
Title IX for K-12 Schools

Recent Update to Regulations

*Staff must understand what it is
and have an obligation to report (as
explained on Slide 5).*

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Highlights

- Defines Sexual Harassment
- Due Process & Written Procedures Required
- Emphasis on the role of Title IX Coordinator
- Sexual Harassment Policy and procedures must be updated/published
- Relevant staff must be trained

Sexual Harassment

- Title IX applies to locations, events, and activities over which the school exercise substantial control.
- It does not apply to events that occurred outside of the United States.
- Complainant must be participating / attempting to participate in the school or activity at the time of filing.
- A school will be liable if it acts in a way that is **“deliberately indifferent”** or in a manner that is **“clearly unreasonable in light of the known circumstances.”**

Sexual Harassment

(as defined by regulation)

According to Title IX, sexual harassment is conduct on the basis of sex that meets one or more of the following:

- An employee of the District conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education programs or activities; or
- **“Sexual Assault”** or, an offense classified as a forcible or nonforcible sex crime; **“dating violence”** or, violence committed by a person who (a) is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship; or **“stalking”** or engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress.

Actual Notice

- Schools must respond to allegations of sexual harassment upon having “**Actual Notice**” of sexual harassment.
- **A school has “Actual Notice” when *any* employee/agent learns of sexual harassment.**
- The employee could witness the sexual harassment his/herself, learn of it from the victim, or learn of it through a third party.
- **Any employee who learns of sexual harassment must immediately inform Title IX Coordinator.**
- In Belmont, the Title IX Coordinator is the Assistant Superintendent.

Title IX Coordinator

(Oversees Title IX Compliance and Enforcement)

The Title IX Coordinator must contact the alleged victim, or “the Complainant,” to gather preliminary information, offer “Supportive Measures,” and inform that person of the right to file a “Formal Complaint” against the alleged perpetrator, or “the Respondent.”

What is a Formal Complaint?

- Document filed by the Complainant or signed by the Title IX Coordinator requesting that the district investigate the allegation
- DOE gives great deference to the Complainant's wishes
- Complainant may withdraw formal complaint any time
- “Informal resolution” not available without first having a formal complaint and agreement of both parties
- Kicks off the “Grievance Process”

What does the Grievance Process look like?

1. Formal Complaint filed
2. Notice of complaint and process issued to Complainant and Respondent (presumption of innocence)
3. Investigation & Investigator Report (by neutral investigator)
4. Adversarial Process (hearing or exchange of written questions)
5. Written Decision (by neutral decision-maker)
6. Appeal (if applicable)



Adversarial Process

- Title IX mandates that the District conduct an adversarial process” or an opportunity for the parties to confront each other and present evidence.
- This can be done by conducting a “Live Hearing” or allowing for the “Submission of Questions.”

Submission of Questions

- The Complainant and Respondent have the opportunity to submit written questions that they want asked of any participant in the investigation.
- The Decision-Maker reviews the question to ensure it is relevant, and then asks it of the participant.
- The Decision-Maker will provide written decision on why he excluded a question for not being relevant.
- Limited follow up questions are allowed.

Decision & Appeal

- Parties are entitled to a written decision and opportunity to appeal
- Title IX allows an optional burden of proof of “Preponderance of Evidence Standard” or “Clear and Convincing Evidence”
- Title IX regulates what should specifically be in the decision
- Limited grounds for Appeal: procedural irregularity; new evidence; and conflict of interest or bias
- Neutral Appellate Decision-Maker