

TITLE IX TRAINING FOR INVESTIGATORS AND DECISION MAKERS

NOVEMBER 18, 2025

AGENDA



- Definitions
 - Investigation Basics
 - Collection of Evidence
 - Investigative Report
 - Exchange of
- Questions
 - Determination of Responsibility
 - Final Report
 - Decision Maker on Appeal



DEFINITIONS

TITLE IX SEXUAL HARASSMENT DEFINITION

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- Quid Pro Quo Harassment
 - Hostile Environment
 - Harassment under the Violence Against Women Act & Clery Act

QUID PRO QUO HARASSMENT

An employee conditioning an aid, service, or benefit of the school district on an individual's participation in unwelcome sexual conduct

Does not need to be evaluated for "severity, pervasiveness, and objective offensiveness"

Expressed or implied

HOSTILE ENVIRONMENT

Unwelcome conduct

Reasonable person

So severe, pervasive, and objectively offensive

Effectively denies a person's equal access to education program or activity

HARASSMENT UNDER VAWA & CLERY ACT

Sexual Assault

Dating Violence

Domestic
Violence

Stalking

SEXUAL ASSAULT

- Rape
- Sodomy
- Sexual Assault with an Object
- Fondling
- Incest
- Statutory Rape

LOCATION

- In an educational program or activity-locations, events, or circumstances over which the school district exercised substantial control over both the Respondent and the context in which the sexual harassment occurs

HARASSMENT SITUATIONS

- Between students, between employees, between student and employee
- Between different or same genders
- Involving third-party (visitor, vendor)
- Switch from welcomed to unwelcomed
- Welcomed by one person but not another

CONSENT

- Consent is informed, actively given, and mutually understood and accepted
- Coercion, intimidation, incapacity prevent consent
- Consent to one form of conduct does not imply consent to any other form of conduct
- Consent can be withdrawn

RETALIATION

- Adverse treatment in response to seeking protection under Title IX
- May be independent basis for charge or litigation
- Examples include harassment in educational program, discipline, denial of participation

RESPONSE OF DISTRICT

- Must be prompt
- Must not be “deliberately indifferent”
- “Deliberately Indifferent” means clearly unreasonable in light of the known circumstances

ACTUAL KNOWLEDGE

- “Actual knowledge” is notice of sexual harassment or allegations of sexual harassment to any district employee
- Any person may report sexual discrimination (alleged victim or any third party)
- May report to Title IX Coordinator in person, by mail, phone, or email
- District must respond promptly

SUPPORTIVE MEASURES

- Available before or after a formal complaint or when no complaint has been filed
- Discuss availability of supportive measures, with or without the filing of a formal complaint
- Explain the process for filing a formal complaint
- Record any supportive measures taken, or why supportive measures were not taken



INVESTIGATION BASICS

ELEMENTS



EQUITABLE
TREATMENT



OBJECTIVE
EVALUATION OF
EVIDENCE



NO CONFLICT
OF INTEREST OR
BIAS



PRESUMPTION
OF NOT
RESPONSIBLE



PROMPT TIME
FRAMES

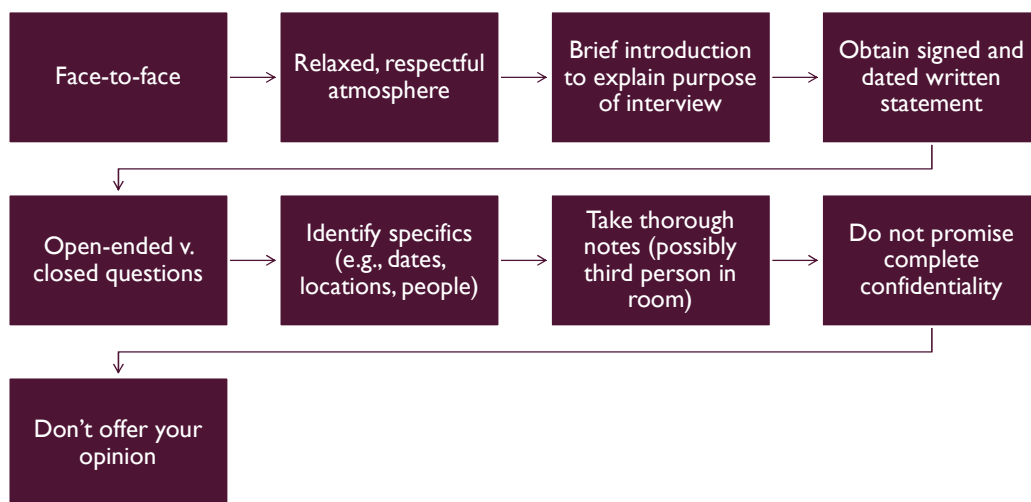
WHO SHOULD INVESTIGATE

- Determined by Title IX Coordinator
- Investigator must be unbiased and without conflict of interest to both complainant and respondent
- Consider outside investigator if conflict of interest (e.g., if complaint against Superintendent)

REQUIREMENTS

- Ensure that the burden of proof and the burden of gathering evidence rest on the school district and not on the parties, except certain records
- Provide an equal opportunity for parties to present witnesses and evidence
- Not restrict the ability of either party to discuss the allegations or gather and present evidence

INTERVIEW GUIDELINES





INVESTIGATION PROCESS

FORMAL COMPLAINT

- Written & Signed by Complainant
 - Complainant must be participating in the education program or activity at time of filing
 - Parent/legal guardian may file on behalf of student
 - Title IX Coordinator may sign a formal complaint, potentially over the alleged victim's objections
- No other third party can file a formal complaint
- Description of allegation (date, location, witnesses)
- As practical, in Complainant's own words

OVERVIEW AFTER FORMAL COMPLAINT

Notices

Dismissal

Consolidation

Collection of Evidence

Review of Evidence by Parties

Investigative Report

WRITTEN NOTICE

- Notice of the school districts' grievance process, including informal resolution process
- Notice of the allegations of sexual harassment (parties, date, location)
- Statement that Respondent is presumed not responsible
- Notice of right to an advisor
- Notice of right inspect and review evidence
- Notice of prohibition on knowingly making false statements or submitting false information

MANDATORY DISMISSAL

- If the conduct alleged would not constitute sexual harassment even if proved
- Did not occur in school district's education program or activity
- Did not occur against a person in the United States

DISCRETIONARY DISMISSAL

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint
- The Respondent is no longer enrolled or employed
- The specific circumstances prevent the school district from gathering evidence

APPEALING A DISMISSAL



Parties can appeal a mandatory or discretionary dismissal of a formal complaint.



Decision Maker hears the appeal.

COLLECTION OF EVIDENCE

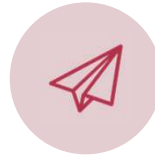
POSSIBLE EVIDENCE



INTERVIEWS
(COMPLAINANT,
RESPONDENT, WITNESSES)



PERSONNEL OR STUDENT
FILES



EMAILS, SOCIAL MEDIA,
VIDEOS



LAW ENFORCEMENT
DOCUMENTATION

RELEVANCE

- It has a tendency to make a fact more or less probable than it would be without the evidence
- Fact is of consequence in determining the action or conduct
- Relevant evidence goes towards proving whether a fact of consequence to the actual allegations are more or less likely to be true

PROHIBITION

- No questions on Complainant's prior sexual history or behavior unless:
 - Offered to prove that someone other than the Respondent committed the conduct
 - If the evidence of specific incidents of prior sexual conduct between the Respondent and Complainant is offered to prove consent.
- No seeking privilege information or records unless privilege is waived by the party

REMINDER

- Parties are not restricted in discussing allegations with others
- Parties have right to gather evidence favorable to their position
- No party can intimidate, harass, retaliate
- Monitor situation during investigation

BEFORE INTERVIEWS

■ Review Policies

- Reminder of timelines and provisions related to specifics of current investigation

■ Review Allegations

- Reminder of specific allegations (e.g., comments or actions) and relevant facts (e.g., dates and witnesses)

■ Review Documents

- Reminder of potentially independent facts and relevant information

OVERVIEW OF INTERVIEWS

Complainant

- Conduct a thorough interview (even if multiple times) to gain complete understanding of specific allegations

Witnesses

- Identified by complainant or respondent, or discovered during investigation

Respondent

- Timing of interview & discovery of relevant facts

ADVISOR

- Parties may have an advisor present during interviews
- Advisor receives notices and reports
- Advisor may be an attorney
- Advisor does not engage in argument/interrogation during interviews
- School district not required to provide advisor

SHARING OF EVIDENCE

- Before the investigative report is complete, provide evidence to both complainant and respondent (and their advisors) for review
- Allow the parties 10 days to submit a written response
- Consider the parties' response prior to completion of report; more investigation may be needed



INVESTIGATIVE REPORT

- School districts must create an investigative report that “fairly summarizes relevant evidence”
- Send to each party the investigative report 10 days prior to a determination of responsibility
- Allow parties to review and respond to investigative report
- Exchange of questions on behalf of decision-maker

REVIEW PARTIES' RESPONSE TO INVESTIGATIVE REPORT

- The parties have an equal opportunity to review and respond to the investigator's investigative report
- Allows the parties to advocate to the decision-maker regarding the relevance of evidence and omission of relevant evidence
- Parties can provide input and make arguments about the relevance of evidence, evidence they believe was overlooked in the investigative report, and how a Decision-Maker should weigh the evidence

INCULPATORY & EXCULPATORY

- Must share inculpatory and exculpatory evidence, even if District does not intend to rely on it in reaching a determination on responsibility
- Evidence that is favorable to the Complaint and shows the Respondent is responsible v. Evidence that is favorable or exonerates the Respondent



EXCHANGE OF QUESTIONS

SUBMISSION OF QUESTIONS

- Decision Maker must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness
- Must provide each party with the answers
- Must allow for additional, limited follow-up questions from each party

RELEVANCY

Parties must be permitted to ask all relevant questions and follow-up questions

Decision-Maker determines relevancy of questions

Decision-Maker provides an explanation for excluding any question deemed to be not relevant

Investigator will distribute list of questions

RELEVANT QUESTIONS IN EXCHANGE OF QUESTIONS

- Party must be permitted to ask all relevant questions and follow-up questions
- No irrelevant questions are allowed
- Decision-Maker must explain any decision to exclude a question as non-relevant



DETERMINATION REGARDING RESPONSIBILITY

WHO SHOULD BE A DECISION MAKER

- Decision-Maker must be unbiased and without conflict of interest to both complainant and respondent
- Consider outside decision-maker if conflict of interest (e.g., if complaint against Superintendent)
- Title IX Coordinator, Investigator, and Original Decision-Maker and Decision-Maker on Appeal must be different

INFERENCES

- Decision-maker cannot draw an inference regarding responsibility based solely on a party or witness's absence from formal resolution process or a refusal to answer a question during an exchange of questions

STANDARD OF EVIDENCE

- Must apply same standard for all formal complaints and publish the standard in their grievance process
- Most Districts selected “Preponderance of the Evidence”- A measure of proof that a reasonable person would accept as “more likely than not” that a fact is true or an incident occurred

WRITTEN DETERMINATION DECISION



WRITTEN DETERMINATION



Allegations that potentially constituted sexual harassment



Findings of fact supporting the determination



Description of the procedural steps taken since receipt of formal complaint (notifications to the parties, interviews, site visits, methods used to gather evidence)



Conclusions regarding the application of the BOE's code of conduct to the facts

WRITTEN DETERMINATION



Determination of responsibility as to each allegation and rationale for the result



Any discipline sanction imposed



Whether remedies will be provided to the Complainant



The BOE's procedures and bases for appeal

CONSEQUENCES

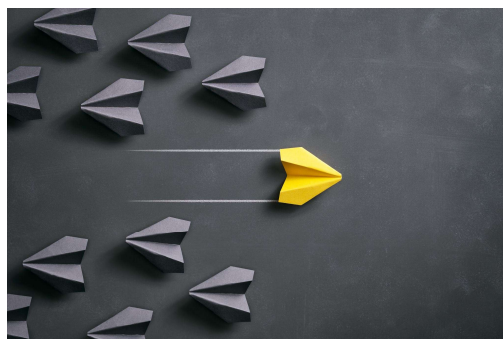
- If a determination of responsibility for sexual harassment is made, District will provide remedies to the complainant designed to restore or preserve equal access to the District's education program or activity
- Consequences for violations may have educational, restorative, rehabilitative and/or punitive components
- Conduct constituting sexual harassment or related retaliation will be subject to discipline

RELEASE OF WRITTEN DETERMINATION

- Must be provided to the parties simultaneously
- Must be done as one collective determination, cannot be in parts

DECISION MAKER ON DIRECT APPEAL

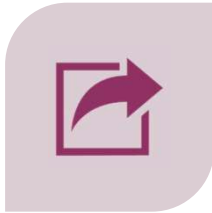
DECISION MAKER
ON APPEAL MUST
BE DIFFERENT
THAN ORIGINAL
DECISION MAKER



BASIS FOR APPEAL

- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal and that would have affected the outcome
 - Procedural irregularity that affected outcome
 - New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal and that would have affected the outcome
 - Conflict of interest or bias

TIMELY APPEAL



Any Party Can Appeal The
Determination Of Responsibility
(Or Dismissal)



Appeals Shall Be To The Title IX
Coordinator Within Five (5) Days Of A
Determination Of Responsibility.



If An Appeal Is Not Timely Submitted,
The Determination Of Responsibility
Or The Dismissal Of A Formal
Complaint (Or Any Allegation Therein)
Becomes Final

WRITTEN STATEMENTS ON APPEAL

- Upon receipt of an appeal, the Title IX Coordinator shall provide written notice of the appeal to the complainant and the respondent.
- The Parties may submit written statements in support of or in challenge of the appeal to the designated decision-maker on appeal.
- Both the complainant and the respondent are limited on appeal to submission of only written statements. - no live or oral testimony.

DOCUMENTS REVIEWED

- Appeal documents, determination of responsibility, and any written statement submitted by the complainant and the respondent.

DETERMINATION ON APPEAL

Decision maker on appeal will issue a written decision and the reason for the decision on appeal.

Result on appeal will be given to both parties at the same time.



THANK YOU