



***Title IX Overview and Procedures for Employees***



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## Title IX

Department of Education released Title IX Regulations on May 6, 2020

First significant changes to Title IX since 1975

The effective date for the regulations was August 14, 2020

What is Title IX?

***“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 educational program or activity receiving Federal financial assistance.”***

A federal civil rights law that prohibits discrimination based on sex in education.

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What do the regulations require?

***They require all recipients to ensure that no student, employee or third-party participating in or attempting to participate in an education activity or program is discriminated against based on sex. They do this by creating or revising Title IX procedures, identifying a Title IX Coordinator and other key personnel, training all key personnel, alerting all members of the school/district community about Title IX policies, and publishing the name of the Title IX Coordinator, policies, procedures and training materials on the website.***

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Who is responsible?

***School Districts. They need to have the necessary key personnel (Title IX Coordinator, Investigators, Decision Makers, Informal Resolution Facilitators, Appeal Maker identified and in place to effectively respond to a Title IX complaint.***

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# District Title IX Contacts for Employees

- District Title IX Coordinator for Employees:  
**Dr. Edwina Hudson Suit, PHR, SHRM-CP**  
Director of Human Resources
- District Title IX Investigators for Employees:  
**Mike Smeltzer, M.S., CAC**  
Human Resources Manager  
**Dr. Edwina Hudson Suit, PHR, SHRM-CP**  
Director of Human Resources
- District Title IX Informal Resolution Facilitators for Employees:  
**Mike Smeltzer, M.S., CAC**  
Human Resources Manager  
**Dr. Edwina Hudson Suit, PHR**  
Director of Human Resources
- District Title IX Decision Maker for Employees:  
**Bruce Green**  
Chief Financial Officer
- District Title IX Appeal Decision Maker for Employees:  
**Stacy Haas**  
Human Resources Representative



# Title IX Roles and Responsibilities

- **District Title IX Coordinator for Employees** – receives the complaint; ensures fidelity and compliance; designates decision makers; implements supportive measures; arranges the appeals process; ensures training.
- **District Title IX Investigator for Employees** – investigates the complaint, including issues of relevance of evidence to create an investigative report that fairly summarizes relevant evidence.
- **District Title IX Informal Resolution Facilitators for Employees** – serves as a mediator and oversees the informal resolution process seeking a resolution to a formal complaint that both parties agree, in writing, to resolve using restorative justice or mediation practices. Must be impartial, unbiased and free from conflict.
- **District Title IX Decision Maker for Employees** – reviews all materials related to the complaint and makes the determination of responsibility and issues any discipline/sanctions if necessary.
- **District Title IX Appeal Decision Maker for Employees** – reviews all materials related to the appeal and determines the merit of the appeal.



# Nine Things to Know About Title IX

- It is a civil rights law that prohibits sex-based discrimination in education institutions receiving federal funds.
- Title IX applies to all students, families, employees, and community members, regardless of gender identity, participating in school district sponsored programs, activities, and services.
- Schools/Districts may not retaliate against someone for filing a complaint and must keep all parties involved in a complaint safe from other retaliatory harassment.
- Schools/Districts 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.
- Schools/Districts can issue no-contact directives to prevent accused students from approaching or interacting with a complainant.
- Schools/Districts must be proactive in ensuring that campuses are free from sex-based discrimination.
- Schools/Districts must provide for equitable access to academic courses and extracurricular activities.
- All Schools/Districts receiving federal funding, including public K-12 schools, are subject to Title IX.
- Schools/Districts must have an established procedure for handling complaints of sexual discrimination, harassment, and violence.



# Sexual Harassment

**Sexual Harassment is defined as conduct on the basis of sex that satisfies one (1) or more of the following:**

- A school employee conditioning the provision of aid, benefits, or services on the individual's participation in unwelcome sexual conduct;
- Unwelcome conduct that a reasonable person would determine to be so severe, pervasive, and objectively offensive that it denies a person equal access to the education program or activity; or
- Sexual assault, as defined in the Clery Act, or dating violence, domestic violence or stalking, as defined in the Violence Against Women Act.



# Required Reporting

- Actual Knowledge of...
- Sexual Harassment in an...
- Educational Program in the...
- United States equals...

## Title IX Reporting

AK + SH + EP + US = IX



# Reporting Sexual Harassment

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 District policies/procedures.





# Mandatory District Obligations

- Title IX Coordinator meets (within two days) with the complainant to discuss options for supportive measures.
  - ✓ **Supportive Measures:** individualized services, reasonably available, non-punitive/non-disciplinary/not unreasonably burdensome, protect safety, deter sexual harassment
- Inform the complainant of the availability of filing 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.



# Parties' Rights

- The District **cannot** restrict the parties' ability to discuss the allegations or gather witnesses/evidence.
- The District can request confidentiality but **cannot** require nor discipline either party for breaching confidentiality.
- HIPAA rules apply regarding confidentiality of medical information.
- Both parties have the right to a representative of their choosing, which may, but is not required to be, an attorney. The District may restrict the participation of the representative in hearings, as long as the restriction applies equally to both parties.



# Retaliation

- No person and/or the District 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, testifies, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- Complaints alleging retaliation should be sent to the District Title IX Coordinator for Employees.



# Case Dismissed

- If the complaint **does not** meet **AK+SH+EP+US+IX**, the District will dismiss but may take appropriate action under other District policies/procedures.
- The District **may dismiss** if the respondent is no longer an employee.
- The District **may dismiss** if specific circumstances prevent from gathering sufficient evidence to reach a determination.
- The District **may dismiss** upon written request of the complainant to withdraw the complaint.
- Either party **may appeal** the dismissal of the complaint.



# Written Notice of Allegations/Investigation

- Formal complaints must be submitted on District complaint form.
- Both complainant and respondent are notified upon receipt of a formal complaint identifying the parties involved.
- The notices include a summary of allegation(s) being investigated, as well as the date and location of the alleged sexual harassment.
- The notices also include potential Policy violations, range of potential discipline, and an explanation of rights and options.



# Investigation

- The District **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 District, and not on the parties of the complaint.
- The District must give the parties' the ability to submit additional evidence and further questions they believe should be explored.



# Draft Investigative Report Review

- The Investigator prepares a draft written investigative report summarizing relevant evidence.
- Both parties are notified by the Title IX Coordinator, and it is arranged for them to separately review the draft written investigative report in person if they choose.
- Both parties are provided 10 calendar days to review and respond to the draft investigative report in writing including identifying additional witnesses or evidence.
- Both parties may also submit further questions they believe should be explored.



# Final Investigative Report

- Upon completion of the investigation and follow-up correspondence from the parties, the Investigator submits the final investigation report to the Title IX Coordinator for Employees for final review.
- After the final review, the Title IX Coordinator for Employees notifies both parties and their representatives the Final Investigative Report is complete.
- Both parties are provided a copy of the Final Investigative Report for review.





## Determination of Responsibility

- After review of the Final Investigative Report, the Title IX Decision Maker for Employees will issue a written determination regarding responsibility.
- The written decision will be provided to the Title IX Coordinator for Employees who will provide the written determination to the parties simultaneously.
- If imposing a disciplinary sanction/consequence, the Title IX Decision Maker for Employees will consider the severity of the incident, previous disciplinary violations (if any) and any mitigating circumstances.
- The Title IX Coordinator for Employees is responsible for the effective implementation of any remedies.



# Appeals

- Both parties must be provided the opportunity to appeal the dismissal 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 made in writing within 10 calendar days from receipt of the Final Investigative Report. The non-appealing party must be given a chance to respond to the appeal request within five (5) calendar days.
- The District Appeal Decision Maker for Employees will issue a written decision describing the appeal result and rationale.

