

Title IX Information

Title IX

Title IX of the Education Amendments Act of 1972 is a federal law, enacted in 1972, which states: "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."

On May 6, 2020, the United States Department of Education released its final rule under [Title IX of the Education Amendments of 1972](#). The final rule requires schools and school districts to follow a specific Title IX Grievance Process while investigating allegations of sexual misconduct. The Office of Civil Rights of the United States Department of Education considers sexual misconduct (including sexual harassment, sexual violence, sexual assault and intimate partner violence) to be a form of sexual discrimination and requires schools and school districts to take immediate and effective steps to respond to sexual misconduct.

Sexual Harassment

Title IX regulations define sexual harassment as conduct based on sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo - "this for that").
- 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 recipient's education program or activity (i.e., hostile working environment).
- "Sexual assault" as defined in the Clery Act; or dating violence, domestic violence, or stalking, as defined in the Violence Against Women Act (VAWA).

Sexual harassment includes unwelcome conduct of a sexual nature, which is prohibited by Title IX. Examples of unwelcome conduct of a sexual nature include, but are not limited to, the following:

- Sexual advances.
- Requests for sexual favors.
- Unwelcome touching of a sexual nature.
- Making sexual jokes, gestures, or comments.
- Calling students or adults sexually charged names.
- Verbal, nonverbal, or physical conduct of a sexual nature.
- Circulating, showing, or creating emails, text messages, websites, or social media sites of a sexual nature.

Reporting Discrimination or Harassment

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by email, using the contact information listed for

the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

All employees are mandatory reporters. This includes administrators, teachers, staff, school-based staff, support staff, food service employees, custodial staff, paraprofessionals, school clerks, vendors, volunteers, sub-contractors, etc. As mandatory reporters, employees are required to report all allegations and acts of sex discrimination, including sexual harassment, to their Principal, Site Supervisor, and/or Title IX Coordinator.

- Title IX regulations require schools with actual knowledge of sexual harassment to respond promptly in a manner that is not deliberately indifferent.
- If the offending conduct involves offensive or discriminatory behaviors in a virtual setting, and the conduct is sex-based or gender-based, instructors must report the incident to the Title IX Coordinator or school-based administrator.
- If the alleged sexual harassment constitutes a crime, the matter must immediately be reported to the appropriate law enforcement agency (e.g., Jacksonville Sheriff's Office).
- As required by Florida law, established in § 39.201 Reporting Child Abuse and Neglect, all school personnel who know, or have reasonable cause to suspect, that a child or student has been abused, abandoned, or neglected shall immediately report such knowledge or suspicion to the Florida Department of Children and Families (DCF) by calling the Florida Abuse Hotline at 1-800-96-ABUSE (or 1-800-962-2873).

How to File a Formal Complaint

A report can be made in person, by telephone, by mail, or by e-mail to the school-based or District Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the reporter's verbal or written report. Reports may be made at any time, including during non-business hours, twenty-four (24) hours a day, seven (7) days a week. Oral reports should be transcribed into written form. The Title IX Coordinator shall explain to a Complainant the process for filing a formal written complaint and shall provide the Complainant with a copy of the Title IX Complaint Form. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by email. The formal complaint must contain verification that the Complainant, or parent/guardian if under 18 years old, is the person filing the formal complaint, such as a verifiable physical or digital signature.

Title IX Process

For the purpose of addressing formal complaints of sexual harassment, a recipient's grievance process must comply with the requirements of the Title IX regulations. Further, a recipient's grievance process must treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against the Respondent, and by following a grievance process that complies with the regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in 34 C.F.R. §106.30 against a Respondent.

The following is a general outline of the Title IX Process.

Step 1 - The Complainant (i.e., victim) or a third-party reports allegation of sexual harassment.

Step 2 - The Title IX Coordinator conducts initial meetings with the parties (i.e., the Complainant and Respondent) and offers supportive measures.

Step 3 - A formal written complaint is filed.

Step 4 - The grievance process begins.

Step 5 - A determination is made as to whether Title IX applies to the allegations. If Title IX does apply, a written notice of allegations is provided to the parties, and the investigation begins. If Title IX does not apply, a determination is made as to whether a dismissal is warranted. In the event of a dismissal, either party may appeal.

Step 6 - The Investigator conducts the investigation (i.e., interviews the parties and witnesses, gathers evidence, etc.), presents all evidence to the parties for review and inspection, drafts an Investigative Report, and provides the report to the parties.

Step 7 - The Decision-Maker facilitates a question-and-answer process for the Complainant and Respondent, determines relevance of questions, and renders a written determination based on the facts contained in the Investigative Report.

Step 8 - Either party may appeal the written determination, and the Appellate Decision-Maker provides a final written determination regarding the appeal.

Determining if Title IX Applies

Title IX applies to allegations that meet the following criteria:

- The conduct in question meets the definition of sexual harassment,
- The conduct occurred in a school education program or activity, and
- The conduct occurred against a person in the United States.

If the above-referenced requirements are met, then schools must follow the Title IX grievance process, at least. If any one of the elements is missing, then Title IX does not apply.

If Title IX does apply, the parties must be provided written notice of the allegations, and the investigation must begin. If Title IX does not apply, it must be determined if a dismissal is warranted.

Schools must dismiss the formal written complaint if the allegations of conduct:

- Do not meet the definition of sexual harassment,
- Did not occur in a school's education program or activity, or
- Did not occur against a person in the United States.

Schools may dismiss the formal written complaint or any allegations therein if:

- The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- The Respondent is no longer enrolled/employed by the school, or
- Specific circumstances prohibit investigation.

Title IX Investigation

Once it is determined that Title IX applies, the matter will be assigned to the Investigator who shall do the following:

- Provide proper notice to the Complainant, Respondent and witnesses regarding interviews.
- Gather information and/or evidence related to the allegations.
- Present all evidence to the Complainant and Respondent for review and inspection.
 - The Complainant and Respondent must receive an equal opportunity to review all evidence obtained during the investigation, whether deemed relevant or not.
 - The Complainant and Respondent shall have five (5) business days to submit a written response to the evidence.
- Within ten (10) business days, review the responses provided by the Complainant and/or Respondent regarding the evidence, and draft an Investigative Report that fairly summarizes relevant evidence.
- Provide a copy of the Investigative Report to the Complainant and Respondent.
 - The Complainant and Respondent shall have two (2) business days to submit up to ten (10) questions regarding any concerns related to the Investigative Report. They may submit questions to be asked of any party or witness.
 - Questions will be submitted to the Decision-Maker, who will determine relevancy of questions and explain any decision to exclude a question as not relevant.
 - The Complainant, Respondent and/or witnesses shall have two (2) business days to answer the questions.
 - The Complainant and Respondent shall then have two (2) business days to submit no more than five (5) follow-up questions.
 - Follow-up questions will be submitted to the Decision-Maker, who will determine relevancy of follow-up questions and explain any decision to exclude a follow-up question as not relevant.
 - The Complainant, Respondent and/or witnesses shall then have two (2) business days to answer the follow-up questions.
- Review the answers submitted by the parties and witnesses, and amend the Investigative Report, as necessary.
- Submit the Investigative Report and all evidence/attachments (whether deemed relevant or not) to the Decision-Maker.

Written Determinations

Upon review of the final Investigative Report and relevant evidence, the Decision-Maker must issue a Written Determination to the Complainant and Respondent. The Written Determination must include the following:

- Allegations,
- Procedural steps,
- Factual findings/policy findings and analysis for each,
- Conclusions regarding whether the alleged conduct occurred,
- The rationale for the result as to each allegation,
- Any disciplinary sanctions imposed on the Respondent,
- Whether remedies will be provided to the Complainant, and
- The appeals process.

The Written Determination must be provided to the parties simultaneously and must include the recipient's procedures and permissible bases for the Complainant and Respondent to appeal the decision. Additionally, records of all sexual harassment investigations, determinations, sanctions and remedies, appeals, and actions taken by a recipient must be maintained by the recipient for a period of seven (7) years.

Appeals

Upon receipt of the Written Determination, the Complainant or Respondent may appeal the decision in writing to the Appellate Decision-Maker within five (5) business days. The appealing party must detail his or her reasons for requesting an appeal.

The three (3) bases for appeal are as follows:

- Procedural issues affected the outcome,
- New evidence that was not reasonably available at the time the Written Determination or dismissal was made becomes available that could affect the outcome, or
- There was a conflict of interest or bias by the school-based and/ or District Title IX Coordinator, Investigator, or Decision-Maker, against any Complainant or Respondent that affected the outcome.

Schools must notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.

- Both parties shall have three (3) business days to submit a written statement in support of, or challenging, the outcome of the Written Determination.
- The Appellate Decision-Maker shall have five (5) business days to provide a final Written Determination to both parties regarding the appeal. The written appeals determination must describe the result and rationale for the decision.
- Appeal decisions are final.

If an appeal is filed, the determination becomes final on the date the school provides the written appeals decision. If an appeal is not filed, the determination becomes final on the date the time to file an appeal has passed.

*Note: No disciplinary measures may be imposed against a Respondent prior to the conclusion of the grievance process through the appeal.

Retaliation

Retaliation is the act of intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated, or refused to participate, in any manner in an investigation, proceeding, or hearing. Anyone who provides information related to harassment based on sex is expressly protected from retaliation. Any person who retaliates against someone based on their involvement in a civil rights matter is subject to disciplinary action, up to and including termination.

Title IX Terminology

- Actual knowledge - information that an alleged incident has taken place. Notice of sexual harassment or allegations of sexual harassment occurs when that information is received by a Title IX Coordinator or any official with authority to institute corrective measures on behalf of the recipient of federal financial assistance, or by any employee of an elementary or secondary school. Once the Title IX Coordinator/official/employee has actual knowledge, the school is obligated to respond to the allegations.
- Complainant - an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- Education program or activity - an education program or activity includes locations, events, or circumstances over which the school or school district exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, whether on or off school property. It includes the following: academic or educational programs (including virtual activities and classes); extracurricular activities; athletic activities; or other school-related programs, including activities in school facilities, on school buses, training programs, or classes sponsored by the school.
- Formal complaint - a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school investigate the allegation of sexual harassment.
- Recipient - an educational institution that receives federal financial assistance.
- Respondent - an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- Supportive measures - non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge, to the Complainant or the Respondent before or after the filing of a formal complaint, or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment or to deter sexual harassment.

Roles and Responsibilities

School staff are responsible for serving in key roles when an allegation of sexual harassment has been made against a Respondent. If an allegation is made and requires a Title IX response, these individuals are responsible for ensuring that the procedures occur in an equitable manner that does not infringe upon the rights of the Complainant or the Respondent. The roles and responsibilities are outlined in further detail below.

Title IX Coordinator:

- Gather information necessary to determine: 1) What type of investigation is required based on the information available; and 2) Whether a matter needs to follow the detailed Title IX procedures required by federal or state law or School Board policies.
- Oversee efforts to investigate, remedy, stop, and prevent all forms of gender-based harassment, including sexual harassment within educational programs and activities.
- Ensure the accuracy and appropriateness of the process.
- Supervise the investigative process.
- Coordinate supportive measures.

- Facilitate the flow of information.
- Guide timeline compliance.
- Arrange for appeals.
- Keep records.

Title IX Investigator:

- Investigate formal complaints of sexual harassment.
- Conduct thorough, reliable, and prompt investigations.
- Act impartially, by avoiding pre-judgment, bias, and conflicts of interest.
- Review the applicable federal and state laws and School Board policies to ensure that all necessary evidence has been gathered.
- Draft Investigative Reports.

Decision-Maker (*Note: The Decision-Maker cannot be the same person as the Title IX Coordinator or the Title IX Investigator):

- Receive the Investigative Report and evidence.
- Facilitate a follow-up question and answer process for the Complainant and Respondent.
- Use the applicable federal and state law and School Board policies to render a decision based on the information contained in the Investigative Report.

Appellate Decision-Maker (*Note: The Appellate Decision-Maker cannot be the same person as the Decision-Maker that reached the determination regarding responsibility or dismissal, the Title IX Investigator, or the Title IX Coordinator):

- Understand the relevant definitions and the grounds for appeal.
- Respond to appeals in a timely manner.
- Return the determination to the Decision-Maker for additional review (as necessary).
- Provide the Complainant and Respondent with a determination on the appeal.

Title IX Contact

Inquiries concerning the application of Title IX and the Grievance Procedure may be referred to the Title IX Coordinator.