
Title IX for K-12 Schools

Recent Update to Regulations

*Staff must understand what it is and
have an obligation to report.*

Title IX of the Education Amendments of 1972

Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance, also known as “Recipients” [of Federal funding].

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Applies to elementary & secondary schools, post-secondary schools, charter schools, for-profit schools, libraries and museums.

Sexual Harassment

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, dating violence, domestic violence, and stalking (all as defined by federal law).

Sexual Harassment

- 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.”
- 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.

Responding to Sexual Harassment

- 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 District employee with knowledge of an allegation of sexual harassment must report it to their supervisor or the Title IX Coordinator.
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- In Bedford, the Title IX Coordinator is the Assistant Superintendent

Title IX Coordinator

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.”

Formal Complaint

- Document filed by the Complainant or signed by the Title IX Coordinator requesting that the district investigate the allegation
- Initiates the Grievance Process
- Can be filed in person, by mail, or electronic mail
- Complainant may withdraw formal complaint any time.
- The District may dismiss a Formal Complaint for not qualifying as Sexual Harassment under Title IX.

Grievance Process

- Formal Complaint filed
- Notice of complaint and process issued to Complainant and Respondent (presumption of innocence)
- Investigation and Investigator Report (by neutral investigator)
- Adversarial Process (hearing or exchange of written questions)
- Written Decision (by neutral decision-maker)
- 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 and 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