur if the students were left alone

But what if you had a respondent with history of sexual assault behavior and you fail to supervise?

What are supportive measures?

34 CFR § 106.2 and 34 CFR § 106.44(g)

- Services offered as appropriate, available, and without charge to the complainant or the respondent
- Restore or preserve equal access to the district's education program or activity, without unreasonably burdening the other party
- Can include measures designed to protect the safety of all parties in the school district's educational environment
- Cannot be punitive or disciplinary
- This is interactive process ... similar to IDEA
- Must consult with a member of the IEP/504 team on supportive measures for students with disabilities

Note on supportive measures #1

Supportive measures are NOT exclusive to complainants and should be offered equally to respondents and complainants as necessary.

34 CFR § 106.44(g)

Note on supportive measures #2

**Supportive measures CAN AND SHOULD
be offered/put in place, even if a matter
does not meet Title IX criteria, if a student
needs the supports.**

34 CFR § 106.44(g)

Note on supportive measures #3

**Supportive measures CAN CONTINUE
even after Title IX decision is rendered, so
think of these as long-term supports.**

34 CFR § 106.44(g)(3)

Note on supportive measures #4

Supportive measures CAN AND SHOULD INCLUDE supports for students to access the Title IX process as needed.

34 CFR § 106.44(g)(6)

Supportive measures examples

34 CFR § 106.44(g)(1)

- **Counseling**
- **Extensions of deadlines or other course-related adjustments**
- **Modifications of work or class schedules (with permission of the party)**
- **Safety plan**
- **Campus escort services**
- **Mutual restrictions on contact between the parties**
- **Leaves of absence**
- **Increased security and monitoring of certain areas of the campus**

IDEA/Section 504 considerations

Ensure the Title IX Coordinator is consulting with at least one member of the IEP/504 team on supportive measures

Ensure supportive measures do not conflict with services/supports in IEP/504 plan

Ensure parent is included in discussion of supportive measures

Determine if any portion of IEP/504 plan needs to be amended to account for ongoing supportive measures

Best practice

Call IEP/504 meeting to discuss supportive measures for students who are complainants or respondents in a Title IX matter.

34 CFR § 300.324(b).

NOTE: There may be supportive measures (like no contact) that need to be put in place immediately and cannot wait for a meeting. Supportive measures can be discussed and modified at any time.

QUESTIONS?



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Title IX Sexual Harassment

INVESTIGATOR TRAINING

SY 2023-2024

PRESENTER:

DOREEN OLIVER

LEGAL COMPLIANCE OFFICER/
TITLE IX





What is Title
IX?

Title IX
Jurisdiction

2020
Regulation

Sexual
Harassment
Categories

Title IX Formal
Grievance
Process

Retaliation

Title IX
Informal
Grievance
Process

Title IX
Supportive
Measures

Questions?

Contact/
Resources

What is Title IX?

It is a Federal Law

It is the Title IX of Education
Amendments of 1972

Title IX prohibits sex discrimination in
any education program or activity
receiving federal financial assistance



Title IX Jurisdiction

It encompasses any issues of equality within programs or incidents such as athletics, sexual harassment, sexual assault/violence and LGBTQ.

We are required under the law to take immediate and appropriate steps to investigate what occurred and take prompt and effective action to fix the program, correct and/or stop the harassment, prevent the recurrence, and remedy the effects.



2020 New Regulation

Went into effect on
August 14, 2020

Apply to K-12 schools and not
just colleges and universities

Make all K-12 school
employees mandated
sexual harassment
reporters

Outlines a formal grievance
process for sexual harassment

Provides for an informal
resolution process



Highlights of Proposed Regulation (2022)

- ❖ Define sex-based harassment.
- ❖ Define sex discrimination as discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
- ❖ Clarify grievance procedures and other necessary steps when there is a complaint of sex discrimination.
- ❖ Define the term “pregnancy or related conditions” and the term “parental status,” and prohibit discrimination against students and applicants for admission or employment on the basis of pregnancy or related conditions.
- ❖ Clarify a recipient’s obligations to students and employees who are pregnant or experiencing related conditions.
- ❖ Specify that a recipient must train a range of relevant persons on the recipient’s obligations under Title IX.
- ❖ Clarify a recipient’s obligation to address retaliation.

New Title IX Definition of Sexual Harassment



Category (1)

A school employee providing a benefit or service in exchange for a person's participation in unwelcomed sexual conduct (often called quid pro quo harassment)



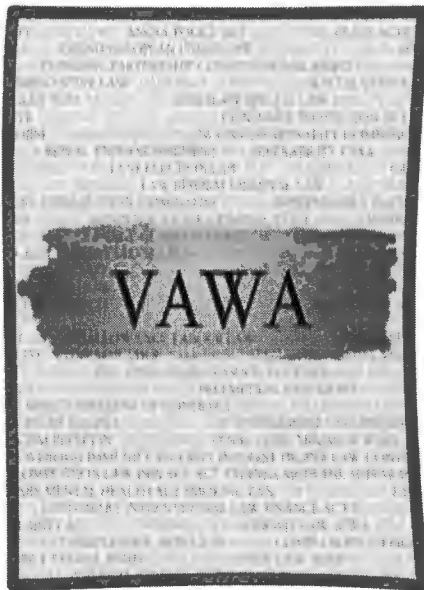
New Title IX Definition of Sexual Harassment

Category (2)

Unwelcomed sexual conduct that is severe, AND persistent or wide-spread, AND objectively offensive AND basically denies a person equal access to the school's education program or activity



New Title IX Definition of Sexual Harassment



Category (3)

“Sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v)

“Dating violence” as defined in 34 U.S.C. § 12291(a)(11)

“Domestic violence” as defined in 34 U.S.C. § 12291(a)(12)

“Stalking” as defined in 34 U.S.C. § 12291(a)(36).

Formal Grievance Process



- ❖ A six (6) step process that begins after a complaint is screened by the TIXC and signed by the Complainant or Title IX Coordinator.
- ❖ Respondents are presumed not responsible for the alleged conduct until the grievance process determines culpability.
- ❖ Title IX Coordinators, investigators, and decision-makers must **not** have a conflict of interest or known bias.

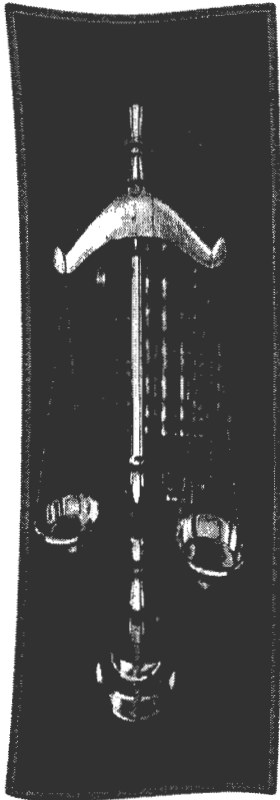
Formal Grievance Process (Cont.)



6 Steps:

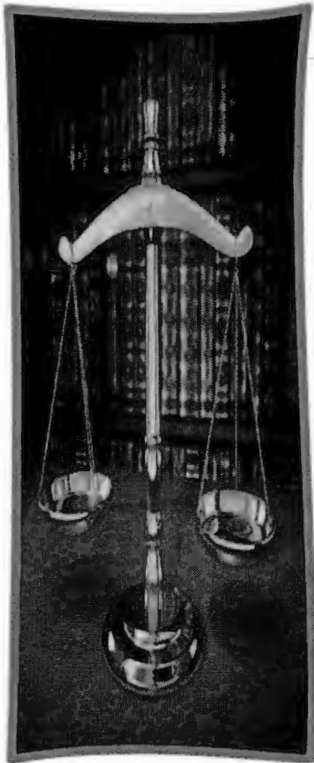
1. Formal Complaint
2. Written Notice
3. Investigation
4. Investigation Report
5. Decision
6. Appeal

STEP 1: Formal Complaint



- ❖ Must be filed in person, by mail, by email, or through the online “Mandated Reporting Portal.”
- ❖ Must contain the Complainant’s physical or digital signature.
- ❖ Can be withdrawn at any time, resulting in dismissal of the grievance.
- ❖ Complaints arising from the same factual circumstances may be consolidated if:
 - There is more than one Complainant or Respondent; or
 - A cross complaint has been filed by a Respondent against a Complainant.

STEP 2: Written Notice



Written notification of grievance must be provided to all parties within five (5) days of a complaint filing.

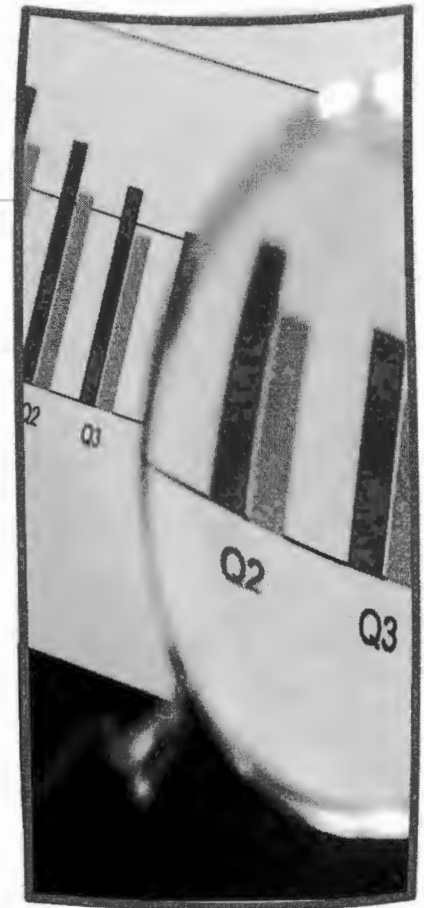
Written notice must include:

- Notice of formal grievance process;
- Notice of the allegations potentially constituting sexual harassment, including:
 - The identities of the parties involved in the incident, if known;
 - The conduct allegedly constituting sexual harassment; and
 - The date and location of the alleged incident, if known.
 - Possible policy violations.

Step 3: Investigation

The District is required to conduct an investigation that is thorough, reliable, impartial, prompt, and fair.

Relevant & directly related evidence should be shared within thirty (30) days of a formal complaint filing.



Step 3: Investigation (Cont.)

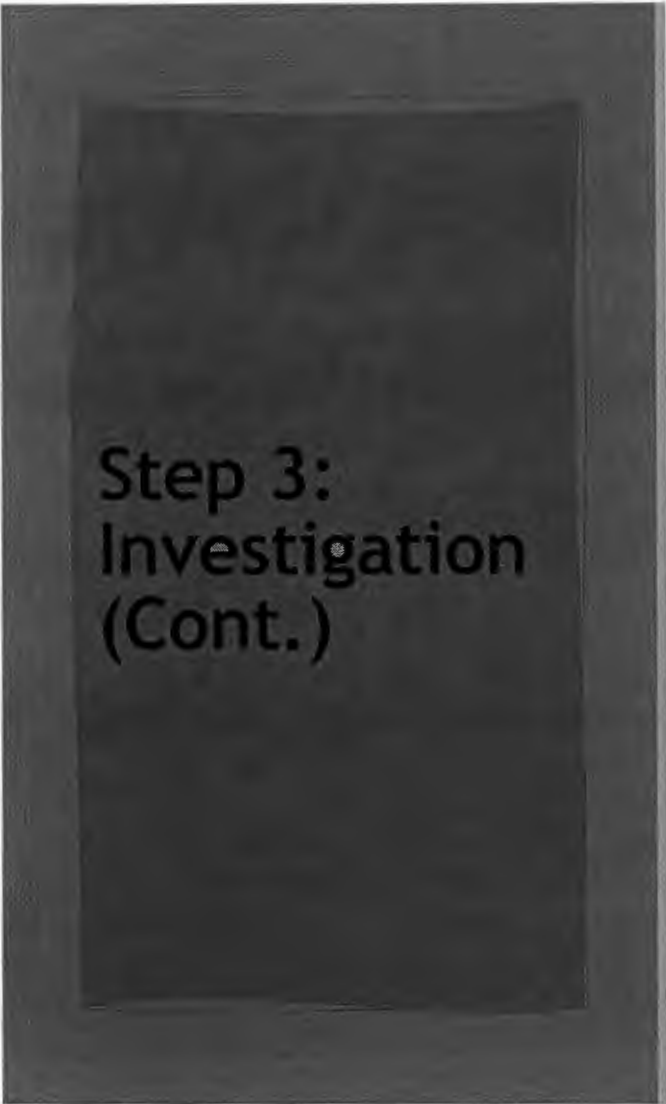
Investigation Process:

1. Title IX Coordinator assigns the investigator to investigate an incident through the formal grievance process.
2. Investigator establishes investigation strategy.
3. Investigator issues notice to parties of intent to interview with at least three days advanced notice.
4. Investigator interviews witnesses and gathers evidence (may include review of law enforcement investigation documents).
5. Investigator drafts investigation report:
 - Includes all relevant and directly-related evidence to the allegations
 - Assesses testimony credibility and relevant evidence
 - Identifies areas of dispute and areas of agreement
 - Provides interviewing questions as an appendix.

Step 3: Investigation (Cont.)

Investigation Process (Cont.):

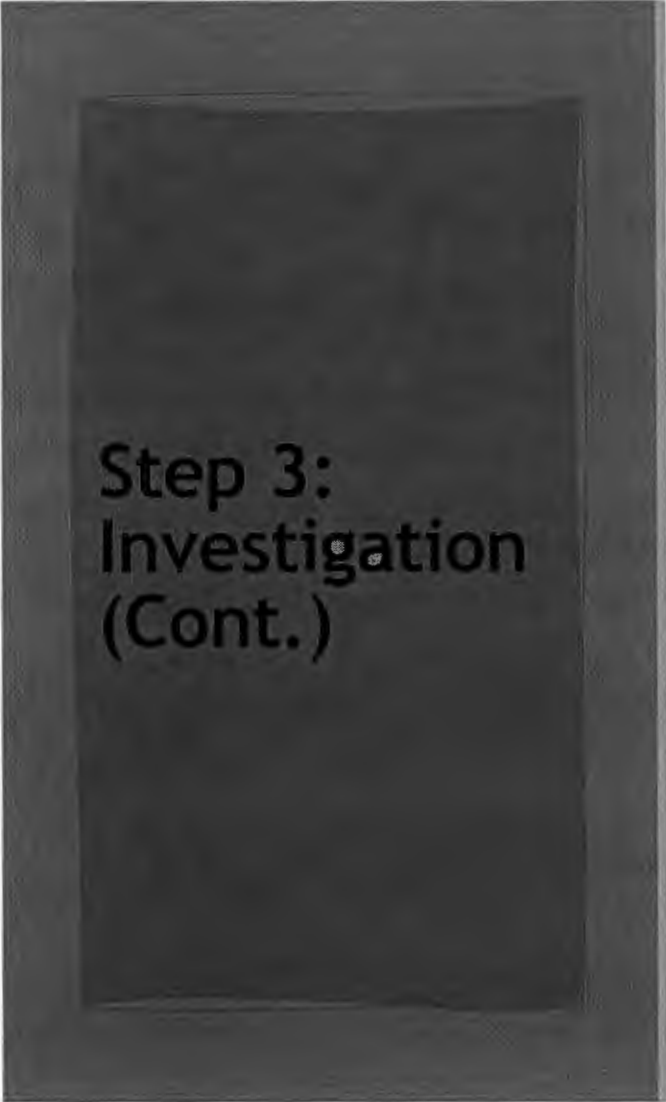
6. Investigator submits draft report and relevant and directly-related evidence to TIX Coordinator for review.
7. Investigator provides all relevant and directly-related evidence directly related to the allegations to all parties and any advisors.
 - Allows parties 10 days to respond.
 - Considers any submitted response or evidence before drafting the report.
9. Investigator submits final report to TIX Coordinator for review.
10. Investigator sends final report (along with all relevant and directly-related evidence) to all parties and the Decision-Maker.
 - Parties have 10 days to submit questions, objections and or rebuttals to the Decision-Maker.



Step 3: Investigation (Cont.)

Interview Notification:

- Parties must receive written notice at least three calendar days before any interview.
 - The notice must provide the date, time, location, participants, and purpose of the investigative meeting.
 - The notice can be provided via email.
- *If prior notification of an interview is not provided the parties must be provided an audio recording of the interview.



Step 3: Investigation (Cont.)

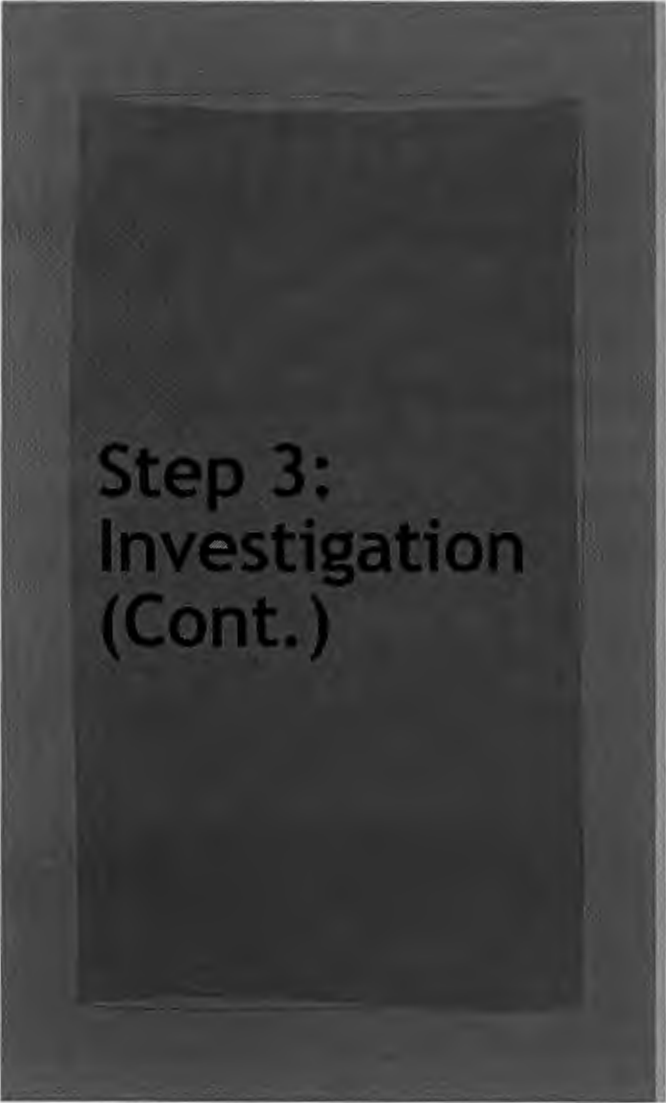
General Interviewing Techniques:

- Interview in a familiar environment.
- Explain the grievance process and your role as a neutral fact-finder.
- Establish a rapport before you start interviewing.
- Make eye contact.
- Use the funnel approach to questioning (broad to narrow).
- Ask questions in a non-accusatory manner.
- Avoid combative exchanges.

**Step 3:
Investigation
(Cont.)**

General Interviewing Techniques (Cont.):

- Actively listen.
- Ask clarifying questions.
- Solicit verbal responses.
- Ask for any witnesses/ documentation.
- Invite interviewee to ask questions.
- Advise the interviewee of the District's anti-retaliation policy and how to report retaliatory conduct.



Step 3: Investigation (Cont.)

Interviewing The Complainant:

- Allow them to give a full narrative without asking questions, then drill down on details.
- Ask if they told anyone after the incident(s).
- Ask for any evidence (texts, recordings, etc.).
- Ask if their work or academic performance was affected because of the incident(s).
- Ask if incident(s) have affected them emotionally or physically.
- Advise of the District's anti-retaliation policy and how to report retaliatory conduct.



Interviewing The Respondent:

- Allow them to give a full narrative without asking questions, then drill down on details.
- Ask questions about each allegation:
 - Ask open-ended and close-ended questions.
 - Get details (do not leave questions unanswered).
- Ask about possible motives for the allegations.
- Ask for any relevant evidence or documentation (texts, recordings, etc.).
- Advise of the District's anti-retaliation policy and how to report retaliatory conduct.

Step 3: Investigation (Cont.)

TYPE OF QUESTIONS TO USE:

Open Ended Questions

(Open-ended questions allow for broad, and unrestricted dialogue.)

Close Ended Questions

(Close-ended questions can usually only be answered with a "yes" or "no" response.)

TYPE OF QUESTIONS TO AVOID:

Cross-Examination Questions

(Leading questions that contain an answer in them.)

Multiple-Choice Questions

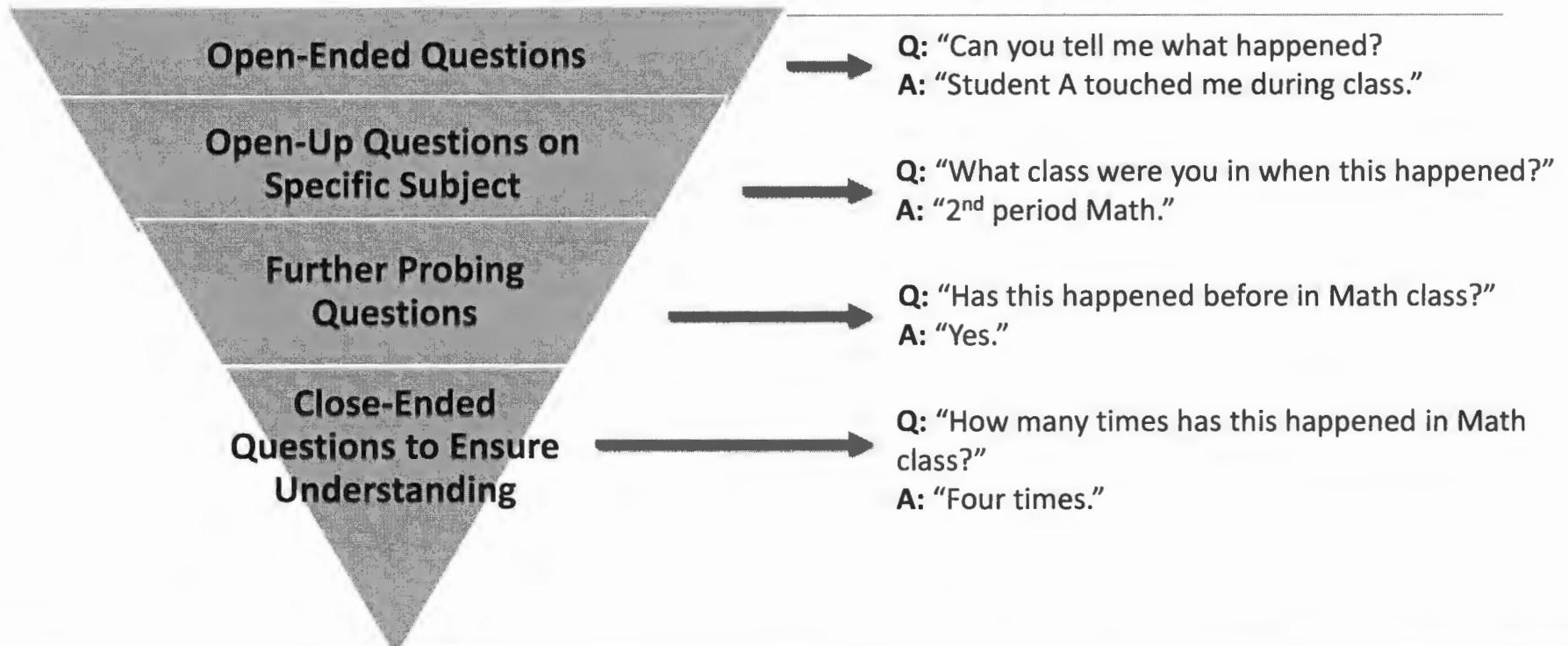
(Provide the witness with answers that the witness may view as the ONLY acceptable answers.)

Compound Questions

(Multiple questions phrased in a single question.)

Step 3: Investigation (Cont.)

Conduct interviews using the Funnel Technique





How to Assess the Credibility of Evidence:

Credible evidence is defined in part as information that is reliable, accurate, and corroborated.

To determine the credibility of evidence an investigator should ask the following questions:

- ❖ Is the evidence reliable?
- ❖ Is the evidence corroborated?
- ❖ Is there a history of similar behavior?
- ❖ Is there motivation to lie?

Step 3: Investigation (Cont.)

Credibility Factors:

Reliability	Corroboration	Pattern of Similar Behavior	Motivation
Is there consistency in the evidence?	Is there aligned testimony?	Is there a history of similar behavior?	Is there a reason to lie?
Is the evidence plausible?	Is there supporting documentation?	Are there determinations of responsibility for similar misconduct?	What's at stake if the allegations are true/false?
	Is there supporting physical evidence?		

STEP 4: Investigation Report



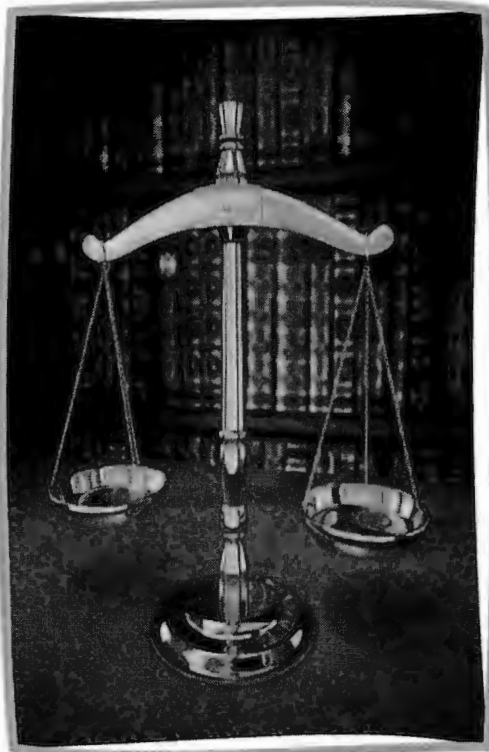
The investigation report should succinctly describe all collected information.

The investigator must conduct an objective evaluation of all relevant evidence.

Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true.

The investigator will not make any recommendation as to whether a Title IX violation has occurred.

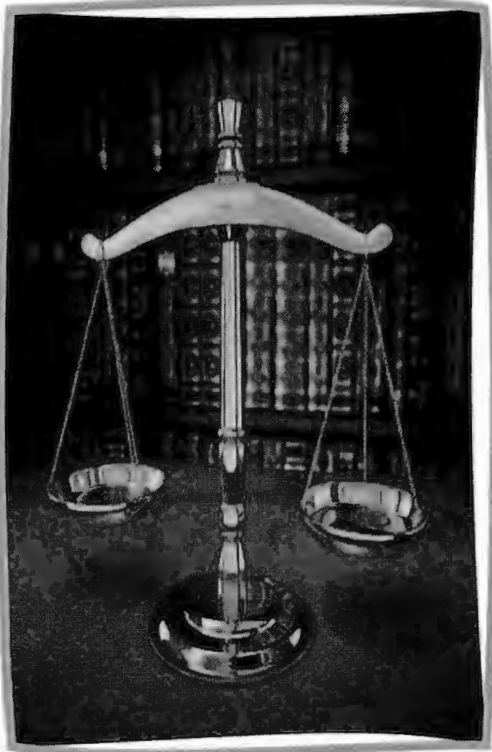
STEP 4: Investigation Report (Cont.)



The investigation report summarizes the investigation and may include:

- ☐ Interview summaries
- ☐ Summaries of other information collected and extracted from:
 - police reports
 - forensic interviews
 - expert evaluations (lie detector tests)
 - video surveillance/ photographs
 - texts, emails, and social networking messages

STEP 4: Investigation Report (Cont.)



To avoid crossing over into a decision-maker function the investigator should follow the G.A.S Framework* for reporting:

- ❖ **Gather** evidence
- ❖ **Assess** credibility and evidence
- ❖ **Synthesize** areas of dispute and agreement and all questions asked.

STEP 4: Investigation Report (Cont.)



When assessing testimony credibility:

- Indicate where the Decision-maker should look without providing conclusions or making findings related to credibility.
 - (Ex. Improper Assessment)
“The Decision-maker should find Mark to be unbelievable in his testimony for the following reasons...”
 - (Ex. Proper Assessment)
“Mark’s testimony contrasts with Mary’s testimony, and the accounts of Witness 1 and Witness 7 which aligned with Mary’s testimony.”

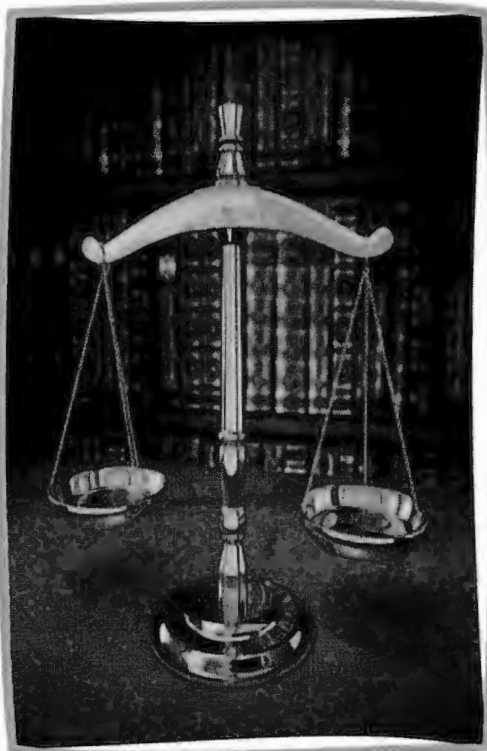
STEP 4: Investigation Report (Cont.)



When synthesizing areas of dispute:

- Examine only actions that have a direct relation to the situation under review.
- Narrow the scope to areas in dispute or disagreement between the parties.
- Present evidence in report organized around facts relating to alleged policy violations.
- Highlight the relationships between contradictory, corroborating and inconsistent evidence.

STEP 4: Investigation Report (Cont.)



- After sending the evidence the investigator must:
 - Allow 10 days for written response
 - Consider response prior to completion of the report.
- The final Investigation Report (with any revisions from party responses) must be sent:
 - To each party and Advisor
 - In an electronic format or hard copy
 - For the parties' review and written response

STEP 5: Decision



The grievance process concludes with a written decision by a decision-maker, who determines whether a Respondent is responsible for a violation, based on a preponderance of the evidence.

The Title IX Coordinator selects the decision-maker.

The decision-maker will not be the same person as the Title IX Coordinator or the investigator.

The decision-maker will give parties the following opportunities:

- Submit written, relevant questions that a party wants asked of any party or witness;
- Provide each party with the answers;
- Allow for additional, limited follow-up questions from each party.

STEP 6: Appeal



Appeals must be submitted in writing and received by the Title IX Coordinator within 10 calendar days of the date that the written decision is provided to the parties.

The written appeal must sufficiently describe at least one of the three grounds for an appeal (procedural irregularity, newly discovered evidence or conflict of interest).

If an appeal is granted both parties are notified and provided an opportunity to submit briefs.

The superintendent, as appellant reviewer, will provide a final decision.

Retaliation



No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, its regulation, or this grievance process, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or proceeding.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a sexual misconduct grievance proceeding does not constitute retaliation.

A determination regarding responsibility alone is not sufficient to conclude that any party made a materially false statement in bad faith.

Informal Resolution

Informal resolution (mediation) must have mutual consent.

Any agreed upon terms must be approved by an SCCPSS third party participant.

Informal resolution is not permitted when a student is alleging sexual harassment by an employee.

Either party can withdraw at anytime before a final agreement is reached.



Supportive Measures



Individualized services reasonably available that are **non-punitive, non-disciplinary...**

Supportive measures should be considered for both the victim and the accused.

Supportive measures can be offered regardless of whether a formal or informal grievance happens.

Questions ?



Contact/ Resources

Legal Office

Doreen Oliver- Legal Compliance Officer/ Title IX
Coordinator

Doreen.Oliver@sccpss.com

912-395-1319

Sexual Harassment Protocol

<https://spwww.sccpss.com/Pages/Title%20IX%20Sexual-Harassment-Protocol---Administrative-Response-and-Formal-Complaint-Procedure.aspx>

Title IX Sexual Harassment



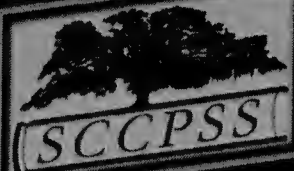
ADMINISTRATOR TRAINING

SY 2023-24

Presenter:

Doreen Oliver

Legal Compliance
Officer/ Title IX
Coordinator





Title IX Sexual Harassment

ADMINISTRATOR TRAINING

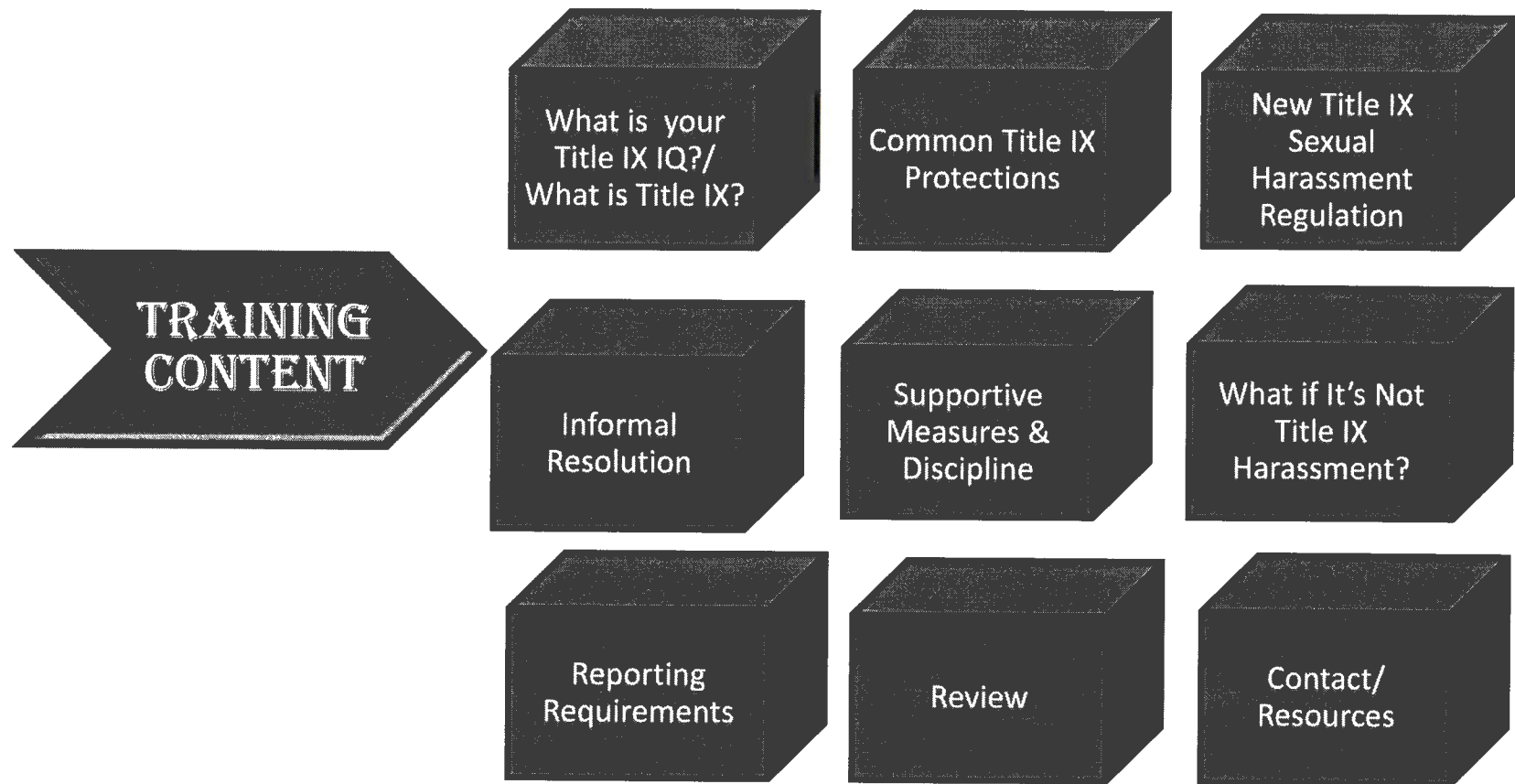
SY 2023-2024

Presenter:

Doreen Oliver

Legal Compliance Officer/ Title IX & ADA Coordinator



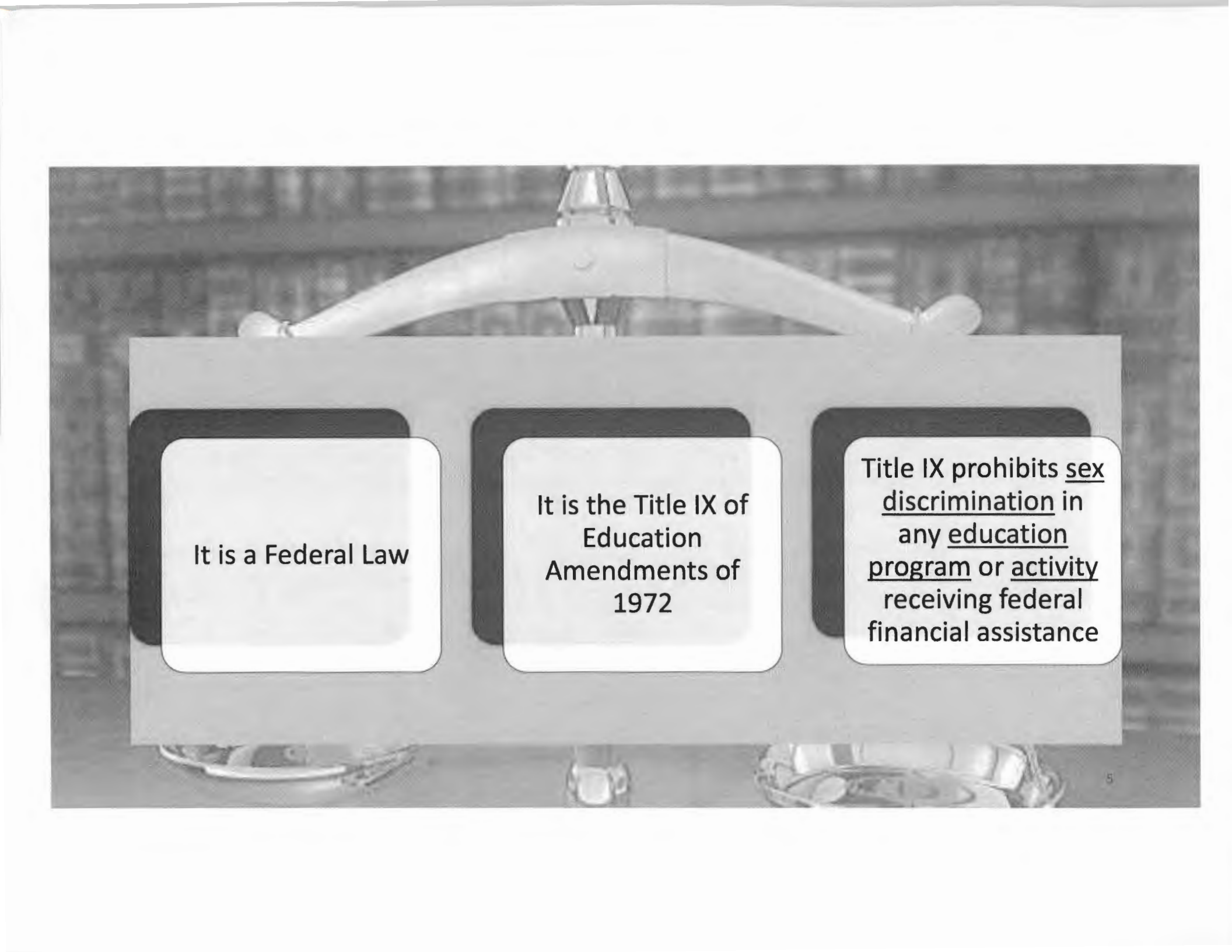


What is your Title IX IQ?

A teacher reports that two of her students are constantly at odds with each other. On Friday they started fighting because one said the other called him gay and touched his privates. The teacher said she got them to apologize to each other and they spent the afternoon laughing and getting along. Now the parent of the student who was called gay is complaining her child was sexually harassed.

You've been designated as the Title IX Coordinator for your school. What do you do?





It is a Federal Law

It is the Title IX of
Education
Amendments of
1972

Title IX prohibits sex
discrimination in
any education
program or activity
receiving federal
financial assistance



Title IX Protections

Title IX protects against sex discrimination based on:

- Gender
- Sexual Orientation
- Pregnancy/ Student Parenting
- Gender Identity*

*For clarification and to improve technical accuracy, the Office of Civil Rights takes the position that Title IX prohibits discrimination on the basis of gender identity. Note that regardless of the validity of OCR's guidance or views on the extension of *Bostock v. Clayton County* to Title IX, District policy GAEB provides that Harassment and other forms of discrimination based on...gender identity...are prohibited and this prohibition applies to all employees in the workplace, including supervisors or co-workers.

New Regulation (2020)

Went into effect on
August 14, 2020

Apply to K-12 schools and not
just colleges and universities

Make all K-12 school
employees mandated
sexual harassment
reporters

Outlines a formal grievance
process for sexual harassment

Provides for an informal
resolution process



New Definition of Sexual Harassment under Title IX



Category (1)

A school employee providing a benefit or service in exchange for a person's participation in unwelcomed sexual conduct (often called quid pro quo harassment)



Category (1) Scenarios (Cont'd)

Teacher/ Student (Quid Pro Quo Harassment)

A teacher threatens to fail or discipline a student for refusing sexual advances or Gives a passing grade or a higher grade for sexual favors.



New Title IX Definition of Sexual Harassment

Category (2)

Unwelcomed sexual conduct that is severe, AND persistent or widespread, AND objectively offensive AND basically denies a person equal access to the school's education program or activity



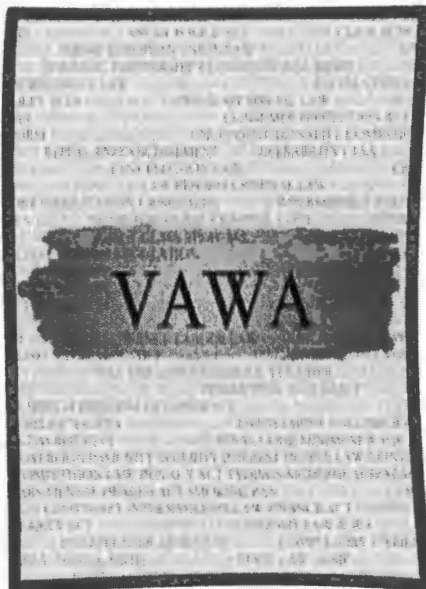
Category (2) Scenarios

A male student complains that a female student is constantly calling him a “tranny”, telling the other students to laugh at how he walks and talks “queer. She will occasionally brush past him-touching his shoulder.

Two classmates are in E-Learning Academy. During ELA Student 1 sends Student 2 nude pictures of her body in a private chat and keeps asking him out. Student 2 told her he is not interested.



New Title IX Definition of Sexual Harassment



Category (3)

“Sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v)

“Dating violence” as defined in 34 U.S.C. § 12291(a)(10)

“Domestic violence” as defined in 34 U.S.C. § 12291(a)(8)

“Stalking” as defined in 34 U.S.C. § 12291(a)(30).

Category (3) Scenarios



During the 21st Century afterschool program at his school a student complains a student from another school grabbed his buttocks and asked if he wants to have sex. When he said no the offender starts telling everyone the complaining student is gay.

Two employees once dated each other. After breaking up, one starts following the other employee around the building. They leave notes on their car, in their mailbox and under their classroom door. The complaining party is now complaining that they are fearful to come to work.

Formal Grievance Process



- ❖ A six (6) step process that begins after a complaint is screened by the TIXC and signed by the Complainant or Title IX Coordinator.
- ❖ Respondents are presumed not responsible for the alleged conduct until the grievance process determines culpability.

Formal Grievance Process (Cont.)



6 Steps:

1. Formal Complaint
2. Written Notice
3. Investigation
4. Investigation Report
5. Decision
6. Appeal

Informal Resolution

Informal resolution (mediation) must have mutual consent.

Any agreed upon terms must be approved by an SCCPSS third party participant.

Informal resolution is not permitted when a student is alleging sexual harassment by an employee.

Either party can withdraw at anytime before a final agreement is reached.



Supportive Measures

- Individualized services reasonably available that are **non-punitive, non-disciplinary**... such as counseling, work or class schedule modifications, or academic support.
- Supportive measures should be considered for both the victim and the accused.
- Supportive measures can be offered regardless of whether a formal or informal grievance happens.



Employee / Student Discipline



The accused should be treated fairly.

Under Title IX discipline cannot be imposed until after the grievance process determines the accused is responsible for sexual misconduct.

What if It's Not Title IX Sexual Harassment?

SCCPSS is committed to providing an educational environment free from sexual discrimination and misconduct.

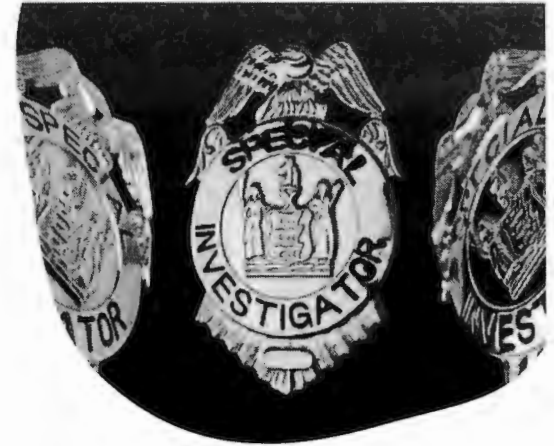
Any sexual misconduct that does not meet the definition of "sexual harassment" under Title IX will be investigated and addressed pursuant to any applicable SCCPSS policy.



Reporting Requirement

Any District employee on notice of sexual harassment or allegations of sexual harassment will **promptly** report it to:

- The District Title IX Coordinator, or
- The Site Administrator



Division of Family
Children Services



Remember...

- You are a Mandated Reporter.
- Report any suspected sexual harassment **promptly**.
- Report any suspected sexual harassment to your site administrator or the Title IX Coordinator.
- Site Administrators should contact the Title IX Coordinator **before** investigating or disciplining.
- When in doubt, report.

Contact/ Resources

Legal Office

Doreen Oliver- Legal Compliance Officer/ Title IX
Coordinator

Doreen.Oliver@sccpss.com

912-395-1319

Sexual Harassment Protocol

<https://spwww.sccpss.com/Pages/Title%20IX%20Sexual-Harassment-Protocol---Administrative-Response-and-Formal-Complaint-Procedure.aspx>



2024 Title IX Regulation & Informal Resolution

Doreen Oliver, SCCPSS Legal Compliance
Officer/ Title IX Coordinator
June 17, 2024



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.”

20 USC §1681

Legal Office





Core Requirements of Title IX

- Designate a Title IX Coordinator
- Appropriately Train
- Respond to Knowledge of Discrimination
- Report Sexual Harassment
- Provide Supportive Measures
- Provide Due Process for those Accused of Sexual Harassment

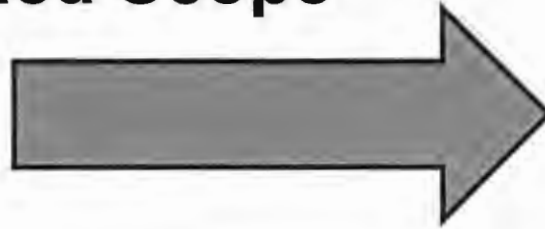


2024 Regulations

- Issued on April 19, 2024
- Go into Effect on August 1, 2024
- Subject to Legal Challenges (including Georgia)

2024 Regulations

Expanded Scope



More Flexible Procedures

Responding to Discrimination

Title IX has always required recipient response to discrimination. The new regulations make it clear that recipients must respond with a formal process.

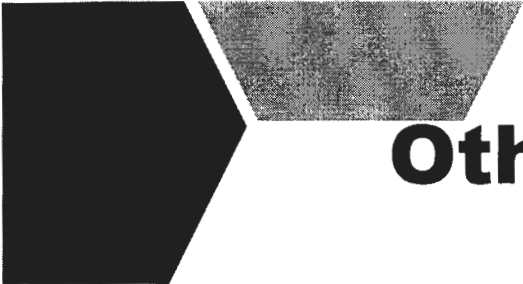
When a school has knowledge of conduct that “reasonably may constitute sex discrimination under Title IX, it must take action to promptly and effectively end any sex discrimination, prevent its recurrence and remedy its effects.”

The Title IX Coordinator oversees (including active monitoring) the response to reports and complaints of discrimination.

1st Big “Takeaway” Under New 2024 Regulations (EXPANDED SCOPE)

The grievance process that applied to sexual harassment now applies to all claims of sexual discrimination. (Which includes harassment.)

A recipient may not impose discipline for sex discrimination prohibited by Title IX until there is a determination at the conclusion of grievance procedure that the student engaged in prohibited discrimination.



Other Scope Expansions (2024)

- Sex characteristics, gender identity, sexual orientation and sex stereotypes
- Pregnancy/related conditions
- Jurisdiction over things like study abroad
- Jurisdiction tracks with disciplinary authority (not control)
- Complaints do not have to be in writing or signed
- Anyone who was participating in a program/activity when the discrimination occurred can file a discrimination complaint (sexual harassment excepted)



Supportive Measures (2024)

- A “No Contact Order” can be unilateral rather than mutual.
- A party to a sexual harassment grievance proceeding can challenge a decision to provide, deny, modify or terminate a supportive measure.



Definition of Sexual Harassment (2020)

- A school employee providing a benefit or service in exchange for a person's participation in unwelcomed sexual conduct (often called quid pro quo harassment) (Quid Pro Quo)
- **Unwelcomed sexual conduct that is severe, AND persistent or widespread, AND objectively offensive AND basically denies a person equal access to the school's education program or activity**
- Federally Defined Criminal Acts (Sexual Assault, Dating Violence, Domestic Violence, Stalking)



Definition of Sexual Harassment (2024)

- A school employee providing a benefit or service in exchange for a person's participation in unwelcomed sexual conduct (often called quid pro quo harassment) (Quid Pro Quo)
- **Unwelcomed sex-based conduct that is subjectively or objectively offensive, as well as severe OR pervasive.**
- Federally Defined Criminal Acts (Sexual Assault, Dating Violence, Domestic Violence, Stalking)



Is Sexual Harassment Still Important Under the New Regs?

Sexual harassment is now a form of sexual discrimination.

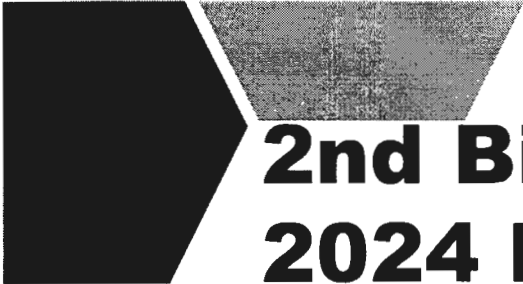
We know that anything defined as sexual harassment requires a grievance proceeding. Other acts amounting to sexual discrimination are not as specifically defined.

2024 Regulations

Expanded Scope



More Efficient Procedures



2nd Big “Take Away” Under New 2024 Regulations (MORE EFFICIENT PROCEDURES)

School sites will be conducting investigations.

Responsive, efficient and effective investigations will be the key to ensuring that the grievance process is concluded promptly.



Changes to K-12 Procedures

- Investigator and Decision Maker can be the same person.
- Written cross-examination is no longer required.
- Timelines are largely open-ended.
- Districts have a degree of flexibility to design their own grievance procedures. (This includes different procedures based on the age of the respondent.)
- Determination of Responsibility (“DOR”) report is streamlined.

Investigations: Core Tasks

The District must provide for adequate, reliable, and impartial investigation of complaints by:

- Gathering sufficient evidence to determine if sex discrimination occurred.
- Reviewing gathered evidence for relevance.
- Providing equal opportunity for parties to present fact witnesses and exculpatory evidence.
- Providing each party with equal opportunity to access evidence.

Decision Maker Gets to Ask the Questions to Determine Credibility (when at issue)

The Decisionmaker (who can be the investigator) must be given the opportunity to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.



Informal Resolution (2024)

Informal resolution can now be utilized before the filing of a formal sexual harassment complaint.



Informal Resolution (2024)-Terms

USDOE clarifies that § 106.44(g)(2) does not prohibit terms that are similar to supportive measures from being agreed to as part of an informal resolution.

Also, § 106.44(k)(5) states that potential terms of an informal resolution agreement may include but are not limited to, restrictions on contact, on the respondent's participation in one or more of the recipient's programs or activities and restrictions on attendance at specific events.

Terms can also include remedies or disciplinary sanctions the recipient could have imposed had the recipient determined that sex discrimination occurred under the grievance process. (See 87 FR 41456.)



Informal Resolution (2024)-Terms

Conflict/Bias

Section 106.45(b)(2) requires that any person designated as a Title IX Coordinator, investigator, decisionmaker, or facilitator of an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.



Informal Resolution (2024)-Terms

Training

Under § 106.8(d)(3), facilitators of the informal resolution process must also be trained on the rules and practices associated with the recipient's informal resolution process and how to serve impartially, including by avoiding conflicts of interest and bias.



Informal Resolution (2024)-Terms

Restrictions

Any time prior to determining whether sex discrimination occurred under § 106.45, and if applicable § 106.46, a recipient may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student, or such a process would conflict with Federal, State or local law.

Additional circumstances when a recipient may decline to allow informal resolution include but are not limited to when the recipient determines that the alleged conduct would present a future risk of harm to others.



Informal Resolution (2024)-Terms

Restrictions

A recipient must not require or pressure the parties to participate in an informal resolution process. The recipient must obtain the parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.



Informal Resolution (2024)-Notice

Before initiation of an informal resolution process, the recipient must provide to the parties notice that explains:

- (i) The allegations;
- (ii) The requirements of the informal resolution process;
- (iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the recipient's grievance procedures;
- (iv) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;



Informal Resolution (2024)- Notice (Cont'd)

- (v) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- (vi) What information the recipient will maintain and whether and how the recipient could disclose such information for use in grievance procedures under § 106.45, and if applicable § 106.46, if grievance procedures are initiated or resumed.



Informal Resolution (2024)- Terms

Facilitator Restrictions

The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the recipient's grievance procedures.



Informal Resolution (2024)-Training

Informal Resolution Process

The Informal Resolution Process shall be conducted in a manner that the Informal Facilitator considers appropriate.

All legal costs of preparation for, participation in, and representation in the Informal Resolution Process shall be borne by the parties that have obtained those services unless otherwise agreed to in writing by a party who agrees to pay for legal services on behalf of another party.



Informal Resolution (2024)-Training

Informal Resolution Process

This Informal Resolution Process does not concern or address claims for money damages.

This Informal Resolution Process does not concern or address any awards of attorneys' fees or costs.



Informal Resolution (2024)-Training

Informal Resolution Process

Questions asked between individual claimants and respondents should not be asked without express permission. As a matter of course any questions directed at other parties should be asked through the Informal Resolution Facilitator.

The Informal Resolution Process may be continued to a future date based on the agreement of all parties and the consent of the Informal Facilitator.



Informal Resolution (2024)-Training

Confidentiality

Information communicated to the Informal Facilitator in private shall generally not be repeated to the other parties.

Any statements made or records shared in connection with the Informal Resolution Process will be deemed confidential. The District's Investigator will not gather information and evidence through the Informal Resolution Process.



Informal Resolution (2024)- Training

Confidentiality

The Informal Dispute Resolution Process will be kept confidential by the parties, their representatives, the Informal Facilitator and the Mediation Center of the Coastal Empire, LLC.

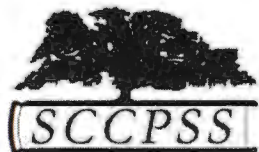
The requirement of confidentiality will not apply where:

(a) the parties' consent in writing to specific disclosure.

(b) disclosure is necessary to implement or enforce a resulting Resolution Agreement.

(c) a party is required by law to make disclosure or report to an appropriate authority; or

(d) disclosure is provided for under the terms of a resulting Resolution Agreement.



SY 26 Title IX Decision Maker Training

Presenters:
Doreen Oliver, Legal Compliance Officer
Brian Dennison, Assistant Board Attorney



Training Content

- ❖ Revisit the role of Title IX decision-makers
- ❖ Review assessing evidence and credibility
- ❖ Comprehensively review bias, impartiality, and sanctions
- ❖ Apply knowledge through a case study



Role of the Decision-Maker

- Neutral adjudicator in grievance process
- Reviews investigation report and evidence
- Facilitates a written Q&A exchange
- Issues determination of responsibility
- Recommends sanctions and remedies



Title IX Process Overview For Decision-Makers

1. Receive report and evidence
2. Facilitate written Q&A exchange
3. Evaluate relevance and credibility
4. Apply preponderance standard of evidence
5. Issue DOR
6. Recommend sanctions and remedies when applicable

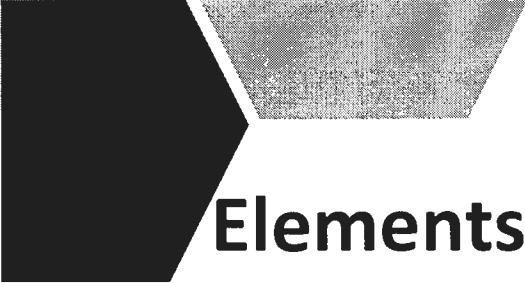


Bias & Impartiality

- Avoid prejudgment or stereotypes
- Disclose conflicts of interest
- Use structured rubrics
- Maintain neutrality

Resources- Sanctions Rubric for K12

Severity Level	Examples of Misconduct	Recommended Sanctions	Considerations
Low	Inappropriate comments, minor boundary violations	Verbal warning, education program, parent notification	First-time offense, no prior history
Moderate	Unwanted touching, repeated verbal harassment	Suspension (1-5 days), counseling, no-contact directive	Impact on complainant, developmental age
High	Sexual assault, stalking, coercion	Long-term suspension, expulsion, law enforcement referral	Serious harm, repeat offense, safety risk
Ongoing/Patterned	Multiple incidents, retaliation, escalation	Expulsion, permanent removal from activities	Pattern of behavior, failure to respond to prior interventions



Elements of Sexual Misconduct

- Sexual harassment (quid pro quo or hostile environment)
- Sexual assault
- Dating violence
- Domestic violence
- Stalking



Relevance & Credibility

- Relevance: must relate to allegations
- Exclude sexual history unless exceptions apply
- Credibility: consistency, corroboration, reliability



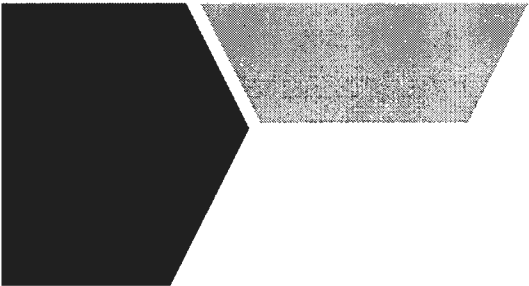
Weight of Evidence

- Standard: preponderance of the evidence
- Consider: corroboration, motive, contradictions



Determination of Responsibility (DOR)

- Allegations summary
- Procedural steps
- Findings of fact
- Policy application
- Conclusion
- Sanctions & remedies
- Appeal rights



Sanctions & Disciplinary Recommendations

- Consider severity, impact, age, history
- Examples: suspension, counseling, no-contact orders



OCR Guidance on Discipline & Sanctions

- Decision-maker must be separate from Coordinator
- Sanctions should restore access of those impacted by sexual harassment
- Avoid retaliation for participation in the grievance process
- Final discipline may involve other administrators



Written Determination Requirements

- Allegations
- Procedural steps
- Findings of fact
- Policy application
- Conclusion
- Sanctions
- Remedies and appeal rights



Collaboration with Title IX Coordinator

- Align sanctions with school policy
- Ensure remedies are effective
- Promote consistency



Case Study- Middle School Incident

- 13-year-old alleges inappropriate touching
- Respondent denies, claims accidental contact
- Witnesses: 2 students, 1 monitor



Case Study – Credibility Assessment

- Complainant consistent
- One witness corroborates
- Monitor observed distress
- Respondent's story shifts



Case Study – Weight of Evidence

- Complainant's account more credible
- Preponderance standard met
- Misconduct likely occurred



Case Study – DOR & Sanctions

- DOR issued with all required elements
- Sanctions: 5-day suspension, counseling, education



Resources

- OCR Title IX Regulations (2020)
- OCR Title IX Q&A (2021)

Resources- Sanctions Rubric for K12

Severity Level	Examples of Misconduct	Recommended Sanctions	Considerations
Low	Inappropriate comments, minor boundary violations	Verbal warning, education program, parent notification	First-time offense, no prior history
Moderate	Unwanted touching, repeated verbal harassment	Suspension (1–5 days), counseling, no-contact directive	Impact on complainant, developmental age
High	Sexual assault, stalking, coercion	Long-term suspension, expulsion, law enforcement referral	Serious harm, repeat offense, safety risk
Ongoing/Patterned	Multiple incidents, retaliation, escalation	Expulsion, permanent removal from activities	Pattern of behavior, failure to respond to prior interventions