

"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."

Title IX of the Education Amendments Act of 1972

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3 Sections

Building Blocks: Title IX Broad Requirements, Definitions and Terminology, Overview of Grievance Procedure

Investigations In-Depth

Decision-Making In-Depth

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"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."

Title IX of the Education Amendments Act of 1972

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Sex-Based Discrimination vs. Sexual Harassment under TIX

Sex-Based Discrimination

- Any alleged violations of TIX prohibitions (discrimination in sports, pregnancy, scholarships and academic opportunities).
- Investigate pursuant to Policy KN Procedures, other information in Policies GAAC/JGEC

Sexual Harassment

- Alleged violations as specifically defined in TIX
- Investigate pursuant to Policy GAAC/JGEC

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Summary of 2020 Changes

- No changes to existing regulations related to athletic participation, employment, or single-sex education
- Defines sexual harassment
- Provides new terminology for use in Title IX complaints
 - Created specific roles of Title IX Coordinator, Investigator, Decision-Maker and training requirements for each role
- Requires response when a district has "actual knowledge" of sexual harassment
- Provides due process rights to accusers and accused persons in sexual harassment investigation and decision-making, as well as outlining the procedure for response:
 - Mandates provision of supportive measures during investigation process
 - Prohibits retaliation
 - Requirements of Determination of Responsibility

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Roles in the TIX Investigation Process

Complainant

- Alleged victim

Respondent

- Alleged perpetrator

Title IX Coordinator

- Oversees process

Investigator

- Investigates claims

Decision-Maker (and Appeal Decision-Maker)

- Uses information collected by investigator

Informal Resolution Facilitator

- Neutral 3rd party that helps parties in informal resolution process

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Definition of Sexual Harassment

Sexual harassment shall include conduct on the basis of sex involving one or more of the following:

1. a district employee conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcomed sexual conduct (Quid pro Quo);
2. unwelcomed 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 educational program or activity (Hostile Environment); or
3. sexual assault, dating violence, domestic violence, or stalking.

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Quid pro Quo Harassment

Something for something

Only perpetrated by employee

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Hostile Environment Harassment

- Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to work/education.
- "denial of access":
 - Might include skipping a class, decline in grades, bed-wetting incidents or crying at home in younger children, an older child dropping out of sports/activities.
 - Does not require "that a person's total or entire educational access has been denied."
- Do not have to suffer a loss of education before reporting
 - Drop out, fail a class, exhibit signs of trauma
 - No "concrete injury" required.

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VAWA Specific Definitions

Sexual Assault	Dating Violence	Domestic Violence	Stalking
• an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.	• violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.	• includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Kansas.	• engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress.

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Sexual Assault Definition

From OCR letter (not official guidance):

- "an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation" (NIBRS).
- The June 2025 NIBRS User Manual defines sex offenses as "[a]ny sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."
- The subcategories of offenses that constitute sex offenses under NIBRS are: rape, sodomy, sexual assault with an object, criminal sexual contact (previously fondling), incest, statutory rape, and failure to register as a sex offender. Thus, conduct that meets the NIBRS definition of any one these offenses constitutes "sexual assault" under the 2020 Title IX regulations.

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Sexual Assault Definition

- **Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.
 - **Sodomy and Sexual Assault with an Object:** reclassified and recoded under the broader category of Rape. Moving forward, all FBI UCR Program publications will reflect these offenses under the rape category.
- **Criminal Sexual Contact (previously fondling):** The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical incapacity or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.
- **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. The classification for this offense should not be determined based solely on the relationship and/or age of the persons. If force is used in any way, this should be classified as Rape.
- **Statutory Rape:** There is no force or coercion used in Statutory Rape; the act is not an attack. An offense is classified as Statutory Rape based on the state's Statutory Rape laws.
- **Failure to Register as a Sex Offender:** To fail to register or keep current a registration as required by state and federal laws.

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Education Program and Activities

"locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution"

- Think similar to "nexus to school" consideration in student discipline.
- "In the United States"

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Training Requirements

- Definition of Sexual Harassment
- Scope of the Education Program and Activities
- How to Serve Impartially
 - Avoiding Prejudgment of Facts
 - Conflicts of Interest
 - Biases
- How to Conduct a Formal Complaint Investigation Process
 - Investigations
 - Appeals
 - Informal Resolution
- Investigators shall receive training on
 - issues of relevance of questions and evidence,
 - how to create investigative reports that fairly summarize relevant evidence.
- Decision-makers shall receive training on:
 - issues of relevance of questions and evidence
 - when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
 - any technology to be used at a live hearing.

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Formal Complaint Investigation Process

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graph LR
    Report[Report] --> TitleIX[Title IX Coordinator Contacts Complainant]
    TitleIX --> NoFormal[No formal complaint. Proceeds to Resolution]
    TitleIX --> Formal[Formal Complaint. Proceeds to Investigation Process]
    NoFormal --> Resolution[Resolution]
    Formal --> Investigation[Investigation Process]
    Investigation --> Determined[Determined if Title IX claim meets criteria for sexual harassment under Title IX]
    Determined --> Informal[Informal Resolution. Complainant and respondent agree to resolution of complaint.]
    Determined --> FormalInvest[Formal Investigation. Proceeds to Formal Investigation Process]
    Informal --> Appeal[Appeal]
    FormalInvest --> Appeal
    Appeal --> Final[If determined that sexual harassment occurred, describe procedures used.]
  
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Report of Sexual Harassment

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graph TD
    TitleIX[Title IX Coordinator] --> ActualKnowledge((Actual Knowledge))
    SchoolOfficial[Any school official with authority to institute corrective measures on behalf of the district, or] --> ActualKnowledge
    K12[K-12 only Any school employee] --> ActualKnowledge
  
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- District must respond when it has "actual knowledge" of sexual harassment.
- Actual knowledge:
 - Notice of sexual harassment, including claims of sexual harassment
 - Other school employees report claims to Title IX Coordinator.

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Title IX Coordinator Contacts Complainant

- Response must not be "deliberately indifferent"
 - Clearly unreasonable in light of known circumstances
- Promptly contact complainant, and meet confidentially:
 - To discuss availability of supportive measures,
 - Consider the complainant's wishes with respect to supportive measures,
 - Inform the complainant of the availability of supportive measures with or without a formal complaint, and
 - Explain the process for filing a formal complaint.
 - KASB Policy : 10 days, unless good cause for delay.
- Should respect complainant's wishes regarding whether or not a school investigates, unless the Title IX Coordinator determines that signing a formal complaint over the wishes of the complainant is not clearly unreasonable in light of the known circumstances.

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Offer Supportive Measures

- The district will treat the complainant and respondent equitably by offering supportive measures.
- These non-disciplinary and non-punitive measures will be offered as appropriate, as reasonably available, and without cost to the complainant or the respondent.
- Supportive measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party.
- "Supportive Measures" shall include, but not be limited to, measures designed to protect the safety of all parties, to protect the district's educational environment, or to deter sexual harassment.
- The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

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Supportive measures do not require a formal complaint.

In some instances, where a formal complaint is not available, supportive measures can still be used to address alleged harassment.

Remember, District response to alleged harassment cannot be deliberately indifferent.

Supportive measures allow an avenue to respond without formal complaint.

counseling

extensions of deadlines or course related adjustments

modifications of work or class schedules

escort services or increased security and monitoring

mutual restrictions on contact between the parties

changes in work locations

leaves of absence

Examples of Supportive Measures

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Emergency Removal

A school may remove a respondent from the program or activity on an emergency basis if:

- Undertake an individualized safety and risk analysis
- Determine that an immediate threat to the physical health or safety of any student or other individual justifies removal, and
 - Threat must arise from the allegations
- Respondent given notice and an opportunity to challenge the decision immediately following the removal.

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Formal Complaint is Filed

- At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District where the formal complaint is filed.
- A formal complaint may be filed with the Title IX Coordinator in person, by mail, by email, or by any other means that results in the Title IX Coordinator receiving the report.
- A formal complaint contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint (unless signed by the Title IX Coordinator).
- A complaint should be filed as soon as possible after the conduct occurs, but not later than 180 calendar days after the complainant becomes aware of the alleged violation, unless the conduct forming the basis for the complaint is ongoing.

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Provide Notice of Complaint to Parties

- Notice of the allegations of sexual harassment including sufficient details to prepare a response before any initial interview including:
 - the identities of the parties involved, if known;
 - the conduct allegedly constituting sexual harassment; and
 - the date and location of the alleged incident, if known.
- The district's investigation procedures, including any informal resolution process;
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made by the decision-maker at the conclusion of the investigation;
- Notice to the parties they may have an advisor of their choice and may inspect and review any evidence;
- Notice to the parties of any provision in the district's code of conduct or policy that prohibits knowingly making false statements or knowingly submitting false information.
- If, in the course of an investigation, the investigator decides to investigate allegations about the complainant or respondent that are not included in the notice initially provided, notice of the additional allegations shall be provided to known parties.

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At any time during the formal complaint process and prior to reaching a determination regarding responsibility, the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and determination of responsibility.

The informal resolution process cannot be used to resolve allegations that an employee sexually harassed a student.

Informal Resolution

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Informal Resolution Process

Title IX Coordinator Appoints Facilitator

Facilitator Meets with Parties

Agreement Reached

No Agreement

- The informal resolution process may be facilitated by a trained educational professional, consultant, or other individual selected by the Title IX Coordinator.

- The facilitator communicates with the parties – either jointly, or “shuttling” between the parties to discuss potential outcomes.

- If the matter is resolved to the satisfaction of the parties, the facilitator shall document the nature of the complaint and the proposed resolution, have both parties sign the documentation and receive a copy, and forward it to the Title IX Coordinator.

- If the matter is not resolved, the formal grievance process resumes at whatever stage of the investigation or decision-making it was at prior to the parties entering the informal process.

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Rights in the Informal Resolution Process

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Written Notice: disclosing the allegations, the requirements of the informal resolution process, information on when it may preclude the parties from resuming a formal complaint arising from the same allegations

At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the investigation of the formal complaint and be informed of any consequences resulting from participating in the informal resolution process

The parties voluntarily and in writing consent to the informal resolution process

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Title IX Coordinator Responsibilities

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- Supervise the supportive measures
- Oversee formal complaint investigation process
- Title IX Coordinator may dismiss a formal complaint that is filed when the facts alleged in the complaint
 - do not meet the definition of sexual harassment under Title IX, or
 - did not occur in the school's education program or activity against a person in the United States.
- Ensure compliance with record retention and website notice requirements.

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Title IX Coordinator, Investigator, Decision-Maker, or Facilitator of an Informal Resolution Process Requirements

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Shall not have a conflict of interest or bias for or against the complainant or respondent (personally or generally).

Will exercise objective evaluation of all available evidence, both inculpatory and exculpatory, Will not make credibility determinations based on a party's status as complainant, respondent, or witness.

Will receive training to perform their roles

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Serving Impartially

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Retaliation Prohibited

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- Retaliation is intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX.
- No district or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part.

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Retaliation Prohibition Caveats

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- The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a formal complaint investigation proceeding does not constitute retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.
- The district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA, as required by law, or to conduct any investigation, hearing, or judicial proceeding arising thereunder.

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Recordkeeping Requirements: Keep All Records for 7 Years

- Investigation Records
- Disciplinary Sanctions
- Remedies
- Appeals
- Records of Actions Taken (including supportive measures)
- Justification for not providing supportive measures
- Measures taken to restore/preserve equal access

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Investigations

Investigation Steps

- Receive Notice of Formal Complaint
- Contact Parties, Witnesses, etc. to set up interviews or get help from district staff
- Send Pre-Meeting Notice
- Conduct Interviews and Collect Evidence
- Compile Investigative Report
- Distribute Report to Parties with Deadline for Response (10 days)
- Review Parties' Responses and Finalize Report

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Parties' Rights in the Investigation

Provide an equal opportunity for the parties to present witnesses and evidence	Allow the parties to be accompanied with an advisor of the party's choice	Provide written notice of the date, time, location, participants, and purpose of any interview, meeting, or hearing at which a party is expected to participate	Provide the parties equal access to review all the evidence collected which is directly related to the allegations raised in a formal complaint, including the investigative report, and the opportunity to respond to that evidence before a determination is made
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Pre-Meeting Notice

Provide written notice of the date, time, location, participants, and purpose of any interview, meeting, or hearing at which a party is expected to participate.

The notice needs to include the names of the complaint and respondent, and enough information for the party or witness to prepare for the interview.

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Interviews & Evidence Collection

- Interview & Introduction
- Witnesses
- Questions
- Burden of Proof

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Relevance:
The tendency of a given item of evidence to prove or disprove one of the legal elements of the case, or to have probative value to make one of the elements of the case likelier or not.

The investigator shall prepare an investigative report that fairly summarizes relevant evidence and share the report with the parties and their advisors for review and response.

- Must include all inculpatory and exculpatory evidence.
 - Do not need to include irrelevant information.
- Evidence is included with Investigative Report for parties' review.

Investigative Report

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Inspection and Review

Prior to finalization of the investigative report, the investigator must send to each party (and their advisor), a draft of the investigative report and the evidence subject to inspection and review in an electronic format or a hard copy.

The parties have at least 10 days to submit a written response, which the investigator will consider to finalize the investigative report.

Review the responses and update your report accordingly. The investigator can add information, or rephrase or change report, etc.

The responses can include:

- Additional evidence or support of the party's position
- Support or rebuttal to information in the initial report.

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Investigator's Responsibilities in the Process

- Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the district and not the parties;
- Cannot restrict either party's ability to discuss the allegations under investigation or to gather and present relevant evidence;
- Be impartial and objectively evaluate all relevant evidence without relying on sex stereotypes;
- Not have conflicts of interest or bias for or against complainants or respondents;
- Not make credibility determinations based on the individual's status as complainant, respondent, or witness.

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Decision-Making and Appeals

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Decision-Making Process

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Receive Investigator's Report
 Exchange of Questions or Live Hearing
 Write Determination Regarding Responsibility
 Decision Becomes Effective and Discipline

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Exchange of Questions

Give each party the opportunity to submit written, relevant questions that the parties want asked of any party or witness.

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Provide each party with the answers of the other party.

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Allow for additional, limited follow-up questions.

Exchange of written questions allows for cross examination of witnesses without face-to-face confrontation.

Any party can submit questions to any party or witness. Questions cannot be submitted to the investigator or anyone who was not

May exclude irrelevant questions but must provide explanation to the party as to why question was not forwarded.

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Note for Live Hearings: Technology Issues

Live hearings are not required at the K-12 level, but all post-secondary schools must conduct live hearings.

If performing a hearing, it must be recorded. Be sure to work with school technology staff ahead of hearings to be prepared.

Ensure the hearing space can accommodate equipment: Access to outlets, sound quality, etc.

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Relevance and Evidence

Relevance:
Look to initial complaint, review investigation report to determine what information is relevant.

Consider all information that supports or contradicts either party's position.

In questions exchanged by parties in lieu of hearing, all questions must be relevant.

Be cautious of any evidence related to the sexual predisposition or sexual history of the complainant.

Evidence:
The tendency of a given item of evidence to prove or disprove one of the legal elements of the case, or to have probative value to make one of the elements of the case likelier or not.

Evidence:
Any of the material items or assertions of fact that may be submitted to a competent tribunal as a means of ascertaining the truth of any alleged matter of fact under investigation before it

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Sexual Predisposition of Complainant

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

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Written Determination Regarding Responsibility

-  Describe the procedural steps taken, including any notifications to the parties, site visits, methods used to gather evidence, and interviews
-  Identify the allegations potentially constituting sexual harassment
-  Include the findings of fact supporting the determination
-  Address any district policies and/or conduct rules which apply to the facts
-  Address each allegation and a resolution of the complaint including a determination regarding responsibility and the rationale therefor
-  The procedures and permissible bases for the complainant and/or respondent to appeal the determination
-  Provide to parties at the same time

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Preponderance of the Evidence

Evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.

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Written Determination – Step-by-Step

1. List procedural steps taken.
2. Identify the allegation(s) from the complaint. Refer to the Investigator's Report for specificity or clarification.
3. Identify evidence from the investigator report in support of or against each claim.
5. Make the factual findings
6. Determine which definition(s) of sexual harassment to analyze.
7. Analysis
8. Make determination regarding responsibility for each allegation – state whether or not there is sufficient evidence to find that sexual harassment occurred
9. (Optional) Recommendations
10. Provide information about appeals
11. Provide the Decision to the parties at the same time

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Appeals

Basis for Appeal

Procedural irregularity that affected the outcome;

New evidence that was not reasonably available at the time that could affect the outcome; and/or

The Title IX Coordinator, investigator, or decision maker had a conflict of interest or bias against either party that affected the outcome.

The complainant or respondent may appeal the decision-maker's determination regarding responsibility or a dismissal of a formal complaint.

Request for appeal shall be made in writing within 10 days after the date of the decision.

Both parties must have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome

Provide the written decision simultaneously to both parties.

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Appeal Decision-Maker Responsibilities

Review the evidence gathered by the investigator, the investigator's report, and the original decision-maker's determination;

Notify both parties in writing of the filing of an appeal and give them a period of time after the appeal is filed to submit further evidence in writing;

Not have a conflict of interest or bias for or against complainant or respondent and receive the required training;

Issue a written decision and the rationale for the decision within 30 days after the appeal is filed;

Describe the result of the appeal and the rationale for the result in the decision; and

Provide the written decision simultaneously to both parties and to the Title IX Coordinator.

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