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Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Sessions 1-3



Facilitated by Alesha Arscott, CEO | Unleashed
July 30, 2024



Unleashed



COLORADO LEAGUE of
CHARTER SCHOOLS

Welcome!



Please share:

- ✓ Name | School | Position
- ✓ One word to describe how you are entering today OR when you think of Title IX ☺?
- ✓ What do you hope to get out of our Title IX sessions?



Exploration

- Jamaican flag
- Charter Schools USA
- NSU (Northwest School Union) logo with a shark
- Charter School Growth Fund
- Gallup Certified Strengths Coach
- Unleashed logo
- Federal Reserve Bank of St. Louis logo
- Aspire Public Schools logo
- Colorado League of Charter Schools logo

Equipping

- Image of a purple and yellow bull mascot
- Image of a group of dancers in colorful traditional attire

Flow

- STRIVE Preparatory Schools logo
- Kolbe Certified logo
- Heights logo

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Welcome!

Alesha Arcscott
CEO/Founder Unleashed

- Founder and CEO of Unleashed
- 20+ years experience in K-12 education
- Former Chief Talent Officer and Senior Director of Strategy
- Helped facilitate the growth of a charter operator from 5 to 76 schools in 7 states.
- Consultant with the League conducting board trainings and strategic planning facilitation for the past two years.

**Title IX
NEW 2024 Final
Regulations**

- Title IX Coordinator Training
- Investigator Training
- Decision-Maker Training
- Board Training
- Training Modules for Staff, Parents & Students



Welcome!



Title IX Coordinator Training:

- We will provide everything K-12 Charter School Title IX Coordinators need to know, including:
 - Policy development
 - Program maintenance
 - Staffing the Title IX program
 - Coordinating resolutions
 - Managing investigations
 - Record keeping
- (6) 90-minute training sessions in two days
- Certification of training issued by CLCS upon completion.
- Incorporates 2024 Title IX Final Regulations



Agenda (TWO DAYS)



DAY 1: July 30, 2024

DAY 2: July 31, 2024

- | | |
|---|---|
| <p>01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures</p> <p>02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews</p> <p>03 Considerations for Specific Student Populations & Trauma-Informed Approaches</p> | <p>04 Managing Informal Resolutions</p> <p>05 Managing Formal Resolutions, including Best Practices for Investigations</p> <p>06 Record Keeping and External Complaints to the Department of Education</p> |
|---|---|



Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures



01 Overview of Title IX

Welcome & Introductions
Brief History of Title IX
The August 2024 Title IX Regulations
Summary of Changes from 2020 to 2024

02 Title IX Coordinator Responsibilities

The Title IX Coordinator
Who can be a Title IX Coordinator?
Core Responsibilities
Responsibilities During the Complaint Process

03 Building a Title IX Program

Responsibilities vis-à-vis the school district?
Building a Program
Designate Qualified Staff
Develop and Publish Policies
Community Training and Education
Establish Investigation Processes and Protocols
Appropriate Investigation Resources

04 Developing Title IX Policies & Programs

Remote/Online Instruction
Address Mandatory Reporting Requirements
Establish Investigation Processes and Protocols
Key Provisions
Build a Culture of Compliance

05 Helpful Links

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Overview of Title IX



Unleashed

A Brief History of Title IX



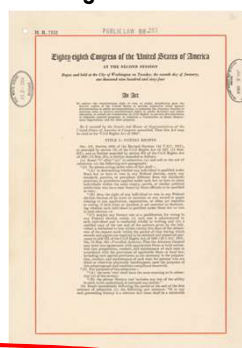
1963



Pres. John F. Kennedy

- Guarantee equal treatment of every American regardless of race
- Consider civil rights legislation that would address:
 - Voting rights
 - Public accommodations
 - School desegregation
 - Nondiscrimination in federally assisted programs

Civil Rights Act of 1964



July 2, 1964



Pres. Lyndon Johnson

OUTLAWED

- Segregation in businesses and public places
- **Employment discrimination** based on race, color, religion, **sex**, national origin, disability or age in hiring, promoting, firing, setting wages, testing, training, apprenticeship, and all other terms and conditions of employment

1972: Outlawed sex-based discrimination in schools

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 education program or activity receiving Federal financial assistance."

Civil Rights Act of 1964

Title IX of the 1972 Educational Amendments to the Civil Rights Act of 1964



"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."

- Federal law passed in 1972 as a part of Educational Amendments to the 1964 Civil Rights Act
- Protects students, employees, applicants, and participants in the schools education programs or activities
- Applies to academic and non-academic activities, such as sports and extra-curricular programs
- Prohibits sex discrimination and sex-based harassment, including sexual harassment and sexual violence.
- "Receiving Federal financial assistance" means it is enforced against all public schools, including charter schools (see Resource 1 - May 2014 DCL)
- Enforced by the US Department of Education (DOE) Office of Civil Rights (OCR)

Anti-discrimination and harassment laws that apply to charter schools in Colorado



1964 Civil Rights Act

Prohibits discrimination on the basis of...

- Title VI: **race, color, national origin**
- Title IV: **religion**
- Title VII (employment based): **sex/gender, race, color, national origin, creed, religion, pregnancy**
- **Title IX of the Education Amendments.** Sex-based harassment now includes:
 - discrimination based on sex stereotypes
 - sex characteristics
 - pregnancy or related conditions
 - sexual orientation
 - gender identity

Section 504 of the Rehabilitation Act & the Americans with Disabilities Act

Prohibits discrimination on the basis of **disability**

Age Discrimination Act and Age Discrimination in Employment Act

- Prohibit discrimination on the basis of **age**

Colorado Anti-Discrimination Act

Prohibit discrimination on the basis of **all the statuses listed previously:**

- **Sex** (including sexual orientation, gender identity & gender expression)
- **Race, color, creed, national origin, religion**
- **Disability**
- **Age**
- **Marital status and family status**

These laws are enforced by various governmental agencies



- **U.S. Department of Education's Office of Civil Rights (OCR)**
- U.S. Department of Justice (DOJ)
- U.S. Equal Employment Opportunity Commission (EEOC)
- Colorado Civil Rights Division (CCRD)

Turn & Talk



What are some of the noticeable impacts of Title IX since its inception?

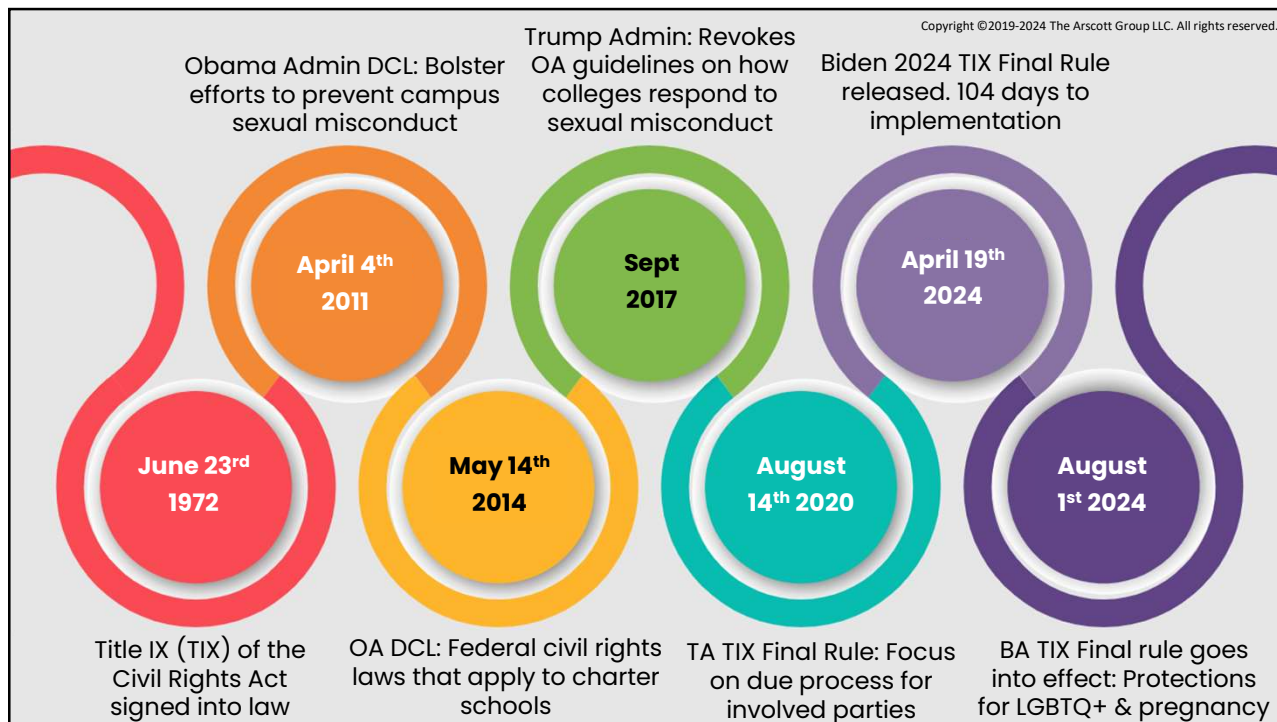


Impact of Title IX



Area	Before Title IX (1972 & Before)	After Title IX (1972 Onward)
High School Sports	7% participation rate*	41.5% participation rate by 2021 (Over 800% increase)*

[Source: Feminist Majority Foundation]



Title IX Final Rule Effective August 1, 2024



- **Issued April 19, 2024**
- **Effective August 1, 2024:** The regulations apply to complaints of sex discrimination regarding incidents occurring on or after that date.
 - Applies to incidents that occur **on or after Aug 1st 2024**
 - Incidents that occurred **prior to Aug 1st 2024** must use the 2020 policy and procedures, regardless of when the incident is reported
- **Flexibility:** Provides more flexibility for structuring and staffing grievance procedures
- **Expands Protections:** The new Title IX ruling widens protections against all forms of sex-based harassment, including sexual violence and discrimination based on pregnancy, sex stereotypes, sexual orientation, gender identity, and sex characteristics.
- **Requires Prompt Action:** Schools must take prompt and effective actions to address any reported sex-based discrimination within their programs and activities. This includes preventing future occurrences and remedying past effects.
- **Fair and Transparent Process:** Requires schools to establish a fair, transparent, and reliable grievance process with trained, unbiased decision-makers who consider all relevant evidence.

3. Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024

Provision	2024 Final Rule
Definition of Title IX	Adult and certain activities, including complaints, complaints, responses, and party, confidential employees, disciplinary actions, responses or related conditions, actions, incidents, conditions and your institution, on board, harassment, and supportive measures.
Right of fair representation	Clarifies that a respondent must comply with Title IX and the final regulations in the event of a conflict with their law or FERPA, and that Title IX and the final regulations do not create any legal right of person, position, or other individual right representative to act on behalf of a complainant, respondent, or other party.
Administrative requirements	Clarifies requirements for developing a Title IX Coordinator, adopting and publishing nondiscrimination policies and grievance procedures, and providing a notice of nondiscrimination (19A-800.10). Clarifies which individuals, including those on Title IX and provides requirements for such training, which may be based on an individual's role.
Scope of sex discrimination	(19A-800.10) Clarifies that Title IX applies to all sex-based harassment, including sexual violence, sexual harassment, pregnancy or related conditions, sexual orientation, and gender identity. (19A-800.10) Also clarifies that sex-based harassment includes harassment on-line based and further clarifies when sex-based harassment creates a hostile environment. (19A-800.10)
Sex harassment and grievance procedures	Clarifies that Title IX applies to all sex discrimination occurring under a recipient's education program or activity in the United States and prohibits additional final rules that would be contrary. Also clarifies that a recipient has an obligation to address a sex-based hostile environment under its education program or activity even when some conduct related to the hostile environment occurred outside the recipient's education program or activity or outside the United States.
Sex harassment and grievance procedures	Clarifies that a recipient must not separate or treat any person differently based on sex in a manner that subjects them to more than a de minimis harm, except in the limited specified circumstances permitted by Title IX. Recognizes that processing a grievance from participating in a recipient's education program or activity consistent with their gender identity, which may include their sex assigned at birth.
Sex harassment and grievance procedures	Clarifies that a recipient must not separate or treat any person differently based on sex in a manner that subjects them to more than a de minimis harm, except in the limited specified circumstances permitted by Title IX. Recognizes that processing a grievance from participating in a recipient's education program or activity consistent with their gender identity, which may include their sex assigned at birth.
Sex harassment and grievance procedures	Clarifies that a recipient must not separate or treat any person differently based on sex in a manner that subjects them to more than a de minimis harm, except in the limited specified circumstances permitted by Title IX. Recognizes that processing a grievance from participating in a recipient's education program or activity consistent with their gender identity, which may include their sex assigned at birth.



Key Terms

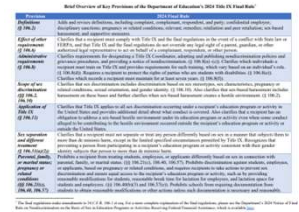


- **Recipient:** The School – the entity that “receives” federal funding
- **Complaint:** An oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX.
- **Complainant or Complainant Party** (*not “victim”*): A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX.; **OR**

A person other than a student or employee who was participating or attempting to participate in the recipient’s education program or activity at the time of the alleged sex discrimination.

- **Respondent or Responding Party** (*not “accused” or “perpetrator”*): A person who is alleged to have violated the recipient’s prohibition on sex discrimination.
- **Witnesses or Involved Parties:** Individuals with information about the issue/event

Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024



Essential Question



How are we going to respond to complaints of sex discrimination moving forward?

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Summary of Changes from 2020 to 2024



Changes to scope and jurisdiction



Changes to reporting obligations



Changes to the grievance procedure



Changes to training requirements



2020→2024 Changes to Scope & Jurisdiction

2020

2024



Clarifying Scope of Sex Discrimination

Discrimination on the basis of **sexual orientation and gender identity not defined under Title IX 2020 Final Rule**



Sex discrimination includes discrimination based on:

- Sex stereotypes,
- sex characteristics,
- pregnancy or related conditions,
- sexual orientation, and
- gender identity

Defining Sex-Based Harassment

Primarily addressed **sexual harassment**



Sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including:

- Quid pro quo harassment (this for that)
- Sexual assault, dating/domestic violence, stalking
- **Hostile environment harassment**


Hostile Environment Harassment

Prohibits unwelcome sex-based conduct only if it is **"so severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity."




Prohibits unwelcome sex-based conduct that, **based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive** that it **limits** or denies a person's ability to participate in or benefit from the recipient's education program or activity.

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2020→2024 Changes to Scope & Jurisdiction



2020

Jurisdiction: Discrimination Occurring Under the School's Program


Schools have jurisdiction and must act on reports or complaints **If harassment occurs within a school activity or program.**

→


2024

Jurisdiction: Discrimination Occurring Under the School's Program

Under the final regulations, **the school is required to address** a sex-based hostile environment in its education program or activity in the United States, even when some conduct alleged to be contributing to the hostile environment **occurred outside the school's education program or activity or outside the United States.**




Pregnancy or Related Conditions



Since 1975, the Title IX regulations have required that schools not discriminate based on pregnancy or related conditions, including childbirth, termination of pregnancy, and recovery.

The final regulations update these existing protections and clarify that a recipient **must protect students, employees, and applicants** from discrimination based on pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery, including by **providing reasonable modifications for students, reasonable break time for employees for lactation, and a clean, private lactation space for both students and employees.**



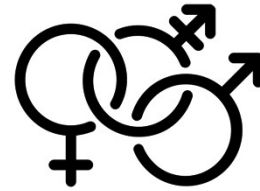


Sexual Orientation & Gender Identity



State Law Status:

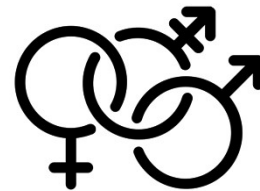
- Colorado is one of 22 states that recognizes protections on the basis of sexual orientation and transgender status through the Colorado Anti-Discrimination Act (2013).
- “Public accommodations” include public schools.
- Transgender protections in schools have developed over time:
 - Uses of bathroom, locker room and other facilities
 - Extracurricular activities
 - Sports
 - Preferred Names



Sexual Orientation & Gender Identity



- A 2015 survey found that **47% of transgender people are sexually assaulted** at some point in their lifetime
- **More than eight in ten LGBTQ students experienced harassment or assault** at school.
- A 2018 study found that **57.3 percent of LGBTQ students were sexually harassed** at school during the past year.
- The same study found that **86% percent of high school transgender individuals had experienced a form of sexual violence** due to their gender identity, often perpetrated by other students.
- **Twenty-two percent of lesbian, gay, and bisexual youth have experienced sexual violence**, more than double the rate reported by heterosexual youth.





Sexual Orientation & Gender Identity



At the federal level, there has been a lot of turbulence over the past ten years regarding what protections students have in terms of transgender status. The Biden administration provided some guidance in the 2024 Title IX Final Rule:

- **Prohibits a school from separating or treating any person differently based on sex** in a manner that subjects that person to more than de minimis harm (a very minor inconvenience), except in the limited circumstances where the statute allows otherwise, such as in the context of sex-separate living facilities and sex-separate athletic teams.
- **Policies and practices that prevent a student from participating based on their gender identity are considered discrimination.**
- There will be **separate rules for how Title IX applies to sex-separated athletic teams.**



Summary of Changes from 2020 to 2024



Changes to scope and jurisdiction



Changes to reporting obligations



Changes to the grievance procedures



Changes to training requirements

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Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024


Section	Summary of Major Provisions
Scope and Jurisdiction	The Final Rule expands the scope of Title IX to include all federal agencies and contractors, and clarifies the jurisdiction of the Department of Education's Office for Civil Rights (OCR) over these entities.
Reporting Obligations	The Final Rule clarifies the reporting obligations of federal agencies and contractors, including the requirement to report incidents of sexual harassment and sexual violence to OCR.
Grievance Procedures	The Final Rule clarifies the grievance procedures for federal agencies and contractors, including the requirement to provide a fair and equitable process for resolving complaints.
Training Requirements	The Final Rule clarifies the training requirements for federal agencies and contractors, including the requirement to provide training on Title IX to all employees and contractors.

Summary of Major Provisions of Title IX regulations in effect August 14, 2020

Section	Summary of Major Provisions
Scope and Jurisdiction	The 2020 Final Rule limited the scope of Title IX to federal agencies and contractors, and clarified the jurisdiction of the Department of Education's Office for Civil Rights (OCR) over these entities.
Reporting Obligations	The 2020 Final Rule clarified the reporting obligations of federal agencies and contractors, including the requirement to report incidents of sexual harassment and sexual violence to OCR.
Grievance Procedures	The 2020 Final Rule clarified the grievance procedures for federal agencies and contractors, including the requirement to provide a fair and equitable process for resolving complaints.
Training Requirements	The 2020 Final Rule clarified the training requirements for federal agencies and contractors, including the requirement to provide training on Title IX to all employees and contractors.




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2020

Changes to Reporting Obligations

2024



Responding to Sex Discrimination

Schools must act on reports or complaints if a school employee has **actual knowledge** of **sexual harassment**.


School must **not act with "deliberate indifference"** towards a complaint or report.

→


A school with knowledge of conduct that **reasonably may constitute sex discrimination** in its education program or activity **must respond promptly and effectively**.

A school **must also take the actions to address sex discrimination** in its education program or activity.

- Ensure schools learn of possible sex discrimination
- Respecting the complainant's autonomy
- The Title IX Coordinator's response to sex discrimination




Ensuring schools learn of possible sex discrimination



Requires certain employees to notify the Title IX Coordinator when the employees have information about conduct that reasonably may constitute sex discrimination. This ensures that a recipient learns of possible sex discrimination so it can operate its education program or activity free from prohibited sex discrimination as Title IX requires.

- Any **non-confidential employee** at an elementary or secondary school must notify the Title IX Coordinator when they have information about conduct that may reasonably constitute sex discrimination.
- Note that elementary school and secondary school employees may have **additional obligations** under Federal, State, or local law **to report sex-based misconduct**, such as *Child Abuse Mandatory Reporting*.

School must also require its Title IX Coordinator to monitor its education program or activity for **barriers to reporting** information about conduct that reasonably may constitute sex discrimination and take steps reasonably calculated to **address such barriers**.





Child Abuse Mandatory Reporting Requirements



- C.R.S. § 19-3-304 sets forth statutory requirements for reporting child abuse or neglect. <https://leg.colorado.gov/sites/default/files/images/olls/crs2016-title-19.pdf>
- Applies to public school employees and officials, **including Board members**
- Mandates reporting of suspected child abuse
- To whom do you report?
 - Local law enforcement
 - County Department of Human Services
 - Colorado Child Abuse & Neglect Hotline 1-844-CO-4-KIDS or
 - Online training available at <https://co4kids.org/>



Respecting the Complainant's Autonomy



To ensure that a recipient's education program or activity is free from sex discrimination while also respecting complainant autonomy, the final regulations require a recipient to **provide clear information and training on when their employees must notify the Title IX Coordinator** about conduct that reasonably may constitute sex discrimination and **how students can seek confidential assistance or make a complaint** of sex discrimination requiring the recipient to initiate its grievance procedures.

3 categories of **confidential employees** are NOT required to notify the Title IX Coordinator when they have information. Instead, they must provide information to anyone who informs the confidential employee of conduct that reasonably may constitute sex discrimination about their status as confidential for purposes of Title IX, how to contact the Title IX Coordinator, how to make a complaint, and how the Title IX Coordinator can help.

A complainant is also protected in their **right to make a complaint about sex discrimination they experienced even if they have chosen to leave** the recipient's education program or activity as a result of that discrimination or for other reasons.

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, **the Title IX Coordinator may initiate a complaint only if the conduct presents an imminent and serious threat** to someone's health or safety or prevents the recipient from ensuring equal access based on sex to its education program or activity.

Employees & Students know the role & contact info for **confidential employees**

Employees & Students know that all **non-confidential employees** must notify the T9 Coord of conduct that reasonably may constitute sex discrimination

Students (and parents, guardians, authorized legal reps) **know how to make a complaint**

A recipient knows to **honor a complainant's request** not to proceed with a complaint...

3 Categories of Confidential Employees



There are **three categories of confidential employees who are not required to notify the Title IX coordinator**—(1) an employee whose communications are privileged or confidential under federal or state law; (2) an employee designated as confidential for the purpose of providing services to persons related to sex discrimination; and (3) an employee who is conducting an institutional review board-approved human-subjects research study designed to gather information about sex discrimination.

Exceptions: Confidential Employees: There might be a limited number of designated confidential employees at a K-12 school, such as counselors, social workers, or religious advisors. People who disclose information to these confidential employees typically do so with the expectation that the information will be kept private, unless there are specific legal exceptions that require disclosure (e.g., danger to self or others).

Core Responsibilities of a Title IX Coordinator





The Title IX Coordinator's response to sex discrimination



A school **with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively** upon being notified:

- **Treat the complainant and respondent equitably.**
- **Offer and coordinate supportive measures**, as appropriate, for the complainant. If the recipient has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures as appropriate, for the respondent.
- Notify the complainant, respondent, and/or the individual who reported the conduct, of the **grievance procedures and the informal resolution process**, if available and appropriate.
- In response to a complaint, **initiate the recipient's grievance procedures or informal resolution process**, if available and appropriate.
- In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, make a **fact-specific determination...whether the conduct as alleged presents an imminent and serious threat** to the health or safety of a complainant or other person or prevents the recipient from ensuring equal access based on sex to its education program or activity such that the Title IX Coordinator may initiate a complaint.



The Title IX Coordinator's response to sex discrimination cont'd

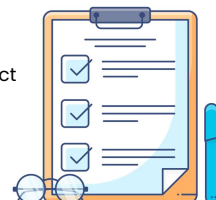


Under the final regulations, **a recipient with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively.** The final regulations provide that a recipient must require its Title IX Coordinator (or a designee) to take the following actions upon being notified of conduct that reasonably may constitute sex discrimination:

- **If the Title IX Coordinator initiates a complaint, notify the complainant prior to doing so** and appropriately address reasonable concerns about the complainant's safety or the safety of others.
- Regardless of whether a complaint is initiated, **take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur** within the recipient's education program or activity, in addition to providing remedies to an individual complainant.

The final regulations require a recipient to **offer and coordinate supportive measures for the parties** as appropriate to restore or preserve each person's access to the recipient's education program or activity or provide support during the recipient's grievance procedures or during the informal resolution process.

- **Supportive measures cannot be unreasonably burdensome** to a party and cannot be imposed for punitive or disciplinary reasons.
- Supportive measures may include, for example, counseling, extension of deadlines, restrictions on contact applied to one or more parties, and changes in class, work, or housing.





Recognize & Overcome Reporting Barriers



Recognize Reporting Barriers	Overcoming Reporting Barriers
<ul style="list-style-type: none"> • Difficulty in reporting (unclear or unpublished policies) • Resources are hard to find • Embarrassment • Fear • Concerns about retaliation • Perceived lack of interest from the school 	<ul style="list-style-type: none"> • Clear, understandable policies • Policies clearly prohibit retaliation • Easily accessed resources (through website, trainings, etc.) • Confidential processes • Training about Title IX and school's compliance program • Consistency in process and treatment • Reliability

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Summary of Changes from 2020 to 2024



Changes to scope and jurisdiction



Changes to reporting obligations



Changes to the grievance procedures

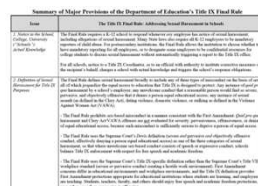


Changes to training requirements

Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024



Summary of Major Provisions of Title IX regulations in effect August 14, 2020





Changes to the Grievance Procedures



The final regulations modify **requirements for grievance procedures for complaints of sexual harassment set out in the 2020 amendments and apply them to all complaints of sex discrimination** with specific changes that take into account the age, maturity, and level of independence of students in various educational settings, the particular contexts of employees and persons other than students or employees, and the need to **ensure that a recipient's grievance procedures include basic and essential requirements for fairness and reliability for all parties.**

- Title IX staffing & the reintroduction of the single investigator model
- Adopting grievance procedures in writing
- Informal resolutions
- Formal grievance process
- Retaliation

Develop & Publish Policies



New! Effective Aug 1, 2024



Your grievance policy & procedure will need to be updated!

- **Commit to provide a safe learning and work environment.**
- **Commit to treat all members of the school community with dignity and respect.**
- Identify that the **school is subject to all federal and state laws** and constitutional provisions prohibiting discrimination on the basis of sex.
- Can be a part of a broader nondiscrimination policy
- **Outline how the school will address concerns regarding unlawful sex-based harassment**, and any related retaliation for having engaged in activity protected by the civil rights laws that prohibit sex discrimination.
- **Use of a preponderance of the evidence standard of proof** to determine whether sex discrimination occurred, unless the clear and convincing evidence standard is used in all other comparable proceedings, in which case that standard may be used.
- **Must prohibit retaliation**, including peer retaliation, and must respond to conduct that reasonably may constitute retaliation using the same procedures it uses for other forms of sex discrimination.



7. Non-discrimination Policy & Grievance Procedures Example



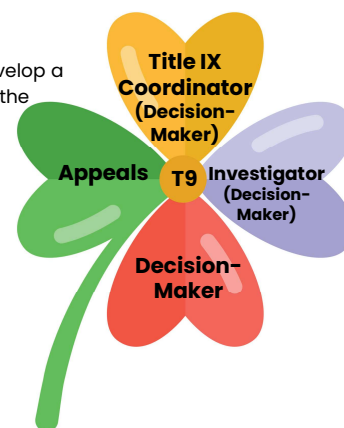


Title IX Staffing – Is your school properly resourced?



- **Title IX Coordinator** – Develop and implement the Title IX program
- **Investigator(s)** – The person who gathers information and interviews people to find out what happened.
- **Decision-Maker(s)** – The person who decides whether someone broke the rules, based on the information gathered.
 - **The Title IX Coordinator and/or the Investigator CAN be a decision-maker** (Single Investigator Model)
 - **If the investigator and decisionmaker are different individuals**, the entity must develop a process that allows the decisionmaker to question the parties and all witnesses for the purpose of determining credibility when credibility is in dispute and relevant.
- **Appeals** – someone well placed in the organization to review the decision.
- **Informal Resolution Facilitator(s)**: Can be the Title IX Coordinator or other staff

These positions **must not have conflicts of interest or bias**. The school must commit to training these staff members for their roles! CLCS has trainings for Coordinator, Investigator, and Decision-Maker roles.



Adopting Grievance Procedures in Writing



- Recipients are required to:
 - Adopt, publish, and implement a **nondiscrimination policy** and **publish a notice of nondiscrimination**.
 - Adopt, publish, and implement **grievance procedures** for complaints of sex discrimination.
- Grievance procedures must incorporate the following requirements:
 - **Equitable treatment** of complainants and respondents.
 - Title IX Coordinator, investigators, and decisionmakers **must not have conflicts of interest or bias**.
 - **Presumption that the respondent is not responsible for the alleged conduct until a determination whether sex discrimination occurred** is made at the conclusion of the recipient's grievance procedures.
 - Reasonably prompt **timeframes** for all major stages.
 - Reasonable steps to protect **privacy** of parties and witnesses.
 - Objective evaluation of all relevant and not otherwise impermissible **evidence**.
 - **Notice of allegations** to the parties.
 - **Dismissals** permitted in certain circumstances
 - **Consolidation** permitted for complaints arising out of the same facts or circumstances.
 - **Investigation** requirements
 - **An appeal process** that, at a minimum, is the same as the recipient offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints.
 - Parties are permitted to choose to participate in an **informal resolution process** if one is provided by the recipient.



Informal Resolutions



Informal Resolutions: Voluntary agreements between the complainant (accuser) and respondent (accused) to address a reported incident of sex discrimination outside of a formal investigation.

The school can offer an informal resolution process if appropriate whenever it receives a complaint of sex discrimination or has information about conduct that reasonably may constitute sex Discrimination.

- Participation in informal resolution **must be voluntary**.
- Parties are **permitted to choose to participate in an informal resolution process** if one is provided by the school.
- **Informal resolution is not permitted in situations in which an employee allegedly engaged in sex-based harassment of an elementary school or secondary school student** or if such a process would conflict with Federal, State, or local law.

	Student to Student	Student to Employee	Employee to Student	Employee to Employee
Informal Resolution?	Yes	Yes	No	Yes
Formal Resolution	Yes	Yes	Yes - mandatory	Yes

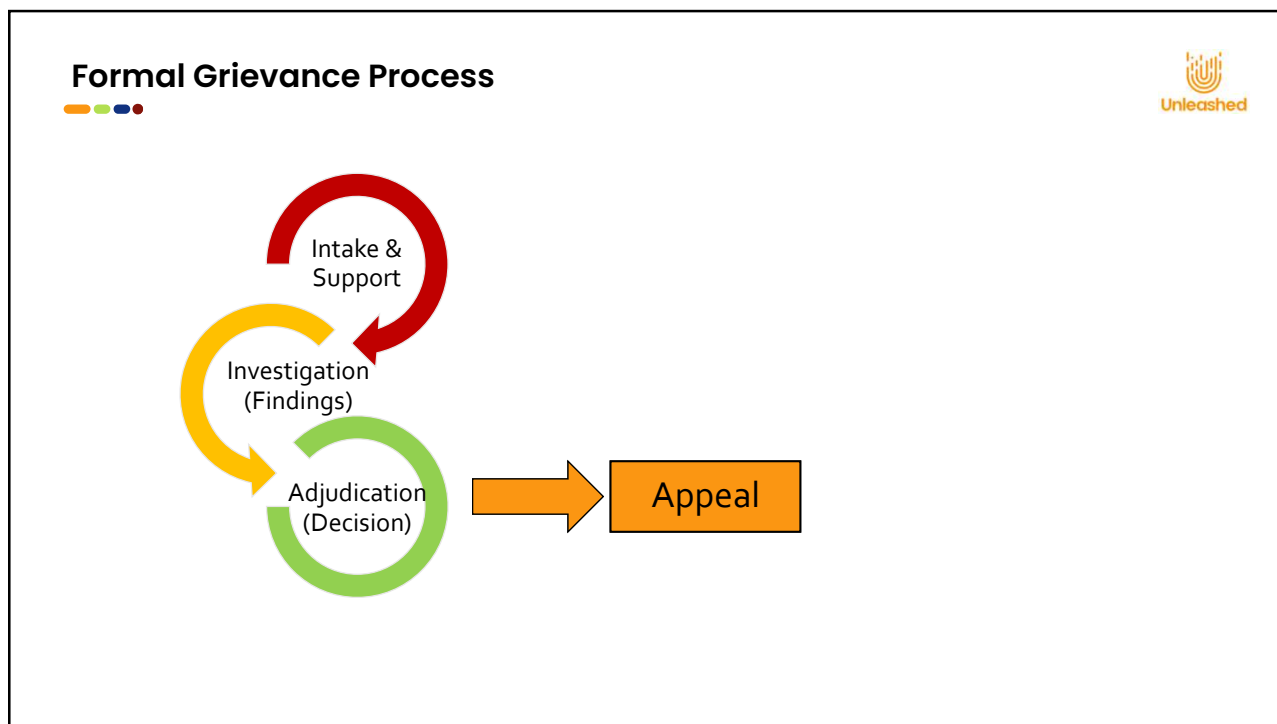


Informal Resolutions



- Schools are **explicitly prohibited from requiring students or employees to waive their right to a formal grievance process** as a condition of enrollment or employment or enjoyment of any other right;
- Schools are **explicitly prohibited from requiring the parties to participate in an informal resolution process**
- A School **may not offer informal resolution unless a formal complaint is filed**
- **Either party has the right to withdraw from informal resolution** and resume a grievance process at any time before agreeing to a resolution; and
- Schools are **categorically prohibited** from offering or facilitating an **informal resolution process to resolve allegations that an employee sexually harassed a student.**





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Changes to the grievance procedure

#	Topic Area	2020	2024
3	Retaliation	Prohibit retaliation; they do not include definitions of either "retaliation" or "peer retaliation."	<p>The final regulations require a recipient to prohibit retaliation, including peer retaliation, and respond to information and complaints involving conduct that reasonably may constitute retaliation using the same procedures it uses for other forms of sex discrimination.</p> <ul style="list-style-type: none"> • Retaliation is defined as intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or the regulations, or because the person has reported possible sex discrimination, made a sex-discrimination complaint, or participated or refused to participate in any way in a recipient's Title IX process. • Peer retaliation, which is defined as retaliation by one student against another student, is also prohibited. • The final regulations clarify that nothing in the regulations precludes a school from requiring an employee or other person authorized by a school to provide aid, benefit, or service under the school's education program or activity to participate as a witness in, or otherwise assist with, a Title IX investigation, proceeding, or hearing.

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Summary of Changes from 2020 to 2024



Changes to scope and jurisdiction



Changes to reporting obligations



Changes to the grievance procedures



Changes to training requirements



Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024



Summary of Major Provisions of Title IX regulations in effect August 14, 2020



Changes to Training Requirements

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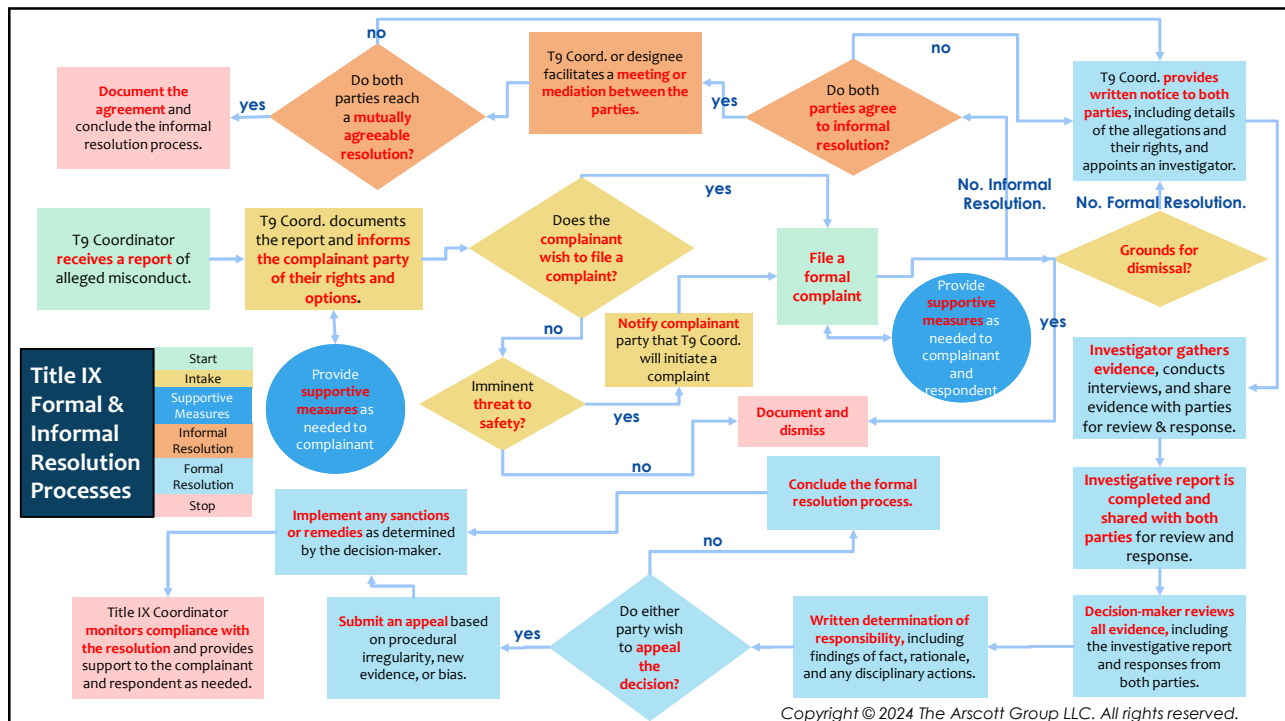


#	Personnel Group	2024
1	All employees	<ul style="list-style-type: none"> LEA's obligation to address sex discrimination. Scope of sex discrimination under Title IX (including "sex-based harassment" definition). Notification and information requirements.
2	Investigators/Decision-Makers/Grievance Personnel	<ul style="list-style-type: none"> Recipient's obligations under Title IX. Grievance procedures. Maintaining impartiality. Understanding "relevant" evidence. Impermissible evidence.
3	Informal Resolution Facilitators	<ul style="list-style-type: none"> Rules and practices of informal resolution process. Maintaining impartiality.
4	Title IX Coordinators & Designees	<ul style="list-style-type: none"> Specific Title IX Coordinator responsibilities. School's recordkeeping system (Title IX specific). Additional training for Title IX compliance.

Previous 2020 Requirements that Remain in Effect



- Regulations still apply to sexual assault, dating violence, domestic violence, and stalking based on sex;
- The notice of allegation requirements remain the same;
- Employee respondents may still be placed on paid administrative leave in accordance with state law and district policy during the investigation;
- All records must be maintained for seven years; and
- The grievance policy still must be in writing.



BREAK



Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures



01

Overview of Title IX

Welcome & Introductions
Brief History of Title IX
The August 2024 Title IX Regulations
Summary of Changes from 2020 to 2024

02

Title IX Coordinator Responsibilities

The Title IX Coordinator
Who can be a Title IX Coordinator?
Core Responsibilities
Responsibilities During the Complaint Process

03

Building a Title IX Program

Responsibilities vis-à-vis the school district?
Building a Program
Designate Qualified Staff
Develop and Publish Policies
Community Training and Education
Establish Investigation Processes and Protocols
Appropriate Investigation Resources

04

Developing Title IX Policies & Programs

Remote/Online Instruction
Address Mandatory Reporting Requirements
Establish Investigation Processes and Protocols
Key Provisions
Build a Culture of Compliance

05

Helpful Links

Title IX Coordinator Responsibilities



Turn & Talk



What are the duties and responsibilities of the Title IX Coordinator?





Session 1 Handouts

1. May 2014 Charter School Dear Colleague Letter (DCL) regarding Federal Civil Rights Laws

2. Summary of Major Provisions of Title IX regulations in effect August 14, 2020

3. Summary of Major Provisions of Title IX Final Rule in effect August 1, 2024

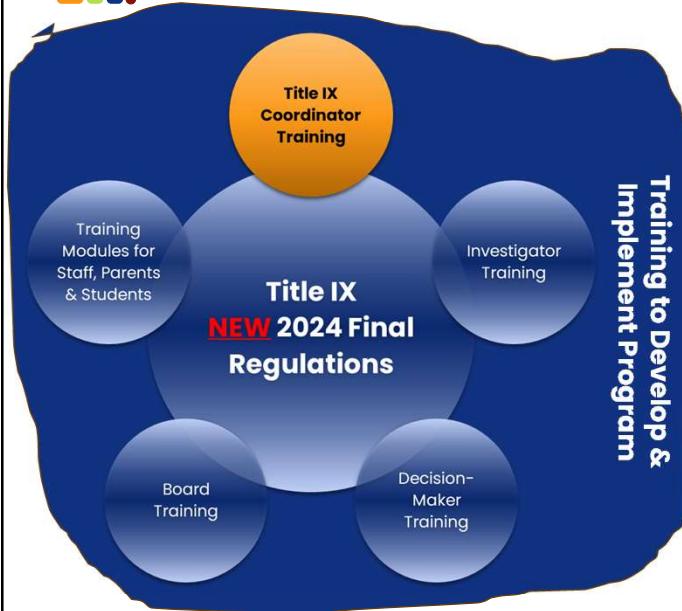
4. Title IX Coordinator Job Description

5. CDE Title IX Implementation Checklist

6. Online Instruction Standards Policy Example

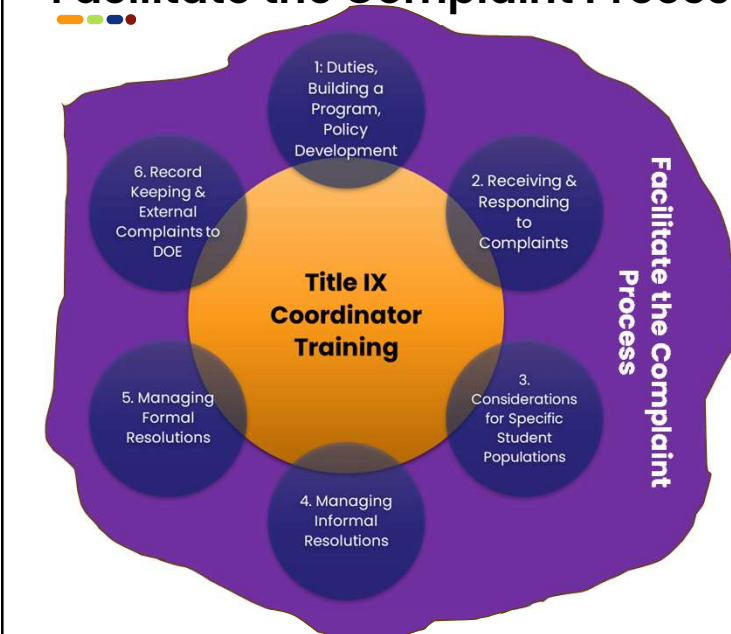
7. Non-Discrimination Policy & Grievance Procedures Example

Develop Program & Training



**Purchase Modules to Train
Parents, Students & Staff
** JULY 15th 2024!! ****

Facilitate the Complaint Process



The Title IX Coordinator



Title IX Coordinator: The employee designated by a recipient (of federal funds – the school) to coordinate its efforts to comply with Title IX responsibilities

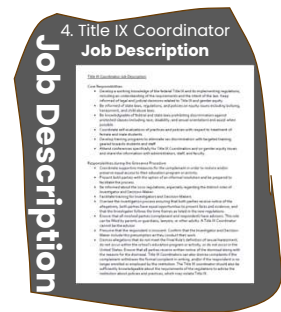
- A school is obligated to ensure its educational **community knows how to report to the Title IX Coordinator.**
- Students, employees, applicants for admission and employment, parents or legal guardians of elementary and secondary school students, and all unions **must be provided with the name, title, office address, e-mail address, and telephone number of the Title IX Coordinator.**
- Schools must **prominently display on their websites the required contact information** for the Title IX Coordinator.



Who Can Be a Title IX Coordinator?



- Must be the person primarily responsible for Title IX compliance.
- **CANNOT be a principal or athletic director.**
- Can be another school leader.
- Must be trained in Title IX compliance, investigation, and resolution processes.
- Understand civil rights compliance.
- Clearly identified on school website, resource documents, directories, etc.
- See **Handout 4 – Title IX Coordinator Job Description**





Maintain Working Knowledge of Title IX

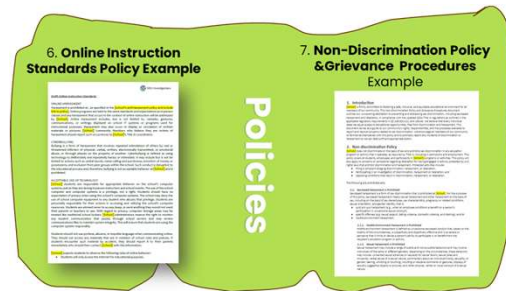
- Develop and **maintain a working knowledge of Title IX** and its implementing regulations.
- Keep up with **legal and judicial decisions** related to Title IX and gender equity.
- Keep informed of **state laws, regulations and policies on equity issues** including bullying, harassment, and child abuse.
- Knowledgeable of **federal and state laws prohibiting discrimination against protected classes** (including race, disability, sexual orientation, etc.).

Develop & Publish Policies



- **Create and publish policies** to address sex-based harassment within the school.
- **Assess the school's practices and policies** with respect to treatment of students based on:
 - sex stereotypes
 - sex characteristics
 - pregnancy or related conditions
 - sexual orientation
 - gender identity
- **Monitor the school for barriers to reporting** sex-based discrimination.
- Take steps reasonably calculated to **address such barriers.**

New! Effective Aug 1, 2024

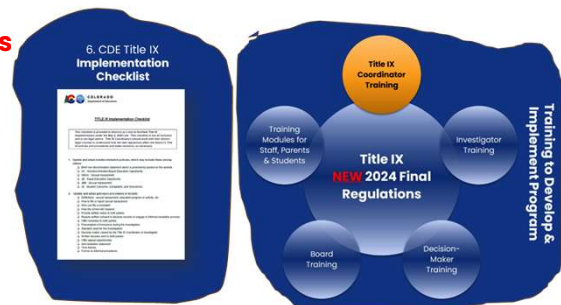


Develop and Implement Program



- **Attend training annually** specifically for Title IX Coordinators
- **Develop program** to prevent sex-based discrimination
 - Including specifically preventing discrimination against, and coordinating accommodations to ensure access for, **students who are pregnant** or have related conditions
- Ensure **program is fully staffed and positions are trained (Training provided by CLCS)**

New! Effective Aug 1, 2024

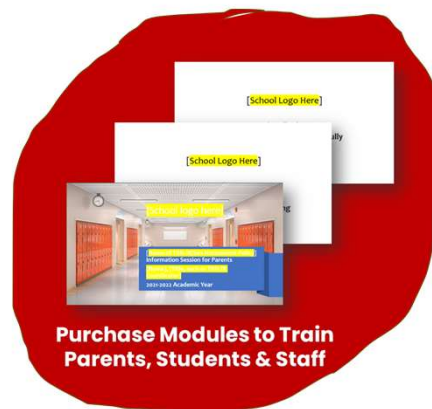


Conduct Training



- **Inform parents, students and staff** on sex-based harassment and Title IX compliance annually
- Train parents, students, and staff on the **updated reporting obligations**
- **Training modules can be purchased** from CLCS beginning (Employee version available now)

New! Effective Aug 1, 2024

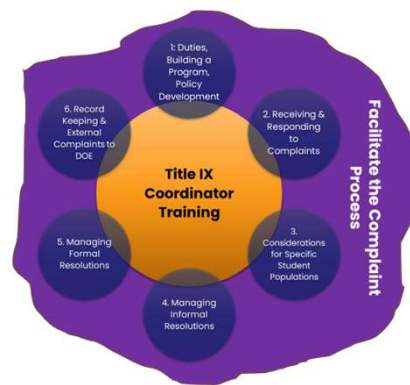


Facilitate the Complaint Process



- **Offer supportive measures**, as appropriate, to complainants and respondents in response to information about conduct that reasonably may constitute sex discrimination, including sex-based harassment and prohibited retaliation.
- In response to a complaint, **initiate the school's grievance procedures or informal resolution process**, if available and appropriate.
- **Be informed about the 2020 and 2024 regulations.**
- Facilitate **training for Investigators and Decision-Makers (CLCS Provides)**.
- **Oversee the investigation process** ensuring that both parties receive notice of the allegations, both parties have equal opportunities to present facts and evidence, and that the Investigator follows the time frames as listed in the regulations.

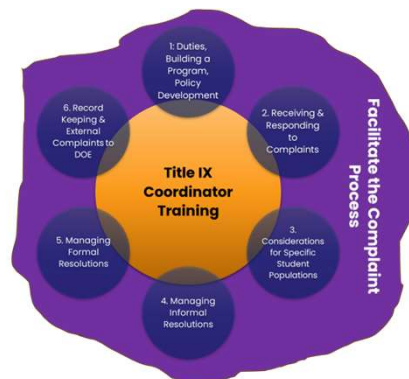
New! Effective Aug 1, 2024



Facilitate the Complaint Process

- Ensure that **all involved parties** (complainant and respondent) **have advisors**. This role can be filled by parents or guardians, lawyers, or other adults. A Title IX Coordinator cannot be the advisor.
- **Presume innocence**. Confirm that the Investigator and Decision-Maker include this presumption as they conduct their work.
- **Permit dismissals in certain circumstances** so long as the recipient offers an appeal and, as appropriate, supportive measures, and takes other steps to ensure sex discrimination does not continue or recur.

New! Effective Aug 1, 2024



Building a Title IX Program

- ✓ Clarify Title IX responsibilities vis-à-vis the school district
- ✓ Build a Title IX program
- ✓ Designate qualified staff
- ✓ Develop & publish policies
- ✓ Community training and education
- ✓ Training & education for Title IX functions
- ✓ Establish investigation processes & protocols



Charters should clarify Title IX responsibilities vis-à-vis the school district



- Will the school rely on the district anti-discrimination and harassment policies and procedures or **develop their own?**
- Can the school **rely on the district's Title IX Coordinator** or must they have their own?
- Is the **school district or the charter school responsible for overall Title IX compliance?**
- Is the **school district or the charter school responsible for responding to Title IX complaints?**



OR



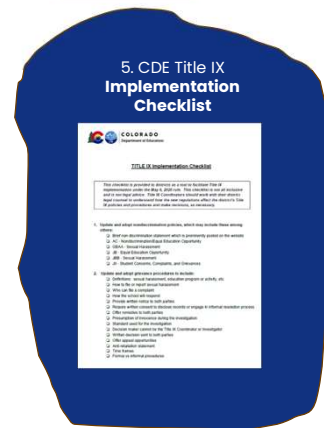
Building a Title IX Program



New! Effective Aug 1, 2024



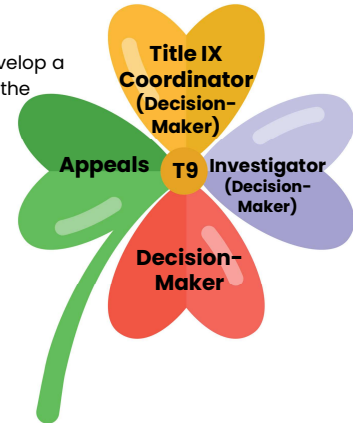
- **Designate a Title IX Coordinator and qualified staff** to support the program.
- Develop and **PROMINENTLY publish anti-discrimination policies and grievance procedures** on the school's website, but also in handbooks and other resources.
- **Conduct annual training** for:
 - Staff
 - Board
 - Students (Age-appropriate)
- **Establish investigation strategies** including having identified trained, qualified investigator(s).
- See **Handout 5 – CDE Checklist**



Designate Quality Staff



- **Title IX Coordinator** – Develop and implement the Title IX program
- **Investigator(s)** – The person who gathers information and interviews people to find out what happened.
- **Decision-Maker(s)** – The person who decides whether someone broke the rules, based on the information gathered.
 - **The Title IX Coordinator and/or the Investigator CAN be a decision-maker** (Single Investigator Model)
 - **If the investigator and decisionmaker are different individuals**, the entity must develop a process that allows the decisionmaker to question the parties and all witnesses for the purpose of determining credibility when credibility is in dispute and relevant.
- **Appeals** – someone well placed in the organization to review the decision.
- **Informal Resolution Facilitator(s)**: Can be the Title IX Coordinator or other staff



These positions **must not have conflicts of interest or bias**. The school must commit to training these staff members for their roles! CLCS has trainings for Coordinator, Investigator, and Decision-Maker roles.

Develop & Publish Policies

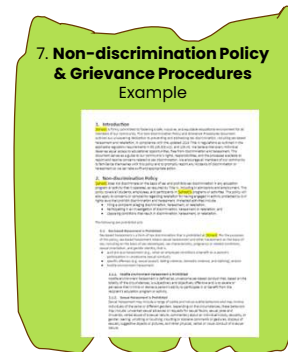


New! Effective Aug 1, 2024



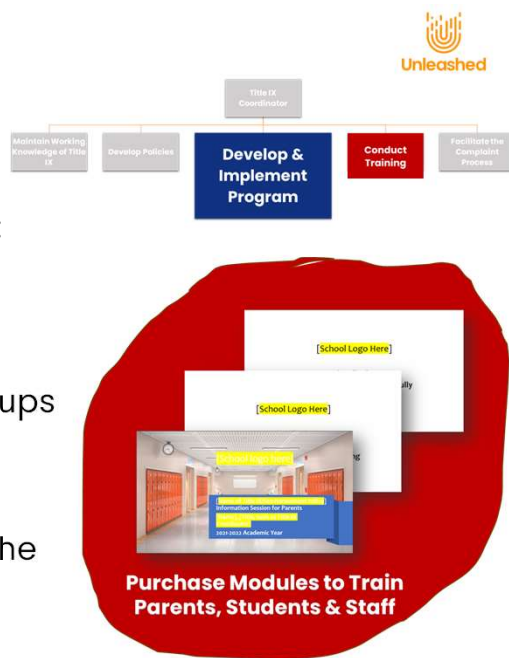
Your grievance policy & procedure will need to be updated!

- **Commit to provide a safe learning and work environment.**
- **Commit to treat all members of the school community with dignity and respect.**
- Identify that the **school is subject to all federal and state laws** and constitutional provisions prohibiting discrimination on the basis of sex.
- Can be a part of a broader nondiscrimination policy
- **Outline how the school will address concerns regarding unlawful discrimination and harassment**, and any related retaliation for having engaged in activity protected by the civil rights laws that prohibit discrimination, including harassment.
- **Use of a preponderance of the evidence standard of proof** to determine whether sex discrimination occurred, unless the clear and convincing evidence standard is used in all other comparable proceedings, in which case that standard may be used.
- **Must prohibit retaliation**, including peer retaliation, and must respond to conduct that reasonably may constitute retaliation using the same procedures it uses for other forms of sex discrimination.



Community Training and Education

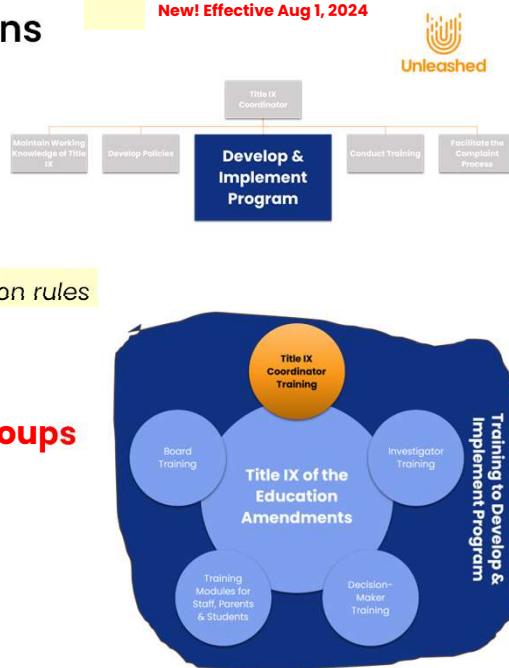
- Training helps set a tone and send a message that the rules apply to everyone.
- Plan annual, age-appropriate training for :
 - Students
 - Staff
 - Board
- Consider training for other constituent groups (parents, volunteers, etc.)
- Ensure that the groups receive the same information and same message through the training



Training & Education: Title IX Functions

New! Effective Aug 1, 2024

- **Annual training** plans for:
 - Title IX Coordinator(s)
 - Investigators
 - Decision-makers
 - Informal Resolution Facilitators (*Must be trained on rules and practices of informal resolution process, and maintaining impartiality*).
- Consider **training for other constituent groups** (parents, volunteers, etc.)
- Ensure that the **groups receive the same information** and same message



Establish Investigation Processes & Protocols

New! Effective Aug 1, 2024



Define a process for investigation (Session 5):

- Describe the process
- Outline communications with impacted and responding parties
- Collection of evidence
- Informal resolutions
- Formal grievance procedures

Outline the documentation needed:

- Written statements
- Evidence
- Reports



Appropriate Investigation Resources

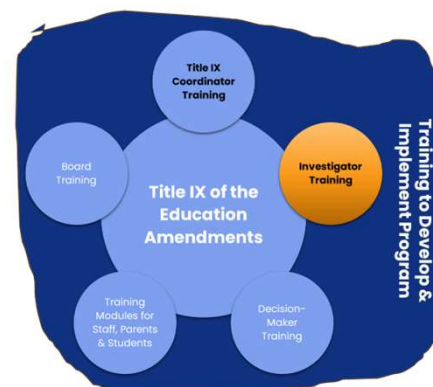
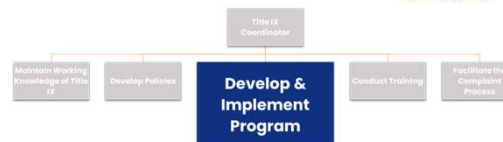


Internal Investigators:

- Should not be the Title IX coordinator, a principal, or person with disciplinary authority
- Trained and to the extent possible, experienced
- Someone with the emotional intelligence to investigate issues involving sex-based misconduct

External Investigators:

- Look for an attorney or other professional with experience in civil rights matters.
- Sex-based misconduct constitutes particular challenges – look for someone with experience in trauma-informed investigation techniques.



Developing Title IX Policies and Programs

Remote/Online instruction

- ✓ Develop + publish policies
- ✓ Addressing mandatory reporting requirements
- ✓ Establish investigation processes and protocols


- ✓ Key provisions
- ✓ Build a culture of compliance

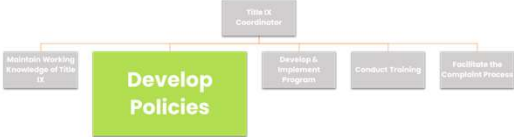


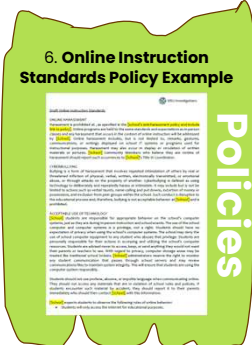
Remote/Online Instruction

- Charter schools should **have a policy that pertains to harassment that occurs within its online** or remote learning programs to clearly define when the school will take action.
- Consider **a stand-alone policy** (see Handout 6) **or include a statement in your nondiscrimination or technology use policies**, such as:

ONLINE HARASSMENT: Harassment is prohibited at [school], as specified in the [link to policy]. Online programs are held to the same standards and expectations as in-person classes and any harassment that occurs in the context of online instruction will be addressed by [school]. Online harassment includes, but is not limited to, remarks, gestures, communications, or writings displayed on school IT systems or programs used for instructional purposes. Online activities that are not associated with sanctioned instructional platforms by [school] do not fall within this policy and the school will encourage community members to direct those complaints to appropriate authorities (such as law enforcement). Community Members who believe they are victims of harassment should report such occurrences to the Title IX Coordinator.





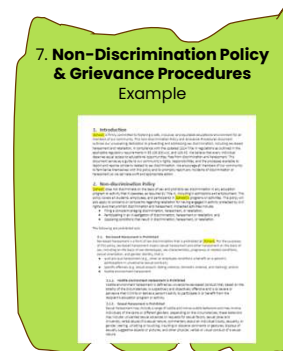


Develop and Publish Policies

New! Effective Aug 1, 2024



- **Adopt and publish in writing, grievance procedures** that provide for the prompt and equitable resolution of sex discrimination complaints.
 - See page 6 of Summary of Key Provisions of the DOE's 2024 Title IX Final Rule for requirements that must be included in your updated grievance procedures.
- **Incorporate the policy** into student handbooks, parent handbooks, employee manuals, etc.
- **Update all websites** to include the policy and procedures.
- Be sure to **include a retaliation prohibition!**



Update Grievance Procedures in Writing

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#	Topic Area	2024
2	Grievance Procedures: General requirements	<p>Schools are required to adopt grievance procedures in writing incorporate the following:</p> <p>General Requirements –</p> <ul style="list-style-type: none"> • Equitable treatment of complainants and respondents. • Title IX Coordinator, investigators, and decisionmakers must not have conflicts of interest or bias. As long as a recipient ensures there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator. • Presumption that the respondent is not responsible for the alleged conduct until a determination whether sex discrimination occurred is made at the conclusion of the recipient's grievance procedures. • Reasonably prompt timeframes for all major stages. • Reasonable steps to protect privacy of parties and witnesses. • Objective evaluation of all relevant and not otherwise impermissible evidence. • Exclusion of three types of evidence as impermissible. • If a school adopts grievance procedures that apply to the resolution of some, but not all complaints, articulate consistent principles for how the recipient will determine which procedures apply.
2a	Grievance Procedures: Notice of allegations, dismissals & consolidation	<p>Notice of allegations to the parties.</p> <p>Dismissals permitted in certain circumstances, but not required, as long as the recipient offers an appeal and, as appropriate, supportive measures and takes other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur.</p> <p>Consolidation permitted for complaints arising out of the same facts or circumstances.</p>



Update Grievance Procedures in Writing

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#	Topic Area	2024
2b	Grievance Procedures: Investigation Requirements	<p>Investigation requirements –</p> <ul style="list-style-type: none"> • Burden is on the school to gather sufficient evidence. (more burden on the school than in 2020) • Equal opportunity for all parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. • Determination of what evidence is relevant and what evidence is impermissible. • Equal opportunity for parties to access relevant and not otherwise impermissible evidence or an accurate description of this evidence—and if the recipient provides a description, the parties may request and then must receive access to the relevant and not otherwise impermissible evidence. <ul style="list-style-type: none"> ◦ Reasonable opportunity for the parties to respond to the evidence. ◦ Reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures.
2c	Grievance Procedures: Determining whether sex discrimination occurred	<p>A process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility when credibility is in dispute and relevant.</p> <p>Clear processes for the determination of whether sex discrimination occurred, including:</p> <ul style="list-style-type: none"> • Determining whether sex discrimination occurred using the preponderance of the evidence standard of proof, unless the clear and convincing evidence standard is used in all other comparable proceedings, including other discrimination complaints, in which case that standard may be used in determining whether sex discrimination occurred. • Notifying parties in writing of the determination whether sex discrimination occurred, including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable. • When there is a determination that sex discrimination occurred, requiring the Title IX Coordinator to coordinate the provision and implementation of remedies for the complainant or others whose access to the recipient's education program or activity has been limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, and requiring the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.



Update Grievance Procedures in Writing

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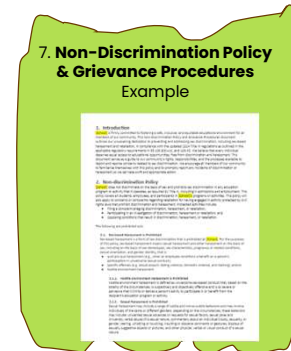


#	Topic Area	2024
2c	Grievance Procedures: Determining whether sex discrimination occurred Cont'd	<ul style="list-style-type: none"> • Not imposing any disciplinary sanctions against a respondent until the grievance procedures are completed. • Not disciplining a party, witness, or other participant for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.
2d	Grievance Procedures: Appeal process	An appeal process that, at a minimum, is the same as the school offers in all other comparable proceedings , if any, including proceedings relating to other discrimination complaints.
2e	Grievance Procedures: Supportive measures	For sex-based harassment complaints, the grievance procedures must describe the range of possible supportive measures and list, or describe the range of, possible disciplinary sanctions and remedies.
2d	Grievance Procedures: Appeal process	A recipient may adopt additional provisions in its grievance procedures as long as the provisions apply equally to the parties

Develop + Publish Policies: **Build a Culture of Compliance**



- Set the right tone at the highest levels:
 - Board and school leadership must commit to the letter and spirit of the policies.
 - Leadership must model appropriate behavior.
 - Make it clear: retaliation is not tolerated.
 - Ask for feedback on training, policies, etc.
- Follow a consistent process:
 - Checklist for how the school addresses complaints and reports.
 - Build trust in people and process.
 - Be transparent to the extent possible in light of confidentiality obligations.



Helpful Links



The Title IX Law:

<https://www.justice.gov/crt/title-ix-education-amendments-1972>

US Department of Education Site:

<https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal#p-22>

Colorado Department of Education Resources:

https://www.cde.state.co.us/cde_english/titleix

Analysis of Title IX's future under the Biden Administration:

<https://www.insidehighered.com/news/2021/01/22/biden-faces-title-ix-battle-complicated-politics-and-his-own-history>

Pop Quiz!



1. Which document reflects the current Title IX regulation in effect on April 2024?
 - a) May 2014 Charter School Dear Colleague Letter (DCL) regarding Federal Civil Rights Laws
 - b) Summary of Major Provisions of Title IX regulations in effect August 14, 2020
 - c) Summary of 2024 Title IX Final Rule
2. When does the 2024 Title IX Final Rule go into effect? **August 1, 2024**
3. What is the role of a Title IX Coordinator?
 - a) To investigate all reports of sexual misconduct.
 - b) To provide support and resources to complainants and respondents.
 - c) To enforce disciplinary sanctions on those found responsible for violations.
 - d) To oversee the school's Title IX compliance efforts.
4. Which of the following is NOT a key component of a comprehensive Title IX program?
 - a) Providing annual Title IX training for all employees.
 - b) Developing and maintaining clear Title IX policies and procedures.
 - c) Assigning blame and punishment publicly for those accused of violations.
 - d) Offering confidential reporting options for complainants.

Pop Quiz!



5. When developing a Title IX program, the Coordinator should prioritize:
 - a) Quick and efficient resolution of complaints over thorough investigations.
 - b) Protecting the rights of the accused over those of the complainant.
 - c) Transparency and fairness for all parties involved in a Title IX case.
 - d) Harsh punishments for all violations, regardless of severity.
6. Title IX procedures should outline:
 - a) The specific steps involved in the investigation process.
 - b) The burden of proof required for reaching a decision.
 - c) The names of all potential investigators.
 - d) The personal opinions of the Title IX Coordinator on each case.
7. After finalizing Title IX policies and procedures, the Coordinator should:
 - a) Keep them confidential and only share them with a select group.
 - b) Make them readily available online and in print.
 - c) Offer training on the policies only to those directly involved in investigations.
 - d) Allow minimal opportunity for public input on the policies.

Pop Quiz!



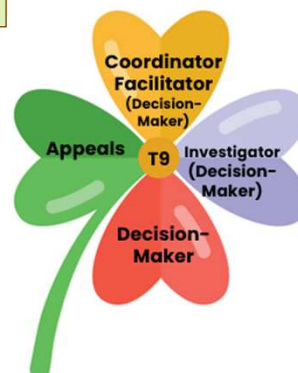
8. What is the standard of evidence required in Title IX cases at K-12 educational institutions (choose one)?

- a) Beyond a reasonable doubt.
- b) Preponderance of the evidence.
- c) Clear and convincing evidence.

9. True or false: An investigator CAN be a decision-maker.

- a) True.
- b) False.
- c) I don't know

8. Name the four positions that are essential to staffing a Title IX Program:



BREAK



Agenda (TWO DAYS)

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DAY 1: June 17, 2024

DAY 2: June 18, 2024

01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures

02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews

03 Considerations for Specific Student Populations & Trauma-Informed Approaches

04 Managing Informal Resolutions

05 Managing Formal Resolutions, including Best Practices for Investigations

06 Record Keeping and External Complaints to the Department of Education

Contact Us

Thank You

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reserved.

Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Session 2

Facilitated by Alesha Arscott, CEO | Unleashed
June 17, 2024




Unleashed



COLORADO LEAGUE of
CHARTER SCHOOLS

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Agenda (TWO DAYS)

DAY 1: June 17, 2024	DAY 2: June 18, 2024
<p>01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures</p>	<p>04 Managing Informal Resolutions</p>
<p>02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews</p>	<p>05 Managing Formal Resolutions, including Best Practices for Investigations</p>
<p>03 Considerations for Specific Student Populations & Trauma-Informed Approaches</p>	<p>06 Record Keeping and External Complaints to the Department of Education</p>

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Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews



01

Receiving and Responding to Reports

- Report vs Complaint
- Referring to People involved in the Process
- Encouraging Reports
- Recognize Reporting Barriers
- Overcoming Reporting Barriers
- Documenting Intake
- Documenting Process

03

Supportive Measures

- Supportive & Interim Measures
- Policy Statement Example
- No Contact Orders & No Contact Agreements

02

Establishing Rapport with Someone Making a Complaint

- Who Typically Makes Title IX Reports & Complaints?
- Building Rapport & Creating a Quiet, Distraction-free Environment
- Develop a Collaborative Style
- Keep it Simple
- Active Listening & Asking Open Ended Questions
- Be Honest & Reliable
- Use Language the Child Understands

04

Helpful Links

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Check In



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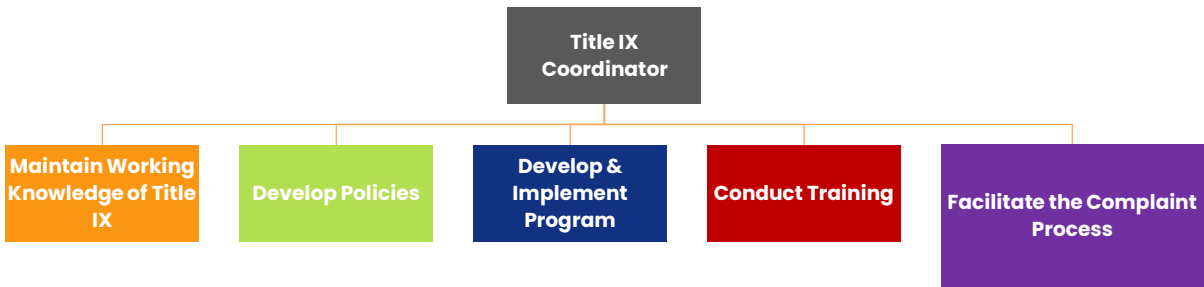
What was the most valuable takeaway from last session?



2

What topic do you need more clarity around?

Core Responsibilities of a Title IX Coordinator



Session 2 Handouts



1. Title IX Report Form

2. Long Intake Form

3. Short Intake Form

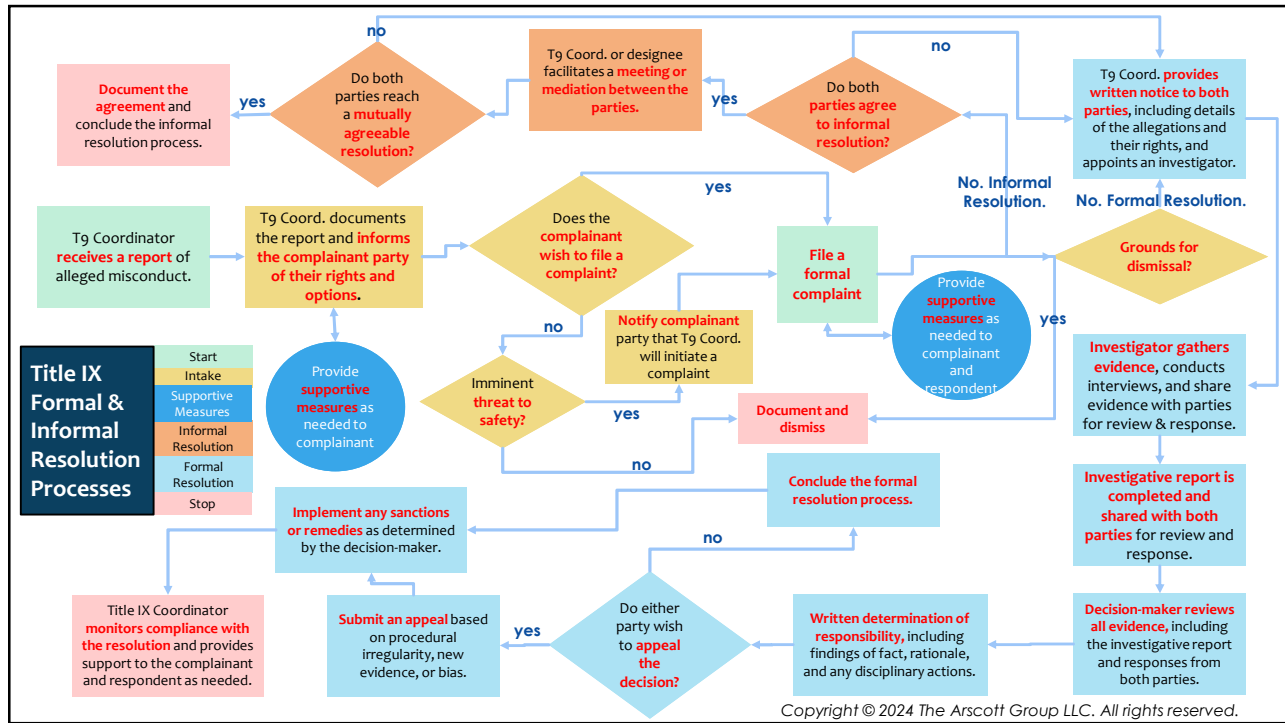
4. Incident Process Form

5. Process Checklist Form

6. Sample Supportive Measures Statement

7. Draft No Contact Agreement

Facilitate the Complaint Process



Receiving & Responding to Reports



Unleashed

Referring to People involved in the Process



Individual affected by sex harassment:

- Complainant
- Complainant Party
- **Not "Victim"**

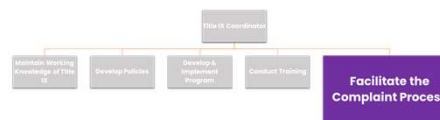
Individual(s) accused of sex harassment:

- Respondent
- Responding Party
- **Not "Accused" "Perpetrator"**

Individuals with information about issue/event:

- Witnesses
- Involved Parties

Be consistent in your policy, process & forms



Referring to People Exercise

Summary of Investigation:

This report details the investigation into a Title IX complaint filed by Jane Doe (Student ID: 12345) against John Doe (Student ID: 54321) on April 15, 2024. The complaint alleged sexual harassment in the form of unwelcome sexual comments and advances made by the accused towards the complainant.

The investigation included interviews with both the victim and Mr. Smith, as well as reviewing relevant evidence such as online chat logs. Based on the preponderance of the evidence, the investigation found that the perpetrator had engaged in behavior that constituted sexual harassment under Title IX.

Findings:

The investigation determined that the Mr. Smith's actions created a hostile learning environment for the victim, Ms. Doe.

Resolution:

The perpetrator has received a formal disciplinary sanction, which includes a suspension from school activities and mandatory anti-harassment training. The school will also implement additional measures to ensure the victim's safety and well-being, such as a no-contact order between Ms. Doe and the accused, Mr. Smith.

Ms. Doe has been informed of the outcome of the investigation and the available support services.

- Make a Copy | Read the sample
- Edit where needed to use correct language when referring to people

Report vs Complaint



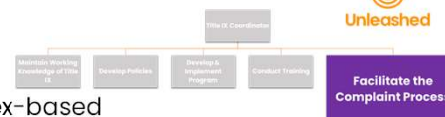
Report:

Title IX Coordinator receives information about some type of sex-based harassment.

Complaint:

A "complaint" is defined as an oral or written request to the school that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX.

Note: A complaint is always a report, but a report is not always a complaint.



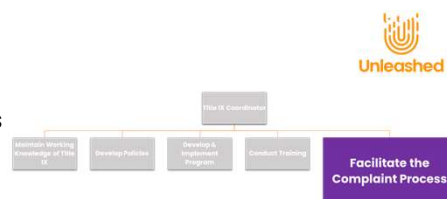
Encouraging Reports



Policies should:

- Direct reporting to the Title IX Coordinator or other responsible school employee(s).
 - Any **non-confidential employee** at an elementary or secondary school **must notify the Title IX Coordinator when they have information** about conduct that may reasonably constitute sex discrimination.
 - **3 categories of confidential employees are NOT required to notify the Title IX Coordinator when they have information.** Instead, they must provide information to anyone who informs the confidential employee of conduct that reasonably may constitute sex discrimination about **their status as confidential** for purposes of Title IX, **how to contact the Title IX Coordinator, how to make a complaint, and how the Title IX Coordinator can help.**
- Encourage early reporting but commit that the school will investigate regardless of when the report is made.
 - A **complainant** is also protected in their **right to make a complaint about sex discrimination** they experienced **even if they have chosen to leave the school's education program or activity** as a result of that discrimination or for other reasons.
- Inform the community that if a report is made, the Title IX Coordinator will be informed.
- **Outline state mandatory child abuse reporting obligations.**

Recognize Reporting Barriers



- Difficulty in reporting due to unpublished or unclear policies
- Resources are hard to find
- Embarrassment
- Fear
- Concerns about retaliation
- Perceived lack of interest from the school

Overcoming Reporting Barriers



- Clear, understandable policies
- Policies clearly prohibit retaliation
- Easily accessed resources (through website, trainings, etc.)
- Confidential processes
- Training about Title IX and school's compliance program
- Consistency in process and treatment
- Reliability



Documenting Intake



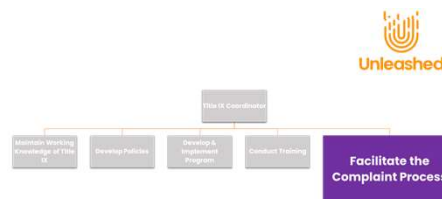
- Develop materials and tools to assist your school in managing the intake of reports.
- Consider training employees who may receive reports (counselors, teachers, coaches) to document those reports appropriately.

Handout 1 – Title IX Report Form

- Develop forms for the Title IX Coordinator to use to ensure consistency during intake.

Handout 2 – Long Intake Form (more likely for MS & HS)

Handout 3 – Short Intake Form



3. Short Intake Form

2. Long Intake Form

1. Title IX Report Form

Handouts 1, 2, and 3 are detailed forms for documenting Title IX reports, including sections for incident description, reporting party information, and school response.

Documenting Process



Develop a form for use by the Title IX Coordinator to ensure consistency in the process.



Handout 4 – Incident Process Form

Handout 5 – Process Checklist Form


5. Process Checklist Form

1. Title IX Coordinator
 2. Title IX Coordinator
 3. Title IX Coordinator
 4. Title IX Coordinator
 5. Title IX Coordinator
 6. Title IX Coordinator
 7. Title IX Coordinator
 8. Title IX Coordinator
 9. Title IX Coordinator
 10. Title IX Coordinator

4. Incident Process Form

1. Title IX Coordinator
 2. Title IX Coordinator
 3. Title IX Coordinator
 4. Title IX Coordinator
 5. Title IX Coordinator
 6. Title IX Coordinator
 7. Title IX Coordinator
 8. Title IX Coordinator
 9. Title IX Coordinator
 10. Title IX Coordinator

Establishing Rapport with Someone Making a Complaint



Who Typically Makes Title IX Reports & Complaints?



The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the School investigate and make a determination about alleged discrimination under Title IX:



- A “complainant,” which includes:
 - a student or employee of [School] who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of [School] who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the School’s education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The School’s Title IX Coordinator

Who Typically Makes Title IX Reports & Complaints?



Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements



With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee of the School; or
- Any person other than a student or employee who was participating or attempting to participate in the School’s education program or activity at the time of the alleged sex discrimination.

Turn & Talk



Describe the ideal experience/environment for someone making a report?

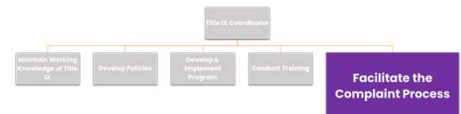


Building Rapport



Rapport: A harmonious relationship in which the people concerned understand each other's feelings or ideas and communicate well

- Create a quiet, distraction-free environment
- Develop a collaborative communication style
- Keep any directions or messages clear and concise
- Use active listening strategies
- Use open-ended questions
- Be honest and reliable
- **Use language the child understands**



Create a Quiet, Distraction-free Environment



- Create conditions that feel comfortable and safe.
- Choose a convenient time to meet.

****Avoid scheduling a Title IX meeting between existing meetings so no one feels rushed.****

- Find a suitable meeting location and make any adjustments to the room.
 - A quiet place to reduce distraction.
 - Cover or minimize obvious distractions like televisions, windows, computers, etc.
 - **Have objects available that a child can hold or manipulate during the conversation.**



Create a Quiet, Distraction-free Environment



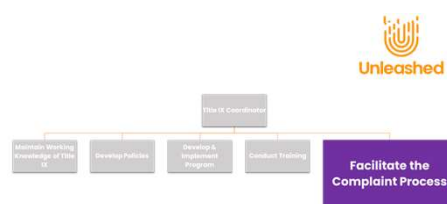
- Consider where you sit. Sitting directly across the table, interrogation-style, can be perceived as threatening and creates a barrier. If possible, **sit next to the person** you are speaking with.
- **Look at any materials together.**
- **Consider the impact your body language** has on the meeting environment and tone.
- Crossing your arms, frowning, looking down over your glasses, checking e-mail or text messages, and other body language sends the message that you are not interested.
- **Children are particularly adept at reading the body language of adults.**



Develop a Collaborative Style



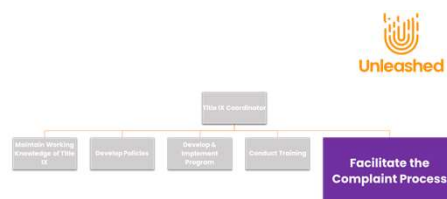
- Ask open-ended questions (more later).
- Ask for feedback to ensure understanding and clarify any confusing issues.
- Provide clear explanations and rationale behind any advice you may offer.
- **Recognize a child's individual interests and attributes.**
- **Be responsive, warm, and nurturing.**
- **Actively encourage the child to explain situations or circumstances fully, using their own words.**



Keep it Simple



- Avoid long and complicated sentences.
- Avoid frequent or rapid switches of topic.
- Keep the meeting short.
- Repeat important points several times.
- **Young children tend to focus on one aspect at a time in conversation. Simple sentence structure with a subject, a verb, and an object will be most successful. This pattern is recommended until at least age ten.**



Active Listening



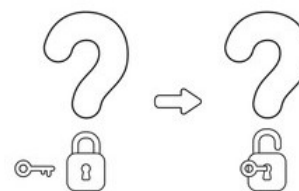
- **Ask clarifying questions**
- **Use empathic statements at appropriate times.**
- **Repeat what has been said** to signal that you understand.
- **Make brief, affirming comments** throughout a story to let them know that you're hearing them, e.g., 'That sounds really frustrating' or 'Wow, that must have been really hard'
 - BUT avoid language that suggests you have made a conclusion, e.g., 'Sure sounds like you were sexually harassed'
- **Use the child's words for people and things**, e.g., if the child calls a brother 'Junior' instead of his given name, call him as Junior as well



Ask Open-ended Questions



- **Use open-ended questions** to optimize the ready exchange of information.
- **Be mindful of your phrasing**, making modifications as needed.
- Be aware when you are receiving limited, brief, yes-or-no responses, and **ask questions that require greater responses.**
- **Use informal prompts (e.g., 'tell me more')** to **encourage more information**, including key facts.



Be Honest and Reliable



- Be honest and do not make promises you might not be able to keep.
- Only offer to do as much as you know you can achieve.
- Be reliable.
- Avoid making promises that you cannot keep.
- **Children can come from backgrounds where adults fail to follow-through on promises. Show the child that they can rely on you.**



Use Language the Child Understands



- **Be attentive to the child's language**, phrasing, terms, and names of important people, places, or things.
- **Use casual conversation at the beginning of an interaction** to draw a sample of the child's language so you can mirror it.
- **Get the child to discuss a neutral topic** to put the child at ease with the situation.
- **Err on the side of using language below or at a child's grade level** and become more elaborate if you feel the child understands.



Use Language the Child Understands cont'd



- **Avoid assuming children cannot comprehend relevant information.** Children usually understand much more than adults give them credit for understanding.
- **Use nonverbal and verbal strategies** to enhance comprehension.
- **Children**, especially those with trauma histories, **are adept at reading adults** and can see when someone is not being truthful or may be withholding information.



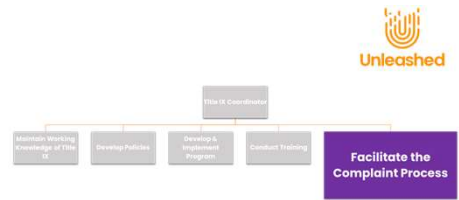
Supportive & Interim Measures



Supportive Measures

Supportive measures: The School offers and coordinates supportive measures for the parties as appropriate to restore or preserve each person’s access to the school’s education program or activity, or provide support during the school’s grievance procedures or during the informal resolution process.

- These measures can be implemented at any time during a Title IX process.
- Supportive measures can be made permanent in cases where the conditions need to continue.
- Supportive measures cannot be unreasonably burdensome to a party and cannot be imposed for punitive or disciplinary reasons.
- Supportive measures may include, for example, counseling, extension of deadlines, restrictions on contact applied to one or more parties, and changes in class, work, or housing.

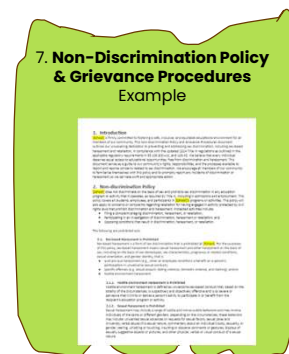
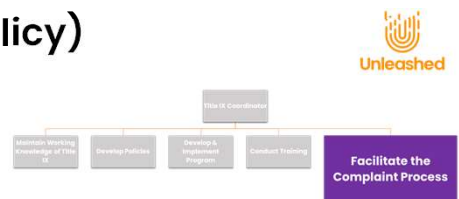


Policy Statement Example (sec. 9 in policy)

Resources are available at [School] and in the surrounding community to assist those who have been impacted by sex-based harassment. [School] will provide support to the [parties] and the [School] community as reasonable and appropriate to the circumstances. Such support may take many forms, including, but not limited to the following:

- Issuing no-contact orders;
- Providing referrals for counseling and/or victim’s support services;
- Providing referrals for medical services;
- Coordinating class schedules to eliminate or decrease conflicts; and
- Providing academic support services, such as tutoring.

[School] may impose any other steps [School] determines are reasonable and appropriate given the circumstances.



Supportive Measures: Examples



Academic Accommodations:

- Longer time on assignments
- Testing supports
- Changes to schedules
- Arranging for remote learning

Safety Accommodations:

- No Contact Directives to manage communication + space at school
- Arranging for remote learning
- SRO Escorts

Counseling



Supportive Measures



- Title IX Coordinators should work with students and school staff to **ensure that supportive measures are tailored to meet each individual’s needs.**
- **Supports do not need to be reciprocal**, meaning that you do not have to offer or implement the same supports.
- **Document!** Be sure to document all supportive measures offered by the school and all supportive measures implemented by the school. If a supportive measure is rejected, document when and why.
- **Handout 6** – Sample Supportive Measure Form



6. Sample Supportive Measures Statement

Supportive Measures Statement

These supportive measures are reported to SBA, Title IX Coordinator, the District Attorney, and the Department of Education. The Title IX Coordinator will continue to monitor the situation and provide support as needed.

Supportive Measures: _____

Student Name: _____ Date: _____

Title IX Coordinator: _____ Date: _____

School Administrator: _____ Date: _____

No Contact Orders & No Contact Agreements



- **No contact orders** are issued by a school and are designed to limit or prohibit contact or communications between or among individuals.
- **No contact agreements** are usually agreed to by the parties and the school to limit or prohibit contact or communications between or among individuals.
- They generally are **mutual** in nature, meaning that they restrict each party from contacting, or communicating with, the other.
- They are intended to protect both individuals by preventing future interactions that could be problematic.
- See **Handout 7** – Sample No Contact Agreement



7. Draft No Contact Agreement



No Contact Orders & No Contact Agreements



- Ideally, you can work with the parties involved and develop a **no contact agreement** where the parties agree to terms that ensure they will not have contact with one another.
- If agreement cannot be reached, the school can consider implementing **no-contact orders** without input from the parties.
- No contact agreements and no contact orders can be useful tools in crafting **informal resolutions** which will be discussed in Session 4 of this training.



Helpful Links



The Title IX Law:

<https://www.justice.gov/crt/title-ix-education-amendments-1972>

Interim Measures discussion:

<https://www.justice.gov/archives/ovw/page/file/910296/download>

Pop Quiz!



1. A student comes to you with a potential Title IX violation. What is your PRIMARY responsibility at this stage?
 - a) Immediately launch a formal investigation.
 - b) Determine if the incident falls under Title IX jurisdiction
 - c) Interview potential witnesses to gather evidence
 - d) Offer support and resources to the student, regardless of complaint details
2. When receiving a complaint, you should:
 - a) Ask leading questions that suggest a specific outcome.
 - b) Focus on gathering detailed legal statements.
 - c) Actively listen without judgment and ensure confidentiality.
 - d) Advise the student to handle the situation directly with the accused.
3. Are supportive measures automatically provided to the complainant?
 - a) Yes, the complainant is always entitled to supportive measures.
 - b) No, supportive measures are only provided at the respondent's request.
 - c) Supportive measures are offered on a case-by-case basis.
 - d) Supportive measures are only provided after a determination of sex discrimination is made.

Pop Quiz!



4. Who is typically required to report incidents of potential sex discrimination under Title IX?
 - a) Students only
 - b) School staff and administrators only
 - c) Anyone who witnesses an incident
 - d) School staff, teachers, and administrators**
5. Which of the following types of incidents is mandatory to report under Title IX?
 - a) Bullying
 - b) Sexual assault**
 - c) Cheating on a test
6. In most cases, how soon after an incident comes to light should it be reported?
 - a) Immediately
 - b) Within 24 hours
 - c) As soon as reasonably possibly**
 - d) There is no specific timeframe for reporting

Pop Quiz!



7. What is the MOST important factor in establishing rapport with a complainant during an interview?
 - a) Maintaining a formal and authoritative demeanor.
 - b) Asking rapid-fire questions to gather information quickly.
 - c) Creating a safe and supportive environment for the complainant.**
 - d) Expressing personal opinions and beliefs about the situation.
8. Which of the following is NOT a recommended technique for conducting a Title IX interview?
 - a) Using open-ended questions to encourage detailed responses.
 - b) Interrupting the interviewee to clarify details.**
 - c) Actively listening and allowing the interviewee to control the narrative.
 - d) Thanking the interviewee for their time and cooperation.
9. Under the 2024 Title IX regulations, which of the following is NOT a requirement for a school employee designated as confidential?
 - a) Their communications with individuals about potential sex discrimination must be privileged or confidential under federal or state law.
 - b) They can only receive information about such incidents within the scope of their designated duties at the school.
 - c) They must notify the Title IX Coordinator of any reported incidents of sex discrimination.**
 - d) They are required to explain their confidential status and how to contact the Title IX Coordinator to individuals who seek support.



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02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews

03 Considerations for Specific Student Populations & Trauma-Informed Approaches

04 Managing Informal Resolutions

05 Managing Formal grievance procedure, including Best Practices for Investigations

06 Record Keeping and External Complaints to the Department of Education

Contact Us

Thank You

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Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Sessions 3

Facilitated by Alesha Arscott, CEO | Unleashed
July 31, 2024




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Considerations for Specific Student Populations & Trauma-Informed Approaches

01 **Resources**
Session 3 Handouts
Title IX Coordinator & Investigator?
Choosing an Investigator
Employee Rights Under Title IX

02 **Title IX Considerations for Specific Student Populations**
Specific Student Populations
Transgender Status & Sexual Orientation
Disability
Accommodating Disabilities in the Title IX Processes

03 **Understanding Trauma**
What is Trauma?
Goal: A Trauma Informed Approach to Title IX Complaints
Why Have a Trauma-Informed Process?
Who Should be Trauma-informed
Exacerbators of Trauma
Stress Responses to Traumatic Events

04 **Trauma-informed Processes**
Intake Meetings after a Traumatic Event
Trauma-informed Intake Tips
Trauma-informed Interview Tips

05 **Helpful Links**

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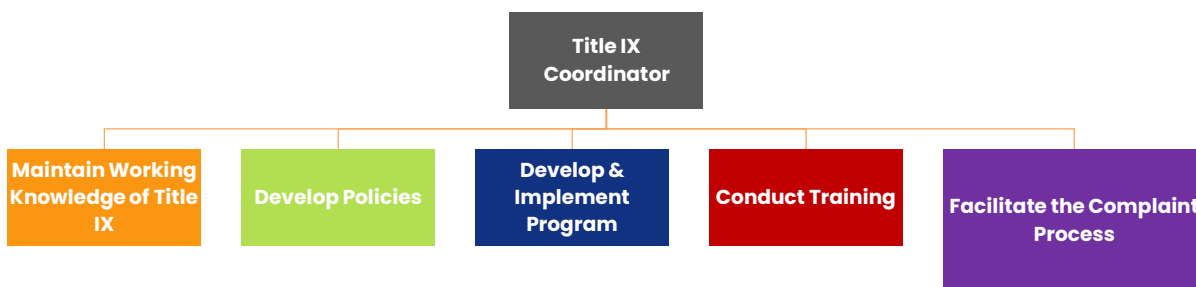
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What was the most valuable takeaway from last session?

2

What topic do you need more clarity around?

Core Responsibilities of a Title IX Coordinator



Session 3 Handouts



1. OCR Letter of Notification re: Transgender Students



2. Civil Rights Law Protects LGBT Workers



3. Notice of Interpretation



Facilitate the Complaint Process

Title IX Coordinator Working with the Investigator



Title IX Coordinator:

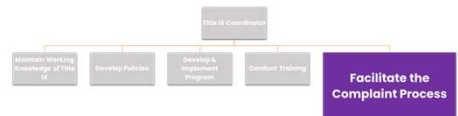
- Oversight and Guidance
- Initial Intake
- Referral

Investigator:

- Investigation and Consideration of Special Needs
- Accommodation
- Report and Recommendations

Collaboration for a Fair Process:

- Both the coordinator and investigator should work together to ensure a fair and appropriate process for all parties involved, considering any special needs of the individuals involved.
- The Title IX coordinator can provide resources and support to the investigator to ensure they are equipped to handle cases involving special populations.

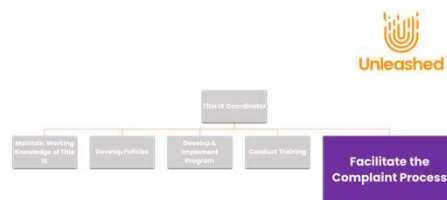


Title IX Coordinator & Investigator?



A Title IX Coordinator can be an investigator BUT:

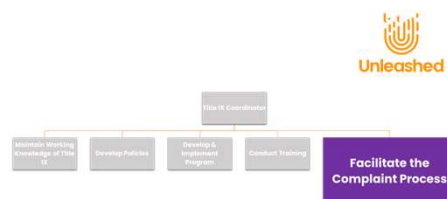
- Recognize the difficulty in managing the Title IX process as well as conducting the investigation.
- Consider delegating other Title IX Coordinator duties, such as having another school staff member provide and implement supportive measures.
- Be mindful of concerns or perceptions of bias or lack of objectivity.



Choosing an Investigator

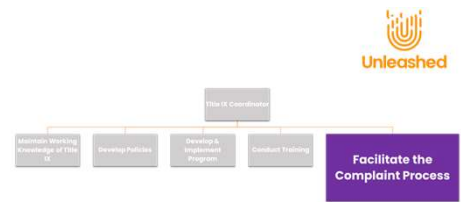


- Fair, impartial and trained
- Independent
- Free of conflicts of interest
- Able to discuss difficult topics with compassion
- Effective listener
- Good communication skills
- Comfortable making credibility assessments
- 2024 Title IX regulations now allow for the single investigator model where the investigator can also be the decision maker.



Employee Rights under Title IX

- **Employees are covered** by Title IX.
- Employee sex-based harassment complaints should be processed with the same process as student complaints BUT:
 - **Consider using different decision-makers**
 - **Get advice!** CLCS, counsel, Karin, etc.
- **The Dept. of Education rarely deals with employee Title IX complaints**
 - Referred to Equal Employment Opportunity Commission (EEOC)



Title IX Considerations for Specific Student Populations



Specific Student Populations

- Pregnancy or related conditions
- Transgender status
 - Gender identity
 - Gender Expression
- Sexual Orientation
- Disability



Pregnancy or Related Conditions

Since 1975, the Title IX regulations have required that recipients not discriminate based on pregnancy or related conditions, including childbirth, termination of pregnancy, and recovery. The final regulations update these existing protections and clarify that a recipient **must protect students, employees, and applicants** from discrimination based on pregnancy, childbirth, termination of pregnancy, lactation, related medical conditions, or recovery, including by **providing reasonable modifications for students, reasonable break time for employees for lactation, and a clean, private lactation space for both students and employees.**





Update Policies/Grievance Procedures in Writing

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#	Topic Area	2024
1	Pregnancy or Related Conditions	The 2024 regulations explicitly include pregnancy and related conditions as a protected category under Title IX . This means schools cannot n treating parents differently on the basis of sex, including by defining “parental status” to include, e.g., adoptive parents or stepparents, or legal guardians.
2		The 2024 regulations require schools to take proactive steps to prevent discrimination and ensure equal access to educational programs and activities for pregnant or postpartum students. Examples include: <ul style="list-style-type: none"> • Providing reasonable modifications (e.g., adjusted schedules, alternative assignments) • Offering reasonable break time for lactation for employees • Providing lactation spaces for students and employees • Avoiding unnecessary documentation requirements for students seeking reasonable modifications. Documentation can only be requested if it’s truly necessary and reasonable.
3	Informing pregnant students	The 2024 regulations require employees to inform a pregnant student (or their legal representative) of the Title IX Coordinator’s contact information and available support resources . This should happen when the employee first learns of the student’s pregnancy and believes the Title IX Coordinator hasn’t already been notified.

Transgender Status & Sexual Orientation



State Law Status:

- Colorado is one of 22 states that recognizes protections on the basis of sexual orientation and transgender status through the Colorado Anti-Discrimination Act (2013).
- “Public accommodations” include public schools.
- Transgender protections in schools have developed over time:
 - Uses of bathroom, locker room and other facilities
 - Extracurricular activities
 - Sports
 - Preferred Names



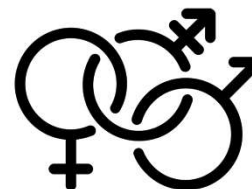
Transgender Status & Sexual Orientation



At federal level, there has been a lot of turbulence over the past ten years regarding what protections students have in terms of transgender status. The Biden administration provided some guidance in the 2024

Title IX Final Rule:

- **Prohibit a school from separating or treating any person differently based on sex** in a manner that subjects that person to more than de minimis harm, except in the limited circumstances where the statute allows otherwise, such as in the context of sex-separate living facilities and sex-separate athletic teams.
- **Policies and practices that prevent a student from participating based on their gender identity are considered discrimination.**
- There will be **separate rules for how Title IX applies to sex-separated athletic teams.**



Transgender Status & Sexual Orientation



Policy Note:

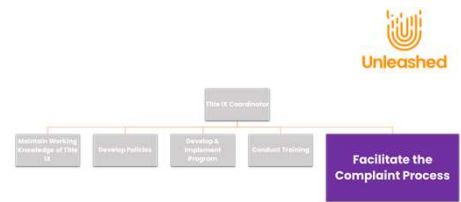
- Treat any reports of sexual harassment related to sexual orientation or transgender status as you would any other complaint in the process. As always, be mindful of trauma-informed practices (upcoming discussion).
- There will be **separate rules for how Title IX applies to sex-separated athletic teams.**



Disability



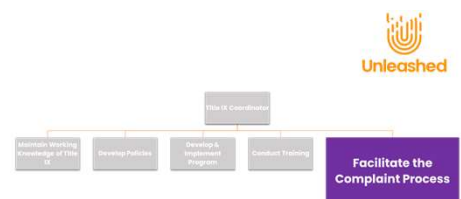
- According to the National Center for Education Statistics, an estimated **7 million public school students have an IEP or 504 plan** for a disability.
- Some studies estimate that **individuals with disabilities are three to five times more likely to experience unwelcome sexual contacts** in their lives, including at school.
- Disability **may also be a factor in assessing behaviors** that could give rise to a Title IX complaint.
- Students who have disabilities **may require supports or accommodations** through a Title IX process.



Disability



- Be proactive and **plan for the intersection of Title IX and disability** obligations!
- Title IX Coordinators should **engage in discussions with staff charged with accessibility services**.
- Reference accessibility services in Title IX FAQs.
- **Offer assistance** in the Title IX process to qualified disabled students.
- **Adopt language** from the school's general student conduct procedure stating that accommodations may be available.



Accommodating Disabilities in the Title IX Processes



Confirm the Disability.

- The Title IX Coordinator **may request confirmation from accessibility staff members** that the student has a disability and any accommodations they may already have in place.
- The Title IX Coordinator **should not receive or evaluate any medical documentation.**
- **Investigators** who receive disability accommodation requests should **refer them promptly to the Title IX coordinator.**



Accommodating Disabilities in the Title IX Processes



Identify potential accommodations.

- Once the disability is confirmed, the Title IX Coordinator should consult with accessibility staff to identify appropriate accommodations.
- Determine whether previously approved disability accommodations may be allowed in the Title IX process.
- Accommodations to consider include: extra time to review and respond to documents; longer or more frequent breaks during interviews; and auxiliary aids or assistive devices, including an interpreter, note-taker, recording device, or copies of documents.



Accommodating Disabilities in the Title IX Processes



Carefully evaluate requests.

- Note that **assistance that provides preferential advantage over the other party would be an unreasonable accommodation**. If this is a concern, make the same accommodation available to the other party, even if they do not have a disability. For example, if one party receives extra time or is allowed to copy documents, extend the accommodation to the other party.
- **Accommodations should not fundamentally alter the Title IX process**. If the number or scope of accommodations would result in major changes to your Title IX process significantly, seek legal advice.



Accommodating Disabilities in the Title IX Processes



Provide Accommodations

- Any approved accommodation should be documented through accessibility staff members (remaining a part of the disability documentation) or the Title IX Coordinator (remaining a part of the Title IX file).
- Maintain confidentiality about the requesting party's disability throughout the process.



Accommodating Disabilities in the Title IX Processes



Policy Note

Consider language used in your Title IX policy to distinguish between 'accommodations' used to address disability-related needs and 'accommodations' to describe supportive measures implemented elsewhere in the Title IX process.



Understanding Trauma



What is Trauma?



The **unique individual experience** of an event or enduring conditions, in which:

- the individual’s ability to integrate his/her emotional experience is overwhelmed; or
- the individual subjectively experiences a threat to life, bodily integrity, or sanity

Esther Giller, *What is Psychological Trauma?* Sidran Institute (1999).



Goal: A Trauma- Informed Approach to Title IX Complaints



A program, organization, or system that is trauma-informed:

<i>Realizes widespread impact of trauma</i>	<i>Recognizes the signs and symptoms of trauma</i>	<i>Responds by integrating knowledge about trauma into policies, procedures, and practices</i>	<i>Seeks to actively prevent re-traumatization</i>
---	--	--	--



Why have a Trauma-Informed process?



- To avoid re-traumatizing individuals impacted by misconduct
- Avoid creating or perpetuating a hostile environment
- Better investigations
- Required by Title IX regulations



Who Should be Trauma-Informed?



- Title IX Coordinator
- Investigator(s)
- Decision-Makers
- SROs
- School leaders
- Teachers
- Service providers such as counselors and other healthcare professionals
- Students



Exacerbators of Trauma



- Severity of experience
- Interpersonal event
 - as opposed to non-interpersonal events such as accidents and natural disasters
 - Impact views regarding safety, intimacy, and trustworthiness of others
- Chronic or repeated experiences
 - Persistent traumas may leave the survivor feeling overwhelmed, helpless, and with a sense that the trauma is inescapable



Stress Responses to Traumatic Events



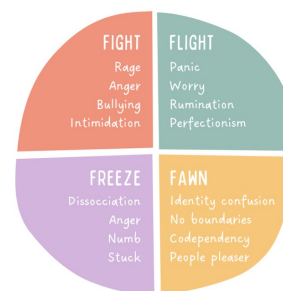
Fight, Flight, Or Freeze

When a person is under stress, a cocktail of stress chemicals are released:

- **Catecholamines:** Fight or flight response
- **Cortisol:** Makes energy available
- **Opioids:** Prevents pain
- **Oxytocin:** Promotes good feelings



TRAUMA RESPONSES - THE 4 F'S

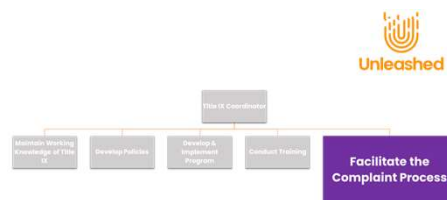


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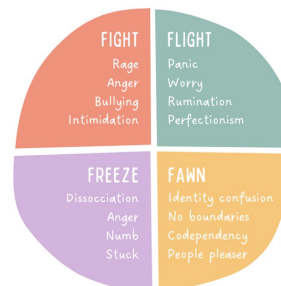
Fight or Flight



- Increased heart rate & blood pressure, hyper ventilation, glucose to major muscles
- Digestive and immune systems shutdown to conserve energy for fight or flight
- Rational thought impaired (*e.g., may not realize the door is open or that someone in the next room would hear if she screamed*)
- Sensory details, especially olfactory, more prominent
- Focus on “survival” rather than remembering “what happened”
- Opioids released have a numbing, “spacey” effect



TRAUMA RESPONSES - THE 4 F'S

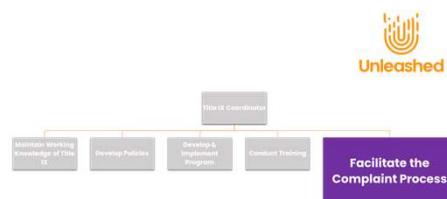


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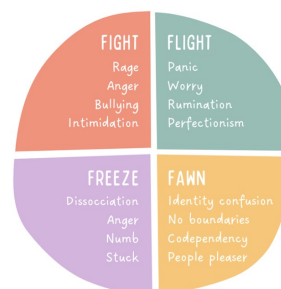
Freeze



- Sometimes a victim's body shuts down (freezes) – tonic immobility (aka “Deer in headlights” effect)
- Parasympathetic nervous system is activated
 - “Playing dead” (aka “collapsed immobility”)
 - Unable to speak
 - Muscles relax
 - Endorphins released to numb pain, decrease panic, and increase chances of survival
 - Orientation towards fear with no outward sign of stress; glazed look but conscious
 - Numbness
 - Sense of heaviness
 - Feeling stuck in some part of the body
 - Dissociated from emotions, rational thought is decreased



TRAUMA RESPONSES - THE 4 F'S



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Why Would the Body Freeze?



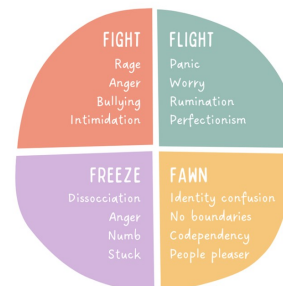
Research studies with animals have documented that sometimes the best way to protect the body is to freeze, to play dead, fighting back or fleeing would only prolong the threat and endanger the body even worse (maybe even risk death). In other words, sometimes the safest solution isn't fight-or-flight. The safest option is to freeze and so the brain and body work together to hold the organism still until the threat has passed.

- Dr. Rebecca Campbell, Michigan State University

- Fight, flight, or freeze = are all normal, biological responses to threatening encounters
- These responses are autonomic, which means they happen automatically without conscious thought or decision making



TRAUMA RESPONSES - THE 4 F'S



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Counter-intuitive Behavior



Why didn't she yell or scream for help?



Why didn't he just leave?



Why didn't they fight back?



Why didn't she say 'no'?

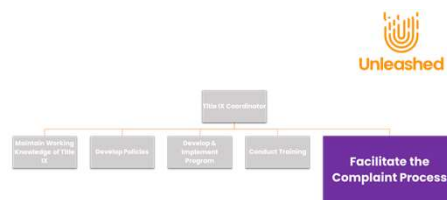
Behavior During Interviews



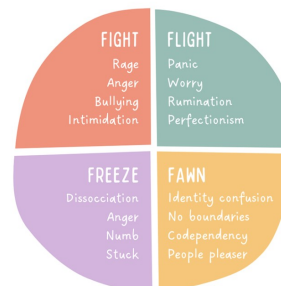
Survivor behavior during interviews may appear odd. Remember that they may continue to be affected by the 'chemical cocktail' associated with trauma when recalling a traumatic event

Various normal responses include:

- Emotional, crying, hysterical
- Flat affect – seeming numb
- Laughing, light-heartedness, inappropriate
- Cycling of emotions



TRAUMA RESPONSES - THE 4 F'S



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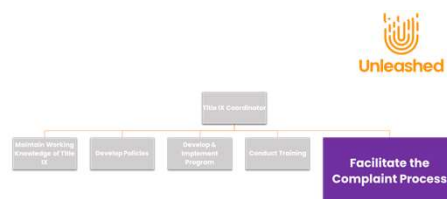
Trauma and Memory



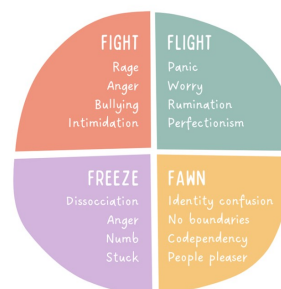
She can't get her story straight...

*How could she not remember something as significant as **that**?*

He is obviously making it up as he goes along...



TRAUMA RESPONSES - THE 4 F'S



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Trauma and Memory



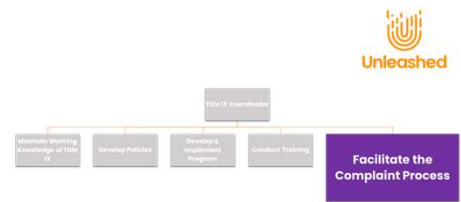
Explicit Memory: can be consciously and intentionally recalled

- Facts, general knowledge, autobiographical (placing self in space & time)

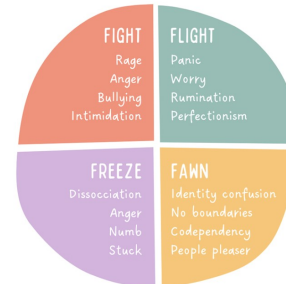
Implicit Memory: Remember unconsciously and effortlessly

- Emotional responses, body sensations, reflexive actions

Under extreme stress, the initial sorting of explicit and implicit layers continues, but processing is interrupted.



TRAUMA RESPONSES - THE 4 F'S



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Trauma and Memory

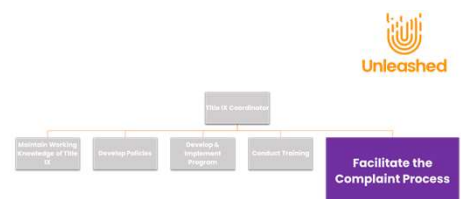


Memories of a Traumatic Event:

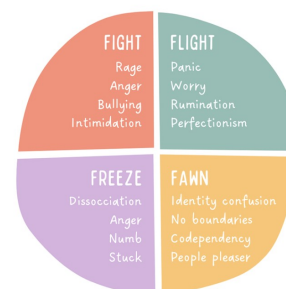
- Stored in amygdala (implicit)
- Non-linear recall of events
- Poor recall of contextual information (like the layout of a room)
- Details are fuzzy
- Focus may be on what someone did to survive event; what are perceived as important details to victim may seem odd

Memories of a Non-Traumatic Event:

- Stored in hippocampus (explicit)
- Linear recall of events
- Specific details
- "Significant details" make sense



TRAUMA RESPONSES - THE 4 F'S



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Post Traumatic Stress Disorder – PTSD (American Psychiatry Association, “What is PTSD?” 2014)



Post-traumatic stress disorder (PTSD) is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event.

Symptoms of PTSD fall into four categories and vary in severity:

- **Intrusive thoughts** such as repeated, involuntary memories; distressing dreams; or flashbacks of the traumatic event. Flashbacks may be so vivid that people feel they are re-living the traumatic experience or seeing it before their eyes.
- **Avoiding reminders** of the traumatic event may include avoiding people, places, activities, objects and situations that bring on distressing memories. People may try to avoid remembering or thinking about the traumatic event. They may resist talking about what happened or how they feel about it.



Post Traumatic Stress Disorder – PTSD (American Psychiatry Association, “What is PTSD?” 2014)



- **Negative thoughts and feelings** may include ongoing and distorted beliefs about oneself or others (e.g., “I am bad,” “No one can be trusted”); ongoing fear, horror, anger, guilt or shame; much less interest in activities previously enjoyed; or feeling detached or estranged from others.
- **Arousal and reactive symptoms** may include being irritable and having angry outbursts; behaving recklessly or in a self-destructive way; being easily startled; or having problems concentrating or sleeping.

Many people who are exposed to a traumatic event experience symptoms like those described above in the days following the event.

For a person with PTSD, symptoms last for at least a month and often persist for months and sometimes years.



Long-Term Effects of Trauma



- Significantly heightened risk of short-term PTSD symptoms (within two weeks after event)
- Heightened risk of PTSD long term symptoms (up to 9 months after event)
- Consider PTSD a form of disability.
- 38% of survivors of sexual violence experience work or school problems, which can include significant problems with a boss, coworker, or peer.



Long-Term Effects of Trauma



Even years later, traumatized people often have enormous difficulty telling other people what has happened to them. Their bodies re-experience terror, rage, and helplessness, as well as the impulse to fight or flee, but these feelings are almost impossible to articulate. Trauma by nature drives us to the edge of comprehension, cutting us off from language based on common experience or imaginable past.

- Bessel A. Van der Kolk, *The Body Keeps Score* (2014)

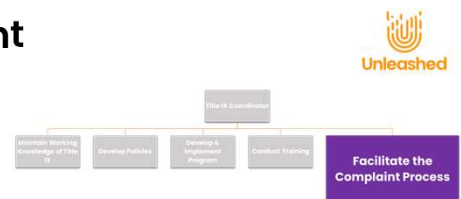


Trauma- Informed Processes



Intake Meetings after a traumatic event

There is **evidence that waiting two days** (two full sleep cycles) to conduct the intake interview **may result in more coherent, detailed information** because the brain will have had a chance to recover and consolidate memories during that period.



Trauma-Informed Intake Tips



Think about presentation and atmosphere. Be mindful of first impressions (in writing, on the phone, or in person).

- Where is the interview taking place? Consider privacy, light, noise, accessibility, etc.
- How do you present yourself?



Trauma-Informed Intake Tips



Help the reporting party feel empowered in the process. Emphasize choices and give the complainant a sense of control whenever possible:

- Whether to file a formal grievance procedure
- Whether to pursue a police report
- Whether to begin the interview at initial meeting, or have preliminary informational meeting first
- When to take breaks



Trauma-Informed Intake Tips



Be honest about the extent to which they are NOT in control in the process (e.g., circumstances in which the school would move forward against their wishes or report to external authorities)



Trauma-Informed Intake Tips



- Start the meeting by having the reporting party tell their “story,” in their own words, with minimal interruptions necessary, before asking follow-up questions.
- Ask open-ended questions whenever possible. Save the technical questions for the end (“Can we go back to…”).



Trauma-Informed Intake Tips



Provide detailed information and a clear explanation of your role as Title IX Coordinator. Consider sharing the Title IX Coordinator job description provided in Session 1.

Provide information in writing and go over it again in person.

- Think ahead regarding basic information so they don't have to ask (but encourage questions)
- Avoid jargon and acronyms



Trauma-Informed Interview Tips



- Try to use the interviewee's words back to them but clarify meaning of any slang and vague phrases.
- Don't let YOUR discomfort discourage the reporting party.
- Think before you speak. Be strategic and purposeful with regard to word choice and tone.

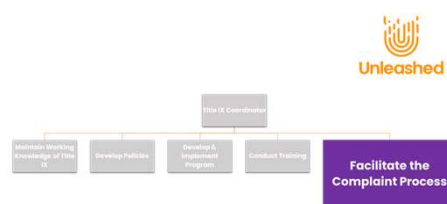


Trauma-Informed Interview Tips



Avoid questions or comments that may appear to victim-blame.

- “Is there any way this a misunderstanding?”
- “Why did you make that choice?”
- “Why did you wait to report this?”
- “This seems unlikely.”
- “You seem to be over-reacting.”



Helpful Links



Bostock US Supreme Court decision:

https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

CDE Transgender Resources:

https://www.cde.state.co.us/cde_english/titleix-transgenderstudents

Department of Education LGBTQ+ Resources:

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

Helpful Links



CDE Disability Resources:

<https://www.cde.state.co.us/cdesped/accommodations>

Trauma-Informed Schools:

<https://traumaawareschools.org/impact>

Pop Quiz!



1. When working with a student with a disability who has experienced a Title IX incident, the Title IX Coordinator should:
 - a) Treat the situation the same way as any other complaint.
 - b) Offer accommodations to ensure the student can fully participate in the process.
 - c) Discourage the student from filing a complaint due to potential complexities.
 - d) Focus solely on the disability and not the alleged misconduct.
2. A student who identifies as LGBTQ+ reports a Title IX violation. How should the Coordinator approach the situation?
 - a) Assume the student is lying because these incidents are less common.
 - b) Focus on heteronormative language and assumptions in the investigation.
 - c) Be aware of potential biases and create a safe space for the student to disclose details.
 - d) Ask questions to better understand the student's sexual orientation or gender identity.
3. During a Title IX interview, how can you demonstrate a trauma-informed approach?
 - a) Gently advise the victim on making better choices in the future.
 - b) Offer breaks and allow the interviewee to control the pace of the interview.
 - c) Ask about personal details not related to the alleged incident.
 - d) Express your own opinions and judgments about the situation to be more relatable.

Pop Quiz!



4. What are some resources you can provide to a complainant who may be experiencing trauma after a Title IX incident?
- Disciplinary action updates on the accused.
 - Information on legal representation for potential lawsuits.
 - Referral to mental health counseling services.
 - Resources for contacting the accused directly.
5. Why is it important to consider the specific needs of different student populations in Title IX cases?
- To ensure a fair and equitable process for all parties involved.
 - To avoid retraumatizing complainants who may have experienced trauma.
 - To provide appropriate support and resources to students in need.
 - All of the above.



Agenda (TWO DAYS)

DAY 1: June 17, 2024

- Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures
- Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews
- Considerations for Specific Student Populations & Trauma-Informed Approaches

DAY 2: June 18, 2024

- Managing Informal Resolutions
- Managing Formal Grievance Procedures, including Best Practices for Investigations
- Record Keeping and External Complaints to the Department of Education

Contact Us

Thank You

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reserved.

Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Session 4

Facilitated by Alesha Arscott, CEO | Unleashed
July 31, 2024

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Managing Informal Resolutions



01 What are Informal Resolutions?

Session 4 Handouts
Department of Education Regulations
Meditation
Restorative Justice
When is an informal resolution inappropriate?

04 Documentation

02 Who should facilitate informal resolutions?

Internal and External Facilitators
Scenarios

05 Helpful Links

03 Facilitating an Informal Resolution

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Check In



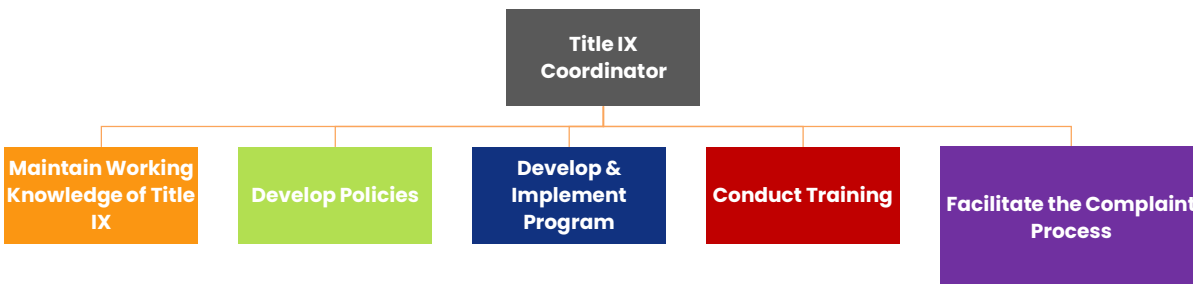
1

What was the most valuable takeaway from last session?

2

What topic do you need more clarity around?

Core Responsibilities of a Title IX Coordinator



Session 4 Handouts



1. Informal Resolution Information of Participants

Informal Resolution Process

The informal resolution process is a voluntary, confidential process designed to provide an opportunity for the parties to resolve a Title IX complaint through a process that is less formal than the formal resolution process. The process is designed to be less adversarial and more collaborative than the formal resolution process. The process is designed to be less formal and more collaborative than the formal resolution process. The process is designed to be less formal and more collaborative than the formal resolution process.

2. Informal Process Flow Chart



3. Agreement to use Title IX Voluntary Informal Resolution Process Form

Agreement to use Title IX Voluntary Informal Resolution Process Form

This form is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form. The form is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form. The form is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form.

4. Joint Letter Agreement

Joint Letter Agreement

This letter is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form. The letter is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form. The letter is used to document the parties' agreement to use the Title IX Voluntary Informal Resolution Process Form.

5. Signed Agreement

Signed Agreement

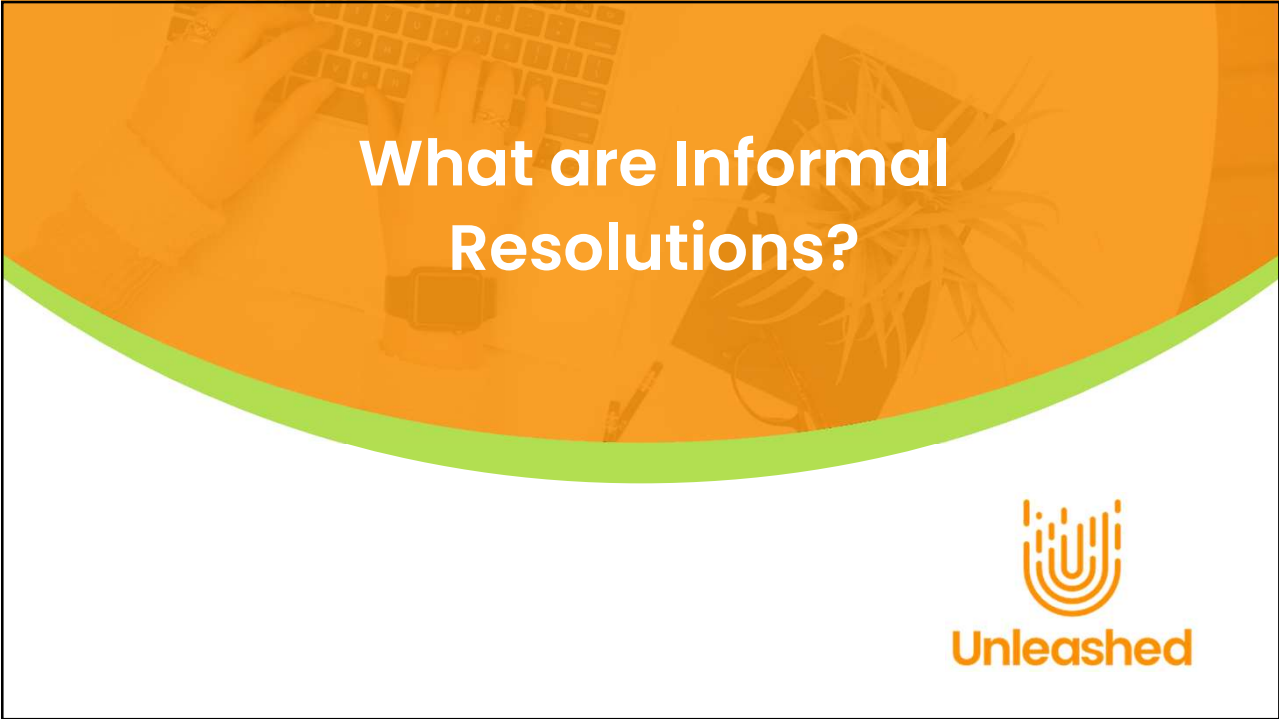
This is a signed agreement between the parties to the Title IX complaint. The agreement is signed by the parties to the Title IX complaint. The agreement is signed by the parties to the Title IX complaint.

6. Long Term No Contact Agreement

Long Term No Contact Agreement

This is a long term no contact agreement between the parties to the Title IX complaint. The agreement is signed by the parties to the Title IX complaint. The agreement is signed by the parties to the Title IX complaint.

Facilitate the Complaint Process

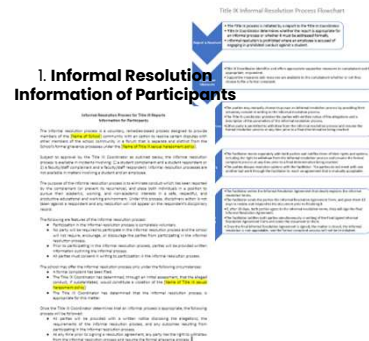


Informal Resolutions

Voluntary, remedy-focused processes that provide members of a school community with an option to resolve Title IX disputes with other members of the school community in a forum that is **separate and distinct from the school's formal grievance procedures** under the school's Title IX sex-based harassment policy (see **Handouts 1 and 2**).



2. Informal Process Flow Chart

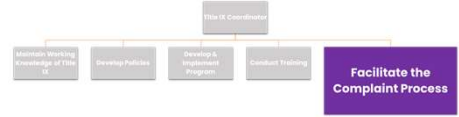


Department of Education Regulations

The school can offer an informal resolution process if appropriate whenever it receives a complaint of sex discrimination or has information about conduct that reasonably may constitute sex Discrimination.

- Participation in informal resolution **must be voluntary**.
- **Parties are permitted to choose to participate** in an informal resolution process **if one is provided by the school**.

Informal resolution is **not permitted** in situations in which an **employee allegedly engaged in sex-based harassment** of an elementary school or secondary school student or if such a process would conflict with Federal, State, or local law.



2. Informal Process Flow Chart

1. Informal Resolution Information of Participants

Informal Resolution Process by Title IX Coordinator

The Informal Resolution Process is a voluntary, confidential process designed to resolve complaints of sex discrimination or sexual harassment through a process that is less formal than the grievance process. It is available to all parties who are not the complainant or the respondent in a grievance process. It is available to all parties who are not the complainant or the respondent in a grievance process.

Subject to approval by the Title IX Coordinator, an informal resolution process may be initiated by either party to a complaint. The process is voluntary and confidential. The process is designed to be less formal than the grievance process. The process is designed to be less formal than the grievance process.

The purpose of the Informal Resolution Process is to provide a confidential, voluntary, and less formal process for resolving complaints of sex discrimination or sexual harassment. The process is designed to be less formal than the grievance process. The process is designed to be less formal than the grievance process.

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Department of Education Regulations

	Student to Student	Student to Employee	Employee to Student	Employee to Employee
Informal Resolution?	Yes	Yes	No	Yes
Formal Resolution	Yes	Yes	Yes - mandatory	Yes



2. Informal Process Flow Chart

1. Informal Resolution Information of Participants

Informal Resolution Process by Title IX Coordinator

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Department of Education Regulations



- Schools are **explicitly prohibited from requiring students or employees to waive their right to a formal grievance process** as a condition of enrollment or employment or enjoyment of any other right;
- Schools are **explicitly prohibited from requiring the parties to participate in an informal resolution process**
- A School **may not offer informal resolution unless a formal complaint is filed**
- **Either party has the right to withdraw from informal resolution** and resume a grievance process at any time before agreeing to a resolution; and
- Schools are **categorically prohibited** from offering or facilitating an **informal resolution process to resolve allegations that an employee sexually harassed a student.**



Informal Resolutions: Mediation



Mediation is a process where a neutral and independent person (a mediator or facilitator) helps the parties in a conflict reach their own solution.

Mediation focuses on conflict resolution and is used in a wide variety of settings across our society.

In the Title IX setting, mediation differs from other mediation forms because the school manages the process and provides the facilitator.

In policies, **use the term “informal resolution” and “facilitator” instead of mediation and mediator to avoid confusion.**



Informal Resolutions: Restorative Justice



Restorative justice intends to empower community members to resolve conflicts on their own and in small groups. Essentially, the idea is to bring students together in peer-mediated small groups to talk, ask questions, and air their grievances.

Meetings between parties, educational programs, and other non-punitive responses (such as community service) can be more appropriate and lead to more positive results.

If your school has a restorative justice program, consider ways the program can be extended to Title IX matters.



Why would someone prefer an informal resolution?



- Conduct may not be as severe or pervasive to require an investigation and adjudication.
- Parties have more control over the outcome.
- The solutions can be tailored to the needs of the parties.
- Less adversarial.



When is an informal resolution inappropriate?



- Schools **cannot** offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student due to power differentials inherent in those circumstances.
- Student on employee harassment can be a difficult issue and is generally not advisable to use the informal process to resolve.
- In severe cases (sexual assault, stalking, dating violence, etc.), informal resolutions are not appropriate.
- Current regulations do allow informal processes in those cases



When is an informal resolution appropriate?



- Student-on-student conduct that is not severe or pervasive.
- Employee-on-employee conduct that is not severe or pervasive or an abuse of power.

Consider power differentials in all cases.



Informal resolutions must be voluntary



Informal resolution cannot be mandated. It cannot be a requirement as a condition for:

- Continuing enrollment at the school;
- Employment; or
- Participation in school activities.



Informal resolutions must be voluntary



Informal resolutions are meant to be a voluntary process for both parties. Schools cannot:

- Pressure either party to participate in the informal resolution.
- Require a full investigation prior to an informal resolution
- Exclude either party from activities because they are not participating in the informal resolution process.



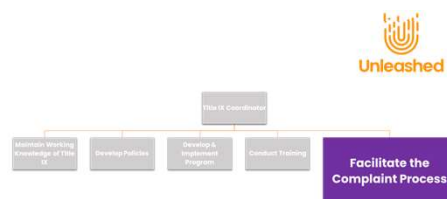
Who should facilitate informal resolutions?



Who can be a facilitator?



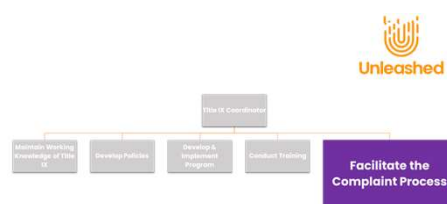
- Title IX Coordinators
- CAN be a principal or athletic director BUT make sure you have someone who can make a decision in case the informal resolution fails
- Can be another school leader.
- Must be trained in Title IX compliance and resolution processes.
- Any person who facilitates an informal resolution must be well trained, ideally someone who has worked in resolving disputes in other contexts.
- External professionals.



External Facilitators



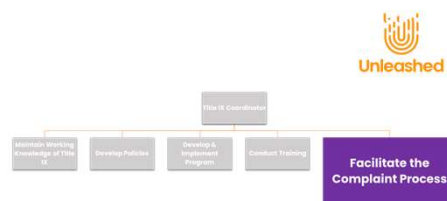
- Look for an attorney or other professional with mediation experience
- School districts may have trained professionals you can request.
- Sexual misconduct may present particular challenges – look for someone who is trauma-informed.



Facilitators must be impartial



- Be neutral.
- Treat all parties equally.
- Keep an open mind until they have all the facts needed to make a decision.
- No stake in the outcome.



Facilitators must avoid bias



Everyone has biases, but a facilitator must learn to recognize what those biases are and ensure they do not influence the resolution process.

Ways to avoid bias:

- Keep an open mind during the resolution process
- Avoid pre-judging facts before the resolution
- Remember that each case is unique

Allow for honesty – if someone feels they will be biased, then find another facilitator.



Scenario 1



You are the Title IX Coordinator. You designate the assistant principal, who has no formal role with the Title IX process, to facilitate an informal resolution, in this case a mediation.

They look at the complaint and recognize the name of the respondent from a student conduct issue that happened last year. The assistant principal had to discipline the respondent in that case.

Does the assistant principal have a conflict of interest?



No. The assistant principal is operating within the bounds of their position so they may still facilitate the informal process so long as they will not be biased against the student. The student may have some concerns, so be sure to discuss who the facilitator will be with both students.

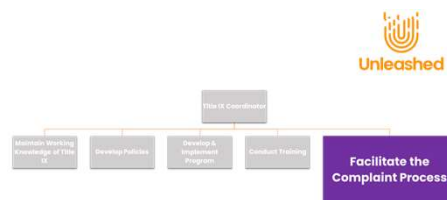
Scenario 2



You are the Title IX Coordinator. The school's star soccer player has been accused of sexually harassing another student over social media.

The soccer coach, who knows both students, has asked to facilitate a resolution between the students and would really like to get it wrapped up before the next game this weekend. The coach has no role within the Title IX process and has been a good person to counsel students accused of misconduct in the past because the coach is well-liked.

Does the coach have a conflict of interest?



Maybe. Is the coach interested in having the case resolved because it might be a distraction to the star player? Even if the coach is well meaning, it would best to have the coach not facilitate this issue.

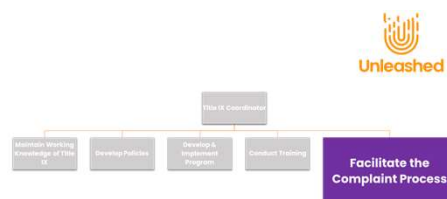
Scenario 3



You are the Title IX Coordinator and two students have asked for an informal resolution related to some misconduct that occurred after their dating relationship ended. Both students want to bring their mothers as advisors for the informal process.

You then realize you are acquainted with the complainant's mother. You see each other socially a few times a month but don't maintain an individual friendship.

What should you do?



Probably best to find another facilitator if you can. This is not necessarily a conflict of interest but there could be an appearance of a conflict.

Facilitating an Informal Resolution



GOAL: Be true to your Title IX policy and process. An agreement may not always be reached in an informal resolution process.



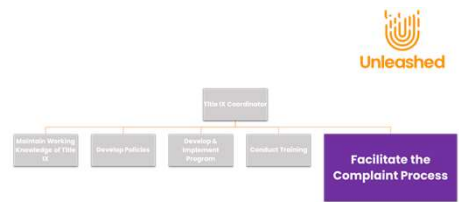
- Did each party understand the informal resolution process?
- Did each party have an opportunity to express their position, desired outcomes, and concerns?
- Did both parties understand that they could stop the informal resolution process and pursue the formal process at any time before an agreement was made?
- Does the outcome address the issue and outline steps to prevent any further instances of misconduct?



Facilitating a Resolution



- The Title IX regulations do not provide specific guidance as to what informal resolution should look like.
- The Title IX Coordinator and the Facilitator should both provide the parties with an overview of the process.
- Consider developing a script or a process flowchart (see **Handout 2**) so nothing is missed.
- If both parties agree to try an informal resolution, document their agreement (see **Handout 3** for an example).



3. Agreement to use Title IX Voluntary Informal Resolution Process Form

2. Informal Process Flow Chart

Agreement to use Title IX voluntary informal resolution

are public affairs which shall comply with Title IX of the Education Amendments of 1972 (20 U.S.C. § 1062) and shall be subject to the jurisdiction of the Department of Education. This process is intended to provide an informal resolution process between the parties. This process is not intended to be used in lieu of the Title IX process. The process is intended to be used in lieu of the Title IX process. The process is intended to be used in lieu of the Title IX process.

Title IX Informal Resolution Process Flowchart

The Title IX Coordinator is responsible for this process. The process is intended to be used in lieu of the Title IX process. The process is intended to be used in lieu of the Title IX process. The process is intended to be used in lieu of the Title IX process.

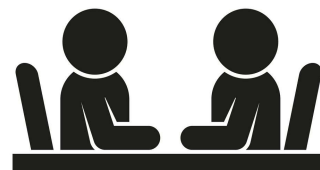
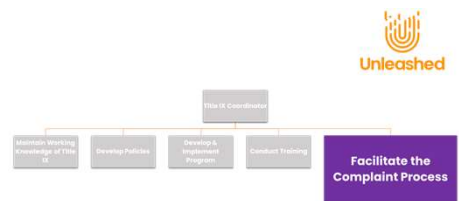
These steps are intended to provide an overview of the informal resolution process and should be used at the time and in a way that agrees with the parties. The process is intended to be used in lieu of the Title IX process. The process is intended to be used in lieu of the Title IX process.

Name (Print): _____
 Title: _____
 Date: _____
 Signature: _____
 Printed Name: _____

Facilitating a Resolution



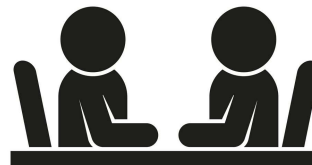
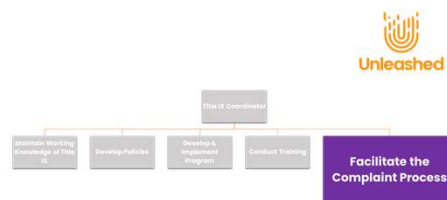
- Keep the parties separate. Title IX issues can be emotional. Keeping the parties separate during the resolution process may make for a more successful resolution.
- This is different from a traditional mediation where the parties often meet at some point in the process.



Facilitating a Resolution



- Provide each party an opportunity to tell their story.
- Each party should feel they have been heard.
- Review what is important to them.
- Identify areas of highest concern and areas of flexibility.
- Determine what each party wants out of the resolution process.
- Ask each party what they are looking for in a resolution.
- Make a list and review it with the parties.
- Be clear with each party what you can share with the other party.

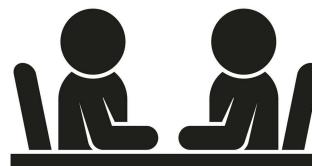
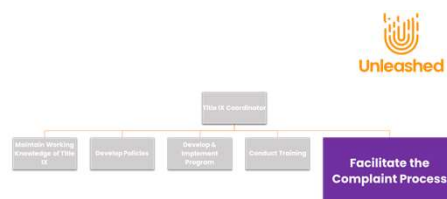


Facilitating a Resolution



Know what supportive measures you can offer on a permanent or long-term basis.

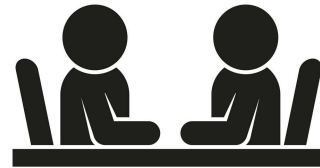
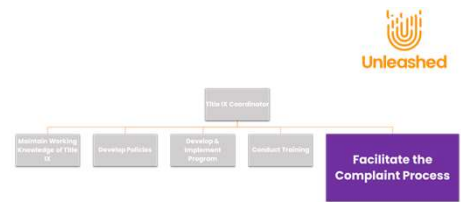
- Counseling
- Escorts in the halls
- Adjusting schedules
- Training
- Remote classes



Facilitating a Resolution



- Look to see if there is anything the parties have in common on their lists.
- Go back and forth between the parties until you can reach a resolution or are at an impasse.
- If you do reach an agreement, make sure both parties agree to the same terms.



Documentation



Documentation



- If an agreement is reached, make sure the facilitator documents it!
- Have both parties sign the agreement.
- Have a template easily accessible (see **Handouts 4 and 5** as examples).
- Have a deadline to agree to the informal resolution before it returns to the formal process.



5. Signed Agreement

4. Joint Letter Agreement

Resolution Agreement
This is a voluntary Informal Resolution Process...

Joint Letter Agreement

5. Signed Agreement

Resolution Agreement
This is a voluntary Informal Resolution Process...

5. Signed Agreement

Resolution Agreement
This is a voluntary Informal Resolution Process...

Written agreements should include:



- Names of both parties
- Names of advisor(s)
- Name of the facilitator
- Specific terms of the agreement
- General description of the process that led to the resolution
- Specify that the informal resolution process was used instead of the formal grievance process and both parties volunteered to participate
- Acknowledgement of all the terms in the agreement by the Parties
- Confidentiality provisions



Documentation - Confidentiality



The terms of the agreement should be on a need-to-know basis.

The agreement should include penalties for inappropriately disclosing terms of the agreement.

Agreements are protected by FERPA.

Helpful Links



The Title IX Law:

<https://www.justice.gov/crt/title-ix-education-amendments-1972>

General Restorative Justice Resources:

<http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/#sthash.S0ZAZ5wy.dpbs>

Restorative Justice in Schools:

<https://www.edutopia.org/blog/restorative-justice-resources-matt-davis>

Pop Quiz!



1. What is the PRIMARY purpose of exploring informal resolutions in Title IX cases?
 - a) To avoid a formal investigation altogether, regardless of the situation.
 - b) To offer a faster and less stressful alternative for complainants and respondents.
 - c) To impose disciplinary sanctions on the accused without a full investigation.
 - d) To discourage complainants from pursuing formal complaints.

2. When considering informal resolutions, it's important to:
 - a) Pressure both parties to agree to a resolution, even if they are hesitant.
 - b) Ensure both the complainant and respondent understand their rights and options throughout the process.
 - c) Focus solely on punishing the accused party.
 - d) Prioritize a speedy resolution over a fair and just outcome.

3. What are some examples of potential informal resolutions in a Title IX case?
 - a) Public apology from the respondent to the complainant.
 - b) Mandatory participation in anger management classes for the respondent
 - c) No-contact orders between the complainant and respondent.
 - d) All of the above.

Pop Quiz!



4. Before finalizing an informal resolution agreement, the Title IX Coordinator should:
 - a) Ensure the agreement is clearly written and easily understandable by both parties.
 - b) Draft the agreement without input from the complainant or respondent.
 - c) Guarantee confidentiality regardless of the specific terms of the agreement.
 - d) Obtain written consent from only the complainant.

5. What should you do if a party involved in an informal resolution process expresses discomfort or unwillingness to proceed?
 - a) Pressure them to continue in the interest of a quick resolution.
 - b) Dismiss their concerns and move forward with the proposed resolution.
 - c) Respect their decision and inform them of their right to pursue a formal complaint.
 - d) Explain the potential consequences of not reaching an informal resolution and explore if there are any modifications to the proposed agreement that might address their concerns.



Agenda (TWO DAYS)

DAY 1: June 17, 2024

DAY 2: June 18, 2024

- | | |
|--|--|
| <p>01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures</p> | <p>04 Managing Informal Resolutions</p> |
| <p>02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews</p> | <p>05 Managing Formal Resolutions, including Best Practices for Investigations</p> |
| <p>03 Considerations for Specific Student Populations & Trauma-Informed Approaches</p> | <p>06 Record Keeping and External Complaints to the Department of Education</p> |


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Contact Us


Thank You


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reserved.

Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Sessions 5

Facilitated by Alesha Arscott, CEO | Unleashed
June 18, 2024



Unleashed



COLORADO LEAGUE of
CHARTER SCHOOLS

229



Managing Formal Resolutions, including Best Practices for Investigations

- 01** Formal Resolutions
Session 5 Handouts
- 02** Investigators
- 03** Investigation
- 04** Adjudication
- 05** Appeals

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Check In



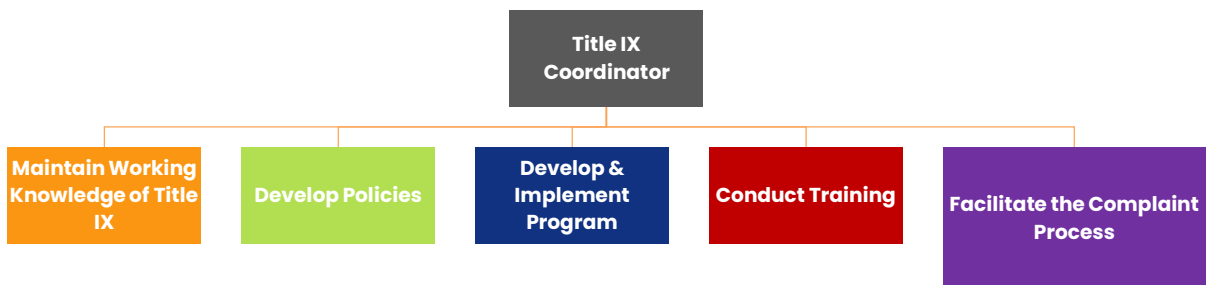
1

What was the most valuable takeaway from last session?

2

What topic do you need more clarity around?

Core Responsibilities of a Title IX Coordinator



Session 5 Handouts



1. Investigation Process Explanation

Just this investigation process

The following is a brief explanation of the investigation process. It is intended to provide you with a general understanding of the process and the role of the investigator. The process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard.

Investigation

The investigation process begins with the receipt of a complaint. The investigator will then conduct an investigation to determine the facts of the case. This may involve interviewing the complainant, the respondent, and any witnesses. The investigator will also review any relevant documents and evidence.

Resolution

Once the investigation is complete, the investigator will prepare a report and make a recommendation. The decision-maker will then review the report and make a final decision. The decision-maker may choose to resolve the complaint through mediation, conciliation, or other means. If the decision-maker determines that a disciplinary action is warranted, they may impose a sanction on the respondent.

Appeal

If either party is dissatisfied with the decision, they may have the right to appeal. The appeal process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard. The appeal panel will review the decision and make a final determination.

2. Complainant Notice Letter Template

Complainant Notice Letter

To: [Name of Complainant]

From: [Name of the Complaint and Investigation]

Re: [Name of the Complainant and Respondent]

Dear [Name],

The letter serves as notice that [Name] is conducting an investigation into the complaint that you have filed. The purpose of this investigation is to determine the facts of the case and to resolve the complaint. You are invited to participate in the investigation process and to provide your input.

Investigation

The investigation process begins with the receipt of a complaint. The investigator will then conduct an investigation to determine the facts of the case. This may involve interviewing the complainant, the respondent, and any witnesses. The investigator will also review any relevant documents and evidence.

Resolution

Once the investigation is complete, the investigator will prepare a report and make a recommendation. The decision-maker will then review the report and make a final decision. The decision-maker may choose to resolve the complaint through mediation, conciliation, or other means. If the decision-maker determines that a disciplinary action is warranted, they may impose a sanction on the respondent.

Appeal

If either party is dissatisfied with the decision, they may have the right to appeal. The appeal process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard. The appeal panel will review the decision and make a final determination.

3. Respondent Notice Letter Template

Respondent Notice Letter

To: [Name of Respondent]

From: [Name of the Complaint and Investigation]

Re: [Name of the Complainant and Respondent]

Dear [Name],

The letter serves as notice that [Name] is conducting an investigation into the complaint that you have filed. The purpose of this investigation is to determine the facts of the case and to resolve the complaint. You are invited to participate in the investigation process and to provide your input.

Investigation

The investigation process begins with the receipt of a complaint. The investigator will then conduct an investigation to determine the facts of the case. This may involve interviewing the complainant, the respondent, and any witnesses. The investigator will also review any relevant documents and evidence.

Resolution

Once the investigation is complete, the investigator will prepare a report and make a recommendation. The decision-maker will then review the report and make a final decision. The decision-maker may choose to resolve the complaint through mediation, conciliation, or other means. If the decision-maker determines that a disciplinary action is warranted, they may impose a sanction on the respondent.

Appeal

If either party is dissatisfied with the decision, they may have the right to appeal. The appeal process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard. The appeal panel will review the decision and make a final determination.

4. Witness Notice Letter Template

Witness Notice Letter

To: [Name of Witness]

From: [Name of the Complaint and Investigation]

Re: [Name of the Complainant and Respondent]

Dear [Name],

The letter serves as notice that [Name] is conducting an investigation into the complaint that you have filed. The purpose of this investigation is to determine the facts of the case and to resolve the complaint. You are invited to participate in the investigation process and to provide your input.

Investigation

The investigation process begins with the receipt of a complaint. The investigator will then conduct an investigation to determine the facts of the case. This may involve interviewing the complainant, the respondent, and any witnesses. The investigator will also review any relevant documents and evidence.

Resolution

Once the investigation is complete, the investigator will prepare a report and make a recommendation. The decision-maker will then review the report and make a final decision. The decision-maker may choose to resolve the complaint through mediation, conciliation, or other means. If the decision-maker determines that a disciplinary action is warranted, they may impose a sanction on the respondent.

Appeal

If either party is dissatisfied with the decision, they may have the right to appeal. The appeal process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard. The appeal panel will review the decision and make a final determination.

5. Summary Statement Template

Summary Statement of [Name]

This statement was prepared based on an interview with me conducted on [Date] at [Location]. The purpose of this statement is to provide a summary of the information that I provided during the interview. I understand that I am being asked to provide information that I believe to be true and accurate. I understand that I am to be cooperative, entirely truthful, and answer all questions completely.

I have reviewed this statement and agree it accurately reflects what I said during my interview.

Witness: _____ Date: _____
Investigator: _____ Date: _____

6. Statement Template

Statement

Name: _____
Address: _____
City: _____
State: _____
Zip: _____

I, the undersigned, do hereby certify that the foregoing is a true and correct statement of the facts and circumstances as they are known to me. I understand that I am to be cooperative, entirely truthful, and answer all questions completely.

Signature: _____
Date: _____

7. Investigation Checklist Form

Investigation Checklist Form

Investigator: _____
Complainant: _____
Respondent: _____
Witness: _____

Interviewed: _____
Reviewed: _____
Approved: _____

Date: _____

8. Sample Investigation Report

Investigation Report

To: [Name of Decision Maker]

From: [Name of Investigator]

Re: [Name of Complainant and Respondent]

Dear [Name],

The following is a summary of the investigation process and the findings. The investigator has conducted a thorough investigation and has prepared a report. The report contains the facts of the case, the evidence, and the investigator's recommendation. The decision-maker will review the report and make a final decision.

Investigation

The investigation process begins with the receipt of a complaint. The investigator will then conduct an investigation to determine the facts of the case. This may involve interviewing the complainant, the respondent, and any witnesses. The investigator will also review any relevant documents and evidence.

Resolution

Once the investigation is complete, the investigator will prepare a report and make a recommendation. The decision-maker will then review the report and make a final decision. The decision-maker may choose to resolve the complaint through mediation, conciliation, or other means. If the decision-maker determines that a disciplinary action is warranted, they may impose a sanction on the respondent.

Appeal

If either party is dissatisfied with the decision, they may have the right to appeal. The appeal process is designed to be fair and impartial, and to ensure that all parties have an opportunity to be heard. The appeal panel will review the decision and make a final determination.

Facilitate the Complaint Process

Formal Resolution



Responsibilities of Title IX Coordinator during the Formal Process



- **Oversee the investigation process** ensuring that both parties receive notice of the allegations, both parties have equal opportunities to present facts and evidence, and that the Investigator follows the time frames as listed in the new regulations. **agreed?**
- Ensure that **all involved parties (complainant and respondent) have advisors**. This role can be filled by parents or guardians, lawyers, or other adults. A Title IX Coordinator cannot be the advisor.
- **Presume innocence**. Confirm that the Investigator and Decision-Maker include this presumption as they conduct their work.
- **Dismiss allegations that do not meet the DOE's definition of sex-based harassment** or that occurs outside the school's jurisdiction.



Dismissals

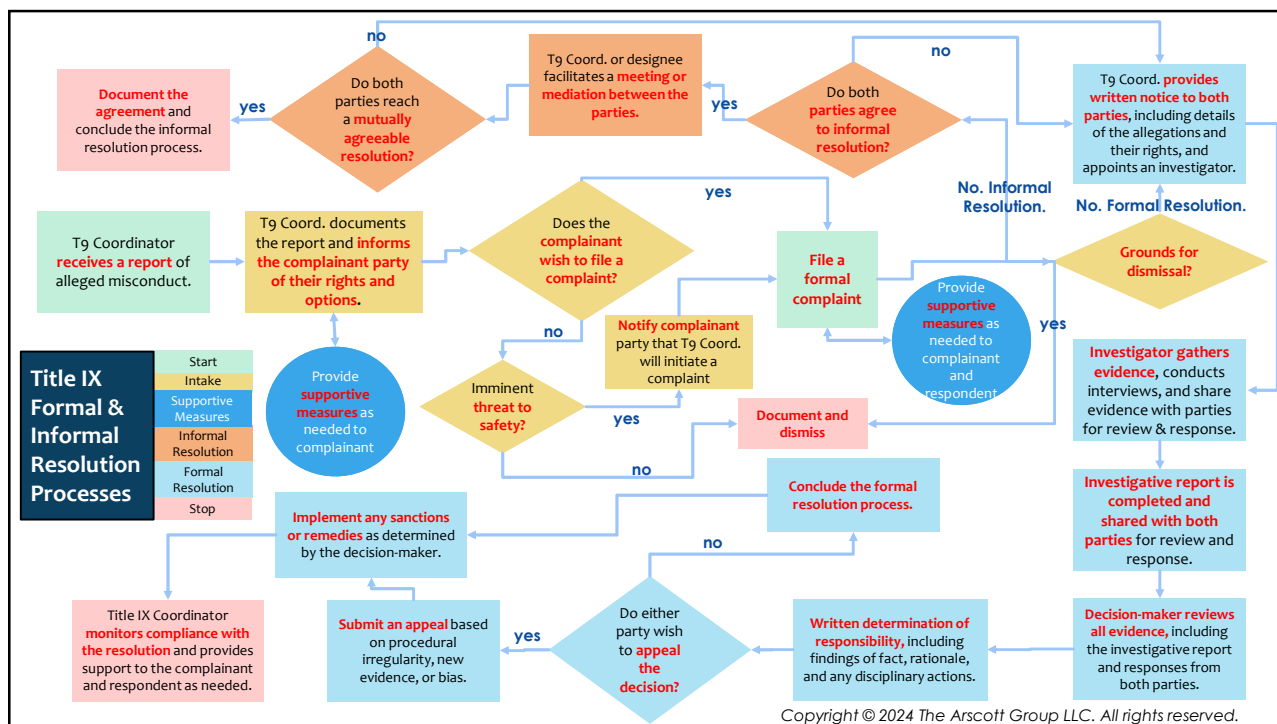


A School may dismiss a complaint of sex discrimination if:

- The School is **unable to identify the respondent** after taking reasonable steps to do so;
- **The respondent is not participating in the School's education program** or activity and is not employed by the School;
- The **complainant voluntarily withdraws** any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- **The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX**. Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the School will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the School will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.





When does a school need to Investigate?

Parties wish to use formal process = investigation

- Remember: Both parties must agree to use the informal process

Serious allegations

- Violence
- Severe impact
- Retaliation

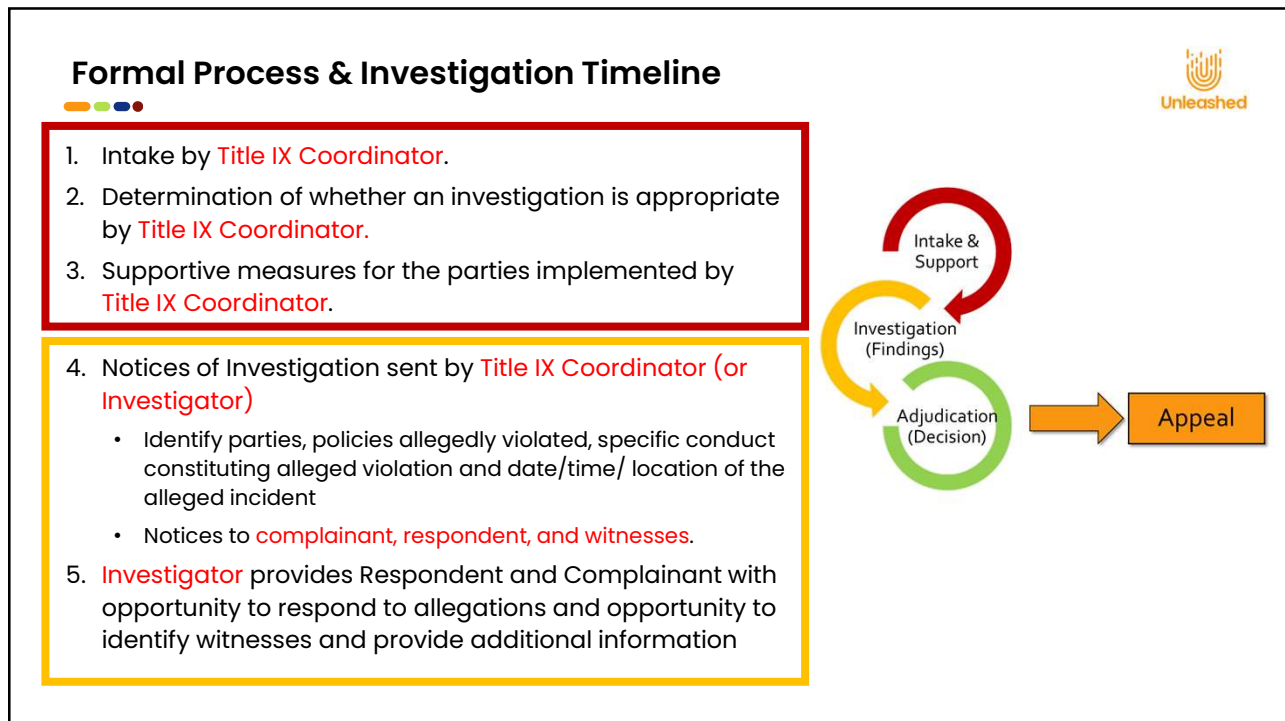
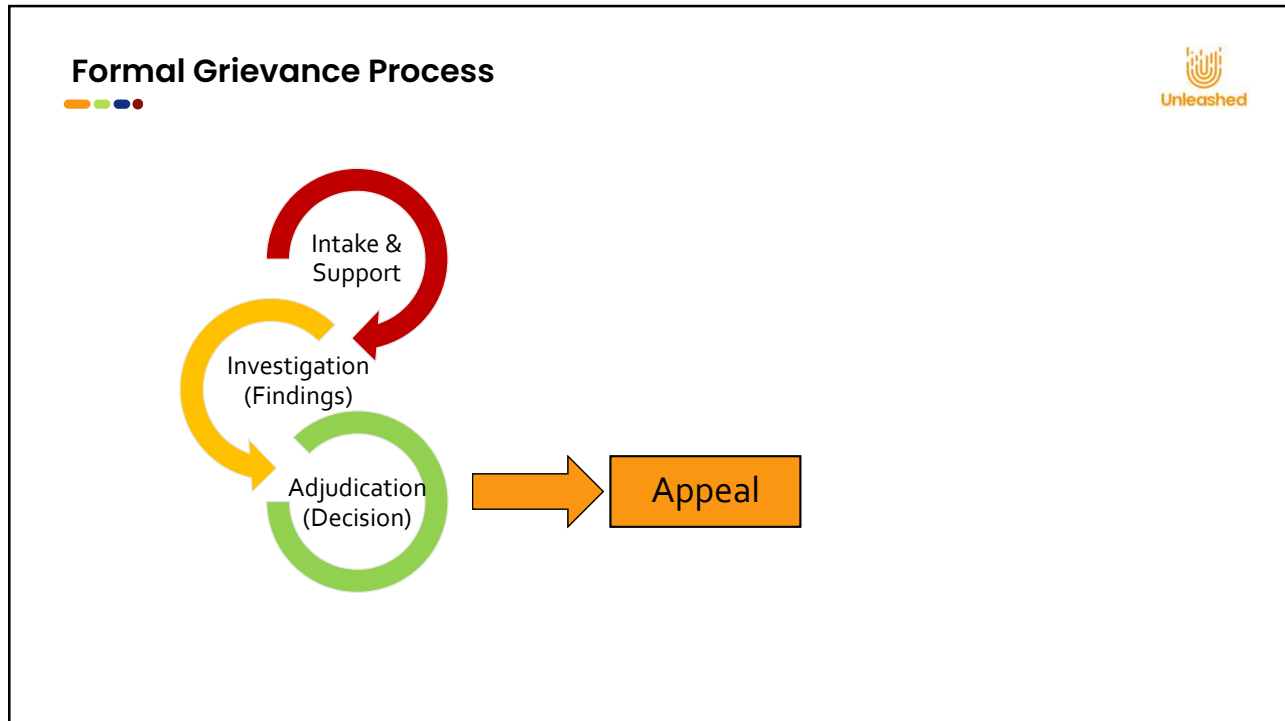
Serious consequences could arise

- Criminal violations
- Policy not respected
- Management challenge

Issues are widespread or pervasive

- Multiple community members are accused of misconduct
- Multiple instances of misconduct
- Patterns of misconduct

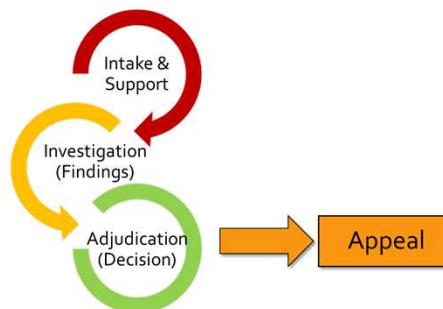




Formal Process & Investigation Timeline



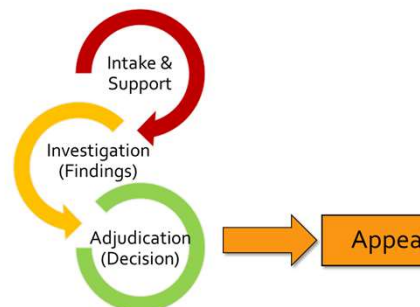
6. Investigation conducted by **Investigator**
 - Outline specific allegations and related P&Ps
 - Identify and interview witnesses
 - Identify and retain documents or other relevant information
 - Review documents and/or other relevant information
7. **Investigator** provides **Respondent** and **Complainant** **X** days to review and respond to collected evidence.
8. **Investigator** concludes all outstanding investigation issues.
9. **Investigator** prepares report
10. **Title IX Coordinator** checks the report for sufficiency
11. **Title IX Coordinator** sends report to **Decision-maker** and to the **parties**.

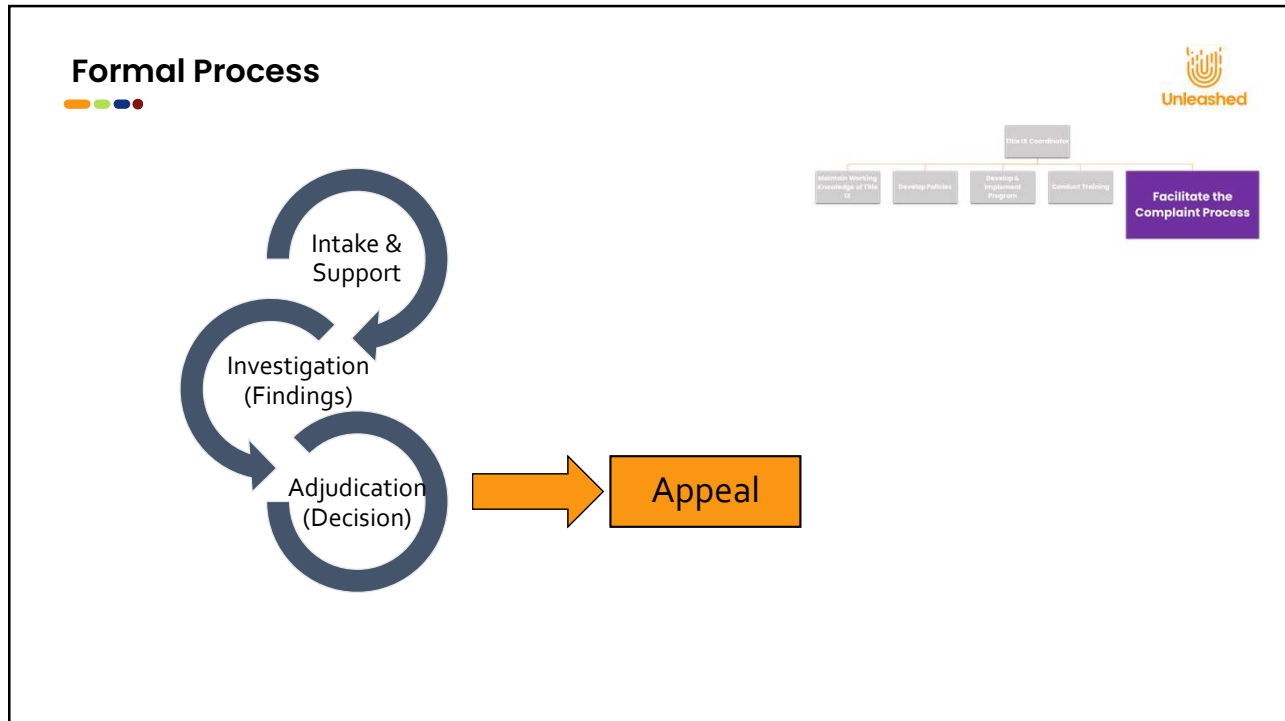


Formal Process & Investigation Timeline



12. **Parties** have **X** days to review and respond to the investigation report.
13. **Decision-maker** assesses the report and determines what, if any, action on the school is required (discipline, training, restorative justice measures, etc.)
14. The **parties** may pursue appeals under certain circumstances.





Formal Process & Investigation Timeline

1. Intake by **Title IX Coordinator**.
2. Determination of whether an investigation is appropriate by **Title IX Coordinator** (see **Handout 1**).
3. Supportive measures for the parties implemented by **Title IX Coordinator**.
4. Notices of Investigation sent by **Title IX Coordinator**
 - Identify parties, policies allegedly violated, specific conduct constituting alleged violation and date/time/ location of the alleged incident
 - Notices to complainant, respondent, and witnesses (see **Handouts 2-4**).
5. **Investigator** provides Respondent and Complainant with opportunity to respond to allegations and opportunity to identify witnesses and provide additional information

The diagram illustrates the formal process flow: Intake & Support → Investigation (Findings) → Adjudication (Decision) → Appeal. Below the diagram are four handout templates: 1. Investigation Process Explanation, 2. Complainant Notice Letter Template, 3. Respondent Notice Letter Template, and 4. Witness Notice Letter Template.

Formal Process & Investigation Timeline

6. Investigation conducted by **Investigator**
 - Outline specific allegations and related policies and procedures
 - Identify and interview witnesses
 - Identify and retain documents or other relevant information (see **Handouts 5-6**)
 - Review documents and/or other relevant information
7. **Investigator** provides Respondent and Complainant **X** days to review and respond to collected evidence.
8. **Investigator** concludes all outstanding investigation issues.
9. **Investigator** prepares report (see **Handout 8**)
10. **Title IX Coordinator** checks the report for sufficiency
11. **Title IX Coordinator** sends report to **Decision-maker** and to the **parties**.

The diagram illustrates the formal process and investigation timeline. It features a circular flow of three steps: 'Intake & Support', 'Investigation (Findings)', and 'Adjudication (Decision)', with arrows indicating a clockwise progression. An orange arrow points from the 'Adjudication (Decision)' step to a box labeled 'Appeal'. The 'Unleashed' logo is in the top right corner. Below the diagram are two sample forms: '6. Statement Template' and '5. Summary Statement Template', which contain various fields for names, dates, and statements.

Formal Process & Investigation Timeline

12. **Parties** have **X** days to review and respond to the investigation report.
13. **Decision-maker** assesses the report and determines what, if any, action on the school is required (discipline, training, restorative justice measures, etc.)
14. The **parties** may pursue appeals under certain circumstances.

This diagram shows the investigation process and the complaint process. It features a circular flow of three steps: 'Intake & Support', 'Investigation (Findings)', and 'Adjudication (Decision)', with arrows indicating a clockwise progression. An orange arrow points from the 'Adjudication (Decision)' step to a box labeled 'Appeal'. The 'Unleashed' logo is in the top right corner. Below the diagram is a flowchart for the 'Complaint Process' with the following steps: 'Unleashed Receives Knowledge of Title IX', 'Develop Policies', 'Develop a Complaint Program', 'Conduct Training', and 'Facilitate the Complaint Process'.

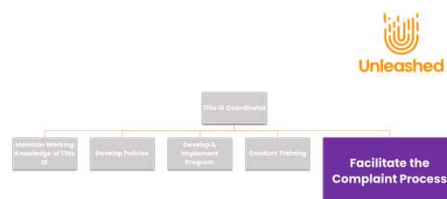
Investigators



Appropriate Investigation Resources



2024 Regulations: The Department **permits, but does not require, the single-investigator model** (which would allow recipients to use **a single investigator, a group of investigators, or internal or external investigators**), in conjunction with the other measures designed to ensure equitable treatment of the parties.



Internal Resources:

- Best practice: not the Title IX Coordinator, a principal, or person with disciplinary authority
- Trained and to the extent possible, experienced
- Someone with the emotional intelligence to investigate issues involving sexual misconduct

External Investigators:

- An attorney or other professional with experience in civil rights matters.
- Someone with experience in trauma-informed investigation techniques.

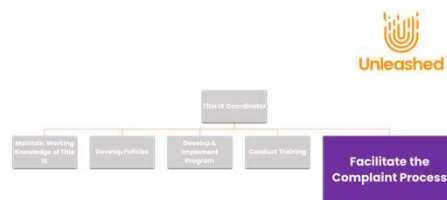


Title IX Coordinator & Investigator?



A Title IX Coordinator can be an investigator BUT:

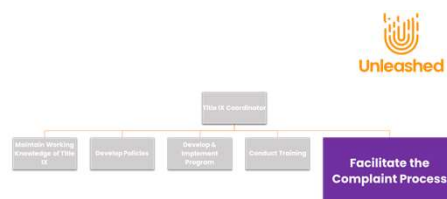
- Recognize the difficulty in managing the Title IX process as well as conducting the investigation.
- Consider delegating other Title IX Coordinator duties, such as having another school staff member provide and implement supportive measures.
- Be mindful of concerns or perceptions of bias or lack of objectivity.



Choosing an Investigator





- Fair, impartial and trained
- Independent
- Free of conflicts of interest
- Able to discuss difficult topics with compassion
- Effective listener
- Good communication skills
- Comfortable making credibility assessments
- Investigators can be decision makers under the single investigator model





Responsibilities of Title IX Coordinator during the Investigation Process


```

    graph TD
      TitleIX[Title IX Coordinator] --- A[Administer Working Knowledge of Title IX]
      TitleIX --- B[Develop Policies]
      TitleIX --- C[Develop University's Enforcement Program]
      TitleIX --- D[Conduct Training]
      TitleIX --- E[Facilitate the Complaint Process]
    
```

Ensure both parties receive notice of the allegations and have equal opportunities to present evidence.

Oversee the Investigator and make sure they follow the time frames as listed in the new regulations.

Confirm that Complainant and Respondent have advisors. This role can be filled by parents or guardians, lawyers, or other adults. A Title IX Coordinator cannot be an advisor.



The Purpose Of An Investigation



To advise the decision-maker of the following:

- Does the totality of the evidence obtained during the investigation support a finding that it is more likely than not that the alleged conduct occurred?
- If so, was it a violation of the school's policy?

To allow the decision-maker to determine:

- What is the appropriate response/sanction?
- What is the appropriate remedy?



Dismissals



A School may dismiss a complaint of sex discrimination if:

- The School is **unable to identify the respondent** after taking reasonable steps to do so;
- **The respondent is not participating in the School's education program** or activity and is not employed by the School;
- The **complainant voluntarily withdraws** any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the School determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- **The School determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX.** Before dismissing the complaint, the School will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the School will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the School will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.



The Five Phases of an Investigation



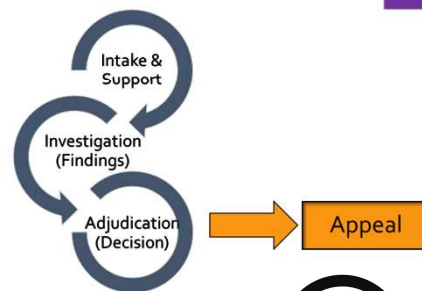
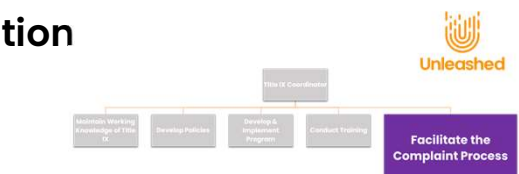
1. Notification of Investigation
2. Information Gathering
3. Information Review
4. Analysis and Determination of Facts and Policy through a Written Report
5. Notification of Outcome



Phase One: Notification of Investigation

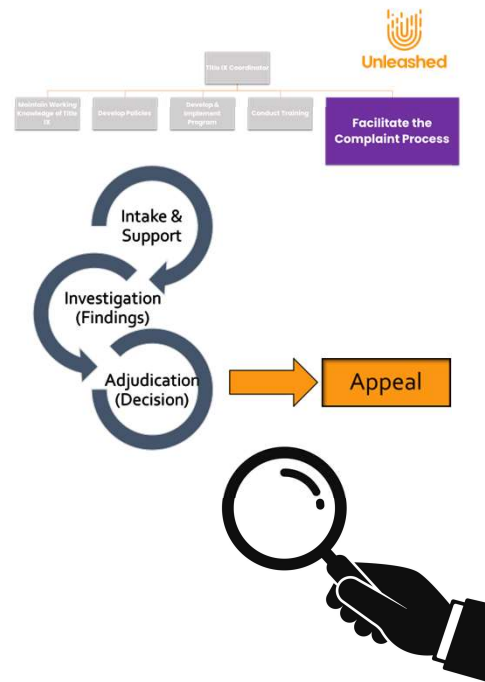


- The Title IX Coordinator sends formal written communication to both the Complainant and the Respondent. Includes information about:
 - the investigation process including the allegations
 - implicated sections of the school's Title IX policy
 - the name of the investigator
 - the rights the Complainant and Respondent have throughout the investigation process
 - a caution regarding retaliation
 - any other information that is pertinent to the investigation of the case
- The Title IX Coordinator notifies relevant witnesses.



Phase Two: Information Gathering

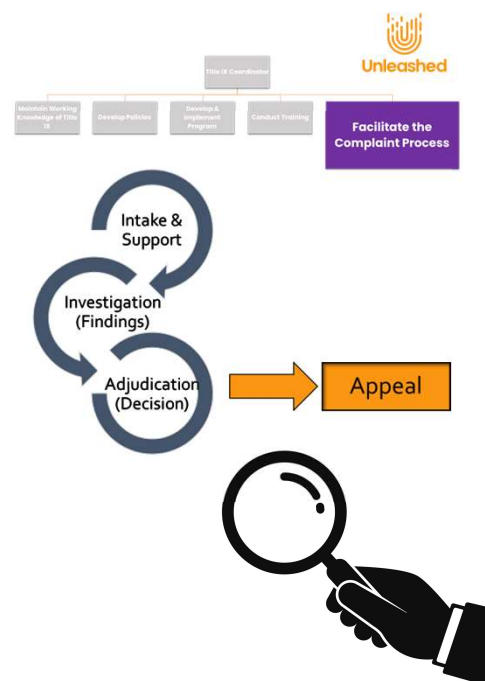
- The investigator gathers information related to the allegations (*Note: The burden is on the School--not on the parties--to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred*).
- May include documents, electronic materials (e.g., texts, social media posts, emails, phone logs), video and audio recordings, and interviews with witnesses.
- During this phase of the process, the Complainant and Respondent are each provided an equal opportunity to:
 - interview with the investigator,
 - present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible



Impermissible Evidence

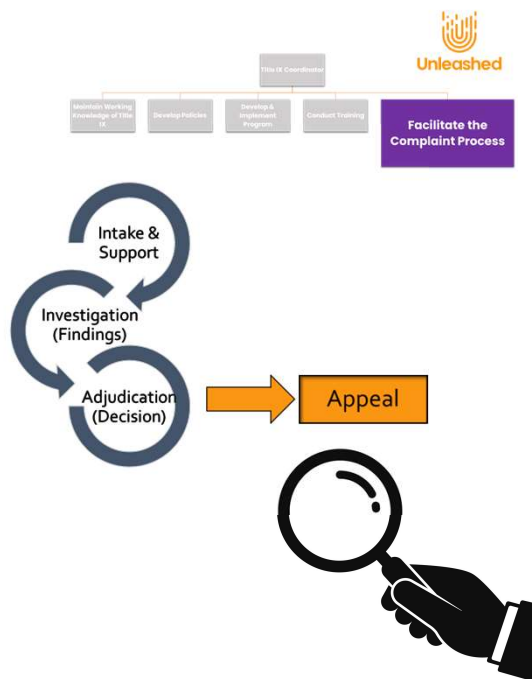
The following types of evidence, and questions seeking that evidence, are **impermissible** (i.e., will not be accessed or considered, except by the School to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- **Evidence that is protected under a privilege** recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- **A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional** in connection with the provision of treatment to the party or witness, unless the School obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- **Evidence that relates to the complainant's sexual interests or prior sexual conduct**, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.



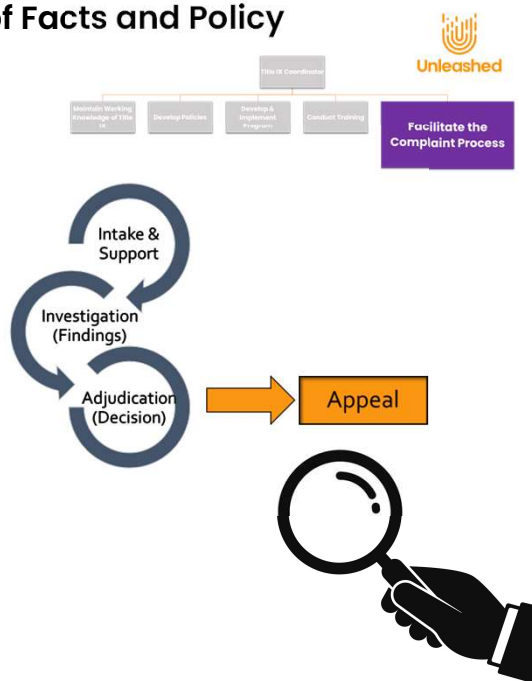
Phase Three: Information Review

- The investigator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.
- At the close of the information gathering phase, both the Complainant and the Respondent (and their advisors) will be **provided an equal opportunity to access** either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence
- The School will provide a **reasonable opportunity** to respond to the evidence or the accurate description of the evidence;
- The School will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.



Phase Four: Analysis and Determination of Facts and Policy through a Written Report

- The investigator reviews, weighs and analyzes the information using the “preponderance of the evidence” standard.
- This means the investigator reviews the information to determine whether it was more likely than not that the alleged conduct occurred.
- Most schools want the investigator to determine whether the facts show that there is a policy violation.

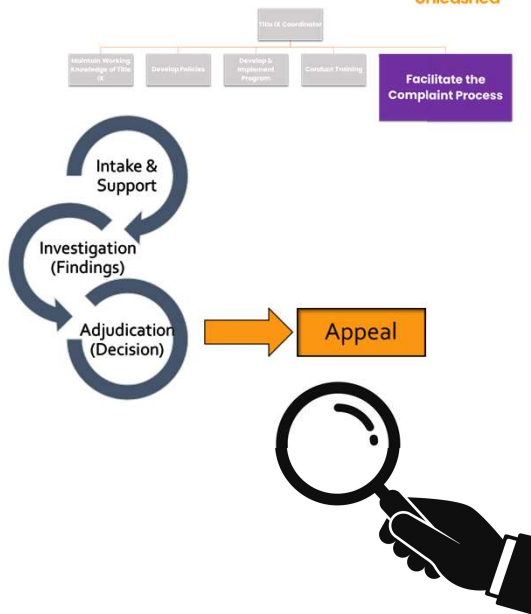


Phase Four: Analysis and Determination of Facts and Policy through a Written Report



The investigator writes a formal investigation report that must contain:

- the allegations that were investigated
- the applicable policy against which the allegations were reviewed
- the individuals contacted and interviewed
- a list of the documents and materials gathered, reviewed and analyzed
- a summary of information collected through materials and interviews



Phase Four: Analysis and Determination of Facts and Policy through a Written Report



General Report Format (see **Handout 8**)

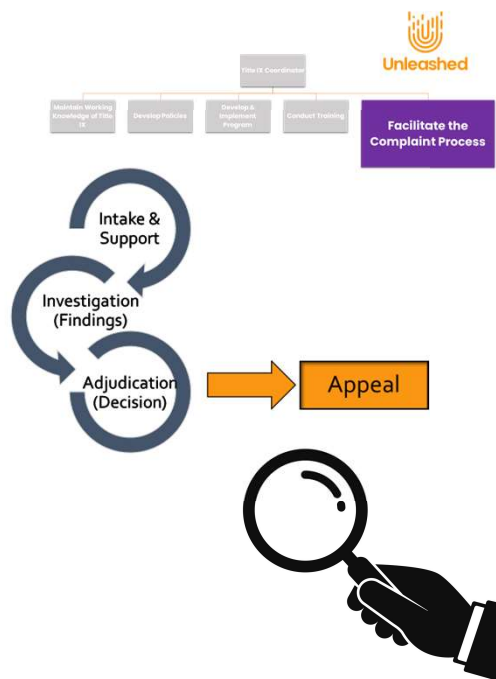
- Introduction or Background (identifies parties and specifies allegations)
- Jurisdiction and Procedural Background (outlines ability of the school to address issue)
- Investigation Process Summary
- Summary of Evidence Collected and Reviewed
- Relevant Policies and Procedures
- Standard of Proof used in Analysis
- Factual Findings and Analysis
- Conclusion

** The report is based on the totality of the evidence.

Phase Five: Notification of Outcome



- After the investigator completes the written report, the Title IX Coordinator sends formal written communication to both the Complainant and the Respondent about the outcome of the investigation.
- The notice of outcome is accompanied by a redacted version of the investigation report.
- The parties have **X** calendar days to review and respond to the report. Responses should be directed to the Decision-Maker.
- When appropriate, such as when the investigator determines that school policy has been violated, the notice of outcome letter will also include information regarding next steps in the Title IX process.

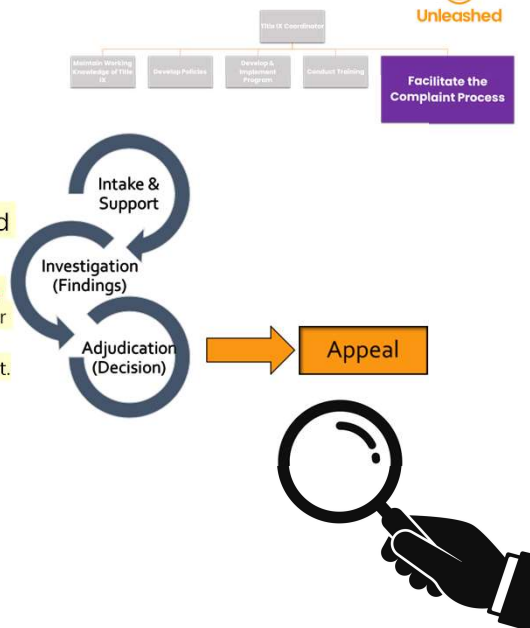


Adjudication



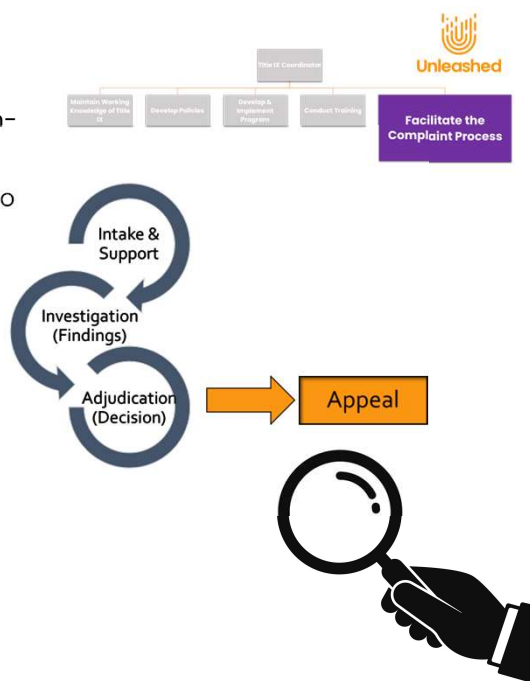
GOAL: Determine what if any sanctions and/or supports the school must implement.

- Decision-Makers:
 - Must be trained
 - Must be unbiased and free from conflicts of interest
 - Must be in position of authority/leadership
- Can be a separate person OR Title IX Coordinators and Investigators **CAN** be decision-makers.
 - **If the investigator and decisionmaker are different individuals,** the entity must develop a process that allows the decisionmaker to question the parties and all witnesses for the purpose of determining credibility when credibility is in dispute and relevant.



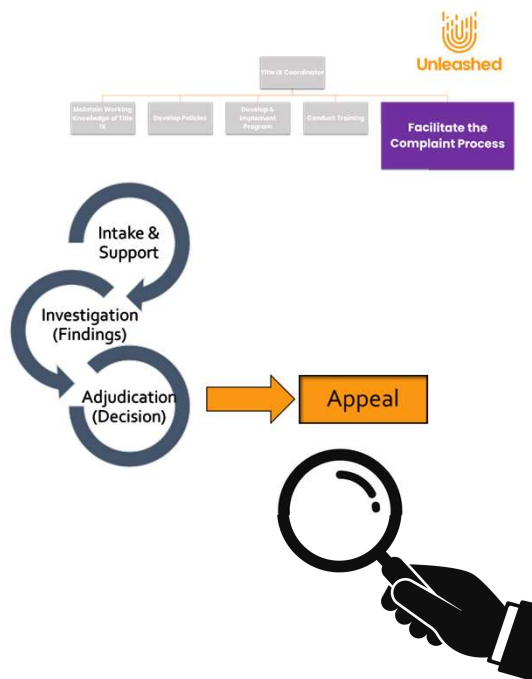
After the Report

- Report sent to Complainant, Respondent and Decision-Maker
- Complainant and Respondent have **X calendar days** to submit written response to Decision-Maker
- Decision-maker will issue sanctions if appropriate
- Sanctions may include:
 - mandatory attendance at relevant training program
 - oral reprimand and warning
 - written reprimand and warning
 - student probation
 - Suspension, expulsion
 - Termination of employment



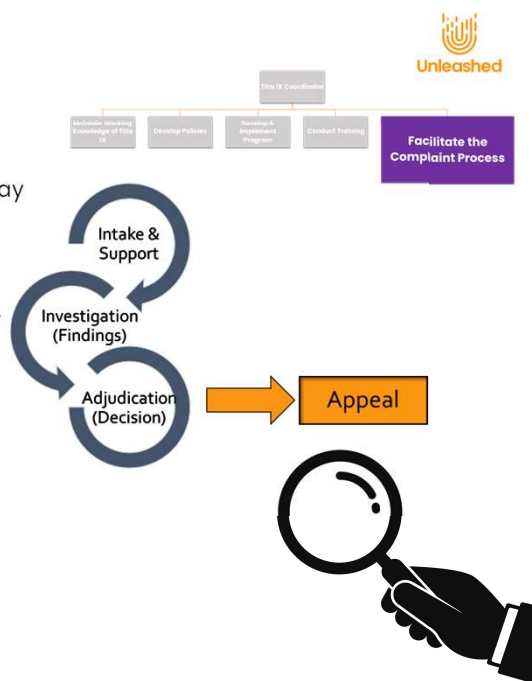
After the Report

- Who may want access to the investigation report:
 - Decision-Maker
 - Complainant and/or Respondent
 - Advisors for Complainant or Respondent
 - Police
 - State or federal agencies
 - Media



After the Report

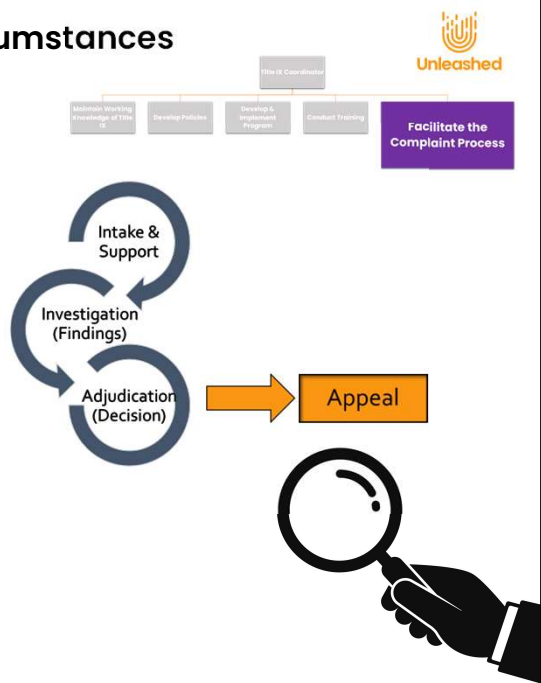
- Understand and appreciate the aftermath of Title IX investigations
 - Interactions with the parties, witnesses, and advisors may be awkward
 - How might it impact you on a personal level
 - What if you believe the Complainant's allegations but a preponderance of the evidence did not support a policy violation?
- Self care is important for Title IX Coordinators!





Appeals should be allowed in limited circumstances

The Final Rule states that a school must offer both parties an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint.

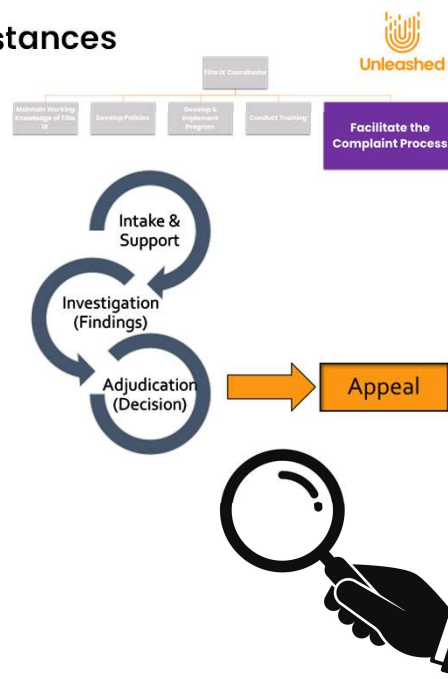


Appeals should be allowed in limited circumstances

The School will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the School will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- **Procedural irregularity** that would change the outcome.
- **New evidence** that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a **conflict of interest or bias** for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

A school may offer an appeal equally to both parties on additional bases.



Pop Quiz!

1. What kind of knowledge about potential sex discrimination might trigger a formal investigation by the school?
 - a) Rumors heard in the hallways.
 - b) A news report about an unrelated incident.
 - c) A social media post by a student about feeling uncomfortable.
 - d) A report from a school employee who witnessed the alleged misconduct.
2. What are the KEY components of a thorough and impartial Title IX investigation?
 - a) Relying solely on witness statements and not interviewing the complainant or respondent.
 - b) Gathering evidence from all relevant sources, including interviews with both parties and potential witnesses.
 - c) Focusing on the personal opinions and biases of the investigator.
 - d) Prioritize a speedy resolution over a fair and just outcome.
3. During a Title IX investigation, the investigator should?
 - a) Ask leading questions that suggest a pre-determined outcome.
 - b) Express personal opinions or beliefs about the situation during interviews.
 - c) Share confidential information obtained during the investigation with unauthorized individuals.
 - d) Maintain a neutral and objective approach, allowing both parties to present their perspectives.

Pop Quiz!



4. After completing the investigation, the Title IX Coordinator should:
 - a) Share the report with anyone who expresses interest in the case.
 - b) Publicly announce the findings and any disciplinary sanctions imposed.
 - c) Issue a written report outlining the findings and potential next steps to both parties involved.
 - d) Disclose confidential details from the investigation in a public forum.
5. What is an important step to take before initiating a formal investigation?
 - a) Schedule a joint interview with the complainant and respondent.
 - b) Develop a clear timeline for all stages of the investigation process.
 - c) Assume guilt on the part of the accused based on the initial complaint.
 - d) Deny the complainant the right to legal representation during the investigation.
6. When the investigator and decision-maker are separate individuals, what is required to ensure a fair hearing?
 - a) The decision-maker must review all evidence but cannot question anyone.
 - b) The decision-maker must have access to the investigator's report but cannot question witnesses.
 - c) The school must develop a process for the decision-maker to question parties and witnesses.
 - d) The decision-maker must meet with the complainant but not the respondent.

Pop Quiz!



7. What is the purpose of the appeals process in a Title IX case?
 - a) To gather new evidence not presented during the investigation.
 - b) To provide an opportunity to challenge the outcome of the investigation or a dismissal decision.
 - c) To impose disciplinary sanctions on the respondent.
 - d) To determine whether the school followed proper procedures.
8. Who typically serves as the appeal officer in a Title IX case?
 - a) The Title IX Coordinator.
 - b) The investigator from the original investigation.
 - c) A separate, impartial individual.
 - d) A representative from law enforcement.



Agenda (TWO DAYS)

DAY 1: June 17, 2024

DAY 2: June 18, 2024

- | | |
|--|---|
| <p>01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures</p> | <p>04 Managing Informal Resolutions</p> |
| <p>02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews</p> | <p>05 Managing Formal Resolutions, including Best Practices for Investigations</p> |
| <p>03 Considerations for Specific Student Populations & Trauma-Informed Approaches</p> | <p>06 Record Keeping and External Complaints to the Department of Education</p> |


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Contact Us


Thank You


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reserved.

Colorado League of Charter Schools (CLCS) Title IX Coordinator Training: Sessions 6

Facilitated by Alesha Arscott, CEO | Unleashed
June 18, 2024



Unleashed



COLORADO LEAGUE of
CHARTER SCHOOLS

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Record Keeping and External Complaints to the Department of Education

01 Record Keeping
 Session 6 Handouts
 Department of Education Regulations
 Recordkeeping Best Practices
 Colorado Open Records Act (CORA)

02 Department of Education OCR Complaints

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Check In



1

What was the most valuable takeaway from last session?

2

What topic do you need more clarity around?

Core Responsibilities of a Title IX Coordinator



Session 6 Handouts



1. Sample Complaint Log

Complaint No.	Date	Complainant	Allegation	Status	Resolution
1001	10/15/2021	John Doe	Sexual Harassment	Resolved	Apology and counseling
1002	11/02/2021	Jane Smith	Sexual Assault	Resolved	Legal action and counseling
1003	12/10/2021	Michael Brown	Sexual Harassment	Resolved	Apology and counseling

2. Incident Process Form

Has an Incident Process Form (IPF) been completed for this incident?

If not, please complete the IPF as soon as possible. The IPF is a critical document that provides a clear and concise record of the incident and the steps taken to resolve it. It is also a key tool for preventing future incidents.

The IPF should be completed by the complainant or the school administrator, depending on the nature of the incident. It should be completed as soon as possible after the incident has occurred, and it should be kept in a secure location.

3. Sample Training Log for Title IX Staff

Staff Name	Training Topic	Date	Hours
John Doe	Title IX Training	10/15/2021	2
Jane Smith	Title IX Training	11/02/2021	2
Michael Brown	Title IX Training	12/10/2021	2

4. Sample Participant Log for Training

Participant Name	Training Topic	Date	Hours
John Doe	Title IX Training	10/15/2021	2
Jane Smith	Title IX Training	11/02/2021	2
Michael Brown	Title IX Training	12/10/2021	2

Facilitate the Complaint Process

5. Compliance Work Plan Template

Update to Policy or Internal Process	Responsible Unit	Status	Timeline
Update to Student Handbook	Student Services	In Progress	Q1 2022
Update to Title IX Policy	Legal Services	Completed	Q4 2021

6. Annual Case Report Example

OVERVIEW

This report provides a summary of all Title IX cases reported during the reporting period. It includes information on the number of cases, the nature of the allegations, and the outcomes of the investigations.

REPORTING PERIOD: 10/1/2021 - 9/30/2022

TOTAL CASES: 15

ALLEGATIONS: Sexual Harassment (10), Sexual Assault (3), Stalking (2)

OUTCOMES: Resolved (12), Pending (2), Unresolved (1)

7. CORA Information

LAW SUMMARY
Office of Legislative Legal Services

Colorado Open Records Act - "CORA"

This act provides a framework for the public's right to access government records. It outlines the process for requesting records and the responsibilities of government agencies in responding to requests.

8. Filing a Complaint with OCR

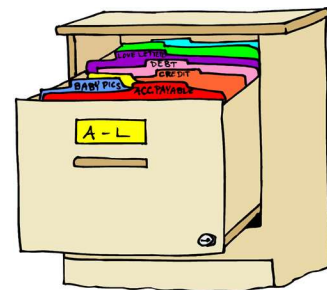
How to File a Discrimination Complaint With the Office for Civil Rights

This document provides step-by-step instructions on how to file a complaint with the Office for Civil Rights (OCR). It covers the process from gathering evidence to filing the complaint and the timeline for resolution.

Department of Education Regulations



- The regulations impose recordkeeping requirements in relation to Title IX matters.
- School must maintain case files and training records for a period of **7 years** from the complaint or training activity.
- Most schools find it is easier to **discard records by calendar year.**
- Example: at the end of 2022, discard records from 2015



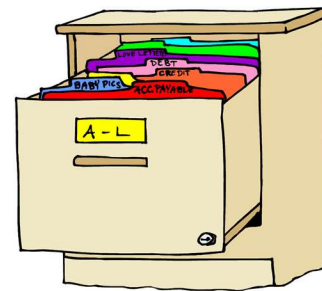
Department of Education Regulations – Case Files



Case records that must be maintained for 7 years:

Records of sex-based harassment investigations including –

- any determination of responsibility
- any audio or audiovisual recording or transcript
- any disciplinary sanctions imposed on the respondent
- any remedies provided to the complainant



Department of Education Regulations – Case Files



Case records that must be maintained for 7 years:

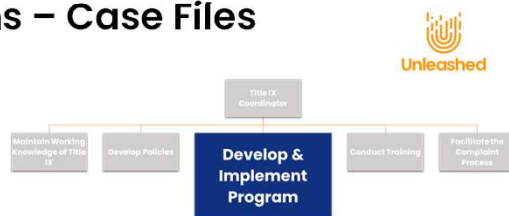
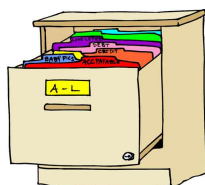
- Records of any appeal and the results of the appeal.
- Records of any informal resolution and the results of that informal resolution.
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of sex-based harassment.



Department of Education Regulations – Case Files



- The regulations do not include specific requirements for how you manage your case files or keep track of the cases you handle.
- Aggregate your data
 - See **Handout 1** for an example of a case log to aggregate information in case of a Department of Education request.
 - See **Handout 2** for the Incident Process Form (from Session 2) which can be used as a case file.



2. Incident Process Form

1. Sample Complaint Log

Case No.	Complainant	Respondent	Allegation	Investigation Status	Resolution	Appeal Status	Final Disposition
001	John Doe	Jane Smith	Sexual Assault	Completed	Settlement	None	Settlement
002	Jane Smith	John Doe	Sexual Assault	In Progress	Investigation	None	Investigation
003	John Doe	Jane Smith	Sexual Assault	Completed	Settlement	None	Settlement

2. Incident Process Form

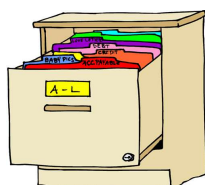
This is a detailed form for documenting an incident. It includes sections for:

- Document Date for Action (Date of Report)
- Incident Description (Date, time, and location of incident)
- Investigation Status
- Resolution
- Appeal Status
- Final Disposition

Recordkeeping Best Practices



- Document any compliance plans you have for the year and maintain it throughout the year (see **Handout 5 – Compliance Work Plan**)
- Prepare reports for each year (academic or calendar) (see **Handout 6** for examples)
- These allow you to report on Title IX compliance without having to create records.
- Helpful when dealing with governance Boards, the media, and the Department of Education



6. Annual Case Report Example

5. Compliance Work Plan Template

2023 Title IX Compliance Work Plan

Task/Action	Responsible Unit	Status	Timeline	Comments
Update Policies + Internal Processes				
Conduct Training				
Facilitate the Complaint Process				

6. Annual Case Report Example

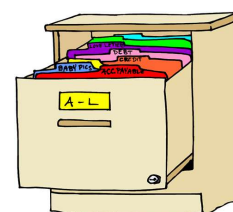
This is a detailed report form. It includes sections for:

- Overview (Date, Title, Location, Date of Report)
- Incident Description (Detailed account of the incident)
- Investigation Status
- Resolution
- Appeal Status
- Final Disposition

Who is responsible for maintaining Title IX records?



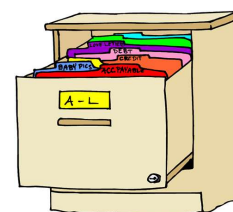
- **Title IX Coordinators** are ultimately responsible for maintaining all Title IX records.
- Take this responsibility seriously.
- Develop forms and systems to help make it easier to maintain the files.
- Maintain Title IX files away from files related to employee or student records, disciplinary matters, etc.



Where should a school keep them?



- Treat physical files as confidential (like medical records):
 - Under controlled area
 - Title IX Coordinator's office
 - HR office
 - Locked
 - Access to files limited to people with need-to-know
- Electronic files
 - Secure area of IT system
 - Use most secure 3rd party file-sharing programs your organization allows
 - Access to files limited to only people with need-to-know



Colorado Open Records Act (CORA)



- The Colorado Open Records Act (referred to as 'CORA') requires that the public have access to most public records.
- A public record includes most documents made, maintained, or kept by government entities, including public schools.
- There are exceptions to public records under CORA.
- See **Handout 7** for a full explanation.



7. CORA Information



Colorado Open Records Act - "CORA"

What is a public record?

The definition of "public records" found in CORA is quite expansive and applies to virtually all documents that are prepared, received, owned, held, maintained, disseminated, and disseminated in any form, including electronic, digital, and physical. This includes, but is not limited to, letters, memoranda, reports, forms, and other documents, as well as electronic files, databases, and other digital information. The definition also includes records that are prepared, received, owned, held, maintained, disseminated, and disseminated in any form, including electronic, digital, and physical, by any person or entity, whether or not the person or entity is a public official or employee, and whether or not the person or entity is acting in an official capacity.

What is a "nonpublic record"?

CORA broadly defines a "nonpublic record" as the official records and information generated, received, owned, held, maintained, disseminated, and disseminated in any form, including electronic, digital, and physical, by any person or entity, whether or not the person or entity is a public official or employee, and whether or not the person or entity is acting in an official capacity, that are exempt from public release under the provisions of CORA. This includes, but is not limited to, records that are exempt from public release under the provisions of CORA, records that are exempt from public release under the provisions of CORA, and records that are exempt from public release under the provisions of CORA.

What are the requirements of public records?

CORA sets the highest standard for public records. These records are subject to public release and inspection, and are not subject to any exemption from public release and inspection.

What are the requirements of nonpublic records?

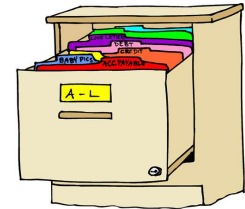
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Colorado Open Records Act (CORA)



What Title IX Records can be released under CORA

- The results of OCR compliance investigations
- Lists of schools with Title IX violations from the Department of Education
- Details about the disciplinary process at a school, including:
 - What standard of evidence the school uses in Title IX cases
 - possible sanctions imposed
 - protective measures offered



7. CORA Information



Colorado Open Records Act - "CORA"

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Colorado Open Records Act (CORA)



What Title IX records are not available under CORA

- Records of sex-based harassment complaints and investigations, with certain exceptions;
- Personnel files, except "applications and performance ratings"



If you have a question about whether the school should comply with a request for Title IX records, get legal advice!

7. CORA Information



Colorado Open Records Act - "CORA"

What is CORA?

The Colorado Open Records Act ("CORA") is a state statute that applies to records of state and local government agencies, including state and local government agencies, and certain records of private entities that are subject to public records laws. CORA provides a framework for the public's right to access records held by these entities, and sets out the procedures for requesting and receiving records.

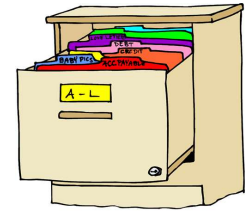
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A "public record" is any document, regardless of its form or medium, that is created, received, owned, or controlled by a public entity, and that is not exempt from public access under the provisions of the Act. This includes, but is not limited to, records of state and local government agencies, and certain records of private entities that are subject to public records laws.

What is a "requester" or "public access"?

A "requester" is any person who requests access to a public record under the provisions of the Act. A "public access" is the disclosure of a public record to a requester in accordance with the provisions of the Act.

This information is provided for informational purposes only. It is not intended to constitute legal advice. For more information, please contact the Colorado Department of Public Safety, Office of the Attorney General, at (303) 866-2000.



Department of Education OCR Complaints



Department of Education (DOE)

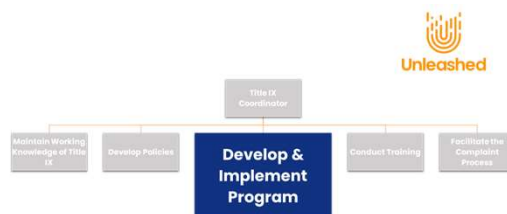


"The U.S. Department of Education is the agency of the federal government that establishes policy for, administers and coordinates most federal assistance to education. It assists the president in executing his education policies for the nation and in implementing laws enacted by Congress.

The Department's mission is to serve America's students- to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access."

- US Department of Education website

<https://www2.ed.gov/about/overview/focus/what.html>

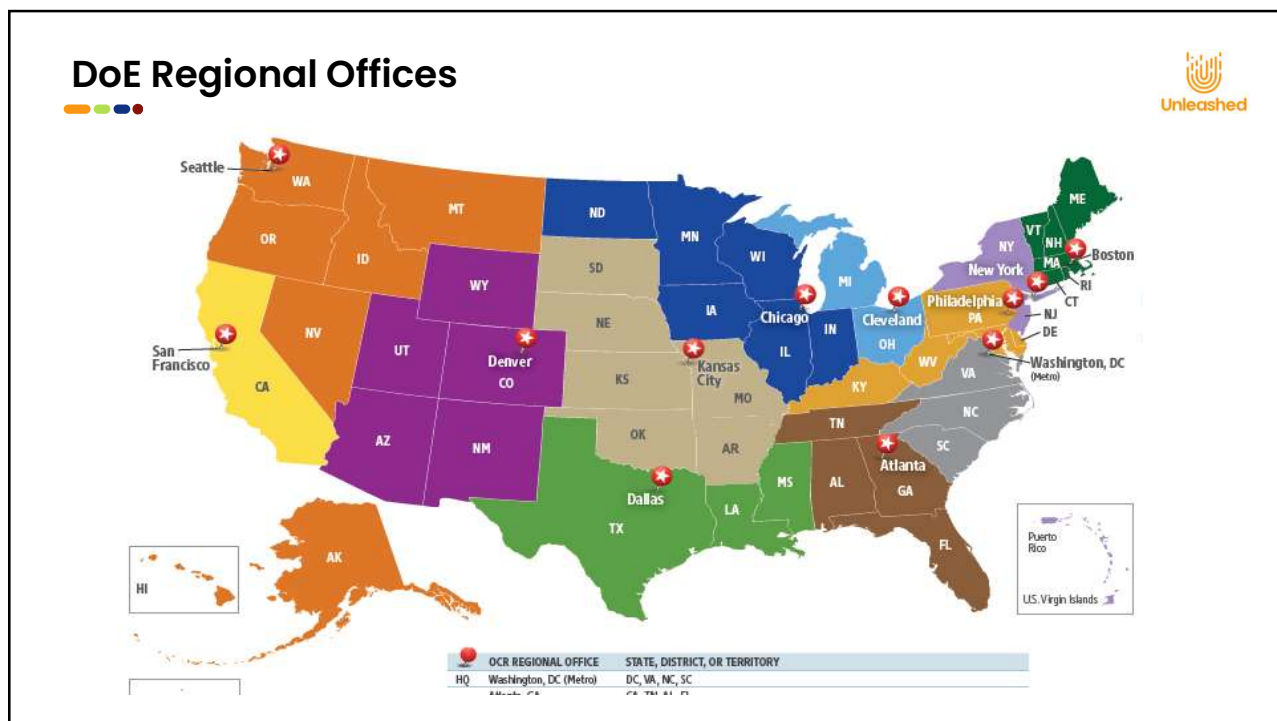


Department of Education (DOE)



- Began in 1867 as a means of collecting statistics about schools across the nation
- State and local control of schools was preferred so its powers were very limited.
- Housed in the Interior Department and Health & Human Services Department
- Made an independent agency in 1979 after funding expanded through 1950s, 1960s, and 1970s
- Currently \$68 billion budget and approximately 4000 employees





Department of Education’s Office of Civil Rights (OCR)

- Division responsible for enforcing education civil rights, including Title IX
- Complaints about Title IX compliance are investigated and resolved by OCR

U.S. Department of Education

Office for Civil Rights

Department of Education's Office of Civil Rights (OCR)



- Division responsible for enforcing education civil rights including Title IX
- Complaints about Title IX compliance are investigated and resolved by OCR
- See **Handout 8** – OCR Complaint Guide

U.S. Department of Education



Office for Civil Rights



8. Filing a Complaint with OCR



OCR Complaints – 1st stop is your school's website!



- **Training materials used to train the Title IX Team**
There is no more Website posting of materials requirements, but schools should still track trainings.

- **Title IX Coordinator Information**
 A school must post the name or title, office address, email address, and telephone number of the employee designated as the Title IX Coordinator.

U.S. Department of Education



Office for Civil Rights



OCR Complaints – 1st stop is your school’s website!



- **Policy**
A school must post a copy of its nondiscrimination statement.
- **Sexual Harassment Complaint Process**
A school must post a copy of its Title IX complaint process.



U.S. Department of Education



Office for Civil Rights

OCR Complaints – Notice of Complaint and Data Requests



- OCR will notify a school if there has been a complaint filed.
 - In some cases, filed with school district and the district will then refer it to the charter school.
- OCR will refer the issue to the Equal Employment Opportunity Commission (EEOC) or state agency if complaint involves an employee and no students are involved.
- OCR will request the school respond to the complaint and provide data to establish it compliance with Title IX.
 - This is where your logs are helpful!



U.S. Department of Education



Office for Civil Rights

OCR Complaints – Mediation and Resolution Agreements



- Often, OCR will offer to mediate a resolution between the complaining party and the school. This can be a good option.
- Otherwise, OCR will review the issue, make its determinations and then create a resolution agreement with the school to address the matter.
- Resolution Agreements often require training, policy changes, etc.
- Can be other resolution terms, e.g. restitution for costs incurred by complainant, transcript changes, supportive measures
- **Please seek legal advice for any OCR complaint!**



U.S. Department of Education



Office for Civil Rights

Pop Quiz!



1. What types of documents should be included in a Title IX case file?
 - a) Only the final written report outlining the outcome of the investigation.
 - b) Only information that supports the complainant's perspective.
 - c) Personal opinions and biases of the Title IX Coordinator about the case.
 - d) All documentation related to the case, including complaints, interview notes, witness statements, and evidence.
2. How long should Title IX case files be maintained?
 - a) There is no legal requirement to retain case files for any specific period.
 - b) The length of time varies depending on the specific case details.
 - c) For a period of seven years from the complaint or activity.
 - d) For a period of one year after the case is closed.
3. Who has access to Title IX case files?
 - a) Anyone who requests them, regardless of their affiliation with the case.
 - b) Only the Title IX Coordinator and the parties directly involved in the case.
 - c) Authorized personnel with a legitimate educational interest, following privacy protocols.
 - d) Law enforcement officials without a warrant or subpoena.

Pop Quiz!



4. What is the role of the Department of Education (DOE) Office for Civil Rights (OCR) in Title IX compliance?
 - a) To determine guilt or innocence in alleged Title IX violations.
 - b) To directly handle all reports of sexual misconduct at educational institutions.
 - c) To offer legal representation to complainants in Title IX cases.
 - d) To investigate and enforce Title IX compliance through complaint investigations.
5. When might a complainant choose to file a complaint with the DOE OCR?
 - a) They believe the institution failed to follow proper Title IX procedures.
 - b) They are satisfied with the outcome of the institution's investigation.
 - c) They are seeking financial compensation for damages.
 - d) The institution does not have a Title IX Coordinator.
6. All Title IX training materials should be posted on the School's Website?
 - a) True.
 - b) False.

Check In



1

What was the most valuable takeaway from last session?

2

What topic do you need more clarity around?



Agenda (TWO DAYS)

DAY 1: June 17, 2024

DAY 2: June 18, 2024

- | | |
|--|---|
| <p>01 Duties and Responsibilities of a Title IX Coordinator, Building a Title IX Program, and Developing Title IX Policies and Procedures</p> | <p>04 Managing Informal Resolutions</p> |
| <p>02 Receiving and Responding to Complaints, Interim Measures, Strategies for Establishing Rapport & Optimizing Interviews</p> | <p>05 Managing Formal Resolutions, including Best Practices for Investigations</p> |
| <p>03 Considerations for Specific Student Populations & Trauma-Informed Approaches</p> | <p>06 Record Keeping and External Complaints to the Department of Education</p> |

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Contact Us


Thank You


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