Title IX Training: Decision-Maker Refresher

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

Presenter: Lenichtka Reed

Our time together…

By the end of this training, you will be able to:

1. KNOW YOUR ROLE
Distinguish decision-making from investigating.

2. REVIEW THE RECORD
Evaluate the investigation, evidence, and party responses objectively.

3. APPLY THE STANDARD
Connect established facts to the applicable policy and standard of evidence.

4. MAKE THE CALL
Reach an independent determination for each allegation.

The Decision-Making and Appeals Process

*The Decision-Maker evaluates the investigative report using the district's standard of evidence (either **preponderance of the evidence** or clear and convincing evidence).*

Phase 1: Decision

Written Determination

The Decision-Maker issues a detailed written determination regarding responsibility, including findings of fact, rationale, and any disciplinary sanctions.

Phase 2: Appeals

Right & Grounds to Appeal

Right to Appeal: Both parties must be offered an equal opportunity to appeal the decision.

Grounds for Appeal: Appeals are permitted based on procedural irregularities that affected the outcome, new evidence that was not reasonably available, or conflict of interest/bias by Title IX personnel.

The Decision-Maker: What is My Job?

- ❏ Be a **separate, trained, impartial reviewer**
- ❏ Review the **entire investigative record**
- ❏ Consider the investigation report and party responses
- ❏ Apply the district's **standard of evidence**
- ❏ Determine whether the respondent is **responsible or not responsible**
- ❏ Explain the decision in writing

Before Making a Decision, Review the Entire Record

The Decision-Maker should review:

- The allegation(s)
- Investigation Summary
- Evidence gathered
- Witness statements/interviews
- Party responses to the evidence
- Party responses to the investigation report
- Written questions and responses, when applicable
- Applicable policy definitions
- The district's standard of evidence

The Decision-Maker should ask:

- What facts are established?
- What material facts remain disputed?
- What evidence supports or contradicts those facts?
- What policy elements must be established?

Review the Investigation - Don’t Start a New One

The Decision-Maker SHOULD:

- Evaluate the evidence already gathered
- Review how the investigator analyzed conflicting evidence
- Consider party responses
- Determine whether the factual findings support a policy violation
- Identify a material gap that prevents a fair determination

The Decision-Maker SHOULD NOT:

- Conduct a completely separate investigation
- Advocate for either party
- Assume the complaint is true
- Assume the respondent is responsible
- Ignore evidence that does not fit the likely outcome

Key question:

“Do I have enough reliable information to make a determination under the applicable standard?”

Facts → Policy → Determination

FACTUAL FINDING: Student B sent additional sexual messages after Student A asked Student B to stop.

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POLICY ELEMENT: JBA/GBN Sexual Harassment

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STANDARD OF EVIDENCE: Preponderance of Evidence - more likely than not

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RESPONSIBLE / NOT RESPONSIBLE: Responsible/Not Responsible **or** Founded or Unfounded

Show Your Reasoning

Determination Formula:

The evidence establishes that…

The applicable policy *requires/states/prohibits*…

Applying the preponderance standard….*I find that it is more likely than not that the establish conduct meets/does not meet the the policy definition of* _____.

Therefore… _____ *is found responsible/not responsible for the alleged policy violation.*

Example: Meets/Does not Meet - Responsible or Not?

The evidence establishes that Casey sent Jordan two additional sexual messages after receiving Jordan's written request to stop. The district policy provides the following definition for sexual harassment:

Unwelcome conduct of a sexual nature that is physical, verbal, or nonverbal and that: a. Interferes with a student's educational activity or program; b. Interferes with a school or district staff member's ability to perform their job; or c. Creates an intimidating, offensive, or hostile environment (Oregon sexual harassment).

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 (Title IX sexual harassment).

Applying the preponderance of the evidence standard, I find that it is more likely than not that the established **conduct meets/does not meet** the policy definition of Oregon and Title IX sexual harassment. Therefore, Casey is found **responsible/not responsible** for the alleged policy violation.

Anatomy of the Written Determination

Include:

1. Description of the allegations
2. Summary of procedural steps
3. Findings of fact
4. Analysis of the evidence
5. Policy applied
6. Standard of evidence
7. Determination of responsibility
8. Rationale
9. Disciplinary consequences, if applicable
10. Remedies/supportive measures
11. Appeal instructions

Writing the Written Determination

Next Steps

- ❏ Decision-Maker send the Written Determination to the Title IX Coordinator
- ❏ Title IX Coordinator will send the final determination to the parties
- ❏ Building/Department follow throughs with consequences and remedies
- ❏ Calendar and document 3 mos follow up

Contact

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