

Title IX for Coordinators



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 . . .”

- 1972



Did You Know?

- **1970:** Only 8% of American women had a college degree and only 59% had graduated high school?
- **2009:** 28% had a college degree and 87% had graduated high school.
- “Women now have higher graduation rates and lower high school dropout rates, take more Advanced Placement exams, and earn more advanced degrees than their male counterparts. They also tend to score higher in reading assessment tests than male students.”
 - “Equal Access to Education: Forty Years of Title IX,” U.S. Dept. of Justice, 2012

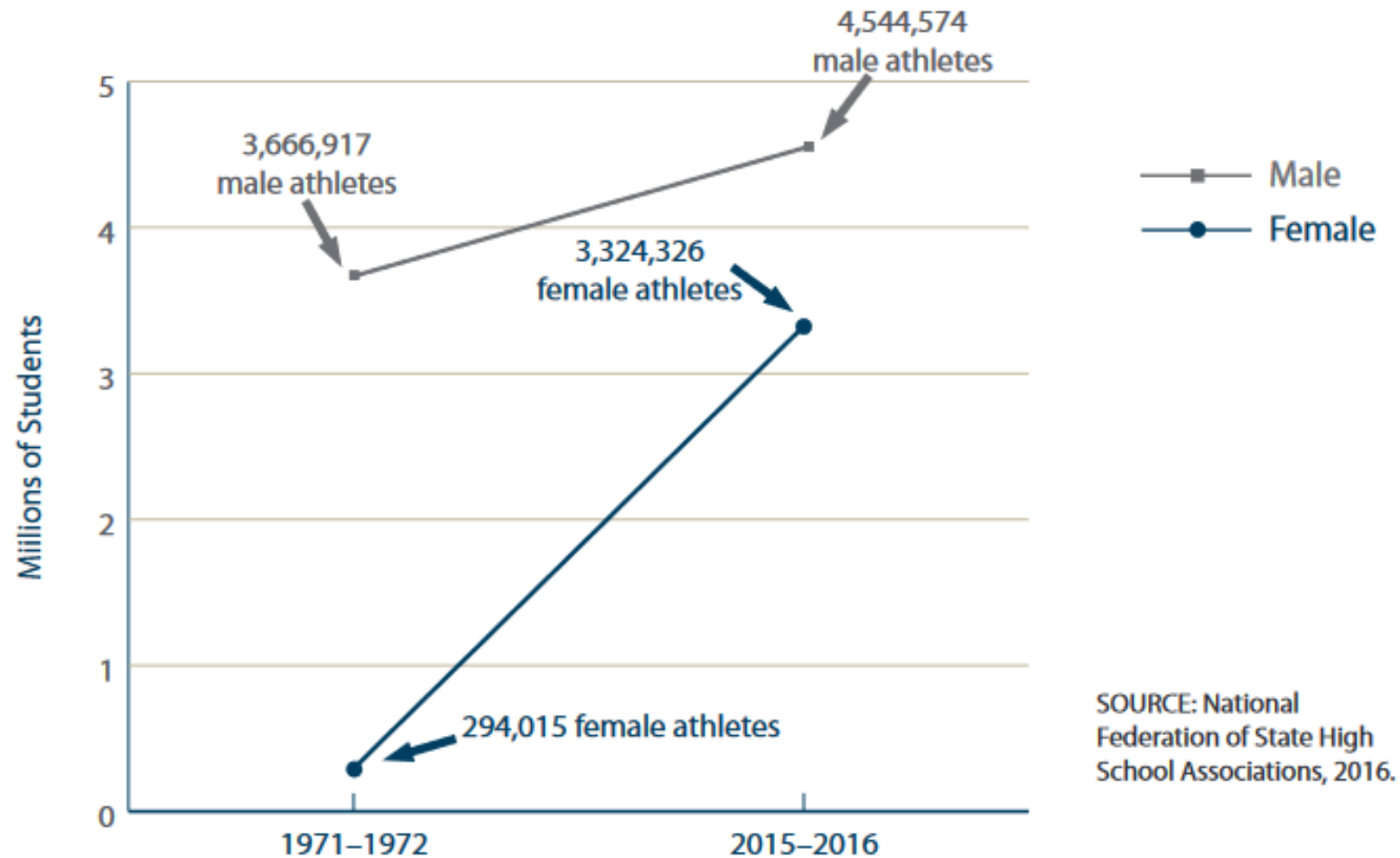
The Pursuit of Equal Play

50
YEARS OF
TITLE IX

Sports Illustrated



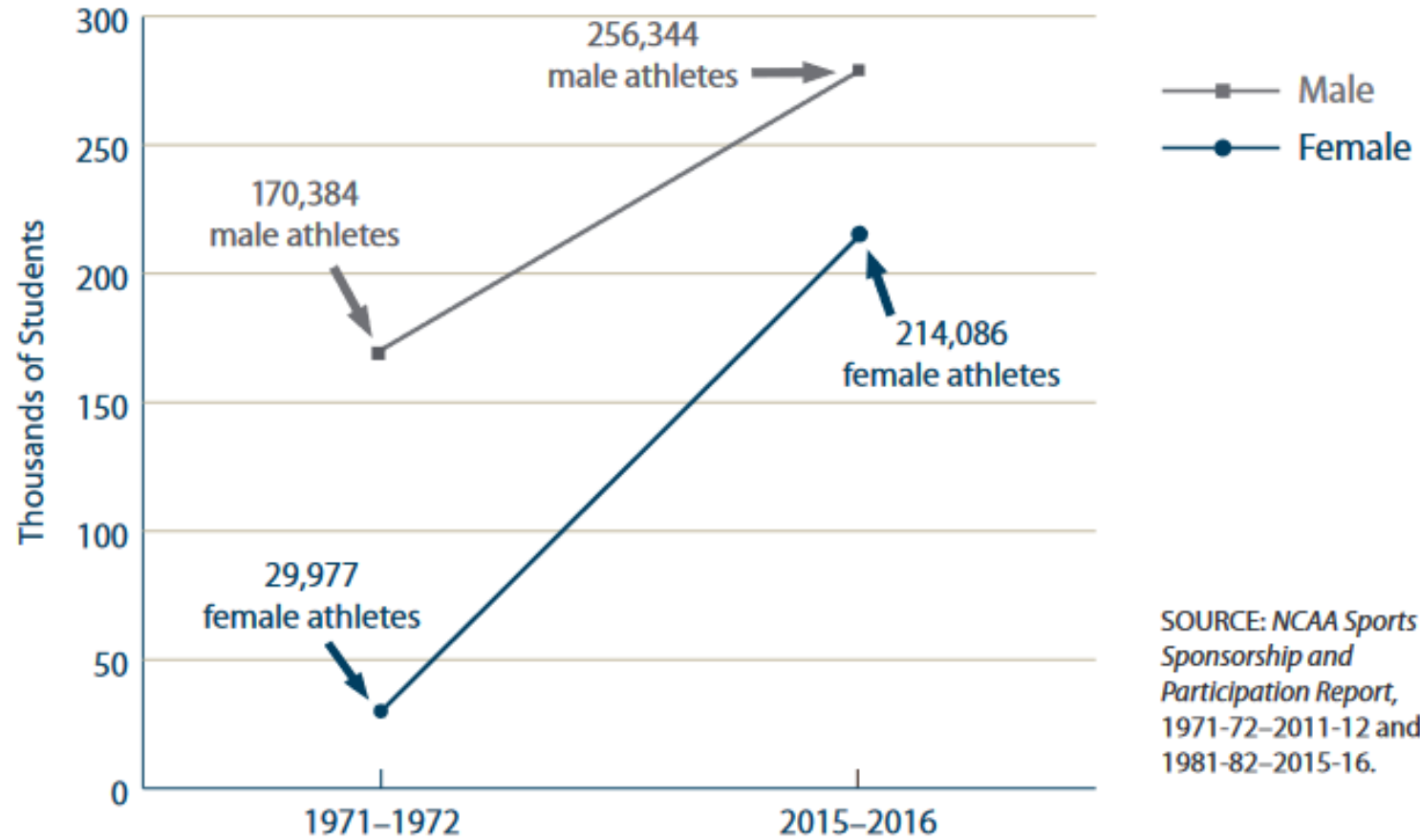
FIGURE 1:
Male and Female Participation in High School Sports, 1972–2016



“Title IX and Athletics,”

<https://ncwge.org/TitleIX45/Title%20IX%20and%20Athletics.pdf>

FIGURE 2:
Male and Female Participation in College Sports, 1972–2016



“Title IX and Athletics,”

<https://ncwge.org/TitleIX45/Title%20IX%20and%20Athletics.pdf>





District's Legal Obligation to Address Sex Discrimination

- Title IX (educational institutions)
- Title VII (employment)
- Missouri Human Rights Act (public accommodations and employment)
- §160.015 (public schools)

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**New:
§160.015,
RSMo.**

“No educational institution shall discriminate because of race, ethnicity, national origin, **sex**, disability, religion or marital status against a student or an employee in the state system of public elementary and secondary education.”

A blue dashed line is located in the bottom right corner of the slide, consisting of several short, curved segments.

New: §160.015, RSMo.

- Cannot be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity or in any employee conditions or practices
- All classes shall be available to all students, without regard to these characteristics
 - Exception: EL, gifted, students with disabilities, special education
- Guidance services, counseling services, and financial assistance services
 - Think scholarships
- All education programs, activities and opportunities offered

Title IX Requirements

- Provide a notice of nondiscrimination to students; parents/guardians; employees; applicants for admission and employment; and all unions and professional organizations holding collective bargaining or professional agreements
- Publish notice of nondiscrimination website and in each handbook, catalog, announcement, bulletin, and application form
- Appoint a Title IX Coordinator and include in notifications the name (or title), address, phone and email address
- Create a grievance process to process complaints

Title IX Coordinator Responsibilities

- All employees are required to notify the Title IX Coordinator with they have “information about conduct that reasonably may constitute sex discrimination.”
 - Exception: If the employee is the victim
 - Why: If one employee knows and we do not do anything about it, district is liable.
- Must respond **promptly and effectively** when the district has **actual knowledge**, in a manner that is not **deliberately indifferent**.
- Coordinators are required to monitor the district’s program or activity for barriers to reporting and take steps so address the barriers.

Sexual Harassment: A Slice of the Title IX Pie

**Misconduct
that
Involves Sex
or Gender**

The diagram consists of three nested ellipses. The outermost ellipse is light blue and contains the text 'Misconduct that Involves Sex or Gender'. Inside it is a medium brown ellipse containing 'Illegal Sexual Harassment Policy AC' and 'Severe OR Pervasive'. The innermost ellipse is teal and contains 'Title IX Policy ACA' and 'Severe AND Pervasive AND Objectively Offensive OR Sexual Assault'. The ellipses are nested, indicating that the innermost set is a subset of the middle set, which is a subset of the outermost set.

**Illegal
Sexual
Harassment
Policy AC**

Severe OR Pervasive

**Title IX
Policy ACA**

**Severe AND
Pervasive AND
Objectively
Offensive
OR
Sexual Assault**

A large orange circle is positioned on the left side of the slide, partially cut off by the edge.

Sexual Harassment: A Type of Illegal Discrimination

Illegal Discrimination on the Basis of Sex

- Exclusion from benefits based on sex (unfair treatment)
 - Disparate treatment
 - Disparate impact
 - Sexual harassment
 - Quid Pro Quo
 - Hostile Environment
 - Retaliation for reporting/participating in investigation
- 
- A decorative graphic consisting of several blue curved line segments arranged in a curved path at the bottom right of the slide.

Conduct that Constitutes Sexual Harassment under Title IX (Narrowly Defined)

- Sexual Assault: As defined in the law (see handout)
- An employee of the district conditioning the provision of an aid, benefit or service of the district on an individual's participation in unwelcome sexual conduct;
 - Victim could be another employee or a student
- 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 district's education program or activity

Sexual Assault – See Handout

- *Rape*
- *Sodomy*
- *Sexual Assault with an Object*
- *Fondling*
- *Incest*
- *Statutory Rape*
- *Dating Violence*
- *Domestic Violence*
- *Stalking*

Quid Pro Quo

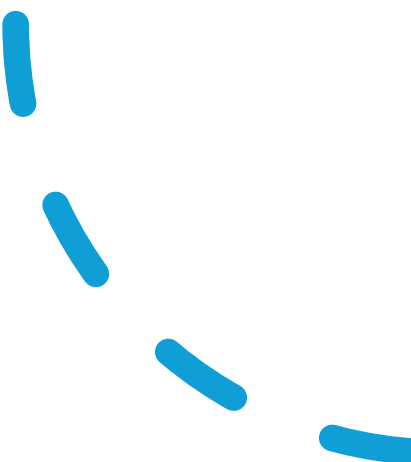
- An employee of the district conditioned the provision of a benefit or service on the victim's participation in unwelcome sexual conduct.
- What is unwelcome sexual conduct?
 - Behavior of a sexual nature that is not solicited or invited by the recipient and is regarded as undesirable or offensive.

What Do You Think?

- In response to a student's request (18-year-old senior), teacher sends student a text of sexual pictures.
- Employee looking for a student goes to the bathroom and peeks in the cracks in the stall doors.
- Coach tells a sexual joke to his team



Policy GBH

- An attempt to prevent staff-student sexual conduct
 - Creates professional boundaries
 - Common grooming behaviors
 - Allows for discipline even if we cannot prove sexual conduct
- 

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Sexual Harassment, Hostile Environment: Policy AC

- **Unwelcome** conduct based on sex determined by a **reasonable person** to be so **severe or pervasive and objectively offensive** that it effectively denies a person equal access to the district's education program or activity
 - (Severe or pervasive) + objectively offensive = AC sexual harassment
 - Sexual assault = AC sexual harassment

Sexual Harassment, Hostile Environment: Policy ACA

- **Unwelcome** conduct based on sex determined by a **reasonable** person to be so **severe, pervasive and objectively offensive** that it effectively denies a person equal access to the district's education program or activity
 - (Severe + pervasive) + objectively offensive = ACA sexual harassment
 - Sexual Assault = ACA sexual harassment

Examples

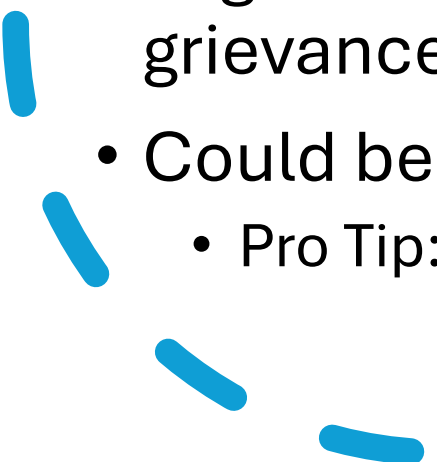
- **Severe:** Student takes victim's phone and then threatens to break it unless the victim disrobes.
- **Pervasive:** Middle school boy is constantly asking girls to text him photos of their boobs.
- **Sexual Assault:** Student engages in a social media campaign where they post nude pictures of the victim, encourage comments from others and posts the victim's address. (Stalking)

Examples (Employees)

- **Severe:** Supervisor conditions evaluations and promotions on being a “team player” and not complaining about backrubs, hugs, and touching.
- **Pervasive:** Coworkers are constantly telling sexual jokes, sending sexual texts, and talking about their sex lives at work
- **Sexual Assault:** Coworker slips his/her hand into the blouse of a female coworker.



Tricky Issues to Think About

- Sexual harassment may occur between members of the same sex.
 - “Reasonable” person.
 - Capacity to consent (think special ed)
 - Might come to you as a complaint of bullying or another type of grievance.
 - Could be multiple perpetrators harassing one person.
 - Pro Tip: Always ask the victim if this has happened before
- 

What Do You Think?

- Student with a disability whose sexualized behaviors are a manifestation of their disability?
- Student who is falsely accused of rape and is called a rapist for months at school.
- Student who receives 20+ messages from their ex boyfriend a day through multiple social medial sites
- Teacher who constantly comments on the physical appearance of a student, singling them out to make them “feel special” although it makes the student feel uncomfortable.

What Do You Think?

- First grader who comes out of the bathroom with his penis exposed and asks for help with his zipper and belt. This happens daily.
- Senior student who is sexually assaulted by another student on a trip to Spain with the AP Spanish class over spring break.
- Student who engaged in consensual sex, which was secretly videoed by their partner and distributed to other classmates.
- Students who skip class to make-out behind the steps.

Grievance Process

Student-On-Student Misconduct (Recap of What We Told Principals)

Step 1: Ensure Safety of the Alleged Victim

Step 2: If Misbehavior Is Severe or Pervasive

- Conversation with victim's parent/guardian immediately or before the end of the day (before investigation/discipline is complete) explaining that they can file a complaint under Policy AC or ACA.
- Yes: Forward them to the Title IX Coordinator.
- No: Give them letter we have provided and continue investigation.
- Send the letter and details of the offense electronically to the Title IX Coordinator.

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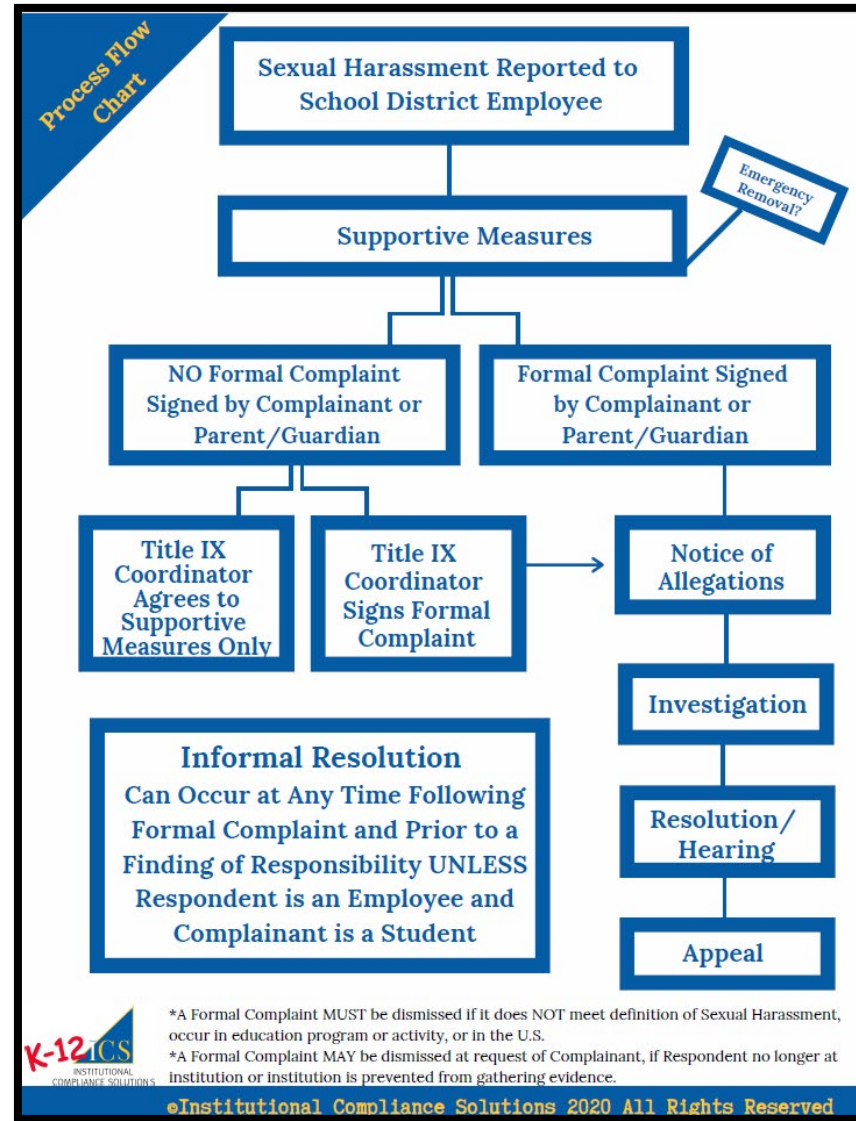
**Illegal
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Title IX

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Process Under Policy ACA, Title IX



People

Title IX Coordinator



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graph TD; A[Title IX Coordinator] --> B[Investigator (can be Coordinator)]; B --> C[Decisionmaker]; C --> D[Appeal Decisionmaker]; D --> E[Informal Resolution Facilitator (can be Coordinator)];
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The diagram illustrates a five-step hierarchy of roles in Title IX coordination. Each role is represented by a colored rectangular box, and the boxes are connected by downward-pointing arrows, indicating a sequential flow from top to bottom. The roles are: Title IX Coordinator (orange), Investigator (can be Coordinator) (dark green), Decisionmaker (blue), Appeal Decisionmaker (purple), and Informal Resolution Facilitator (can be Coordinator) (green). The boxes are staggered to the right as they descend.

Investigator (can be Coordinator)

Decisionmaker

Appeal Decisionmaker

Informal Resolution Facilitator (can be Coordinator)



Step 1: Report is Made

- Report is made to Title IX Coordinator
 - A staff member has knowledge of a potential Title IX offense and reports to Title IX Coordinator (required to)
 - Parent/student/another person reports to Title IX Coordinator
 - Immediate Outreach
 - Respond immediately!
 - Have meeting to discuss supportive measures and options
 - Special Ed or 504?
 - Contact case manager
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Step 2: Complaint

- To file a Title IX Complaint or Not?
 - In general, left to victim
 - Title IX Coordinator can file even if victim does not (serious cases)
 - Even if not a Title IX Complaint, it may be Policy AC and still needs to be investigated
- Formal complaint filed
 - Can offer supportive measures, if offered to both parties
 - Cannot discipline perpetrator until process is completed
 - Can remove student if meets “emergency removal
 - Can put employee on administrative leave



Emergency Removal

- Student can be removed from school or employee put on leave if:
 - District conducts an “individualized safety and risk analysis” and determines that an immediate threat to the physical health or safety of justifies removal
 - Must provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.
 - Do not forget about IDEA and 504 – cannot remove if manifestation of a disability per IEP team
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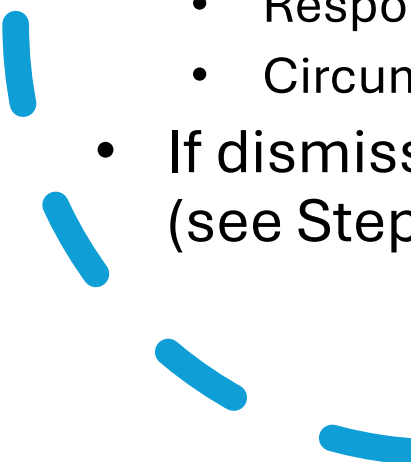


Step 3: Written Notice to Both Parties

- Of the grievance process
 - Of allegations with sufficient facts 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.
 - That respondent is presumed not responsible until determined otherwise.
 - They may have an advisor (not necessarily an attorney), who may inspect all evidence.
 - Of the provision in code of conduct prohibiting making knowing false statements or submitting false evidence.
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Step 4: Should You Dismiss the Complaint?

- Even if everything is true, is it a Title IX violation?
 - Does it meet one of the 3 criteria?
 - Did it happen off campus, not at a district event?
 - Did it occur out of the country?
 - Other reasons to dismiss
 - Complainant notifies in writing they want to withdraw the complaint
 - Respondent no longer enrolled or employed
 - Circumstances prevent us from collecting information
 - If dismissed, must send prompt notice to all parties and they can appeal (see Step 8)
- 

Another Option: Informal Resolution?

- Can be done before a decision is made
- Both parties must consent in writing to participate
- Title IX Coordinator (or other person) facilitates – must be trained
- Both parties must get notice:
 - If they resolve informally, cannot file same complaint
 - Can start and if they do not want to resolve, can go back to formal process
 - Potential consequences
- Cannot use in situations where employee is alleged to have sexually harassed a student



Step 5: Investigation

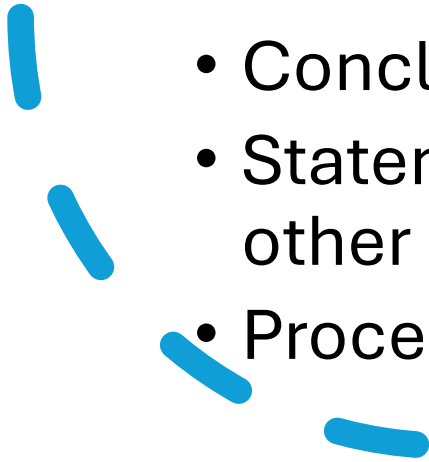
- Burden of proof and burden of gathering evidence is on the district
 - Equal opportunity for both sides to present witnesses
 - Cannot restrict either party from discussing the allegations or gathering evidence (cannot tell them not to talk about it)
 - Parties can be accompanied by other persons during the proceeding including an advisor
 - Provide party written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate
 - Parties have equal opportunity to inspect and review evidence
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- 
- 

Step 6: Before a Decision is Made

- Must provide copy of all evidence to each party and advisor and an investigation report that summarizes relevant information
 - At least 10 days to review and respond
- Each party has an opportunity to submit written, relevant questions they want asked of the other party or of any witnesses.
 - District must ask those questions, provide a written response to the other side, and give them time for follow-up questions
- Not relevant: Prior sexual behavior unless used to prove that someone else did it or to prove consent
 - If question is excluded as not relevant you must tell the party and explain why

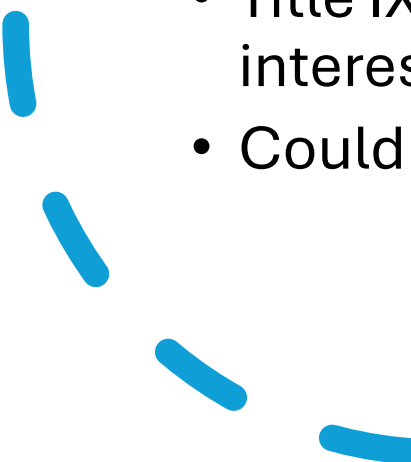


Step 7: Decisionmaking

- Must be someone other than Title IX Coordinator or Investigator
 - Standard: Preponderance of the evidence
 - Written decision issued to both parties
 - Allegations
 - Procedural steps taken
 - Findings of fact
 - Conclusions regarding code of conduct
 - Statement of the result and rationale, including discipline and other remedies
 - Procedures for appeal
- 



Step 8: Appeal Reasons

- Either party can appeal
 - Must be because:
 - Procedural irregularity that affected the outcome
 - New evidence that was not reasonably available at the time the decision was made that could impact the outcome
 - Title IX Coordinator, investigator or decisionmaker had a conflict of interest or bias that impacted the outcome
 - Could allow other reasons if district wants
- 

Step 9: Appeal Process

- Notify other party in writing
- Ensure the decisionmaker for the appeal is not the Title IX Coordinator, investigator or decisionmaker
- Give both parties and equal opportunity to submit statements in writing
- Appeal decisionmaker makes decision in writing, describing the result and rationale
- Decision made to both parties

Records We Must Keep

- All Title IX complaints and how they were resolved
- For each notification of conduct that could constitute Title IX, records documenting what was done
- All training materials

What Support Do You Need?

A thick, hand-drawn style orange line that underlines the text, starting from the left edge of the text and extending to the right, ending under the word 'Need?'. It has a slightly wavy, irregular appearance.