# Title IX Coordinator Training – K-12 Public Schools (2020 Regulations)

October 27, 2026

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The 2020 Title IX regulations make the Title IX Coordinator the employee responsible for coordinating a school's compliance with Title IX. The Coordinator receives reports of sexual harassment, contacts complainants about supportive measures, signs formal complaints when appropriate, assigns trained and impartial investigators, decision makers, and informal-resolution facilitators, oversees the grievance process, implements remedies, and maintains required records. The Coordinator may also serve as the investigator but may never serve as the decision maker on responsibility or on appeal. This training addresses the Coordinator's responsibilities in K-12 public schools under 34 CFR Part 106 and is designed to cover each topic on which 34 CFR 106.45(b)(1)(iii) requires Title IX Coordinators to be trained: the definition of sexual harassment, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process, including appeals and informal resolution, and how to serve impartially.

The Title IX Coordinator must approach every matter impartially and without a conflict of interest or prejudgment. Although combining investigative and adjudicative functions does not invariably establish unconstitutional bias, the 2020 regulations avoid that concern by requiring the final decision maker to be someone other than the investigator or Title IX Coordinator. Withrow v. Larkin, 421 U.S. 35, 47 (1975), 34 CFR 106.45. The recipient must use the same announced standard of proof, either preponderance of the evidence or clear and convincing evidence, for all formal complaints of sexual harassment and for complaints against students and employees. 34 CFR 106.45.

## I. Legal Standards

### A. Governing Regulatory Framework

Title IX applies to education programs and activities receiving federal financial assistance. The Department of Education has enforced the 2020 regulations since January 2025 and formally restored them to the Code of Federal Regulations in a final rule published and effective September 29, 2026. Under the 2020 regulatory framework, a recipient with actual knowledge of sexual harassment in its education program or activity against a person in the United States must respond promptly and may not act with deliberate indifference. A

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response is deliberately indifferent when it is clearly unreasonable in light of the known circumstances. In an elementary or secondary school, actual knowledge includes notice of sexual harassment or allegations of sexual harassment to any employee of the school, not only to the Title IX Coordinator or an official with authority to institute corrective measures. 34 CFR 106.30.

The regulation defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following: (1) an employee of the recipient 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; or (3) sexual assault, dating violence, domestic violence, or stalking, as those terms are defined in the Clery Act and the Violence Against Women Act. 34 CFR 106.30. Title IX Coordinators must be trained on this definition because it determines whether alleged conduct falls within the Title IX grievance process at all. 34 CFR 106.45(b)(1)(iii).

A complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. A respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. 34 CFR 106.30. The Coordinator should apply these terms precisely, because the regulation's notice, supportive-measure, and grievance-process rights attach to them.

The covered education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context of the alleged harassment, as well as a building owned or controlled by an officially recognized postsecondary student organization. 34 CFR 106.44.

The recipient must treat complainants and respondents equitably. It must offer supportive measures to a complainant and must complete a grievance process complying with Section 106.45 before imposing disciplinary sanctions or other non-supportive measures against a respondent. The Title IX Coordinator must promptly contact the complainant to discuss supportive measures, consider the complainant's wishes, explain that supportive measures are available with or without a formal complaint, and explain the process for filing a formal complaint. 34 CFR 106.44.

The regulatory definitions distinguish an elementary and secondary school, which includes a local educational agency, preschool, and private elementary or secondary school, from a postsecondary institution, which includes institutions of graduate, undergraduate, professional, and vocational education. 34 CFR 106.30. That distinction matters here because a no-live-hearing process corresponds to the elementary and secondary school branch of the 2020 framework. Following the vacatur of the later Title IX final rule, at least one court

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described the 2020 rule as again governing a university and requiring a live hearing in that postsecondary setting. Carroll Indep. Sch. Dist. v. United States Dep't of Educ., 2025 U.S. Dist. LEXIS 124113, 20 (N.D. Tex. 2025).

### B. General Requirements Governing the Grievance Process

The grievance process must require an objective evaluation of all relevant evidence. It may not restrict either party's ability to discuss the allegations or to gather and present relevant evidence during the investigation or elsewhere in the grievance process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Relevance, rather than whether evidence is favorable to one party, controls whether the evidence belongs in the process. A Texas federal court applying the regulation concluded that an institution could not exclude relevant exculpatory evidence merely because the institution considered the investigation closed, because the prohibition against restricting the gathering and presentation of evidence applies throughout the grievance process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

The process also must protect legally recognized privileges. It may not require, allow, rely on, or otherwise use questions or evidence seeking privileged information unless the privilege holder has waived the privilege. 34 CFR 106.45. Upon receipt of a formal complaint, the recipient must give known parties written notice of the grievance process, including any informal-resolution process, and written notice of the allegations, with sufficient details known at the time and sufficient time to prepare a response before any initial interview. The notice must state that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; inform the parties that they may have an advisor of their choice, who may be an attorney, and may inspect and review evidence; and identify any code-of-conduct provision prohibiting knowingly false statements or knowingly submitting false information during the grievance process. The Title IX Coordinator must ensure that every person involved in the grievance process acts consistently with that presumption. 34 CFR 106.45.

The grievance process must identify its reasonably prompt time frames and permit temporary delay or a limited extension for good cause. Good cause may include the absence of a party, advisor, or witness; concurrent law-enforcement activity; a need for language assistance; or accommodation of a disability. 34 CFR 106.45. A concurrent criminal investigation therefore may affect scheduling, but the school remains responsible for its own Title IX response. A Texas federal court has recognized that a school may temporarily delay fact-gathering while law enforcement gathers evidence but must resume and complete its fact-finding after that impediment ends. I.F. v. Lewisville Indep. Sch. Dist., 2016 U.S. Dist. LEXIS 186671, 34 (E.D. Tex. 2016).

### C. Separation Between Investigation and Decision

The decision maker cannot be the same person as the investigator or Title IX Coordinator. The separate decision maker must apply the institution's designated evidentiary standard and issue the written determination regarding responsibility. 34 CFR 106.45. That determination must identify the allegations; describe the procedural steps taken, including notices, interviews, site visits, and methods of gathering evidence; state findings of fact; apply the institution's code of conduct; explain the result and rationale for each allegation; identify sanctions and remedies as applicable; and state the procedures and permissible grounds for appeal. It must be provided to the parties simultaneously. 34 CFR 106.45.

The separation of roles places an important limit on the Title IX Coordinator's authority. The Coordinator may sign a formal complaint, coordinate supportive measures, assign personnel, and serve as the investigator, but the Coordinator may not decide responsibility or an appeal. The decision maker decides responsibility, applies the code of conduct, and provides the rationale for the result.

### D. Standard of Proof

The recipient must state whether it uses the preponderance-of-the-evidence standard or the clear-and-convincing-evidence standard. It must apply the same standard to formal complaints against students and employees, including faculty, and to all formal complaints of sexual harassment. 34 CFR 106.45. The 2020 regulation therefore emphasizes consistency rather than assigning a special evidentiary burden to a particular category of respondent.

The preponderance standard is the ordinary standard in civil litigation, while a heightened standard generally applies only when required by statute, the Constitution, or certain uncommon circumstances. E.M.D. Sales, Inc. v. Carrera, 604 U.S. 45, 49 (2025). Within the Fifth Circuit, no majority decision has disallowed the preponderance standard in the Title IX context. Texas v. United States, 740 F. Supp. 3d 537, 556 (N.D. Tex. 2024). The Title IX Coordinator nevertheless does not decide whether the selected standard has been met, because the regulations assign the responsibility determination to the separate decision maker. 34 CFR 106.45.

### E. Impartiality and Constitutional Principles

An impartial process requires more than equal formal treatment; it requires objective consideration of relevant inculpatory and exculpatory evidence. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Due process also recognizes that a fair tribunal is a basic requirement and prohibits an intolerably high probability of actual bias in an adjudicator. But combining investigative and adjudicative functions does not, by itself, establish unconstitutional bias. Officials generally receive a presumption of honesty and integrity unless the circumstances demonstrate an unacceptable risk of actual bias or prejudgment. Withrow v. Larkin, 421 U.S. 35, 47 (1975).

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The Fifth Circuit likewise has rejected the proposition that multiple institutional roles necessarily establish a constitutional violation. In *Plummer v. University of Houston*, the court concluded that allegations involving an investigator's additional role as a victim advocate and an office's advisory role did not establish a due-process violation absent a showing that the alleged conflicts undermined the integrity of the proceedings. The court emphasized the objective evidence supporting the result and the decision panel's authority to disagree with the investigator. Plummer v. Univ. of Houston, 860 F.3d 767, 777 (5th Cir. 2017).

Those constitutional principles do not eliminate the stricter structural requirement of the 2020 regulation. Whatever combination of administrative functions might survive constitutional review, the Title IX decision maker still cannot be the investigator or Title IX Coordinator. 34 CFR 106.45.

## II. Title IX Coordinator Responsibilities

### A. Designation, Authority, and Public Notice

The recipient must designate and authorize at least one employee to coordinate its efforts to comply with its Title IX responsibilities, and must refer to that employee as the "Title IX Coordinator." The recipient must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient of the Coordinator's name or title, office address, electronic mail address, and telephone number. 34 CFR 106.8(a).

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim. A report may be made in person, by mail, by telephone, or by electronic mail, using the Coordinator's listed contact information, or by any other means that results in the Coordinator receiving the person's verbal or written report, and may be made at any time, including during non-business hours. 34 CFR 106.8(a).

The recipient also must notify the same persons that it does not discriminate on the basis of sex in its education program or activity, that it is required by Title IX not to discriminate in such a manner, that this requirement extends to admission and employment, and that inquiries about Title IX may be referred to the Title IX Coordinator, to the Assistant Secretary for Civil Rights of the Department of Education, or both. The recipient must prominently display the Coordinator's contact information and its nondiscrimination policy on its website, if any, and in each handbook or catalog it makes available to those persons. 34 CFR 106.8(b).

The recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action prohibited by the Title IX regulations, and a grievance process that complies with Section 106.45 for formal complaints of sexual harassment. It must give notice of those procedures and that process,

including how to report or file a complaint of sex discrimination, how to file a formal complaint of sexual harassment, and how the recipient will respond. 34 CFR 106.8(c). The Coordinator should be prepared to route sex-discrimination complaints that do not allege sexual harassment through those prompt and equitable grievance procedures.

The Title IX Coordinator's role is administrative and supervisory. The Coordinator receives reports, coordinates supportive measures, signs formal complaints when appropriate, assigns trained personnel, and monitors compliance with the grievance process. The Coordinator may also serve as the investigator, but the Coordinator's role is never adjudicatory. Because the ultimate determination must come from a separate decision maker, the Coordinator may not decide responsibility, decide an appeal, or present an investigative report as a final finding of responsibility. 34 CFR 106.45.

In monitoring each case, the Coordinator should ensure that the investigation accounts for evidence that supports and evidence that undermines an allegation. The objective-evaluation requirement is inconsistent with an approach that seeks only corroboration of the complainant or only exculpation of the respondent. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Likewise, neither the Coordinator nor the investigator may treat an internally selected cutoff as authority to prevent a party from presenting relevant evidence while the grievance process remains pending. In *Doe v. Texas Christian University*, a Texas federal court concluded that excluding relevant exculpatory evidence submitted after the institution claimed to have closed its investigation conflicted with the regulation's protection of the parties' ability to gather and present relevant evidence throughout the process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). The court later characterized the exclusion of substantial exculpatory evidence, contrary to both the regulations and institutional policy, as evidence supporting a claim of sex discrimination. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

### B. Receiving Reports and Responding to Actual Knowledge

In an elementary or secondary school, notice of sexual harassment or allegations of sexual harassment to any employee gives the recipient actual knowledge. 34 CFR 106.30. The Coordinator therefore should ensure that every employee, including teachers, aides, coaches, counselors, bus drivers, and office staff, knows to forward reports promptly to the Coordinator, and should maintain an intake system that documents the date of each report, its source, the information received, and the Coordinator's response.

When the recipient has actual knowledge, it must respond promptly in a manner that is not deliberately indifferent. 34 CFR 106.44(a). For each report, the Coordinator should:

1. Promptly contact the complainant, and for a minor, the complainant's parent or guardian, to discuss the availability of supportive measures;
2. Consider the complainant's wishes with respect to supportive measures;

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3. Inform the complainant that supportive measures are available with or without the filing of a formal complaint;
4. Explain to the complainant the process for filing a formal complaint;
5. Assess whether the reported conduct, if true, would meet the Section 106.30 definition of sexual harassment and occurred in the school's education program or activity against a person in the United States;
6. Determine whether an emergency removal or administrative leave analysis is warranted; and
7. Document the response and the basis for concluding that it was not deliberately indifferent.

Parents and guardians play a distinct role in the K-12 setting. Nothing in the regulations may be read in derogation of any legal right of a parent, guardian, or other authorized legal representative to act on behalf of a complainant, respondent, or other individual, including but not limited to filing a formal complaint. 34 CFR 106.6(g). The obligation to comply with the regulations is not obviated or alleviated by FERPA. 34 CFR 106.6(e). The Coordinator should confirm who holds legal authority to act for each minor student and direct notices and communications accordingly.

Title IX obligations operate alongside, and do not displace, state-law duties to report suspected child abuse or neglect. A report to law enforcement or child protective services does not relieve the school of its own Title IX response, although concurrent law-enforcement activity may support a temporary delay or limited extension of the grievance process for good cause. 34 CFR 106.45(b)(1)(v). The Coordinator should coordinate with law enforcement and child protective services so that the school's Title IX response proceeds without interfering with those investigations.

### C. Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. They must be 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 educational environment, or to deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. 34 CFR 106.30.

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not

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impair its ability to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. 34 CFR 106.30.

Supportive measures may not be used as a substitute for discipline. The regulation assigns initial responsibility for discussing and coordinating supportive measures to the Title IX Coordinator. 34 CFR 106.44. Nor may the Coordinator impose discipline, or a measure that operates as discipline, before completion of a compliant grievance process.

### D. Emergency Removal and Administrative Leave

A recipient may remove a respondent from the education program or activity on an emergency basis, provided that it undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. 34 CFR 106.44(c).

Emergency removal is not a shortcut to discipline. The analysis must be individualized and must focus on an immediate threat to physical health or safety, not on the seriousness of the allegations alone. For a student respondent with a disability, the Coordinator should coordinate with the student's IEP team or Section 504 team, and in every case should document the risk analysis, the notice given, and the opportunity to challenge the removal.

A recipient may place a non-student employee respondent on administrative leave during the pendency of a grievance process. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. 34 CFR 106.44(d).

### E. Formal Complaints

A formal complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation. At the time of filing, the complainant must be participating in or attempting to participate in the recipient's education program or activity. A formal complaint may be filed with the Coordinator in person, by mail, or by electronic mail, using the Coordinator's listed contact information. 34 CFR 106.30. In response to a formal complaint, the recipient must follow a grievance process that complies with Section 106.45. 34 CFR 106.44(b)(1).

When the Title IX Coordinator signs a formal complaint, the Coordinator is not a complainant or otherwise a party, and the Coordinator must continue to comply with the training and impartiality requirements of Section 106.45(b)(1)(iii). 34 CFR 106.30. The Coordinator may

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sign a formal complaint even when the complainant does not wish to file one, and should consider doing so when, in light of the known circumstances, declining to proceed would be clearly unreasonable, such as when a report suggests a pattern of misconduct, a threat to other students, or harassment by an employee. The alleged victim remains the complainant and retains the notices and rights the grievance process provides to a complainant.

Upon receipt of a formal complaint, the Coordinator should ensure that the written notice described in Part I.B of this training is issued to all known parties before any initial interview. If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the original notice, it must provide notice of the additional allegations to the parties whose identities are known. 34 CFR 106.45(b)(2).

### F. Overseeing the Investigation

Once a formal complaint is filed, the Coordinator should promptly assign an investigator and a separate decision maker, and should identify an appeal decision maker who is not the decision maker, the investigator, or the Coordinator. Each person must have completed the required training and must be free from conflicts of interest and bias for or against complainants or respondents generally or the individual complainant or respondent. 34 CFR 106.45(b)(1)(iii), (b)(7)(i), (b)(8)(iii). The Coordinator also should calendar the time frames announced in the grievance process and document good cause for any temporary delay or limited extension, with written notice to the parties of the delay or extension and the reasons for it. 34 CFR 106.45(b)(1)(v).

The Coordinator should ensure that each investigation follows the regulation's specific procedures. The burden of proof and the burden of gathering evidence sufficient to reach a determination rest on the recipient, not on the parties. The investigator may not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the party's treatment, unless the party provides voluntary, written consent. 34 CFR 106.45(b)(5)(i). The parties must have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. 34 CFR 106.45(b)(5)(ii). Each party must have the same opportunity to be accompanied by others at any related meeting or proceeding, including an advisor of the party's choice, and any restriction on advisor participation must apply equally to both parties. 34 CFR 106.45(b)(5)(iv). A party whose participation is invited or expected must receive written notice of the date, time, location, participants, and purpose of each investigative interview or other meeting, with sufficient time to prepare. 34 CFR 106.45(b)(5)(v).

Relevance defines the permissible scope of fact-gathering. An institution may not exclude relevant evidence solely because it is prejudicial to one party or inconvenient to the institution's theory of the case. The Texas federal court in *Doe v. Texas Christian University* treated relevance as the governing standard and rejected the exclusion of relevant evidence

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merely because it was submitted after the institution's investigative cutoff. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

Privilege supplies a separate limit. Even if information appears factually relevant, the process may not require or use information protected by a legally recognized privilege unless the privilege holder waives it. 34 CFR 106.45. The Coordinator and the investigator therefore must distinguish between relevance and legal permissibility.

The regulation also limits relevance directly. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless they concern the complainant's prior sexual behavior and are offered to prove that someone other than the respondent committed the alleged conduct, or they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 CFR 106.45(b)(6). The Coordinator should ensure that investigators and decision makers apply that limit both in gathering evidence and in determining what the investigative report summarizes as relevant.

Before the investigative report is completed, the recipient must send each party and the party's advisor, if any, the evidence directly related to the allegations, including evidence on which the recipient does not intend to rely, in electronic or hard-copy form. The parties must have at least 10 days to submit a written response, which the investigator must consider before completing the report. 34 CFR 106.45(b)(5)(vi). The investigator then must create a report that fairly summarizes the relevant evidence and, at least 10 days before any hearing or other time of determination regarding responsibility, send it to each party and advisor for review and written response. 34 CFR 106.45(b)(5)(vii). The Coordinator should track those deadlines and confirm that each exchange occurred before the case advances to the decision maker.

Because an elementary or secondary school need not provide a live hearing, the regulation provides a written-question procedure. After the report is sent to the parties and before reaching a determination, the decision maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow additional, limited follow-up questions from each party. The decision maker must explain to the questioning party any decision to exclude a question as not relevant. 34 CFR 106.45(b)(6)(ii). The Coordinator should confirm that this exchange has been completed, and any relevance rulings documented, before a determination issues.

Before an investigative report is sent to the parties, the Coordinator should confirm that the report:

1. Identifies each allegation within the scope of the formal complaint;
2. Describes the procedural and investigative steps taken;

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3. Summarizes relevant inculpatory and exculpatory evidence evenhandedly;
4. Identifies material conflicts in the evidence without resolving responsibility;
5. Excludes or appropriately segregates privileged information and treatment records that may not be used without consent;
6. Avoids sex stereotypes, advocacy, and conclusory credibility judgments unsupported by the evidence; and
7. Provides an intelligible record from which the separate decision maker can make findings and explain the result.

### G. Scope of the Allegations, Consolidation, and Dismissal

The Coordinator also should ensure that each case remains within the allegations properly included in the grievance process. The 2020 regulation permits consolidation of formal complaints where allegations arose from the same facts or circumstances, but not merely because the same parties were involved. A Texas federal court concluded that the existence of a prior relationship and overlapping evidence did not, without more, establish that separate alleged incidents arose from the same facts or circumstances. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). This limitation reinforces that neither the Coordinator nor the investigator may expand a case simply because other allegations involve the same individuals.

Some allegations fall outside the Title IX process altogether. The recipient must dismiss a formal complaint, or the affected allegations, if the alleged conduct would not constitute sexual harassment as defined in Section 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States; such a dismissal does not preclude action under another provision of the recipient's code of conduct. The recipient may dismiss a formal complaint if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw it, if the respondent is no longer enrolled in or employed by the recipient, or if specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination. Upon any dismissal, the recipient must promptly send the parties simultaneous written notice of the dismissal and the reasons for it. 34 CFR 106.45(b)(3). Both parties must be offered an appeal from a dismissal. 34 CFR 106.45(b)(8)(i). The Coordinator should document the basis for each dismissal and refer conduct that falls outside Title IX to the appropriate code-of-conduct or employment process.

### H. Informal Resolution

Informal resolution is available only within limits. A recipient may offer it only after a formal complaint is filed, and it may not require participation in informal resolution, or a waiver of the right to a formal investigation and adjudication, as a condition of enrollment, employment, or any other right. Before facilitating informal resolution, the recipient must give the parties written notice disclosing the allegations; the requirements of the informal resolution process, including the circumstances under which it precludes the parties from

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resuming a formal complaint arising from the same allegations; and any consequences of participating, including the records that will be maintained or could be shared. At any time before agreeing to a resolution, any party may withdraw from informal resolution and resume the grievance process. The recipient must obtain the parties' voluntary, written consent, and it may not offer or facilitate informal resolution of allegations that an employee sexually harassed a student. 34 CFR 106.45(b)(9). The Coordinator should screen each request for eligibility and assign a trained facilitator who has not served as the investigator in the same matter.

### I. Retaliation and Confidentiality

The Coordinator must guard against retaliation. Neither the recipient nor any 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 because the individual made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code-of-conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint, for the purpose of interfering with a Title IX right, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required under Section 106.8(c). 34 CFR 106.71(a).

The recipient also must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, any complainant, any respondent, and any witness, except as permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding. The exercise of rights protected under the First Amendment does not constitute retaliation. Charging an individual with a code-of-conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding also does not constitute retaliation, but a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. 34 CFR 106.71.

### J. Impartiality, Bias, and Conflicts of Interest

The Title IX Coordinator, and every person the Coordinator assigns to a case, must be capable of conducting an objective evaluation. At minimum, that requires freedom from a personal, financial, or professional interest likely to influence the handling of the matter. It also requires an open mind about disputed facts and evenhanded treatment of complainants and respondents. In the K-12 setting, the Coordinator should be alert to conflicts arising from a supervisory relationship with an employee respondent, a family or social relationship with a party, or prior involvement in a related disciplinary matter.

Not every asserted conflict establishes unlawful bias. Under *Withrow v. Larkin*, combining functions does not itself overcome the presumption that officials act honestly and with integrity; the circumstances must show a constitutionally intolerable risk of actual bias or

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prejudgment. Withrow v. Larkin, 421 U.S. 35, 47 (1975). Under Fifth Circuit authority, a claimant challenging multiple institutional roles also must connect the asserted conflict to an impairment of the proceeding's integrity. Plummer v. Univ. of Houston, 860 F.3d 767, 777 (5th Cir. 2017).

The regulatory separation among the Title IX Coordinator, the investigator, and the decision maker nevertheless serves as an independent safeguard. The Coordinator and the investigator may assess whether evidence is relevant and may organize conflicting accounts, but neither may become the final adjudicator. 34 CFR 106.45. The separate decision maker must remain free to accept or reject the investigator's or the Coordinator's characterization of the evidence.

When assigning personnel, the Coordinator should recognize that an investigator's prior involvement can create a more substantial concern when the investigator later serves in a function requiring fresh neutrality toward the same dispute. A recent Texas federal complaint alleged that using an investigator to facilitate an informal resolution created prejudgment concerns because the investigator had interviewed witnesses and evaluated evidence. The court's description of those allegations is not a merits holding, but it illustrates the practical conflict that can arise when an investigator is reassigned to a role requiring distinct neutrality. Haley Just. v. Bd. of Regents of Tex. Tech. Univ. Sys., 2026 U.S. Dist. LEXIS 214846, 5 (N.D. Tex. 2026).

### K. Training and Qualifications

The Title IX Coordinator must possess sufficient competence to oversee a process that collects evidence fairly, identifies relevant information, respects privilege, distinguishes fact-gathering from adjudication, and produces a neutral report usable by the parties and decision maker. Those competencies follow from the objective-evaluation, privilege, evidentiary-access, and role-separation requirements. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022); 34 CFR 106.45; 34 CFR 106.45.

The 2020 regulations require the recipient to ensure that every Title IX Coordinator, investigator, decision maker, and person who facilitates an informal resolution process receives training on (1) the definition of sexual harassment in Section 106.30; (2) the scope of the recipient's education program or activity; (3) how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Decision makers also must receive training on any technology to be used at a live hearing, if one is held, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Investigators must receive training on issues of relevance so that they can create an investigative report that fairly summarizes relevant evidence. 34 CFR 106.45(b)(1)(iii). As the official responsible for coordinating

compliance, the Coordinator should ensure that each person assigned to a case has completed that training before the assignment and that completion is documented.

All training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. 34 CFR 106.45(b)(1)(iii). The recipient must make the materials publicly available on its website or, if it does not maintain a website, available upon request for inspection by members of the public, and must retain them for seven years. 34 CFR 106.45(b)(10)(i)(D).

In addition to completing that mandatory training, the Title IX Coordinator must be able to perform the following functions:

1. Receive and document reports from any source and respond promptly upon actual knowledge;
2. Contact complainants, consider their wishes, and coordinate supportive measures;
3. Evaluate whether to sign a formal complaint and whether mandatory or discretionary dismissal applies;
4. Assign trained, unconflicted investigators, decision makers, appeal decision makers, and informal-resolution facilitators;
5. Monitor time frames, notices, the evidence exchange, and the written-question procedure;
6. Implement remedies and respond to retaliation; and
7. Maintain and publish the records and training materials required by Section 106.45(b)(10).

A job title or general administrative experience, standing alone, does not establish those competencies. The school's designation and training records should demonstrate that the Coordinator was prepared to perform the functions the regulations assign to the Coordinator.

### L. Determinations, Appeals, and Remedies

Although the Coordinator may not make the determination regarding responsibility, the Coordinator should confirm that the process produces a written determination containing each element the regulation requires. The determination must identify the allegations; describe notices, interviews, site visits, and methods of evidence collection; make findings of fact; apply the conduct code; and explain the result and rationale for each allegation. 34 CFR 106.45. A determination that omits material procedural steps, disregards relevant exculpatory evidence, or fails to explain the rationale for each allegation is vulnerable on appeal.

The recipient must offer both parties an appeal from a determination regarding responsibility and from a dismissal of a formal complaint or any allegations in it, on the following bases: procedural irregularity that affected the outcome of the matter; new evidence that was not reasonably available at the time of the determination or dismissal and that could affect the

outcome; or a conflict of interest or bias on the part of the Title IX Coordinator, investigator, or decision maker, for or against complainants or respondents generally or the individual complainant or respondent, that affected the outcome. The recipient may offer an appeal equally to both parties on additional bases. 34 CFR 106.45(b)(8)(i)–(ii).

For each appeal, the recipient must notify the other party in writing; implement appeal procedures equally for both parties; ensure that the appeal decision maker is not the same person as the decision maker who reached the determination, the investigator, or the Title IX Coordinator; ensure that the appeal decision maker has completed the required training; give both parties a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome; and issue a written decision describing the result of the appeal and its rationale to both parties simultaneously. 34 CFR 106.45(b)(8)(iii). Because the Coordinator's own conduct is a permissible ground for appeal, the Coordinator should not participate in deciding any appeal.

The determination regarding responsibility becomes final either on the date the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or, if no appeal is filed, on the date on which an appeal would no longer be considered timely. The Title IX Coordinator is responsible for the effective implementation of any remedies. 34 CFR 106.45(b)(7)(iii)–(iv). Remedies must be designed to restore or preserve equal access to the education program or activity. They may include the same individualized services described as supportive measures but, unlike supportive measures, need not be non-disciplinary or non-punitive and need not avoid burdening the respondent. 34 CFR 106.45(b)(1)(i).

### M. Ensuring Consistent Application of the Standard of Proof

The institution must select either preponderance of the evidence or clear and convincing evidence and announce that choice in its grievance process. It must then use the same standard for complaints against students and employees and across all formal sexual-harassment complaints. 34 CFR 106.45.

Under the required division of roles, the Coordinator's task is to ensure that the investigator compiles the evidence to which that standard will be applied. The separate decision maker applies the standard and determines responsibility. 34 CFR 106.45. The Coordinator therefore should not permit the report to be shaped to reach a preferred burden-of-proof outcome or permit the omission of evidence viewed as unlikely to change that outcome. Evidence may remain relevant even when the Coordinator or investigator believes it is not dispositive.

A preponderance standard is not impermissible merely because the allegations are serious. Available authority recognizes preponderance as the ordinary civil standard, and no cited Fifth Circuit majority decision has prohibited its use in Title IX proceedings. E.M.D. Sales, Inc.

v. Carrera, 604 U.S. 45, 49 (2025); Texas v. United States, 740 F. Supp. 3d 537, 556 (N.D. Tex. 2024). But whichever standard the recipient selects must be applied consistently; the institution may not use a lower or higher burden based on the identity of the complainant, respondent, or investigator.

### N. Recordkeeping Requirements

The Coordinator should maintain a case file that preserves the materials necessary to show what the school knew, what steps it took, what evidence it considered, and whether it followed its stated grievance process. This includes the initial report and intake notes, communications with the complainant concerning supportive measures, any emergency-removal analysis, the formal complaint and notices, communications concerning scheduling or extensions, interview records, documentary and physical evidence, the investigative report, party submissions, the written questions and answers, the final determination, any appeal, and documentation that remedies were implemented.

The regulation requires the recipient to maintain for seven years the records of each sexual harassment investigation, including any determination regarding responsibility, any audio or audiovisual recording or transcript, any disciplinary sanctions imposed, and any remedies provided; any appeal and its result; any informal resolution and its result; and all materials used to train Title IX Coordinators, investigators, decision makers, and informal-resolution facilitators. The recipient also must retain for seven years records of any actions, including supportive measures, taken in response to a report or formal complaint, documenting the basis for its conclusion that its response was not deliberately indifferent. 34 CFR 106.45(b)(10).

The need for such documentation is reinforced by the regulation requiring the final determination to describe the notices, interviews, site visits, and methods used to gather evidence. 34 CFR 106.45. Documentation also permits review of whether the institution allowed relevant evidence and conducted an objective evaluation, issues that proved material in *Doe v. Texas Christian University*. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

## III. Conclusion

Under the 2020 Title IX regulations, the Title IX Coordinator is the employee responsible for coordinating the school's compliance, not the final adjudicator. The Coordinator must ensure that reports are received from any source and answered promptly, that complainants are offered supportive measures and told how to file a formal complaint, that formal complaints proceed through a grievance process that treats the parties equitably, and that every person assigned to that process is trained and free from conflicts of interest, bias, and prejudgment.

The Coordinator's authority is limited by the regulation's definitions, the scope of the education program or activity, the presumption that the respondent is not responsible, and

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the mandatory separation between the Coordinator and the decision maker. Bias is not established merely because an official has performed more than one administrative function, but personal interests, prejudgment, advocacy, selective evidence gathering, or reassignment to an incompatible role may undermine the required impartiality. The Coordinator must ensure that the school applies its designated standard of proof consistently, implements remedies effectively, prevents retaliation, and maintains the training materials and case records the regulations require for seven years.

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# Title IX Investigator Training – K-12 Public Schools (2020 Regulations)

October 27, 2026

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The 2020 Title IX regulations assign the investigator a neutral fact-gathering role. The investigator develops the evidentiary record and prepares an investigative report, but the investigator does not make the final determination regarding responsibility. The grievance process must provide an objective evaluation of relevant evidence, permit both parties to gather and present relevant evidence, treat the parties equitably, and separate the investigator from the decision maker.

The investigator must approach the matter impartially and without a conflict of interest or prejudgment. Although combining investigative and adjudicative functions does not invariably establish unconstitutional bias, the 2020 regulations avoid that concern by requiring the final decision maker to be someone other than the investigator or Title IX Coordinator. Withrow v. Larkin, 421 U.S. 35, 47 (1975), 34 CFR 106.45. The recipient must use the same announced standard of proof, either preponderance of the evidence or clear and convincing evidence, for all formal complaints of sexual harassment and for complaints against students and employees. 34 CFR 106.45.

## I. Legal Standards

### A. Governing Regulatory Framework

Title IX applies to education programs and activities receiving federal financial assistance. The Department of Education has enforced the 2020 regulations since January 2025 and formally restored them to the Code of Federal Regulations in a final rule published and effective September 29, 2026. Under the 2020 regulatory framework, a recipient with actual knowledge of sexual harassment in its education program or activity against a person in the United States must respond promptly and may not act with deliberate indifference. A response is deliberately indifferent when it is clearly unreasonable in light of the known circumstances. In an elementary or secondary school, actual knowledge includes notice of sexual harassment or allegations of sexual harassment to any employee of the school, not only to the Title IX Coordinator or an official with authority to institute corrective measures. 34 CFR 106.30.

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The regulation defines sexual harassment as conduct on the basis of sex that satisfies one or more of the following: (1) an employee of the recipient 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; or (3) sexual assault, dating violence, domestic violence, or stalking, as those terms are defined in the Clery Act and the Violence Against Women Act. 34 CFR 106.30. Investigators must be trained on this definition because it determines whether alleged conduct falls within the Title IX grievance process at all. 34 CFR 106.45(b)(1)(iii).

The covered education program or activity includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context of the alleged harassment, as well as a building owned or controlled by an officially recognized postsecondary student organization. 34 CFR 106.44.

The recipient must treat complainants and respondents equitably. It must offer supportive measures to a complainant and must complete a grievance process complying with Section 106.45 before imposing disciplinary sanctions or other non-supportive measures against a respondent. The Title IX Coordinator, rather than the investigator, must promptly contact the complainant to discuss supportive measures, consider the complainant's wishes, explain that supportive measures are available with or without a formal complaint, and explain the process for filing a formal complaint. 34 CFR 106.44.

The regulatory definitions distinguish an elementary and secondary school, which includes a local educational agency, preschool, and private elementary or secondary school, from a postsecondary institution, which includes institutions of graduate, undergraduate, professional, and vocational education. 34 CFR 106.30. That distinction matters here because a no-live-hearing process corresponds to the elementary and secondary school branch of the 2020 framework. Following the vacatur of the later Title IX final rule, at least one court described the 2020 rule as again governing a university and requiring a live hearing in that postsecondary setting. Carroll Indep. Sch. Dist. v. United States Dep't of Educ., 2025 U.S. Dist. LEXIS 124113, 20 (N.D. Tex. 2025).

### B. General Requirements Governing the Grievance Process

The grievance process must require an objective evaluation of all relevant evidence. It may not restrict either party's ability to discuss the allegations or to gather and present relevant evidence during the investigation or elsewhere in the grievance process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Relevance, rather than whether evidence is favorable to one party, controls whether the evidence belongs in the process. A Texas federal court applying the regulation concluded that an institution could not exclude relevant exculpatory evidence merely because the institution considered

the investigation closed, because the prohibition against restricting the gathering and presentation of evidence applies throughout the grievance process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

The process also must protect legally recognized privileges. It may not require, allow, rely on, or otherwise use questions or evidence seeking privileged information unless the privilege holder has waived the privilege. 34 CFR 106.45. Upon receipt of a formal complaint, the recipient must give known parties written notice of the grievance process, including any informal-resolution process, and written notice of the allegations, with sufficient details known at the time and sufficient time to prepare a response before any initial interview. The notice must state that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process; inform the parties that they may have an advisor of their choice, who may be an attorney, and may inspect and review evidence; and identify any code-of-conduct provision prohibiting knowingly false statements or knowingly submitting false information during the grievance process. The investigator must conduct the investigation consistent with that presumption. 34 CFR 106.45.

The grievance process must identify its reasonably prompt time frames and permit temporary delay or a limited extension for good cause. Good cause may include the absence of a party, advisor, or witness; concurrent law-enforcement activity; a need for language assistance; or accommodation of a disability. 34 CFR 106.45. A concurrent criminal investigation therefore may affect scheduling, but the school remains responsible for its own Title IX response. A Texas federal court has recognized that a school may temporarily delay fact-gathering while law enforcement gathers evidence but must resume and complete its fact-finding after that impediment ends. I.F. v. Lewisville Indep. Sch. Dist., 2016 U.S. Dist. LEXIS 186671, 34 (E.D. Tex. 2016).

### C. Separation Between Investigation and Decision

The decision maker cannot be the same person as the investigator or Title IX Coordinator. The separate decision maker must apply the institution's designated evidentiary standard and issue the written determination regarding responsibility. 34 CFR 106.45. That determination must identify the allegations; describe the procedural steps taken, including notices, interviews, site visits, and methods of gathering evidence; state findings of fact; apply the institution's code of conduct; explain the result and rationale for each allegation; identify sanctions and remedies as applicable; and state the procedures and permissible grounds for appeal. It must be provided to the parties simultaneously. 34 CFR 106.45.

The separation of roles places an important limit on the investigator's authority. The investigator develops and organizes the evidence. The decision maker decides responsibility, applies the code of conduct, and provides the rationale for the result.

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### D. Standard of Proof

The recipient must state whether it uses the preponderance-of-the-evidence standard or the clear-and-convincing-evidence standard. It must apply the same standard to formal complaints against students and employees, including faculty, and to all formal complaints of sexual harassment. 34 CFR 106.45. The 2020 regulation therefore emphasizes consistency rather than assigning a special evidentiary burden to a particular category of respondent.

The preponderance standard is the ordinary standard in civil litigation, while a heightened standard generally applies only when required by statute, the Constitution, or certain uncommon circumstances. E.M.D. Sales, Inc. v. Carrera, 604 U.S. 45, 49 (2025). Within the Fifth Circuit, no majority decision has disallowed the preponderance standard in the Title IX context. Texas v. United States, 740 F. Supp. 3d 537, 556 (N.D. Tex. 2024). The investigator nevertheless does not ordinarily decide whether the selected standard has been met, because the regulations assign the responsibility determination to the separate decision maker. 34 CFR 106.45.

### E. Impartiality and Constitutional Principles

An impartial process requires more than equal formal treatment; it requires objective consideration of relevant inculpatory and exculpatory evidence. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Due process also recognizes that a fair tribunal is a basic requirement and prohibits an intolerably high probability of actual bias in an adjudicator. But combining investigative and adjudicative functions does not, by itself, establish unconstitutional bias. Officials generally receive a presumption of honesty and integrity unless the circumstances demonstrate an unacceptable risk of actual bias or prejudgment. Withrow v. Larkin, 421 U.S. 35, 47 (1975).

The Fifth Circuit likewise has rejected the proposition that multiple institutional roles necessarily establish a constitutional violation. In *Plummer v. University of Houston*, the court concluded that allegations involving an investigator's additional role as a victim advocate and an office's advisory role did not establish a due-process violation absent a showing that the alleged conflicts undermined the integrity of the proceedings. The court emphasized the objective evidence supporting the result and the decision panel's authority to disagree with the investigator. Plummer v. Univ. of Houston, 860 F.3d 767, 777 (5th Cir. 2017).

Those constitutional principles do not eliminate the stricter structural requirement of the 2020 regulation. Whatever combination of administrative functions might survive constitutional review, the Title IX decision maker still cannot be the investigator or Title IX Coordinator. 34 CFR 106.45.

## II. Investigations

### A. The Investigator's Role Is to Develop a Complete, Neutral Evidentiary Record

The investigator's principal responsibility is to gather, assess for relevance, and organize evidence concerning the noticed allegations. The role is investigatory, not adjudicatory. Because the ultimate determination must come from a separate decision maker, the investigator should not present the investigative report as a final finding of responsibility. 34 CFR 106.45.

An investigation must account for evidence that supports and evidence that undermines an allegation. The objective-evaluation requirement is inconsistent with an approach that seeks only corroboration of the complainant or only exculpation of the respondent. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). Likewise, the investigator cannot treat an internally selected cutoff as authority to prevent a party from presenting relevant evidence while the grievance process remains pending. In *Doe v. Texas Christian University*, a Texas federal court concluded that excluding relevant exculpatory evidence submitted after the institution claimed to have closed its investigation conflicted with the regulation's protection of the parties' ability to gather and present relevant evidence throughout the process. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). The court later characterized the exclusion of substantial exculpatory evidence, contrary to both the regulations and institutional policy, as evidence supporting a claim of sex discrimination. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

The regulation also prescribes specific investigative procedures. The burden of proof and the burden of gathering evidence sufficient to reach a determination rest on the recipient, not on the parties. The investigator may not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional in connection with the party's treatment, unless the party provides voluntary, written consent. 34 CFR 106.45(b)(5)(i). The parties must have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. 34 CFR 106.45(b)(5)(ii). Each party must have the same opportunity to be accompanied by others at any related meeting or proceeding, including an advisor of the party's choice, and any restriction on advisor participation must apply equally to both parties. 34 CFR 106.45(b)(5)(iv). A party whose participation is invited or expected must receive written notice of the date, time, location, participants, and purpose of each investigative interview or other meeting, with sufficient time to prepare. 34 CFR 106.45(b)(5)(v).

Accordingly, the investigator's role includes:

1. Identifying the allegations within the formal complaint and written notice;
2. Seeking evidence relevant to those allegations from both parties and other available sources;
3. Providing an equal and meaningful opportunity for the parties to identify witnesses and present relevant inculpatory and exculpatory evidence;

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4. Respecting legally recognized privileges unless waived;
5. Documenting interviews, site visits, notices, and other methods used to obtain evidence; and
6. Transmitting a neutral evidentiary record and investigative report for consideration by the separate decision maker.

   The investigator does not control supportive measures merely by virtue of conducting the investigation. The regulation assigns initial responsibility for discussing and coordinating supportive measures to the Title IX Coordinator. 34 CFR 106.44. Nor may the investigator impose discipline before completion of the compliant grievance process.

### B. The Investigator's Authority Is Limited by the Allegations, Relevance, Privilege, and Role Separation

The investigator's authority extends to obtaining evidence reasonably connected to the allegations under investigation. It does not extend to deciding responsibility, imposing discipline, determining remedies, or resolving an appeal. Those functions lie elsewhere in the grievance structure. 34 CFR 106.45.

Relevance defines the permissible scope of fact-gathering. An institution may not exclude relevant evidence solely because it is prejudicial to one party or inconvenient to the institution's theory of the case. The Texas federal court in *Doe v. Texas Christian University* treated relevance as the governing standard and rejected the exclusion of relevant evidence merely because it was submitted after the institution's investigative cutoff. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

Privilege supplies a separate limit. Even if information appears factually relevant, the process may not require or use information protected by a legally recognized privilege unless the privilege holder waives it. 34 CFR 106.45. The investigator therefore must distinguish between relevance and legal permissibility.

The regulation also limits relevance directly. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless they concern the complainant's prior sexual behavior and are offered to prove that someone other than the respondent committed the alleged conduct, or they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. 34 CFR 106.45(b)(6). The investigator should apply that limit both in gathering evidence and in determining what the investigative report summarizes as relevant.

The investigator also should remain within the allegations properly included in the grievance process. The 2020 regulation permitted consolidation where allegations arose from the same facts or circumstances, but not merely because the same parties were involved. A Texas federal court concluded that the existence of a prior relationship and overlapping evidence

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did not, without more, establish that separate alleged incidents arose from the same facts or circumstances. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022). This limitation reinforces that an investigator may not expand a case simply because other allegations involve the same individuals.

Some allegations fall outside the Title IX process altogether. The recipient must dismiss a formal complaint, or the affected allegations, if the alleged conduct would not constitute sexual harassment as defined in Section 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States; such a dismissal does not preclude action under another provision of the recipient's code of conduct. The recipient may dismiss a formal complaint if the complainant notifies the Title IX Coordinator in writing that the complainant wishes to withdraw it, if the respondent is no longer enrolled in or employed by the recipient, or if specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination. Upon any dismissal, the recipient must promptly send the parties simultaneous written notice of the dismissal and the reasons for it. 34 CFR 106.45(b)(3). An investigator who learns facts bearing on these grounds should report them to the Title IX Coordinator rather than act on them unilaterally.

Informal resolution is likewise limited. A recipient may offer it only after a formal complaint is filed and only with the parties' voluntary, written consent; it may not require participation, or a waiver of the right to a formal investigation and adjudication, as a condition of enrollment, employment, or any other right; and it may not use informal resolution for allegations that an employee sexually harassed a student. 34 CFR 106.45(b)(9).

The investigator also must guard against retaliation. Neither the recipient nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with a Title IX right or because the individual made a report or complaint, testified, assisted, or participated or refused to participate in an investigation, proceeding, or hearing. The recipient also must keep confidential the identity of any individual who has made a report or complaint, any complainant, any respondent, and any witness, except as permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding. 34 CFR 106.71.

### C. Independence, Impartiality, Bias, and Conflicts of Interest

The investigator must be institutionally capable of conducting an objective evaluation. At minimum, that requires freedom from a personal, financial, or professional interest likely to influence the collection or treatment of evidence. It also requires an open mind about disputed facts and evenhanded application of relevance criteria.

Not every asserted conflict establishes unlawful bias. Under *Withrow v. Larkin*, combining functions does not itself overcome the presumption that officials act honestly and with integrity; the circumstances must show a constitutionally intolerable risk of actual bias or

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prejudgment. Withrow v. Larkin, 421 U.S. 35, 47 (1975). Under Fifth Circuit authority, a claimant challenging multiple institutional roles also must connect the asserted conflict to an impairment of the proceeding's integrity. Plummer v. Univ. of Houston, 860 F.3d 767, 777 (5th Cir. 2017).

The regulatory separation between investigator and decision maker nevertheless serves as an independent safeguard. An investigator may assess whether evidence is relevant and may organize conflicting accounts, but may not become the final adjudicator. 34 CFR 106.45. The separate decision maker must remain free to accept or reject the investigator's characterization of the evidence.

An investigator's prior involvement can create a more substantial concern when the investigator later serves in a function requiring fresh neutrality toward the same dispute. A recent Texas federal complaint alleged that using an investigator to facilitate an informal resolution created prejudgment concerns because the investigator had interviewed witnesses and evaluated evidence. The court's description of those allegations is not a merits holding, but it illustrates the practical conflict that can arise when an investigator is reassigned to a role requiring distinct neutrality. Haley Just. v. Bd. of Regents of Tex. Tech. Univ. Sys., 2026 U.S. Dist. LEXIS 214846, 5 (N.D. Tex. 2026).

### D. Training and Qualifications

The investigator must possess sufficient competence to collect evidence fairly, identify relevant information, respect privilege, distinguish fact-gathering from adjudication, and prepare a neutral report usable by the parties and decision maker. Those competencies follow from the objective-evaluation, privilege, evidentiary-access, and role-separation requirements. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022); 34 CFR 106.45; 34 CFR 106.45.

The 2020 regulations require the recipient to ensure that every Title IX Coordinator, investigator, decision maker, and person who facilitates an informal resolution process receives training on (1) the definition of sexual harassment in Section 106.30; (2) the scope of the recipient's education program or activity; (3) how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. 34 CFR 106.45(b)(1)(iii). Investigators also must receive training on issues of relevance so that they can create an investigative report that fairly summarizes relevant evidence. 34 CFR 106.45(b)(1)(iii), (b)(5)(vii). Because the investigator's relevance judgments shape the report, that training should include the limits on evidence of a complainant's sexual predisposition or prior sexual behavior discussed in Part B of this Section.

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All training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment. 34 CFR 106.45(b)(1)(iii). The recipient must make the materials publicly available on its website or, if it does not maintain a website, available upon request for inspection by members of the public, and must retain them for seven years. 34 CFR 106.45(b)(10)(i)(D).

In addition to completing that mandatory training, the investigator must be able to perform the following regulatory functions:

1. Evaluate inculpatory and exculpatory evidence objectively;
2. Apply relevance consistently without foreclosing either party's presentation of relevant evidence;
3. Recognize and protect legally privileged information;
4. Conduct and document interviews and other investigative steps;
5. Maintain the distinction between investigation and final adjudication; and
6. Prepare a report that allows the separate decision maker to evaluate the evidence under the institution's announced standard of proof.

A job title or general investigative experience, standing alone, does not establish those competencies. The institution's assignment and training records should demonstrate that the investigator was prepared to perform the functions required by the grievance process.

### E. Criteria for an Adequate Investigative Report

The investigative report should fairly organize the relevant evidence without purporting to issue the determination reserved to the decision maker. At a minimum, it should allow the decision maker to identify the allegations, understand the investigative steps taken, locate the relevant evidence, compare conflicting accounts, and apply the designated standard of proof.

The regulation's requirements for the final written determination help define what the investigative record must enable the decision maker to do. The determination must identify the allegations; describe notices, interviews, site visits, and methods of evidence collection; make findings of fact; apply the conduct code; and explain the result and rationale for each allegation. 34 CFR 106.45. An investigative report that omits material investigative steps, disregards relevant exculpatory evidence, or presents disputed assertions as established facts would impair those required functions.

An adequate report therefore should:

1. Identify each allegation within the scope of the formal complaint;
2. Describe the procedural and investigative steps taken;
3. Summarize relevant inculpatory and exculpatory evidence evenhandedly;
4. Identify material conflicts in the evidence without resolving responsibility;

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5. Distinguish direct evidence, witness accounts, documentary evidence, and undisputed information;
6. Exclude or appropriately segregate privileged information that may not be used;
7. Avoid sex stereotypes, advocacy, and conclusory credibility judgments unsupported by the evidence; and
8. Provide an intelligible record from which the separate decision maker can make findings and explain the result.
   Before the investigative report is completed, the recipient must send each party and the party's advisor, if any, the evidence directly related to the allegations, including evidence on which the recipient does not intend to rely, in electronic or hard-copy form. The parties must have at least 10 days to submit a written response, which the investigator must consider before completing the report. 34 CFR 106.45(b)(5)(vi). The investigator then must create a report that fairly summarizes the relevant evidence and, at least 10 days before any hearing or other time of determination regarding responsibility, send it to each party and advisor for review and written response. 34 CFR 106.45(b)(5)(vii).

Because an elementary or secondary school need not provide a live hearing, the regulation substitutes a written-question procedure. After the report is sent to the parties and before reaching a determination, the decision maker must afford each party the opportunity to submit written, relevant questions that the party wants asked of any party or witness, provide each party with the answers, and allow additional, limited follow-up questions from each party. The decision maker must explain to the questioning party any decision to exclude a question as not relevant. 34 CFR 106.45(b)(6)(ii). The investigator should prepare the report and evidence file with that exchange in mind.

### F. Application of the Standard of Proof

The institution must select either preponderance of the evidence or clear and convincing evidence and announce that choice in its grievance process. It must then use the same standard for complaints against students and employees and across all formal sexual-harassment complaints. 34 CFR 106.45.

Under the required division of roles, the investigator's task is to compile the evidence to which that standard will be applied. The separate decision maker applies the standard and determines responsibility. 34 CFR 106.45. The investigator therefore should not shape the report to reach a preferred burden-of-proof outcome or omit evidence viewed as unlikely to change that outcome. Evidence may remain relevant even when the investigator believes it is not dispositive.

A preponderance standard is not impermissible merely because the allegations are serious. Available authority recognizes preponderance as the ordinary civil standard, and no cited Fifth Circuit majority decision has prohibited its use in Title IX proceedings. E.M.D. Sales, Inc.

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v. Carrera, 604 U.S. 45, 49 (2025),Texas v. United States, 740 F. Supp. 3d 537, 556 (N.D. Tex. 2024). But whichever standard the recipient selects must be applied consistently; the institution may not use a lower or higher burden based on the identity of the complainant, respondent, or investigator.

### G. Recordkeeping Requirements

The investigative record should preserve the materials necessary to show what the institution knew, what steps it took, what evidence it considered, and whether it followed its stated grievance process. This includes the formal complaint and notices, communications concerning scheduling or extensions, interview records, documentary and physical evidence, the investigative report, party submissions, and the final determination.

The regulation requires the recipient to maintain for seven years the records of each sexual harassment investigation, including any determination regarding responsibility, any audio or audiovisual recording or transcript, any disciplinary sanctions imposed, and any remedies provided; any appeal and its result; any informal resolution and its result; and all materials used to train Title IX Coordinators, investigators, decision makers, and informal-resolution facilitators. The recipient also must retain for seven years records of any actions, including supportive measures, taken in response to a report or formal complaint, documenting the basis for its conclusion that its response was not deliberately indifferent. 34 CFR 106.45(b)(10).

The need for such documentation is reinforced by the regulation requiring the final determination to describe the notices, interviews, site visits, and methods used to gather evidence. 34 CFR 106.45. Documentation also permits review of whether the institution allowed relevant evidence and conducted an objective evaluation, issues that proved material in *Doe v. Texas Christian University*. Doe v. Texas Christian Univ. & Victor J. Boschini, 601 F. Supp. 3d 78, 91 (N.D. Tex. 2022).

## III. Conclusion

Under the 2020 Title IX regulations, an investigator serves as a neutral fact-gatherer, not the final adjudicator. The investigator must develop an objective record of relevant inculpatory and exculpatory evidence, permit both parties a meaningful opportunity to gather and present relevant evidence, protect privileged information, document the investigative steps, and prepare a balanced report suitable for review by a separate decision maker.

The investigator's authority is limited by the noticed allegations, relevance, privilege, procedural fairness, and the mandatory separation between investigation and final decision-making. Bias is not established merely because an official has performed more than one administrative function, but personal interests, prejudgment, advocacy, selective evidence gathering, or reassignment to an incompatible role may undermine the required impartiality.

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The recipient must designate and apply consistently either the preponderance or clear-and-convincing standard, while leaving the responsibility determination to the decision maker.

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# Title IX Decision Maker Training – K-12 Public Schools (2020 Regulations)

October 27, 2026

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The decision maker serves as the institution's neutral adjudicator in the **formal** Title IX grievance process. The decision maker must be separate from the Title IX Coordinator and investigator,[1] apply the standard of evidence used by the district (e.g., preponderance-of-the-evidence - whether it is more likely than not that the alleged conduct occurred), evaluate the allegations and evidence, and issue a written determination addressing each allegation. The written determination must identify the allegations, describe the procedural history, state findings of fact and conclusions under the institution's code of conduct, explain the result and rationale for each allegation, address sanctions and remedies in the manner prescribed by the regulation, and identify the procedures and permissible bases for appeal. The determination must be provided simultaneously to both parties. 34 CFR 106.45.

## I. Legal Standards

### A. Applicable Regulatory Framework

A recipient of federal financial assistance must designate and authorize at least one employee to coordinate its Title IX compliance efforts. The recipient must publish the Title IX Coordinator's contact information and permit any person to report sex discrimination, including sexual harassment, through the identified reporting channels. 34 CFR 106.8.

[1] Under the 2020 Title IX regulations, the decision maker in the grievance process cannot serve as the Title IX Coordinator, even if that individual is not also the investigator. The federal regulations mandate a strict separation of these specific roles during the formal complaint and adjudication process. The implementing regulations of Title IX explicitly forbid the integration of the decision maker and Title IX Coordinator roles. Specifically, § 106.45 Grievance process for formal complaints of sexual harassment. dictates that the decision maker(s) responsible for issuing a written determination regarding responsibility "cannot be the same person(s) as the Title IX Coordinator or the investigator(s)" § 106.45 Grievance process for formal complaints of sexual harassment. Furthermore, this prohibition on dual roles extends to the appellate stage of the grievance process. If an appeal is filed, the educational institution must ensure that the decision maker for the appeal is not the same person as the original decision maker, the investigator, or the Title IX Coordinator § 106.45 Grievance process for formal complaints of sexual harassment.

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The recipient must also adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging prohibited conduct. For formal complaints of sexual harassment, those procedures must include a grievance process complying with the governing Title IX regulation. 34 CFR 106.8. When responding to a formal complaint, the recipient must follow that compliant grievance process. 34 CFR 106.44.

As of the date of this memorandum, the supplied codified regulatory materials reflect the 2020 grievance framework. The 2024 Title IX rule was enjoined as to Texas before its scheduled effective date. Texas v. United States, 740 F. Supp. 3d 537, 541 (2024). The Supreme Court subsequently declined to stay injunctions entered in related challenges, explaining that the challenged definition was intertwined with other provisions of the 2024 rule. *Dep't of Educ. v. Louisiana*, 603 U.S. 866, 866 (2024). A Texas federal district court also described the 2024 rule and related federal guidance as subject to injunction in Texas. *Carroll Indep. Sch. Dist. v. United States Dep't of Educ*., 741 F. Supp. 3d 515, 519 (2024).

### B. General Grievance-Process Requirements Affecting the Decision Maker

The institution's grievance process must presume that the respondent is not responsible until a determination regarding responsibility is made at the conclusion of the process. It must establish reasonably prompt time frames, allow temporary delays or limited extensions only for good cause with written notice to both parties, identify the possible sanctions and remedies, and state the standard of evidence and appeal procedures. 34 CFR 106.45.

Most K-12 public schools use the preponderance-of-the-evidence standard, which means the decision maker determines whether it is more likely than not that the alleged conduct occurred. The district must apply that standard consistently to formal complaints against students and employees, including faculty, and to all formal complaints of sexual harassment. 34 CFR 106.45. The decision maker may not alter the standard based on the identities of the parties, the nature of the allegation, the respondent's institutional status, or anticipated consequences.

The regulation does not treat disagreement with the outcome as proof of institutional noncompliance. OCR may not treat a recipient's "responsibility determination" as evidence of deliberate indifference or discrimination solely because OCR would have reached a different result after independently weighing the evidence. 34 CFR 106.44. OCR may nevertheless examine whether the institution followed its published procedure and whether the determination resulted from a properly structured, impartial process.

### C. Independence, Impartiality, and Training

The person deciding responsibility cannot be the same person or persons who served as the Title IX Coordinator or investigator in the matter. 34 CFR 106.45. This separation is functional, not merely nominal. The decision maker should not direct the investigation, decide what

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evidence the investigator will gather, formulate the investigator's conclusions, or otherwise combine investigative and adjudicative responsibilities.

Materials used to train Title IX Coordinators, investigators, decision makers, and informal-resolution facilitators must not rely on sex stereotypes and must promote impartial investigations and adjudications. 34 CFR 106.45. The institution should therefore be prepared to produce both the decision maker's training history and the actual training materials used.

### D. Written Determination

The decision maker must issue a written determination (decision) regarding responsibility and apply the institution's standard of evidence (e.g., preponderance of the evidence under which the decision maker determines whether it is more likely than not that the alleged conduct occurred). 34 CFR 106.45. The determination must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from receipt of the formal complaint through the determination, including party notifications, interviews, site visits, and methods used to gather evidence;
3. Findings of fact supporting the determination;
4. Conclusions concerning application of the district's code of conduct to the facts;
5. The result and rationale for each allegation, including the responsibility determination, any disciplinary sanctions imposed on the respondent, and whether remedies designed to restore or preserve the complainant's equal access will be provided; and
6. The district's appeal procedures and the permissible bases for appeal. 34 CFR 106.45.

The institution must provide the determination to the parties simultaneously. 34 CFR 106.45.

## II. Authority, Impartiality, Training, Review of Evidence, and Determination

### A. Scope of the Decision maker's Authority

The decision maker's authority begins after the investigative function has produced the materials designated for adjudication under the district's applicable grievance procedure. The role is to adjudicate, not to advocate for either party, cure an incomplete investigation informally, or act as an extension of the Title IX Coordinator.

### B. Impartiality, Bias, and Conflicts of Interest

A reliable process requires impartial adjudication. The institution's training must affirmatively promote impartiality and avoid sex stereotypes. 34 CFR 106.45. The practical inquiry is whether the record shows that the decision maker approached the matter without prejudgment, treated the parties comparably, applied the same procedural rules to each, and based the result on the evidence evaluated under the district's standard of evidence.

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Relevant screening for impartiality may include prior involvement in the allegations, prior advisory relationships with a party or witness, supervisory responsibility for a party, participation in the investigation, public statements about the case, and circumstances suggesting prejudgment. Mere institutional employment should not automatically be treated as disqualifying.

If a party alleges bias or conflict, the district should request a specific written objection, permit an appropriate response, and issue a written resolution. The person resolving the objection should not be the challenged decision maker. If substitution occurs, the file should identify the substitute, confirm the substitute's qualifications, and state whether any procedural step must be repeated.

### C. Training and Qualification

The district should maintain a role-specific training program rather than relying solely on general Title IX awareness training. At minimum, the decision maker's training should address:

1. Title IX definitions and grievance procedure;
2. The presumption that the respondent is not responsible until the conclusion of the grievance process;
3. The preponderance-of-the-evidence standard, meaning the decision maker must determine whether it is more likely than not that the alleged conduct occurred, and its consistent application to every formal complaint;
4. Impartial evaluation of testimonial, documentary, physical, and electronic evidence;
5. Avoidance of sex stereotypes and prejudgment;
6. Evaluation of the investigative report, evidence, and party submissions;
7. Relevance determinations applied to the investigative materials and party submissions under the district's grievance procedure, rather than to questioning at a live hearing;
8. Treatment of privileged or otherwise restricted information, because the grievance process may not require, permit, rely on, or otherwise use privileged information unless the privilege holder has waived the privilege;
9. Preparation of findings of fact, policy conclusions, rationales, and allegation-specific outcomes;
10. The distinction among responsibility determinations, sanctions, and remedies; and
11. Appeal procedures and preservation of the administrative record.

The privilege limitation and the requirement that training promote impartial adjudication are express components of the grievance-process framework. 34 CFR 106.45.

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### D. Review of the Record and Relevance of Questions

Most K-12 public school districts operating under the 2020 Title IX regulations do not conduct a live hearing or cross-examination. The decision maker reaches a determination by reviewing the investigative record and the parties' submissions rather than by presiding over a hearing. The written determination must still describe the procedural steps taken. 34 CFR 106.45. When districts do not use a live hearing, the decision maker does not preside over witness examination or cross-examination; the decision maker instead evaluates the completed investigative report, the evidence directly related to the allegations, and each party's written response and written, relevant questions, if any.

The district should ensure that it incorporates the applicable requirements into a written record-review protocol, policy, or procedure that addresses:

1. Confirmation that the district does not conduct a live hearing or cross-examination under the 2020 K-12 grievance process;
2. The materials the decision maker reviews, including the investigative report and the evidence directly related to the allegations;
3. The opportunity for each party to submit written, relevant questions to be asked of any party or witness, and to receive the answers before the determination;
4. The opportunity for limited follow-up written questions from each party;
5. Disability accommodations and language assistance available to the parties during the written process;
6. How the decision maker determines the relevance of each written question before it is answered;
7. How questions excluded as not relevant are identified and explained to the party who proposed them;
8. How duplicative, abusive, privileged, or otherwise impermissible questions are handled;
9. The treatment of a party or witness who does not participate or answer questions;
10. The creation and preservation of the written record of the questions, answers, and relevance determinations.

The decision maker should apply the protocol evenly. Every relevance ruling should be sufficiently documented to show the question presented, the ruling, and the reason. The decision maker should not use relevance rulings to favor a party, rehabilitate the investigation, or exclude unfavorable evidence merely because it complicates the analysis.

### E. Evaluation of Evidence and Standard of Proof

The decision maker must apply the evidentiary standard published in the district's grievance procedure. The same standard must govern complaints against students and employees and all **formal** sexual-harassment complaints. 34 CFR 106.45. For most public school districts, that

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standard is the preponderance of the evidence. Under that standard, the decision maker determines whether it is more likely than not that the alleged conduct occurred.

Findings should avoid credibility conclusions based on sex stereotypes or assumptions about how a complainant or respondent would ordinarily behave.

The presumption of non-responsibility remains in effect until the process concludes with a responsibility determination. 34 CFR 106.45. It does not replace the evidentiary standard or require the decision maker to disregard probative evidence. It does require the district to avoid treating the allegation, the filing of a formal complaint, or an interim administrative measure as proof of responsibility.

### F. Written Determination and Rationale

For each allegation, the determination should contain:

1. The conduct alleged and the policy provision at issue;
2. The material evidence considered;
3. Findings resolving disputed facts;
4. The conclusion reached under the applicable code provision;
5. Application of the standard of evidence;
6. A determination of responsible or not responsible; and
7. The rationale connecting the factual findings to the result.

The procedural-history section should be accurate enough to permit reconstruction of the process. It should identify notices, interviews, evidence-gathering methods, any meetings with the parties, extensions, and other material steps. 34 CFR 106.45. If the process was delayed or extended, the file should contain the contemporaneous good-cause notice sent to both parties and the reasons for the action. 34 CFR 106.45.

The determination must state any disciplinary sanctions imposed on the respondent and whether remedies designed to restore or preserve the complainant's equal access will be provided. 34 CFR 106.45. The document should not disclose confidential operational details of remedies beyond what the governing procedure requires. It should, however, clearly state the existence or nonexistence of remedies in the manner required by the regulation.

The determination must also state the appeal procedures and permissible appeal bases and must be transmitted simultaneously to both parties. 34 CFR 106.45. The file should preserve the final determination and objective proof of simultaneous transmission.

### G. Appeals

The district's published grievance procedure must include reasonably prompt time frames for filing and resolving appeals and identify the procedures and permissible appeal bases. 34 CFR 106.45. The initial determination must repeat that information. 34 CFR 106.45.

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The appeal decision maker should be different from the initial decision maker. The appeal file should include the appeal, notice to the other party, any permitted response, the materials reviewed, the written outcome, and proof of simultaneous delivery.

The appellate role should be limited to the permissible grounds stated in the policy governing the complaint. An appeal should not become an undocumented rehearing or an opportunity to substitute personal judgment without addressing the asserted ground. The appeal outcome should resolve each ground raised and explain the rationale.

### H. Sanctions, Remedies, and Role Separation

The district's policy or student code of conduct should describe or list the range of possible sanctions and remedies that may follow a responsibility determination. 34 CFR 106.45. The written determination must state any sanction imposed and whether restorative or access-preserving remedies will be provided to the complainant. 34 CFR 106.45.

If the decision maker determines sanctions, the decision should explain how the sanction falls within the published range. If another official determines sanctions, the policy and appointment materials should identify that official's role, the information considered, and how the sanction is incorporated into the written determination without surrendering the decision maker's responsibility for the adjudicative result.

The Title IX Coordinator may coordinate implementation of remedies without becoming the decision maker. The case file should distinguish disciplinary sanctions imposed on the respondent from remedies directed toward restoring or preserving the complainant's equal access.

### I. Recordkeeping and OCR Review Readiness

The district should maintain files containing:

1. The initial report and formal complaint;
2. Documentation establishing the applicable regulatory and policy version;
3. Notices to the parties;
4. Supportive-measure records;
5. Appointment and qualification records for the investigator and decision makers;
6. Training records and the training materials used;
7. Investigation materials and evidence provided to the parties;
8. Party submissions and objections;
9. The investigative report and underlying investigative record, the parties' written questions and responses, and the decision maker's written relevance determinations and rulings, if any;
10. Extension notices and good-cause explanations;
11. The final written determination and transmission records;
12. Sanction and remedy implementation records maintained with appropriate access controls;

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13. Appeal materials and the appeal determination; and
14. A procedural chronology sufficient to reconcile all material dates.

### III. Conclusion

Under the 2020 Title IX framework reflected, the decision maker is the independent institutional adjudicator of a formal complaint. The decision maker cannot also serve as the Title IX Coordinator or investigator and must apply the institution's standard of evidence. 34 CFR 106.45, 34 CFR 106.45. The decision maker must produce an allegation-specific written determination containing the required procedural history, factual findings, policy conclusions, results, rationales, sanctions and remedies information, and appeal provisions, and the institution must transmit that determination to both parties simultaneously. 34 CFR 106.45.

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