Title IX Training: Investigator Refresher

Navigating Legal Frameworks, Reporting, and Investigations in K-12

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Focus for our time together

By the end of our time together, you should be able to:

Recall and know the foundational tenets of Title IX

Focus areas: Athletics, Pregnant and Parenting Students, Same-Sex Programming and Sexual Harassment
Scope of “educational program or activity”
Notice and Reporting
Supportive Measures

Understand the grievance process and how to conduct an investigation or written determination

Steps of the Grievance Process
How to conduct an investigation avoiding prejudgement of facts, conflicts of interest, and bias
Writing the Investigation Summary report

Documentation for Recordkeeping

What documentation needs to be maintained and for how long

What is Title IX?

Legal Foundation & Institutional Scope

> *"Title IX of the Education Amendments of 1972 is a federal civil rights law. It states that 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."*
>
> **Statutory Civil Rights Definition**

K-12 DISTRICT MANDATE

For K-12 institutions, this mandates equitable treatment across all district operations, encompassing academics, extracurricular activities, and athletics.

REGULATORY ENFORCEMENT

Compliance is actively monitored and enforced by the Department of Education's Office for Civil Rights (OCR).

Athletics

Schools have to provide equal opportunities for boys and girls teams, as well as equal benefits (facilities, equipment, travel, etc.)



Pregnant/Parenting Students

Access to all programs, supportive modifications, leave, and more.



Sexual Harassment

Sexual harassment that meets a specific definition must be addressed through a specific process under Title IX.



Single-Sex (or Sex Segregated) Programs and Activities

Single-sex programs, or separate programs by sex/gender, are only allowed in specific, limited circumstances.



content credit: Oregon Department of Education

District Obligations Under Title IX

- Designate a Title IX Coordinator 34 CFR 106.8(a)
- Provide a notice of nondiscrimination 34 CFR 106.8(b)
- Adopt a policy prohibiting discrimination and adopt procedures for receiving reports and resolving complaints of sex discrimination 34 CFR 106.8(c)
- Ensure athletic programs offer equal and equitable opportunities and benefits to boys and girls athletic programs, 34 CFR 106.41
- Provide access and modifications for pregnant and parenting students 34 CFR 106.40
- Ensure compliance with Title IX regulations for any single-sex or sex-segregated programs and activities; 34 CFR 106.34
- Respond to all notice of sexual harassment and follow required procedures to investigate sexual harassment 34 CFR 106.8, 34 CFR 106.44, 34 CFR 106.45
- Train designated staff on their roles in responding to sexual harassment 34 CFR 106.45(b)(1)(iii)
- Keep records of sex discrimination notice, complaints, and training 34 CFR 106.45(b)(10)

content credit: Oregon Department of Education

Key Title IX Roles: Coordinators, Investigators, and Decision-Makers

Federal regulations require a strict separation of duties to prevent conflicts of interest and bias.

Role 01

Title IX Coordinator

Oversees overall district compliance, manages the intake process, and implements supportive measures.

Role 02

Investigator

Gathers facts impartially, conducts interviews, and compiles the investigative report.

Cannot be the Coordinator.

Role 03

Decision-Maker/Appeal

Reviews the investigative report, evaluates evidence, and issues a written determination of responsibility.

Must be a separate individual from both the Coordinator and the Investigator.

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Notice of Nondiscrimination

Under state and federal law, notice of nondiscrimination must be:

- Continuously available on the district website, either by direct link on the front page of the website, or by a direct link on the footer of every page of the website;
- Posted in multiple locations, including but not limited to public-facing documents such as staff and student handbooks, annual publications, official school board documents, bulletins, graduation announcements, catalogs, recruitment materials, and school related application forms; •
- Available in the languages served by the district;
- Disseminated annually to staff, students, and families of students as an individual notice that is accessible and written in plain language; and •
- Accessible to persons with disabilities.

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Where should the notice of nondiscrimination be posted? Check all that apply.

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Focus Area: Athletics

Three Analytical Standards for Athletics

PILLAR 01

Effective Accommodation

The Three-Prong Test: Ensuring athletic participation opportunities are offered equitably through substantial proportionality, history of program expansion, or fully meeting interests.

PILLAR 02

Financial Assistance

Scholarship Equity: Ensuring that male and female student-athletes receive athletic financial aid and scholarship dollars proportional to their overall participation rates.

PILLAR 03

Treatment & Benefits

The "Laundry List": Providing equivalence in equipment, scheduling, travel, coaching, facilities, medical services, publicity, and housing support.

The Three-Part Test

Part 1: Athletic participation opportunities for males and females are substantially proportionate to their respective enrollments;

OR

Part 2: The school has a history and continuing practice of expanding athletic participation opportunities for the underrepresented sex;

OR

Part 3: The school has fully and effectively accommodated the interests and abilities of the underrepresented sex.

content credit: Oregon Department of Education

Tigard HS girls are 52% enrollment and 51% of athletes.



THS has recently added girls wrestling, expanded soccer rosters, and added girls flag football.

In addition, 25 girls ask for lacrosse, have experience, and nearby schools compete, but no team is offered.

Under which part does THS comply for Title IX?

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The “Laundry List”

- [x] Equipment and supplies
- [x] Facilities
- [x] Assignment and compensation of coaches
- [ ] Support services
- [ ] Medical and training facilities
- [x] Scheduling of games and practices
- [x] Travel and Per Diem
- [ ] Housing and dining
- [ ] Publicity
- [ ] Opportunity to receive academic tutoring
- [ ] Recruitment

content credit: Oregon Department of Education

Athletic Equity FAQs and Tips

- Athletic equity calculations should be done on a yearly basis; three-part test documentation, “laundry list” equity analysis.

- Private donations, team fundraisers, and booster club donations count towards athletic equity if they result in team benefits; schools that accept funding may need to use school/district funds to address any resulting equity imbalances.

content credit: Oregon Department of Education

Focus Area: Single-Sex Program

Single-Sex Programs: What to Check

- **Default rule:** Educational opportunities are generally open to students regardless of sex.
- **Single-sex programs may be allowed only in specific circumstances.**
- **Athletics has separate rules** and may permit sex-separate teams.
- For classes/extracurriculars, ask:
  - Is participation completely voluntary?
  - Is there a substantially equal coeducational option?
  - Is there a legitimate educational objective?
  - Are we relying on stereotypes about boys or girls?
- **Good intentions alone are not enough. (Community partners)**
- **If access depends on a student's sex, stop and consult before implementing.**

Why does this program need to be single-sex, and what rule allows us to do it?

Community Partners and Single-Sex Programs

All parts of a school's education programs and activities are subject to Title IX, including those facilitated by external organizations and community partners.

- If a school is partnering with an external organization, the school is responsible for ensuring the organization's practices comply with Title IX.

Schools generally **cannot provide significant assistance** to external organizations that exclude students based on sex (i.e., single-sex programs). Analyzing significant assistance takes into account:

- financial support,
- provision of tangible resources (e.g., staff, equipment, and facilities),
- intangible benefits (e.g., recognition and approval),
- whether the school district provides similar privileges and resources to other organizations,
- whether the relationship is occasional and temporary or permanent and long-term

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Does this comply with Title IX? Why or why not?

The school district partners with a private local sports club to host after-school soccer programs on the school's athletic fields. The school provides free access to these fields, advertising space in the school newsletter, and allows the club to use school equipment. Female students who participate in the program receive free-registration fee.

What does the school need to consider?

Focus Area: Pregnant and Parenting Students

Pregnancy or Parenting Status

Pregnancy cannot be a reason a student loses access to school, classes, activities, or educational opportunities.

1. Schools cannot discriminate based on pregnancy or related conditions.
A student cannot be excluded from an educational program or activity because of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from those conditions.

2. A pregnant student generally stays in her regular educational program.
Schools cannot require a pregnant student to move to an alternative school, online program, home instruction, or a separate program simply because she is pregnant.

If a separate program for pregnant students is offered, participation generally must be **voluntary**, and the alternative program must be comparable to what other students receive.

Protect Access. Remove Barriers. Don’t Make Assumptions.

DO

- Maintain access to educational programs and activities
- Address medically necessary pregnancy-related absences
- Provide reasonable opportunities to make up missed work
- Return students to the same academic/extracurricular status
- Apply medical documentation requirements consistently

WATCH FOR 🚩

- Mandatory alternative placement
- “You can't participate because you're pregnant”
- Different attendance consequences
- Unnecessary doctor's notes
- Staff making decisions based on assumptions about pregnancy
- Lower expectations for parenting students

Focus Area: Sexual Harassment

Understanding Sexual Harassment under Title IX Regulations

Title IX strictly defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following conditions:

DEFINITION 01

Quid Pro Quo

A school employee conditioning an educational benefit or service on an individual's participation in unwelcome sexual conduct.

DEFINITION 02

Severe, Pervasive, and Objectively Offensive

Unwelcome conduct that effectively denies a person equal access to the school's education program.

DEFINITION 03

Statutory Offenses

Any instance of **sexual assault**, **dating violence**, **domestic violence**, or **stalking** as defined by the Clery Act and the Violence Against Women Act (VAWA).

Prohibition of Retaliation and Protection for Participants

Retaliation is strictly prohibited under federal civil rights laws. Schools must ensure a safe environment for all individuals engaging with the Title IX process.

Protected Activities

Reporting an incident, filing a formal complaint, testifying, or refusing to participate in an investigation.

Prohibited Conduct

Intimidation, threats, coercion, or discrimination intended to interfere with any right or privilege secured by Title IX.

Institutional Duty

Administrators must proactively monitor for retaliatory behavior and take immediate disciplinary action if retaliation occurs against complainants, respondents, or witnesses.

Step 1: The Incident Report and Intake Process

In K-12 settings, an institution has "actual knowledge" when any employee is put on notice of sexual harassment.

Mandatory Reporting

All K-12 employees must immediately report any knowledge or suspicion of sexual harassment to the Title IX Coordinator.

Initial Outreach

The administrator/manager must promptly contact the complainant confidentially to discuss the availability of supportive measures.

Rights Notification

The administrator/manager must explain that supportive measures are available with or without filing a formal complaint, and explain the process for filing a formal complaint.

Step 2: Implementing Supportive Measures

Providing Interim Protections

Supportive measures are non-disciplinary, non-punitive individualized services offered to restore or preserve equal access to education without unreasonably burdening the other party.

Requirements & Implementation

Availability

Must be offered free of charge, as reasonably available, and kept confidential to the extent possible.

Coordinator Responsibility

The Title IX Coordinator is exclusively responsible for coordinating and implementing these measures for **both** the complainant and the respondent.

Examples for K-12 Schools

- Counseling services
- Extensions of deadlines or other course-related adjustments
- Modifications of class schedules
- Campus escort services
- Mutual no-contact orders

Step 3: Launching the Formal Grievance and Investigation Process

The **formal process begins** when a complainant or the Title IX Coordinator **signs a formal written complaint** requesting an investigation.

Notice of Allegations

The school must provide written notice to all known parties, detailing the allegations, the identities of the parties, and the specific conduct in question.

Presumption of Non-Responsibility

The respondent is presumed not responsible for the alleged conduct until a final determination is made.

Equal Rights

Both parties have an equal opportunity to present fact and expert witnesses, and other inculpatory and exculpatory evidence.

The Investigator

The Investigation Process



allegation → evidence → factual finding

Conducting a Fair, Thorough, and Impartial Investigation

The burden of proof and the burden of gathering evidence rests entirely on the school, not on the parties involved.

1

Evidence Gathering

Investigators must conduct objective interviews and collect all relevant documentation, avoiding any bias or prejudgment.

2

Review of Evidence

Before the investigative report is finalized, schools must send both parties all evidence directly related to the allegations. Parties must have at least 10 days to submit a written response.

3

Final Report

The investigator synthesizes the relevant evidence into a comprehensive report, which is shared with the parties and the Decision-Maker.

The Investigator’s Job: Find Facts. Not Results.

✓ The investigator gathers relevant **evidence**, conducts **objective interviews**, follows the evidence, and documents **factual findings**.

✗ Not the investigator’s job: *advocate for either party; assume the allegation is true or false; ignore contradictory evidence; start with a desired outcome.*

Start With the Allegation: What Question(s) Are We Answering?

Think: **“What exactly are we trying to determine?”** (add to the chat)

Scenario: Student A reports that Student B repeatedly sent sexually explicit messages after Student A asked Student B to stop. This occurred throughout the month of September.

REPORT → Allegations(s) & Scope

Build An Investigation Plan

People

- Complainant
- Respondent
- Witnesses
- Others with firsthand knowledge

Documents

- Emails
- Texts
- Posts
- Physical evidence
- Video

Sequence

- Who should I interview first?
- What evidence should I obtain before interviews?
- What may require follow up?

REPORT → The investigation process

Interviewing the Complainant, Respondent, & Witness

Ask	Clarify specifics	Test information neutrally	Close
“Tell me what happened?”	What happened next? Where were you standing? Who was nearby?	“You said X, another source indicated Y. Help me understand the difference.”	Who else should I talk to? What evidence should I obtain? Is there anything important I did not ask?

REPORT → Interviews Conducted + Findings & Analysis

Evidence: What do we collect?

Is it relevant?

Testimonial Evidence

Interviews, written statements

Is it reliable?

Documentary/Digital Evidence

Emails, texts, social media,video, photos

Does it corroborate or contradict other evidence?

Physical/Objective Evidence

Schedule, attendance data, physical artifacts

REPORT → Evidence Reviewed

Corroboration,Conflicting Evidence & Credibility

Firsthand knowledge

Plausibility in context

Consistency with objective evidence

Internal consistency



Motive or bias where relevant

Corroboration

Contemporaneous documentation

Student A says X. Student B says Y. Video establishes Z. Witness C confirms part of X but not the entire allegation.

REPORT → Findings & Analysis

Scenario - What can we actually find?

Allegation:
Student A reports Student B grabbed Student A's waist in the hallway.

Student A:
“Student B grabbed my waist as I walked by.”

Student B:
“I never touched Student A.”

Witness 1:
“I saw them close together but couldn't see their hands.”

Witness 2:
“I saw Student B reach toward Student A, but I couldn't tell whether there was contact.”

Video:
Shows Student B reaching toward Student A, but another student blocks the camera at the moment of alleged contact.

REPORT → Findings & Analysis

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What can we actually find?

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From Evidence to Factual Findings

Allegation → Evidence → Corroboration/Conflict → Factual Finding

Example:

Allegation: Student B continued sending sexual messages after being told to stop.

Evidence: interviews + screenshots + timestamps.

Finding: Student B sent Student A eight messages between October 3–7. Student A asked Student B on October 4 to stop sending sexual messages. Student B acknowledged receiving that message. Two additional messages containing sexual comments were sent afterward. ~~Student B sexually harassed Student A.~~

REPORT → Findings & Analysis

Investigation Step and Summary Report

I. Investigation Information
II. Allegation(s) & Scope of the Investigation
III. Applicable Policies and Standards
IV. Evidence Reviewed
V. Interviews Conducted
VI. Investigation Process
VII. Evidence Not Available/Investigation Limitations
VIII. Factual Findings and Analysis

NEW Investigation Steps & Summary Report

Every investigation step should have a purpose. Every factual finding should be traceable to evidence.