

# Title IX Employee Overview

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**PERSONAL | PASSIONATE | PROGRESSIVE**





## Title IX of the Education Amendments Act, 1972

*"No person in the United State shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance."*





# 9 Things to Know About Title IX

1. It is a civil rights law that prohibits sex-based discrimination in educational institutions receiving federal funds.
2. Title IX applies to all students, families, employees, and community members, regardless of gender identity, participating in school district sponsored programs, activities, and services.
3. Schools may not retaliate against someone for filing a complaint and must keep all parties involved in a complaint safe from other retaliatory harassment





# 9 Things to Know About Title IX

4. Schools are responsible for implementing remedial measures to address any founded instances of sexual harassment, including ensuring that no student is required to share campus spaces (classes, ball courts, etc.) with the perpetrator of harassment .
5. Schools can issue no-contact directives to prevent accused students from approaching or interacting with a complainant.
6. Schools must be proactive in ensuring that campuses are free from sex-based discrimination.





# 9 Things to Know About Title IX

7. Schools must provide for equitable access to academic courses and extracurricular activities.
8. All schools receiving federal funding, including public K-12 schools, are subject to Title IX.
9. Schools must have an established procedure for handling complaints of sexual discrimination, harassment, and violence.





# Sexual Harassment Defined...

- Any instance of *quid pro quo* harassment by a school's employee;
- any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and/or
- any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).





# Title IX Personnel...

- School-Based Title IX Coordinator – receives complaint
- School-Based Complaint Investigator – investigates complaint
- School-Based Decision Maker – determines outcome of complaint
- District Title IX Coordinators – ensure fidelity and compliance; arrange for appeals process; ensure training





# Required Reporting...

**AK + SH + EP + US = IX**

- **A**ctual **K**nowledge of...
  - **S**exual **H**arassment in an...
    - **E**ducational **P**rogram in the...
      - **U**nited **S**tates equals...
        - Title **IX** reporting







# Required Reporters...

- All Employees are obligated to report if they have....

**AK + SH + EP + US = IX**

(Actual Knowledge of Sexual Harassment in an Educational Program in the United States)

*If any of these elements do not exist/apply, there is no obligation under Title IX Regulations...*

*However, this does not exclude action/responsibility under other policies such as the Code of Conduct for Students.*





# Mandatory School Obligations...

- Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures.
- Consider the complainant's wishes with respect to supportive measures.
- Inform the complainant of the availability with or without filing of a formal complaint.
- Explain to the complainant the process for filing a formal complaint.
- Refrain from disciplining the respondent without following the formal investigative process.





# Supportive Measures...

- Individualized services
- Reasonably available
- Non-punitive / non-disciplinary / not unreasonably burdensome
- Ensure equal educational access
- Protect safety
- Deter sexual harassment





# Interim Removals...

- Students and/or employees may be removed in the event of an immediate threat.
- Prior to removal, a threat assessment **must** be conducted.
- The student or employee must be given the opportunity to challenge the removal decision immediately after being removed.





# Withdrawal/Dismissal of Complaint

- If the complaint does not meet AK+SH+EP+US=IX, school must dismiss, but may take action appropriate under other district policies.
- School may dismiss if the responder is no longer enrolled or employed in the school district
- School may dismiss if specific circumstances prevent the school from gathering sufficient evidence to reach a determination
- School may dismiss upon written request of the complainant to withdraw the complaint
- Either party may appeal the dismissal of the complaint.





# Formal Complaint & Notification

- Formal complaints must be submitted on district complaint forms provided electronically and in pdf formats for download, in English, Spanish, and Haitian Creole.
- School Equity Coordinators can assist the reporter in completing the formal complaint.
- Both complainant and responder are notified upon receipt of a formal complaint identifying the parties involved, the conduct allegedly constituting sexual harassment, as well as the date and location of the alleged incident.





# Investigation

- Schools **must** investigate the allegations in any **formal** complaint using the required process of the district.
- The district uses the **preponderance of evidence standard** in determining the results of a formal investigation.
- The burden of proof, as well as the burden of gathering all evidence remains on the school, and not on the parties of the complaint.
- Schools must provide equal opportunity for the parties to present facts, expert witnesses, and other evidence.





# Rights Afforded Both Parties

- Schools are NOT permitted to restrict the parties' ability to discuss the allegations or gather witnesses/evidence.
- Schools can request confidentiality, but cannot require nor discipline either party for breaching confidentiality.
- FERPA and HIPAA rules continue to apply regarding confidentiality of educational records and medical information.
- Both parties have the right to an advisor of his/her choosing, which may, but is not required to be, an attorney. School's may restrict the participation of an advisor in hearings, as long as the restriction applies equally to both parties.







# Reporting

- Upon completion of the investigation, the results are provided to both parties for review.
- Both parties are provided 10 days to review and respond to the report in writing including posing relevant questions of any party or witness, provide answers to posed questions, and limited follow-up questions from each party.





# Decision Making

- Upon completion of the investigation and follow-up correspondence from the parties, the Investigator submits his/her report to the designated Decision Maker for determination.
- After review, the Decision Maker must provide a written determination regarding responsibility including findings of fact, conclusions as to whether the alleged conduct occurred (meets the standard), rationale for results, and any discipline (respondent) and remedies (complainant).
- The Decision Maker must notify both parties and their advisors simultaneously.





# Appeals

- Both parties must be provided the opportunity to appeal the withdrawal of, or decision of, a formal complaint based on:
  - Procedural irregularity that affected the outcome
  - Newly discovered evidence that could affect the outcome
  - Conflict of interest/bias of the Title IX personnel that affected the outcome
- Appeal requests must be submitted to the school or to the district Equity Coordinator. The non-appealing party must be given a chance to respond to the appeal request within 5 business days.
- All appeals will be handled by the Office of Legal Counsel.





# Informal Resolution

- Schools may offer informal resolution options including mediation or restorative justice when a formal complaint is filed.
- Schools must NOT offer informal resolution to resolve allegations that an employee sexually harassed a student.
- Schools may not require the parties to participate in an informal resolution process, and may not offer an informal resolution in the absence of a formal complaint.
- Schools may not require informal resolution as a condition of employment, enrollment, or enjoyment of any other right.





# Retaliation

- No school or other person may intimidate, threaten, coerce, or discriminate against any individual for the purposes of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- Complaints alleging retaliation should be sent to the School or District Equity Coordinator.





# Equity Contacts:

School Equity Coordinator

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