



Title IX Training

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Title IX

Training Requirements

- All employees at K-12 schools are required to report Title IX sexual harassment.
 - Additionally, employee reporting requirements under the CPSL and School Code are still in effect.
- Title IX officials at a District must receive training on Title IX and its regulations.
- The training includes the definition of sexual harassment, how Title IX applies to the school's programs and activities, how to conduct a formal Title IX grievance process, and how to be an impartial decisionmaker including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias.

Discrimination on the Basis of Sex: Defined

Sexual harassment is defined as:

1. Quid Pro Quo Harassment: An employee of the District conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct.
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;
3. "Sexual assault" as defined in the 20 U.S.C. 1092(f)(6)(A)(v),
4. "Dating violence" as defined in 34 U.S.C. 12291(a)(10),
5. "Domestic violence" as defined in 34 U.S.C. 12291(a)(8), or
6. "Stalking" as defined in 34 U.S.C. 12291(a)(30)

Sexual Assault: Defined

Sexual Assault is defined as an offense that meets the definition of Rape, Fondling, Incest or Statutory Rape as defined in the FBI's Uniform Crime Reporting System.

Dating Violence: Defined

Dating Violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence: Defined

Domestic Violence is defined as a felony or misdemeanor crime of violence committed:

- by a current or former spouse or intimate partner of the victim;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred;
- by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Stalking: Defined

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

- fear for the person's safety or the safety of others; or
- suffer substantial emotional distress.

Educational Program or Activity: Defined

- Only includes incidents that occur in the United States during district-owned or district-sponsored activities such as educational trips organized by the district.
- Includes locations, events, or circumstances over which the School exercised substantial control over both the respondent (alleged perpetrator) and the context in which the harassment occurred.

Incidents Off School Grounds

Title IX obligations will extend to incidents that do not occur in the school building if:

- The incident occurs as part of the school's operations. 20 U.S.C. 1687; 34 CFR 106.2 (h); or
- The school exercised substantial control over the respondent (alleged perpetrator) and the context of the alleged sexual harassment that occurred off of school grounds; or
- If the incident occurred at an off-campus building owned or controlled by a student organization recognized by a postsecondary institution.

Reminder

The regulations do not limit a District from addressing conduct outside of the previous definitions

A school can and should ensure that even when an incident does not meet the definition of sexual harassment under Title IX, there are no other laws or District policies/code of conduct violations

- Bullying
- Other tiered offense
- Misconduct

Response to Sexual Harassment

- A school with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent.
- Actual knowledge is notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the District who has authority to institute corrective measures or an **any employee of the school**.

District Liability

A District will be found liable under Title IX if the school had actual knowledge of the incident and was deliberately indifferent in its response

- Deliberate Indifference: A District acts with deliberate indifference only when it responds to sexual harassment in a manner that is clearly unreasonable in light of the known circumstances
- A school who acts with deliberate indifference when they have actual knowledge will be found to commit intentional discrimination

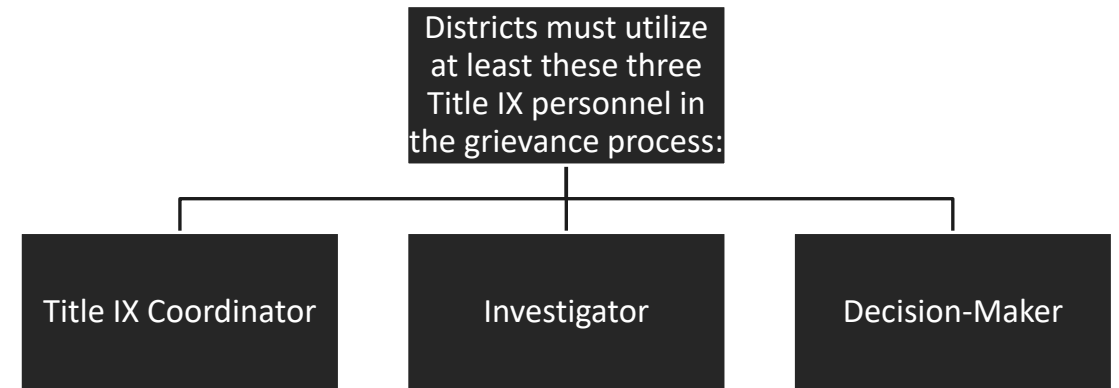
A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

Title IX Structure



Title IX Structure

- These roles **must** be filled by different individuals
- Designated Title IX Personnel dealing with a complaint must be free of conflicts of interest regarding parties to the complaint



How to Report Sexual Harassment

District Policy must provide guidelines for how to report incidents of Sexual Harassment

Note: failure to follow exact guidelines does not free District of obligations

Public Website must contain the name and contact information for the Title IX Coordinator

District Policy must be published on school website and within code of student conduct/code of employee conduct

These should be provided and accessible to all who are entitled to Notice of Provisions

- Students, Employees, Contractors, Parents, etc.

Formal Complaint

A **formal complaint** is defined as: document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the District investigate the allegations of harassment:

The complaint must state:

- At the time of filing, the complainant must be participating in or attempting to participate in the education program or activity of the District
- May be filed in person, by mail, by email, by any additional method designated by the District
- Absent a written document signed by the complainant alleging sexual harassment and requesting and investigation – the investigation process may not begin.

Third Party Complaints

A third party may still make an allegation of sexual harassment on behalf of another to the Title IX Coordinator

- In this incident, if the alleged victim (would be complainant) does not come forward to file a formal complaint, the complaint can be filed and signed by the Title IX coordinator to initiate an investigation and adjudication of sexual harassment allegations
- However, the regulations prohibit retaliation against any person exercising rights under Title IX **including the right to not to participate in a Title IX grievance process**

Response to Sexual Harassment

Once a District has actual knowledge of sexual harassment or a report of sexual harassment, the District must immediately respond:

- The response must be prompt
- The initial complaint and response must be confidential
- The response, via the Title IX Coordinator, must provide immediate supportive measures
- Must initiate the grievance/investigation process

Supportive Measures

- Defined as: individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.
- Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

Examples: Counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, safety plan, review of IEP/504 Plan where applicable

- The District must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.

Supportive Measures

- The final regulations do prescribe that a recipient's Title IX Coordinator must remain responsible for coordinating the effective implementation of supportive measures.
- "The Title IX Coordinator must serve as the point of contact for the affected students to ensure that the supportive measures are effectively implemented so that the burden of navigating paperwork or other administrative requirements within the recipient/school's own system does not fall on the student receiving the supportive measures".
- Regulations require that the grievance process describes the range of supportive measures available.
- **May or may not continue after a finding of non-responsibility**
- Document: If a recipient/District does not provide a complainant with supportive measures, then they must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Dismissals of Complaints

A District **shall** dismiss a complaint if:

- Conduct described does not meet definition of sexual harassment;
- Conduct alleged did not occur in the District's education program or activity;
- Conduct alleged did not occur in the United States

A District **may** dismiss a complaint or some allegations if:

- Complainant wishes to withdraw formal complaint or some allegations
- If respondent is no longer enrolled or employed by District
- Or if District is prevented from gathering evidence sufficient to reach a determination about allegations

When a complaint is dismissed in its entirety or in part, the school must promptly send written notice of the dismissal, the reason for dismissal to the parties, and appeal rights. Both parties have a right to appeal this decision.

Investigation Reminders

District must provide written notice, including date, time, location, participants, and purpose of all hearings, **interviews**, or other meetings, with sufficient time for the party to prepare.

District must also provide equal opportunity for parties and advisors to inspect and review evidence obtained by the District as part of its investigation if the information is directly related to the allegation raised in the formal complaint and a right to respond to the evidence.

Investigative Report cannot be issued until the evidence sharing has occurred:

- And parties given at least ten (10) days to respond to evidence in writing
- If a written response to the evidence is provided, this must also be included in the investigation, and summary of such included in the report

NOTE – if the party requests copies of the evidence in lieu of physical inspection, consult the Title IX Coordinator and Solicitor. A Non-Disclosure Agreement is available for use.

Decision Reminders

Decision must be in writing and must include:

- Portion of District's policy or policies that have been violated
- Procedural steps taken to investigate and reach a decision
- Finding of Fact section
- Conclusion section that relies on the facts and the relevant policy or policies (Title IX/Non-Discrimination Policy)
- Statement and rationale for determination of responsibility
- Disciplinary sanctions that District will impose on respondent and remedies available to complainant to restore or preserve complainant's access to education and statement of rationale
- A statement of the District's procedures, a statement that there is a right to appeal, and the permissible basis for appeal

Decision Reminders

Must be sent to both parties simultaneously with information regarding how to appeal

- Must be in writing
- Must include name and contact information of appeal officer (cannot be Title IX coordinator, investigator, or decision-maker)

A decision is final if parties do not appeal or at the conclusion of the appeal process

- District has discretion to set appeal deadlines

Title IX coordinator is responsible for ensuring remedies stated within Decision are carried out

Additional Questions

Additional questions:

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