Title IX Lead Contact Training

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Department of Safe Schools
What is new with Title IX?

- What is Sexual Harassment under Title IX?
- Notification to students and parents
- Important Title IX Terminology
- Steps of a Title IX Grievance Process with a Formal Complaint of Sexual Harassment
- Title IX Informal Resolution
- Emergency Removal
- The Appeal Process
- Key Points to Remember
High-performing A-rated District

Notification to Students and Parents

• Each School must prominently display on their website and any handbook the contact information for the Title IX Lead Contact (TIXLC).

• Each School must notify all parents/legal guardians of the name or title, office address, email address and telephone number of the Title IX Lead Contact.
What is Sexual Harassment under Title IX?

Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e. quid pro quo); or
- Unwelcome conduct that a reasonable person would determine is so Severe, Pervasive and Objectively Offensive (SPOO) that it effectively denies a person equal access to the school’s education program or activity; or
- Sexual assault, dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA)
Important Title IX Terminology
Complainant & Respondent

Complainant
• No longer “alleged target”
• An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
• Note: Title IX Lead Contact is NOT the Complainant even if they sign the Formal Complaint

Respondent
• No longer “alleged aggressor”
• An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
Important Title IX Terminology
Actual Knowledge v. Formal Complaint

Actual Knowledge
• A recipient with **actual knowledge** of sexual harassment in an education program or activity of the recipient against a person in the United States, **must** respond promptly in a manner that is not deliberately indifferent.

• **ANY EMPLOYEE** at elementary and secondary schools are considered to have the requisite authority to impart actual knowledge on the District regarding student on student conduct that could constitute sexual harassment.
  • Unless the employee is the Respondent- they will **not** be considered having “actual knowledge” i.e. teacher John Doe or Jane Doe is not going to report him/herself
Important Title IX Terminology
Actual Knowledge v. Formal Complaint

Formal Complaint
- Document filed by Complainant or signed by the Title IX Lead Contact alleging sexual harassment against respondent and requesting the school to investigate the allegation of sexual harassment
- Any person may report sexual harassment (whether or not the person is the alleged victim of the conduct reported)
- The report of sexual harassment may be provided in person, by mail, telephone, or electronic mail
- The report may be received at any time -- including non-business hours
Important Title IX Terminology

**Deliberately Indifferent**
- Where the response to sexual harassment is clearly unreasonable in light of the known circumstances

**Education Program or Activity**
- Locations, events or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs
  - **Examples:** aftercare, sporting events, field trips, band, theater, choir- fine arts events
Important Title IX Terminology

Supportive Measures

• Non-disciplinary, non-punitive, individualized services, offered as appropriate and without charge to a complainant or a respondent before or after the filing of a formal complaint, or when no complaint has been filed
  o A supportive measure that completely removes a respondent from an activity would likely be considered punitive
• Designed to restore or preserve equal access to the education program or activity without “unreasonably” burdening the other party
• Supportive measures are designed to protect the safety of all parties, the educational environment or deter sexual harassment
• Recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures
• Title IX Lead Contact is responsible for coordinating the effective implementation of supportive measures.
  o Examples: counseling, schedule changes, increased monitoring, stay away agreement, safety plan, etc.
Important Title IX Terminology
Determination of Responsibility (DOR)

• Identifies the allegations that potentially constitute sexual harassment;
• Describes the procedural steps taken from the receipt of the complaint to the determination;
• MUST include findings of fact supporting the determination;
• Includes conclusions regarding application of the Code of Conduct to the facts;
• Includes a statement of, and a rationale for, the result as to each allegation, including a DOR, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the education program or activity will be provided to the Complainant; and
• Includes procedures and permissible basis for appeal
• See Determination of Responsibility Form 2664
The Burden of Proof in a SDPBC Title IX Investigation is Clear and Convincing

Clear and Convincing is evidence that is highly and substantially more likely to be true than untrue; the fact finder must be convinced that the contention is highly probable.

This is a medium level of burden of proof which is a more rigorous standard to meet than the preponderance of the evidence standard, but a less rigorous standard to meet than proving evidence beyond a reasonable doubt.

In order to meet the standard and prove something by clear and convincing evidence, the party alleging the contention must prove that the contention is substantially more likely than not that it is true.

This standard is employed in both civil and criminal trials.
Important Title IX Terminology: District Personnel

District Wide Title IX Coordinator
• Diomedis Ramos Cruse, Students
• Dr. April Bullard and Germaine English, Employees
• Can provide technical support as needed

Title IX Lead Contact
• One Per School
• Responsible for responding promptly to actual knowledge of sexual harassment, conducting the investigation, coordinating the effective implementation of supportive measures
• Investigates the claim
• May utilize other school administrators to assist in investigation as needed. (Assistant Principals, Deans, TOSAs, SCCCs)

Decision Maker
• Principal or Regional Office designee ONLY
• Should not participate in the investigation
• Determines the discipline outcome
Steps of a Title IX Grievance Process: **Formal Complaint of Sexual Harassment**

Upon receipt of Formal Complaint in writing with signature of Complainant or Title IX Lead Contact:

1. Notify involved parties
2. Determine if violation occurred
3. Gather facts
4. Review & analyze information
5. Write report
6. Notify involved parties of outcome
Steps of a Title IX Grievance Process:  
**Formal Complaint of Sexual Harassment**

Complete Form 2508- Student Bullying, Harassment, Sexual Harassment, and Teen Dating Violence

Gather evidence:
- Gather documents, files, audio recordings, video recordings, social media posts, cell phone records, etc.
- Interview the Complainant:
  - Ask them for their side of the story, relationship with the other party, etc.
  - Ask them for the names of potential witnesses or any other details or evidence that they think is relevant: i.e. text messages, pictures, group chats, etc.
Steps of a Title IX Grievance Process:  
**Formal Complaint of Sexual Harassment**

**Determine:**

- Does the allegation meet the definition of sexual harassment - **SPOO**
  - If yes, then continue with grievance process
  - If no, then dismiss the complaint and provide notice to both parties of the appeal process

- Did the Incident take place in an educational setting or during educational activity
  - If yes, then continue with grievance process
  - If no, then dismiss the complaint and provide notice to both parties of the appeal process
Steps of a Title IX Grievance Process: 
**Formal Complaint of Sexual Harassment**

Notify Involved Parties- **Notice of Title IX Allegation Form 2663**

- Immediately notify the Complainant and Respondent in writing
  - Notice should include information about investigation process, the allegations, the Complainant and Respondent’ rights, the policy that the behavior violates and contact information for the investigator
- Meet with Complainant and Respondent to explain grievance process
- Both parties are allowed to have advisors: parent/ guardian, witness, relative, friend, attorney, etc. (if you are informed that an attorney is involved, contact the Office of General Counsel)
- Schedule meetings to meet with all parties
- Implement appropriate safety measures
- Involve School Police if allegations warrant
Steps of a Title IX Grievance Process: Formal Complaint of Sexual Harassment

- Provide equal opportunity for both parties to present witnesses, advisors, and/or evidence.
- Complete Form 2509- Student Investigation Summary
- Review and Analyze Information
  - Once the information is gathered, provide both Complainant and Respondent at least 10 days to review the information collected
  - Allowing them to review the information may help trigger their memory or they may want to address a discrepancy
  - Review the information after the 10 days to see if there is enough information to determine whether a violation occurred
  - Review, weigh, analyze, and compare the information
  - Submit the information to the Decision-Maker (Principal) or Regional Office Designee
Steps of a Title IX Grievance Process: 
**Formal Complaint of Sexual Harassment**

Determine if a violation occurred

- Separate Decision-Maker from Investigation
- State Findings, Substantiated Sexual Harassment or Unsubstantiated Sexual Harassment
- Clear and Convincing Standard
  - The evidence points to the allegations being substantially more probable to be true than not, or well over 50% likely
- Review and Analyze:
  - The allegation(s)
  - School Board Policies, Student Code of Conduct, etc.
  - Interviews of parties
  - Interviews of witnesses
  - Evidence -- photographs, texts, chats, emails, videos, etc.
  - Any other relevant information provided by parties or witnesses
Steps of a Title IX Grievance Process:

**Formal Complaint** of Sexual Harassment

Write the Final Investigation Report

- Must contain:
  - Initial allegations
  - Policy violated
  - Parties involved
  - Evidence gathered
  - Summary of interviews
  - Any other relevant information
Steps of a Title IX Grievance Process: 
Formal Complaint of Sexual Harassment

• Complete Form 2597 Student Investigation Evidence
  o Route all documents to the Decision-Maker (Principal or Regional Office Designee) to determine the outcome of the investigation
• Must include:
  o Information the findings from the investigation
  o Next steps in the process
Important Title IX Terminology: Determination of Responsibility (DOR)

**Determination of Responsibility (DOR) Form 2664**

- Send Determination of Responsibility Outcome to both Parties
- Must include:
  - Information on outcome
  - Reasons supporting the determination
  - Next steps in the process
  - Inform both parties of the appeal process
- Title IX Lead Contact completes section, “Describe the procedural steps taken from the receipt of the complaint to the determination”
Title IX Informal Resolution

- When:
  - Requested by one or both parties and/or recommended by TIXLC (cannot be coerced, forced or required by District)
  - Agreed by all parties in writing
  - After Formal Complaint and before Determination of Responsibility

- Includes:
  - Allegations
  - Requirements of informal resolution process including circumstances under which it precludes parties from resuming formal complaint from the same allegations
  - Right to withdraw
  - Consequences including records that will be maintained or could be shared
  - Voluntary written consent to the informal resolution process
  - See Student Informal Title IX Resolution Agreement Summary Form 2665
Title IX Informal Resolution

If the parent/guardian of the complainant does not want to participate in the formal grievance process, but wants to proceed with the informal resolution agreement summary:

- **Intake of Complaint** - In writing- Signed by Complainant/ Title IX Lead Contact (TIXLC)
- **Form 2508** - Student Bullying, Harassment, Sexual Harassment, and Teen Dating Violence and Abuse Report (Make sure you click the appropriate box at the bottom of this form to document parent withdrew from formal grievance process and have documentation in writing with parent/guardian signature)
- **Form 2663** - Notice of Title IX Allegation
- **Form 2509** - Student Investigation Summary
- **Form 2597** - Student Investigation Evidence
- **Form 2665** - Student Informal Title IX Resolution Agreement Summary
• Title IX regulations do not prohibit immediate removal of a respondent from the education program or activity on an emergency basis—provided an individualized safety and risk analysis which determines that emergency removal is necessary in order to protect a student or other individual from an immediate threat to physical health or safety.

• The respondent must be provided with notice and an opportunity to challenge the decision immediately after the removal.

• Complete the threat assessment and required forms per policy—separate from Title IX.

• Must coordinate compliance efforts with special education staff members. Emergency removal of a student in a Title IX proceeding could potentially become a change of placement under Individuals with Disabilities Education Act or Section 504.
The Appeal Process

Both parties must be provided written notice of the right to appeal a Determination of Responsibility or the dismissal of a complainant or any allegations therein, for the following reasons:

- A procedural irregularity that affected the outcome
- New evidence that was not reasonably available at the time of the determination and could affect the outcome
- Conflict of interest on the part of the Title IX Lead Contact, investigator, or decision maker that affected the outcome
- Both parties shall be provided an equal opportunity to submit a written statement in support of, or challenging, the determination

The appeal process must result in a written decision that must be provided to both parties.
Key Points to Remember

• Each school must notify all parents/legal guardians of the name or title, office address, email address and telephone number of the Title IX Lead Contact on their school’s website and handbook.

• Must assign an individual as the Title IX Lead Contact.

• Students can report to ANY employee (teacher, custodian, bus driver, aftercare, food service worker, etc.) the employee is considered as having actual knowledge and must report immediately to a supervisor.

• A Complainant has to be explained the grievance process and offered supportive measures upon receipt of complaint.

• When a formal complaint (must be signed by complainant and TIXLC) is made, Complainant and Respondent receives written Notice of Allegation.

• Supportive measures should be designed to restore or preserve equal access to the education program or activity without “unreasonably” burdening the other party. A supportive measure that completely removes a Respondent from an activity would likely be considered punitive- unless an emergency removal is warranted.

• Schools cannot remove the Respondent from the classroom unless there is an immediate threat to physical health or safety of the Complainant.
Key Points to Remember

- If there is an immediate threat, follow the Threat Assessment procedures and complete required forms per policy (Separate from Title IX)
- If a respondent is removed due to emergency response criteria, the respondent must be provided with notice and an opportunity to challenge the decision immediately after the removal
- A respondent cannot be disciplined for the alleged sexual harassment until the investigation is concluded
- Both parties are allowed to have advisors: attorney, relative, friend, etc. If you are informed that an attorney is involved, contact the Office of General Counsel
- Evidence must be provided (hard copy) at completion of final investigation report and given to parties. You must allow parties 10 days to prepare a written response.
- If dismissed, written notice must be promptly provided to both parties simultaneously, including reasons for dismissal and written information of the appeal process
Contacts

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