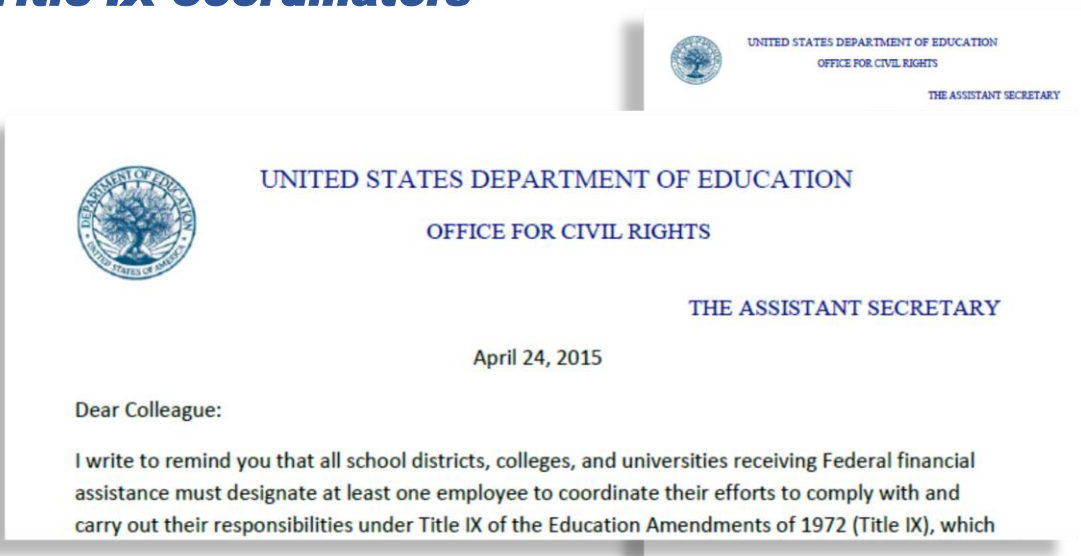




Understanding Your Role as a Title IX Administrator and How to Handle Common Campus Scenarios

Emma J. Darling

Title IX Coordinators



Dear Colleague Letters (DCLs)

- Advisory in nature*
- Guidance to recipients of federal funding
- DOE's policies in reviewing Title IX compliance
- Not legislative rules/law
- OCR cannot create new law, rights, or duties through a DCL

*The Office for Civil Rights is an administrative agency of the federal government and, therefore, constrained by the Administrative Procedure Act (APA). If an agency proposes a rule that would impose new obligations on the public, the APA requires the agency to subject those proposed rules to notice and comment before they may be adopted.

Title IX Coordinators

- **Position cannot be vacant**
- **Sufficiently independent**
- **Avoid conflicts of interest**
- **Full-time T9 Coordinator ensures sufficient time to perform responsibilities**
- **Qualifications, training, authority and time**
- **Multiple T9 Coordinators**

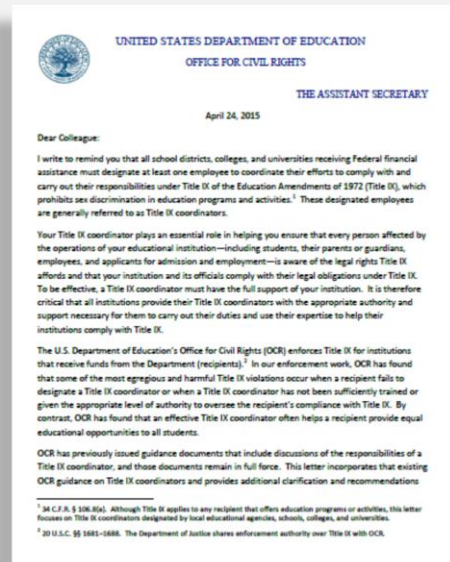
DESIGNATION OF T9 COORDINATOR(S)



Title IX Coordinators

- **Monitor outcomes**
- **Identify and address patterns**
- **Assess effects on campus climate**
- **Educate school community on how to file complaint**
- **Promptly and appropriately resolve complaints**
- **Provide technical assistance on school policies**
- **Work with law enforcement**
- **Offer supportive measures**

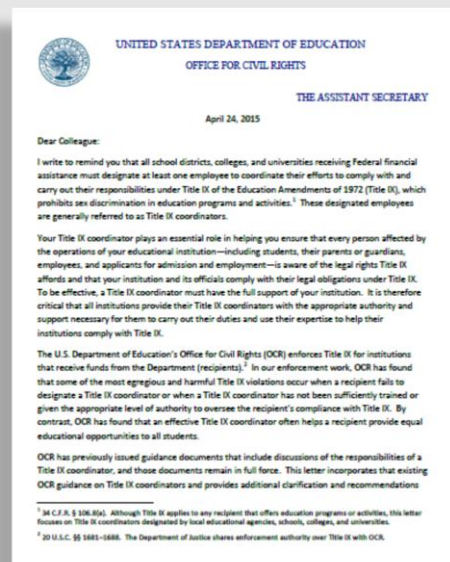
RESPONSIBILITIES AND AUTHORITY OF T9 COORDINATOR



Title IX Coordinators

- **District's policies and procedures**
- **Drafting and revising policies/procedures**
- **Collecting information**
- **Participation in subject areas, athletics**
- **Administration of school discipline**
- **Incidents of sex-based harassment**
- **Retaliation**
- **Aware of all T9 complaints**
- **Visible in the school community**

RESPONSIBILITIES AND AUTHORITY OF T9 COORDINATOR



Title IX Coordinators



B. Training of Title IX Coordinators

Recipients must ensure that their Title IX coordinators are **appropriately trained** and possess comprehensive knowledge in all areas over which they have responsibility in order to effectively carry out those responsibilities, including the recipients' policies and procedures on sex discrimination and all complaints raising Title IX issues throughout the institution. The resource

Training on Policies and Grievance Procedures

that receive funds from the Department (recipients).¹ In our enforcement work, OCR has found that some of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient's compliance with Title IX. By contrast, OCR has found that an effective Title IX coordinator often helps a recipient provide equal educational opportunities to all students.

OCR has previously issued guidance documents that include discussions of the responsibilities of a Title IX coordinator, and those documents remain in full force. This letter incorporates that existing OCR guidance on Title IX coordinators and provides additional clarification and recommendations.

¹ 34 C.F.R. § 106.8(a). Although Title IX applies to any recipient that offers education programs or activities, this letter focuses on Title IX coordinators designated by local educational agencies, schools, colleges, and universities.

² 20 U.S.C. §§ 1481-1488. The Department of Justice shares enforcement authority over Title IX with OCR.

RELEVANT POLICIES AND PROCEDURES

- FB (LEGAL) Equal Educational Opportunity
- FB (LOCAL) Equal Educational Opportunity
- FFG (LEGAL) Student Welfare: Child Abuse and Neglect
- FFG (LOCAL) Student Welfare: Child Abuse and Neglect
- FFH (LEGAL) Freedom from Discrimination, Harassment, & Retaliation
- FFH (LOCAL) Freedom from Discrimination, Harassment, & Retaliation
- FM (LOCAL) Student Activities
- FNE (LEGAL) Pregnant Students
- FNE (LOCAL) Pregnant Students
- FNG (LEGAL) Student & Parent Complaints
- FNG (LOCAL) Student & Parent Complaints
- DAA (LEGAL) Equal Employment Opportunity
- DGBA (LEGAL) Employee Complaints
- DGBA (LOCAL) Employee Complaints
- EHAA (LEGAL) Required Instruction
- GF (LOCAL) Public Complaints
- GRA (LEGAL) Relations with Governmental Entities – State and Local Authorities
- GRA (LOCAL) Relations with Governmental Entities – State and Local Authorities



Responsibilities from 2020 Sexual Harassment Regulations

T9 Coordinator Responsibilities **Under the Reigning Regulations**

- The reigning regulations pertain to reports and formal complaints of sexual harassment.
- The proposed regulations are not final yet, but we'll let you know what may be subject to change.
- Neither set of regulations affect responsibilities pertaining to equity in athletics, inequities, or discrimination in course selections, etc.



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Title IX Coordinator Responsibilities

- Ensure policies reflect current information about T9 Coordinator
- Ensure website and publications contain proper notices
- For all reports of sexual harassment, contact alleged victims (complainant) to discuss the availability of supportive measures
- Consider a complainant's wishes re supportive measures
- Inform complainants of the right to file formal complaint and right to supportive measures with or without a formal complaint
- Decide whether to file a formal complaint when the complainant does not

*Many of these tasks can be delegated but must be overseen by the Title IX Coordinator.

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Title IX Coordinator Responsibilities

- Decide whether to dismiss a formal complaint (or who should decide dismissal)
- Assist with emergency removal and administrative leave decisions
- Provide notice to parties of grievance process in case of formal complaints
- Post all training materials to district's website
- Ensure proper record keeping

*Many of these tasks can be delegated but must be overseen by the Title IX Coordinator.

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All of these individuals must be informed of the Title IX Coordinators...



Name or Title

Applicants for admission and employment



Office address

Students and parents or legal guardians of elementary and secondary students



E-mail address

Employees



Telephone number

All unions or professional organizations holding collective bargaining or professional agreements with the recipient

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Reporting sexual 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)...



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.

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Reporting sexual harassment...

Such report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

34 C.F.R. § 106.8(a).

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SCENARIOS: The Players



- **Higgins** (paraprofessional)
- **Jamie** (student-athlete)
- **Nate** (student)
- **Keely** (student)
- **Roy** (student)
- **Jan Maas** (new student)
- **Coach Beard** (teacher)
- **Principal Lasso**
(Title IX C'r – Students)
- **Ms. Rebecca**
(Title IX C'r – Employees)
- **Sam** (employee)

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SCENARIO:

Reporting sexual harassment...

Higgins (paraprofessional) sees Jamie (student-athlete) and his minions harassing Nate (student) for being namby-pamby and womanish.

Higgins mentions this in passing to Coach Beard, who says nothing to anyone about this. Higgins does not report this to Principal Lasso (Title IX C'r – Students) or to Ms. Rebecca (Title IX C'r – Employees).

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SCENARIO:

Reporting sexual harassment...

After months of this treatment, Nate finally tells his mother. She immediately calls Principal Lasso to report that her son is being bullied.

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SCENARIO: Failing to Report

Relevant Policies: FFI/FFH - Employee report to appropriate official listed in policy

Action Needed: Students: 1) review policy – FFI or FFH?; 2) contact parents/student – offer info about TIX process; 3) offer supportive measures; 4) employee documentation/retraining

Documentation Required/Recommended: 1) supportive measures offered; 2) whether FC filed; 3) if FC filed...

Retention of Documentation: At least 7 years

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Standard TASB Policy-A

Reporting Procedures

Student Report

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal, other District employee, or the appropriate District official listed in this policy.

Employee Report

Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.

Definition of District Officials	For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
<i>Title IX Coordinator</i>	Reports of discrimination based on sex, including sexual harassment, gender-based harassment, or dating violence, may be directed to the designated Title IX coordinator for students. [See FFH(EXHIBIT)]
<i>ADA / Section 504 Coordinator</i>	Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator for students. [See FFH(EXHIBIT)]
<i>Superintendent</i>	The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws.

Reporting Procedures	
Student Report	Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal, assistant principal, or the Title IX Coordinator/designee.
Employee Report	Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct <u>shall promptly notify a campus administrator or the Title IX Coordinator.</u>
Definition of District Officials	For the purposes of this regulation, District officials are the Title IX <u>Coordinator/designee and campus administrators.</u>
Title IX Coordinator	Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the designated Title IX Coordinator for students. [See FFH(EXHIBIT)]





Sexual Harassment
TITLE IX GRIEVANCE PROCESS
for Reports, Complaints, Investigations, Appeals
Effective August 14, 2020

 Terminology	<p>Sexual harassment is conduct based on sex that satisfies one or more of the following:</p> <ol style="list-style-type: none"> 1. An employee conditioning an aid, benefit, or service of the school on an individual's participation in sexual conduct; 2. Unwelcome conduct that a reasonable person would consider severe, pervasive, and objectively offensive such that it effectively denies an individual equal access to a district program or activity; or 3. Sexual assault, dating violence, domestic violence, or stalking. <p>Complainant: an individual who is alleged to be the victim of sexual harassment. Respondent: an individual who is alleged to be the perpetrator of sexual harassment. A respondent may not be disciplined for sexual harassment until the conclusion of this grievance process. Formal Complaint: a document filed by a complainant (or parent/guardian) or signed by the Title IX Coordinator³ alleging sexual harassment against a respondent and requesting that the district investigate the allegation.</p>	<p>New Definition of Sexual Harassment 34 C.F.R. §106.30</p> <p>**All employees must report suspected sexual harassment, but only a Complainant or the Title IX Coordinator can file a Formal Complaint.</p>
	<p>Reporting: All employees must immediately/promotely report all instances of suspected sexual harassment to a campus administrator or the Title IX Coordinator or a Title IX Coordinator designee. (An employee's failure to report alleged sexual harassment will result in disciplinary action up to and possibly including termination).</p> <p>A student may report alleged sexual harassment to a teacher, school counselor, administrator, or other appropriate school employee. Those employees must immediately report alleged sexual harassment to a campus administrator.</p>	<p>RESPONSIBILITY: All Employees FFH(LOCAL) DIA(LOCAL)</p>
	<p>Child Abuse Reporting: If the incident could be child abuse, the employee must report to CPS or law enforcement within 48 hours of learning of incident.</p>	<p>All Employees FFG(LOCAL)</p>
	<p>Ask for written report: An administrator may ask the individual to provide a written statement, but the reporter is not required to put the report in writing. This District may request, but not require, a written report. If a report is made orally, an administrator will put the report in written form and provide it to the Title IX Coordinator.</p>	<p>FFH(LOCAL)</p>

- Use the checklist.
- **Red text** = suggested procedures



Dissemination of policy

- District does not discriminate on the basis of sex in the education program of activity that it operates
- It is required by Title IX to not discriminate in this manner
- Requirement not to discriminate extends to admission and employment
- Inquiries about the application of Title IX to the district may be referred to the Title IX Coordinator, the Assistant Secretary for Education (USDOE), or both

Applicants for admission and employment

Students and parents or legal guardians of elementary and secondary students

Employees

All unions or professional organizations holding collective bargaining or professional agreements with the recipient

August 2010



U.S. Department of Education

Sample Notice of Non-discrimination

The following sample notice of non-discrimination meets the minimum requirements of the regulations enforced by OCR:



The (Name of Recipient) does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Name and/or Title
Address
Telephone No.

<https://www2.ed.gov/about/offices/list/ocr/docs/nondisc.html>
Accessed 2020-10-11

Publications

Must promptly display Title IX
Coordinator's contact information:

- On district's website 
- In each handbook or catalog 

District must adopt and publish grievance procedures and provide notice of process including...

1. How to report or file a complaint of sex discrimination;
2. How to report or file a formal complaint of sexual harassment; and
3. How the district will respond.

____ ISD

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION (REGULATION
____)

Note: This regulation addresses sexual harassment involving District students under Title IX. For procedures to address allegations of prohibited conduct *other than* allegations of sexual harassment prohibited by Title IX, see FFH (REGULATION 1). For other types of sex discrimination involving students, such as equitable opportunities for athletics or pregnancy-related claims, see FFH(LLOCAL) and FNE(LLOCAL). For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

Title IX Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any student on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

DATE ISSUED:
FFH(REGULATION)

____ ISD

STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION (REGULATION
____)

Note: This regulation addresses sexual harassment involving District students under Title IX. For procedures to address allegations of prohibited conduct *other than* allegations of sexual harassment prohibited by Title IX, see FFH (REGULATION 1). For other types of sex discrimination involving students, such as equitable opportunities for athletics or pregnancy-related claims, see FFH(LLOCAL) and FNE(LLOCAL). For provisions regarding discrimination, harassment, and retaliation involving District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

Title IX Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any student on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

The 2020 regulations...

Seek to create a separation between the investigation and decision-making of formal complaints (sexual harassment).

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While it is best to separate roles...

- The Title IX Coordinator can also be the investigator and the informal resolution facilitator.
- The Title IX Coordinator cannot also serve as the decision-maker on a formal complaint or on appeal.*
- All roles can be outsourced, except the Title IX Coordinator (e.g., investigator, decision-maker, informal resolution facilitator, appellate decision maker).

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Remember that anyone serving as a Title IX Coordinator, investigator, decision-maker, or any person designated to facilitate an information resolution process must not have a **conflict of interest or **bias** for or against **complainants** or **respondents generally** or an **individual** complainant or respondent.**

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SCENARIO: Conflicts of Interest

An employee files a Formal Complaint of sexual harassment against Sam (Employee). Rebecca is the Director of HR and the Title IX Coordinator for employee-related complaints. She usually serves as the investigator for Formal Complaints. Sam and Rebecca were previously romantically involved.

- Can she serve as the investigator?
- Can she serve as the Title IX Coordinator in this case?

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The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures...consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without filing a formal complaint, and explain to the complainant the process for filing a formal complaint."

- Respond to every report of sexual harassment
- Must not be deliberately indifferent
- For OCR purposes, actual knowledge is imputed to the district if any employee is aware of sexual harassment.

34 C.F.R. § 106.44(a).

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- Respond to every report of sexual harassment
- Must not be deliberately indifferent
- For OCR purposes, actual knowledge is imputed to the district if any employee is aware of sexual harassment.

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SCENARIO: Verbal reports

Nate does not tell his parents, but another student reports the situation to his parents, who calls Principal Lasso.

Principal Lasso tells her that he is going to need her to put her concerns in writing, so he can address the situation.

This parent will not put her concerns in writing and wants to remain anonymous.

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SCENARIO: Verbal reports



Ask for written report: An administrator may ask the individual to provide a written statement, but the reporter is not required to put the report in writing. This District may request, but not require, a written report. If a report is made orally, an administrator will put the report in written form and provide it to the Title IX Coordinator.

FFH(LOCAL)

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CONTACTING THE COMPLAINANT

Regulations do not dictate the medium of contact.

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CONTACTING THE COMPLAINANT

K-12 SETTING

- Phone call, followed by email/letter.
- In person parent conference, followed by email/letter.

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DISTRICT LETTERHEAD

**This letter may be sent to adult students or parents of minor students after initial verbal contact by school officials about a report of alleged sexual harassment involving their child when no Formal Complaint is filed.*

[Date]

[Adult Student Complainant/Parent/Guardian Address]

Re: Title IX Complaint – Response to Sexual Harassment Supportive Measures

Dear Mr./Ms. _____:

This letter is to confirm receipt of a report of alleged sexual harassment involving your child. It is our understanding that, at this time, you do not wish to file a Formal Complaint and pursue this matter further. If you change your mind, please contact my office immediately.

Even though you have not filed a Formal Complaint, the District is implementing the following supportive measures for your child, because school board policy FFH prohibits discrimination on the basis of sex, including sexual harassment and other prohibited conduct, against students in all of its educational programs. Supportive measures are non-disciplinary, non-punitive individualized services reasonably available, without fee or charge to students, when a report of alleged sexual harassment is made.

Supportive Measures: **(Select only those that apply and provide details. Delete the options below that will not be implemented.)**

- Counseling of students regarding appropriate behavior expectations
- Review of district and code of conduct expectations with students by administrator
- Change of class schedule/lunch schedule/locker location
- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities
- Training
- Other: _____

DISTRICT LETTERHEAD

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- Other: _____

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Supportive Measures: **(Select only those that apply and provide details. Delete the options below that will not be implemented.)**

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- Review of district and code of conduct expectations with students by administrator
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- Campus/class escort
- Increased school monitoring of [location] for [time period e.g., next 9 weeks]
- School counseling
- Stay away agreement/No contact directives
- Limitation on extracurricular activities
- Training
- Other: _____



The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.”

34 C.F.R. § 106.30.

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SUPPORTIVE MEASURES

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Supportive Measures means...

- **Non-disciplinary, non-punitive individualized services**
- **Offered as appropriate, as reasonably available**
- **Without fee or charge to the complainant or respondent**
- **Before or after filing of a formal complaint or where no formal complaint has been filed**
- **Designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the educational environment or deter sexual harassment**

34 C.F.R. § 106.30

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Supportive Measures examples

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services**
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus
- Other similar measures

34 C.F.R. § 106.30

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- **Counseling of students regarding appropriate behavior expectations**
- **Review of district and code of conduct expectations with students by administrator**
- **Change of class schedule/lunch schedule/locker location**
- **Campus/class escort**
- **Increased school monitoring of [location] for [time period e.g., next 9 weeks]**
- **School counseling - # sessions**
- **No contact/no communication agreements**
- **No contact/communication directives**
- **Limitation on extracurricular activities**
- **Social Skills Training**
- **Staff Training**
- **Other: _____**



Add a term to the supportive measures (e.g., pending resolution of the grievance process; four weeks; end of semester; end of the school year).

Supportive Measures means...

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent—to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures.

34 C.F.R. § 106.30

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Keep **documentation** of supportive measures (e.g., no contact/communication agreements, log of counseling sessions, copies of social skills stories/trainings, summary of schedule changes, summary of campus escorts).

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SCENARIO: Emergency Removal

If a Formal Complaint is filed, Principal Lasso and Coach Beard cannot remove Jamie (et al) from the team until the Title IX Investigative Process is completed and a determination of “responsibility” is made, unless the criteria for an “emergency removal” are met.

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NOTICE TO PARTIES IF FORMAL COMPLAINT IS FILED

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DISTRICT LETTERHEAD

**This notice must be sent simultaneously to the Complainant and Respondent and before investigation of the Formal Complaint begins, including student interviews occur.*

[Date]

[Adult Student Complainant/Parent/Guardian
[Address]

Re: Notice to Parties of Title IX Formal Complaint of Sexual Harassment
Case No. _____

Dear Mr./Ms. _____:

This letter is to notify you of the filing of a Formal Complaint of sexual harassment involving your student. The details of the allegations are included on the enclosed Formal Complaint form. Sexual harassment is prohibited by and defined in Board Policy FFH (LEGAL) and (LOCAL). The grievance process for handling this complaint can be found in FFH (REGULATION 2-SEXUAL HARASSMENT). The policies and procedures are enclosed for your reference.

The District's Title IX sexual harassment grievance process is an informal resolution process at any time. During the grievance process, the Complainant, and the accused is called the Respondent.

The first step in the grievance process is for the District to attempt to resolve the complaint through contact with you.

Please be aware that, by law, the Respondent is permitted to have an advisor. You are also entitled to inspect and review the evidence upon which the District's determination regarding responsibility and includes evidence obtained from a party or other source, so that you can prepare for the hearing.

You are allowed an advisor to assist you in this process. You may wish to have an attorney but does not have to be. If you would like to have an attorney, you must contact the District's Title IX Coordinator. You are also entitled to inspect and review the evidence upon which the District's determination regarding responsibility and includes evidence obtained from a party or other source, so that you can prepare for the hearing.

****This notice must be sent simultaneously to the Complainant and Respondent and before investigation of the Formal Complaint begins, including student interviews occur.***

[Date]

[Adult Student Complainant/Parent/Guardian]
[Address]

Re: Notice to Parties of Title IX Formal Complaint of Sexual Harassment
Case No. _____

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This letter is to notify you of the filing of a Formal Complaint of sexual harassment involving your student. The details of the allegations are included on the enclosed Formal Complaint form. Sexual harassment is prohibited by and defined in Board Policy FFH (LEGAL) and (LOCAL). The grievance process for handling this complaint can be found in FFH (REGULATION 2-SEXUAL HARASSMENT). The policies and procedures are enclosed for your reference.



SENT BY TITLE IX
COORDINATOR
or DESIGNEE

Investigation of Formal Complaint – Appoint Investigator and Decision Maker

Provide **Notice to Parties**: Simultaneous notice must be provided to all known parties that includes:

- Allegations of sexual harassment, known at the time, with sufficient detail to prepare before any initial interview;
- Identities of the parties involved;
- Date, location of alleged incident(s);
- Statement that Respondent is presumed not responsible and that a determination will not be made until the conclusion of the grievance process
- Statement that the parties have the right to an advisor of their choosing, who can be a parent/guardian or another individual who may, but is not required to be, an attorney and who may inspect and review evidence; and
- Statement that the Code of Conduct prohibits knowingly making false statements.
- **An offer of informal resolution.**

ASSISTING WITH EMERGENCY REMOVAL OR ADMINISTRATIVE LEAVE DECISIONS

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Emergency Removal: The Title IX Coordinator/designee and the campus administration/HR will determine whether a respondent should be removed on an emergency basis. The District must first undertake an individualized safety and **risk analysis** to determine whether an **immediate threat** to the physical health and safety of others, **arising from the alleged sexual harassment**, justifies removal.

*Title IX does not modify the rights of students with disabilities regarding change of placement under the Individuals with Disabilities Education Act and Section 504 still apply.

- Title IX Coordinator
- Campus Administrator
- **Threat Assessment Personnel**

SCENARIO: Locker Room Bums & Arses

Several of the school's soccer players are annoyed by a new student, Jan Maas, who has recently moved to the district from another country with different cultural norms. Jan is more direct when communicating with others and does not always appreciate the subtleties of local customs and relationships.

A handful of teammates decide to "take him down a notch" by holding him down and sticking something "up his bum."

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SCENARIO:

Relevant Policies: FFI/FFH

Action Needed: Students: 1) review policy – FFI or FFH? - both; 2) contact parents/student – offer info about FFH process; 3) contact law enforcement; 4) offer supportive measures; 5) determine whether immediate threat to physical health or safety of students

Documentation Required/Recommended: 1) supportive measures offered; 2) that reported to law enforcement; 3) whether FC filed; 3) if FC filed...

Retention of Documentation: At least 7 years (or 2 years passed 18)

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Emergency Removal: The Title IX Coordinator/designee and the campus administration/HR will determine whether a respondent should be removed on an emergency basis. The District must first undertake an individualized safety and **risk analysis** to determine whether an **immediate threat** to the physical health and safety of others, **arising from the alleged sexual harassment**, justifies removal.

*Title IX does not modify the rights of students with disabilities regarding change of placement under the Individuals with Disabilities Education Act and Section 504 still apply.

- Title IX Coordinator
- Campus Administrator
- **Threat Assessment Personnel**

SCENARIO:

Keeley and Jamie used to date. Jamie has “nudes” of Keeley. After they break up, Jamie sends the pics to other students who show them around school. Keeley’s new boyfriend, Roy, finds out about this and “avenges” Keeley’s honor by punching Jamie in the nose at school.

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SCENARIO:

What do about:

- Jamie
- Roy
- Keeley

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SCENARIO:

Relevant Policies: FFI/FFH

Action Needed: Students: 1) review policy – FFI or FFH? - both; 2) contact parents/student – offer info about FFH process; 3) contact law enforcement; 4) offer supportive measures; 5) determine whether immediate threat to physical health or safety of students

Documentation Required/Recommended: 1) supportive measures offered; 2) that reported to law enforcement; 3) whether FC filed; 3) if FC filed...

Retention of Documentation: At least 7 years (or 2 years passed 18)

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**DETERMINING WHETHER TO
DISMISS A FORMAL COMPLAINT**

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Title IX Discrimination Dismissal Form

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the sex of students in educational institutions that receive federal financial assistance. A Formal Complaint of sexual harassment must be dismissed if alleged conduct, even if proved, would not constitute sexual harassment, did not occur in a school district program or activity, or did not occur in the United States. A Formal Complaint may be dismissed if a Complainant notifies the Title IX Coordinator that he/she would like to withdraw the complaint or any of the allegations therein, the Respondent is no longer enrolled in the district, or specific circumstances prevent the district from gathering evidence sufficient to reach a determination.

COMPLAINANT

Case Number: _____

Complainant Name: _____

Email: _____

Complainant Address: _____

Respondent Name: _____

Email: _____

Respondent Address: _____

Dismissal Basis: _____

Reasoning: _____

Reasoning: _____

Reasoning: _____

Reasoning: _____

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Reasoning: _____

Dismissal Basis: (Check all that apply)

- Does not constitute sexual harassment
- Did not occur in the U.S.
- Respondent no longer enrolled in district
- Circumstances prevent the district from gathering evidence sufficient to reach a determination
- Did not occur in district program or activity
- Dismissal requested by Complainant

Reasoning for Dismissal: Describe the reasoning behind the dismissal of this complaint.

Name: _____ Date: _____
Title IX Coordinator/designee

Once signed, a copy of this dismissal form will be placed in the file for this complaint and sent to all parties involved.



The Title IX Coordinator is responsible for effective implementation of remedies.”

34 C.F.R. § 106.45(b)(7)(iv).

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What are examples of remedies?

- Not defined in Title IX
- No list of examples in regulations
- Money damages were removed as possible remedy in final rules

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Remedies - Purpose

Designed to restore or preserve the complainant's equal access to education

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Remedies for Complainants

- Supportive measures
- Counseling
- Opportunity to make up work, retake exams
- Change of class, lunch period, campus
- Escort on campus
- Increase security
- Training efforts

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Remedies for Complainants

- Disciplinary sanctions against respondent per the Student Code of Conduct (e.g., OSS, DAEP, expulsion)
- Removal of respondent from extracurricular activity/activities
- Unilateral no-contact order on respondent
- Other sanctions applicable to respondent

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The Department believes that a complainant entitled to remedies should not need to file an appeal to challenge the recipient's selection of remedies; instead, we have revised [the rules] to require that Title IX Coordinator be responsible for effective implementation of remedies. This permits a complainant to work with the Title IX Coordinator to select and effectively implement remedies designed to restore or preserve the complainant's equal access to education."

p. 940 = Commentary

Selection of Remedies Not Appealable

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Selection of Remedies Not Appealable

Bases for Appeal of Decisions

- **Procedural irregularity**
- **Bias or conflict of interest**
- **That affected the outcome**

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Written Determination must include



- any sanctions the recipient imposes on the respondent; and
- whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided to the complainant

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REMEDIES



- Shared with complainant – complainant's remedies and respondent's sanctions
- Shared with respondent – sanctions and whether remedies were provided to complainant (not details of the remedy, unless the sanctions overlap with remedies)

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POSTING TRAINING MATERIALS

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What to post:

- Notice of non-discrimination policy
- Title IX Coordinator's contact information
- Links to FFH and DIA – LEGAL, LOCAL, EXHIBIT, REGULATIONS
- Training materials used to train T9 Coordinator, Investigators, Decision-Makers, Facilitators

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Permission from the copyright holder should be obtained, but failure to obtain permission does not relieve a district from the requirement to post.

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Where to post:



- Non-discrimination policy and Title IX Coordinator's contact information must be prominently displayed.
- There is no requirement that the materials be on the homepage or linked to the homepage.

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Where to post:

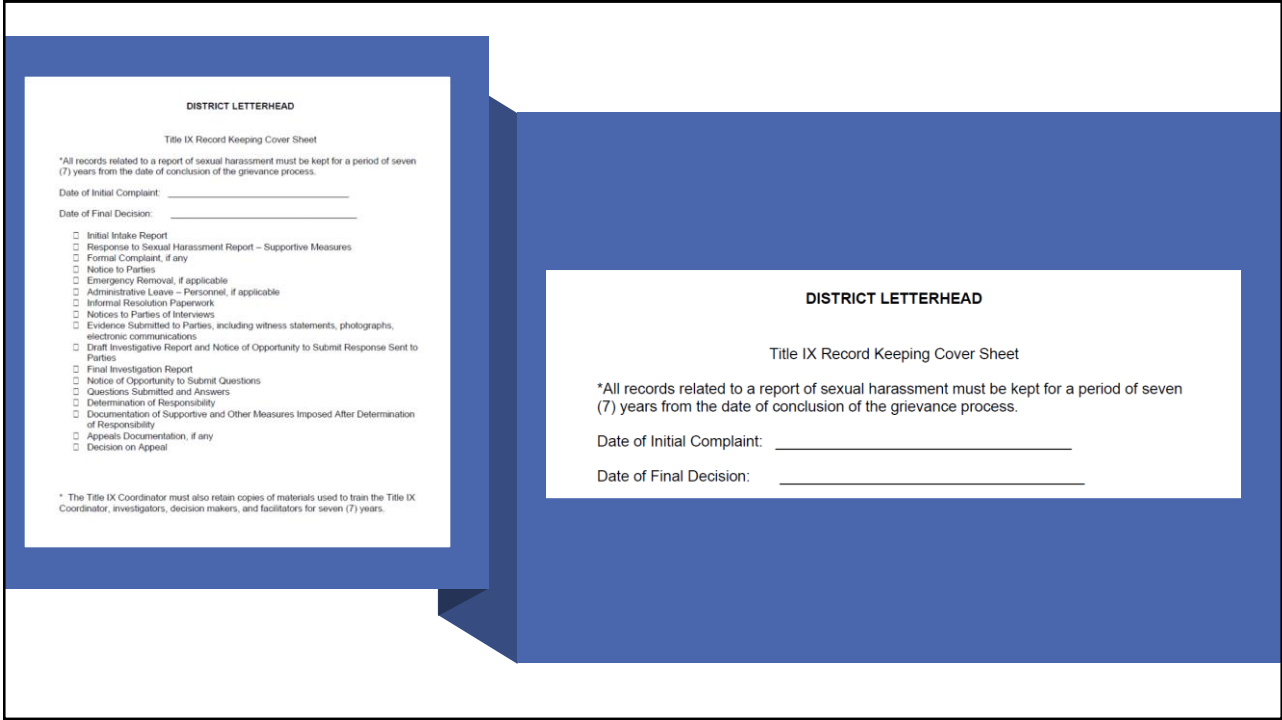


- There is no requirement to have a section of the website dedicated to Title IX requirements.
- There is no requirement that Title IX information be located on multiple pages of a district's website.
- Title IX information could be added as a drop-down option in any of the following areas: Required Notices, Public Information, Departments, Students, Employees, Community

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RECORD KEEPING

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U.S. Department of Education - 2020

- Overview of New Rule
- Fact Sheet
- Summary of New Rules
- Comparison to Proposed Rules

Resources for Title IX Coordinators

Search...

Student Loans Grants Laws Data

ARCHIVED INFORMATION

Secretary DeVos Announces New, Proactive Civil Rights Compliance Center within Office for Civil Rights

'OPEN Center' will focus on Outreach, Prevention, Education and Non-discrimination to Promote Equal Access in Education

JANUARY 21, 2020

Contact: Press Office, (202) 401-1576, press@ed.gov

WASHINGTON — U.S. Secretary of Education Betsy DeVos announced today that the Office for Civil Rights (OCR) at the U.S. Department of Education will launch the *Outreach, Prevention, Education and Non-discrimination (OPEN) Center* to focus on proactively ensuring compliance with federal civil rights laws. The OPEN Center will provide assistance and support to schools, educators, families, and students to ensure better awareness of the requirements and protections of federal non-discrimination laws.

"The creation of the OPEN Center is yet another example of this Department's focus on supporting school districts, colleges, and those closest to students," said Secretary DeVos. "The OPEN Center underscores OCR's efforts to support all schools and provide technical assistance to help them come into compliance with federal civil rights law *prior* to the filing of a complaint. This agency will continue supporting school districts and colleges by working with them cooperatively to ensure that every child has access to a quality education."

While OCR typically enforces federal civil rights laws through the traditional complaint-resolution process, OCR will, through the provision of targeted support to recipient institutions and the public, also be able to work more proactively—prior to the filing of

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Office for Civil Rights Blog

THE DEFINITION OF SEXUAL HARASSMENT UNDER THE TITLE IX RULE PROVIDES CLARITY TO SCHOOLS

October 7, 2020



The new Title IX Rule went into effect on August 14, 2020. Since that time, the Office for Civil Rights (OCR) has received inquiries regarding the definition of sexual harassment under the Final Rule. All references and citations are to the unofficial version of the Title IX Rule, which is available [here](#). A link to the official version of the Rule published in the Federal Register is [here](#).

Sexual harassment under Section 106.30 of the new Title IX Rule (found in the Code of Federal Regulations at 34 C.F.R. Part 106) means conduct on the basis of sex in an education setting that satisfies one or more of the following:

[Previous Blogs](#)

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<https://www2.ed.gov/about/offices/list/ocr/blog/index.html>

The information in this handout was prepared by Eichelbaum Wardell Hansen Powell & Muñoz, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If special legal advice is sought, consult an attorney.



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