



K-12 Title IX Coordinator Training

A deeper-dive into the Title IX Coordinator role and responsibilities

Title IX Coordinator Responsibilities

- Designations of Title IX team
- Posting notices, contact info, and training docs
- Notice to school community
- Confirm training completion
- Actual knowledge responsibilities
- Review/Update policies and procedures (including CBAs and Handbooks)
- Review form documents
- Timely review/handle reports
- Keep documentation



Title IX Coordinator Responsibilities Cont.

- Be available/accessible for reports
- Determine what Policy/Procedure to apply
- Provide details on grievance process and formal complaints
- Discuss availability of and coordinate effective implementation of supportive Measures
- Consider signing formal complaint if not filed by Complainant
- Provide Notices to Respondent and Complainant
- Consider Dismissal



Title IX Coordinator Responsibilities Cont.

- Consider removal/admin leave
- Informal Resolution process
- Hearing? (not required for elementary and secondary schools)
- Ensure grievance process (as applicable) is followed and all notices provided
- Coordinate the effective implementation of any remedies



Title IX Coordinator *MAY* also

- Coordinate notices, party inspection and review of evidence and investigative report
- Coordinate appeal process
- Perform investigation



General To-Do's...

Title IX Designations

- Who will be the Initial Decision-Maker?
- Who will facilitate Informal Disputes?
- Who will be the Investigator?
- Who will handle Appeals?



Posting

- Notices
- Contact Information
- Training Documents

(UPDATE AS NECESSARY)



SAMPLE Title IX NOTICE

[School] does not discriminate on the basis of sex in its education program or activity, and is required by Title IX and its implementing regulations not to discriminate in such a manner. The requirement not to discriminate in its education program or activity extends to admission and employment. The District's Title IX Coordinator(s) is/are:

(Name); (Title); (Telephone Number); (Office Address); (E-mail Address)

Any inquiries about the application of Title IX and its implementing regulations to the School may be referred to the Title IX Coordinator(s), the Assistant Secretary for the U.S. Department of Education's Office for Civil Rights, or both.

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

[School] has adopted a grievance process and procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that is prohibited by Title IX and/or its implementing regulations. The grievance process and procedures are included in Policy [Number and Title], which is available at: [insert the web address at which the Policy can be found; or insert a hyperlink tied to the title of the policy]. The grievance process and procedures specifically address how to report or file a complaint of sex discrimination, how to report or file a formal complaint of Sexual Harassment, and how the School will respond.

(For website only) Title IX Training Materials: [Insert hyperlinks to all training materials]



Notice to School Community

- You should also put the foregoing language, and the actual grievance procedure policy, in each handbook or catalog that you make available to applicants for admission and employment, students, parents or legal guardians of school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the school.



Confirm Training Completion

- Ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on:
 - the definition of sexual harassment,
 - the scope of the recipient's education program or activity,
 - how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and
 - how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.



- Ensure that decision-makers receive training on:
 - any technology to be used at a live hearing (if applicable), and
 - on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.
- Ensure that investigators receive training on:
 - issues of relevance to create an investigative report that fairly summarizes relevant evidence

Actual Knowledge Responsibilities

- Train ALL staff on what is ACTUAL KNOWLEDGE
- =Notice of sexual harassment or allegations of sexual harassment **to:**
 - The Title IX Coordinator, OR
 - Any official of the recipient who has authority to institute corrective measures on behalf of the recipient, OR
 - **Any employee of an elementary and secondary school**
- **NOTICE IS NOT JUST A REPORT TO THE TITLE IX COORDINATOR**
- REQUIRE that staff report any notice of sexual harassment or allegations of sexual harassment SAME DAY



Review/Update Policies and Procedures

- Confer with relevant parties (ex: HR, admins, unions etc.)
- Many policies/procedures may already include sexual harassment by staff or students.
- ENSURE that EVERY such policy and procedure comply with Title IX and refer to the Title IX grievance procedure as necessary.
- No disciplinary action until grievance process is followed.
 - Exception may be for student emergency removal or employee suspension.
- You may have to amend any applicable CBAs to comply with Title IX.
- Also review and update employee and student handbooks.



- Conflicts

- If there is no conflict, you comply with Title IX AND your policies.
- To the extent of a conflict between State or local law and Title IX, the obligation to comply with Title IX is not removed or alleviated by any State or local law—you must follow Title IX in that instance.
- Title VII and Title IX impose different requirements and you will need to comply with both Title VII and Title IX as applicable.

Create/Review Form Documents

- Form documents for responding to Title IX reports and complaints will assist in responding promptly.
- Remember, Complainants DO NOT have to file or sign formal complaints.



- Examples:

- Form for formal complaint of sexual harassment
- Notices to Respondent and Complainants of formal complaint of sexual harassment
- Notice regarding Informal Resolution Process, if any
- Notice of evidence and opportunity to respond
- Notice of Investigative Report and opportunity to respond
- Written questions request
- Notice regarding determination of responsibility and ability to appeal
- Notice that appeal has been filed and ability to provide written statement

Timely Review/Handle Reports

- The school must respond PROMPTLY in a manner that is not deliberately indifferent
- Grievance process MUST include reasonably prompt time frames for conclusion
- Review grievance process to ensure that there are reasonably prompt time-frames for response
- For each report, CALENDAR RESPONSE DEADLINES (maintain confidentiality).
- If you must miss a deadline for good cause, PROVIDE WRITTEN NOTICE
 - Include reasons for the action



Keep Documentation

- Make sure the school has a process in place and a retention procedure for keeping Title IX records
- Maintain for a period of seven years
- Essentially ALL Title IX records
 - Records regarding EACH sexual harassment investigation
 - Determination of responsibility
 - Any recordings or transcript from any hearing
 - Disciplinary sanctions
 - Remedies provided
 - Records regarding any appeal and result
 - Records regarding any information resolution and result
 - All materials used to train (also put on website)



- ALSO records of any actions in response to actual knowledge of sexual harassment, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.
- DOCUMENT the basis for the conclusion that the school's response was not deliberately indifferent, and document that the school has taken measures designed to restore or preserve equal access to the recipient's education program or activity.
- If you do not provide a complainant with supportive measures, then you must DOCUMENT the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Be available/Accessible

- “Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), **in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report.** Such a report may be made **at any time (including during non-business hours)** by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.”



Determine What Policy/Procedure to Apply

- Addressed by Title IX or code of conduct/staff policies?
- Sexual harassment?
- Otherwise sex discrimination?
- Within the educational program or activity?
- Against a person in the US?

Provide Details on Grievance Process and Formal Complaints

- § 106.44 Recipient's response to sexual harassment (a) . . . "The Title IX Coordinator must **promptly contact the complainant to** discuss the availability of supportive measures as defined in § 106.30, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and **explain to the complainant the process for filing a formal complaint.**"
- Have a meeting
- Provide a copy of the grievance policy
- Document conversations in writing for school records



Discuss Availability of and Coordinate Effective Implementation of Supportive Measures

- § 106.44 Recipient's response to sexual harassment (a) . . . **"The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures as defined in § 106.30, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint."**
- DOCUMENT interactions regarding supportive measures and rationale for offering or rejecting any requests, as well as which ones provided.
- § 106.30 Definitions. *Supportive Measures* . . . **"The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures."**
 - Remain as point of contact
 - Follow-up
 - Keep confidential—to the extent would not impair the ability to provide



- Non-disciplinary
- Non-punitive
- Individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent
- Offered before or after the filing of a formal complaint or where no formal complaint has been filed.
- Restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party



Examples:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- mutual restrictions on contact between the parties
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus
- other similar measures



Filing of Formal Complaint

- § 106.30 Definitions. . . . “*Formal complaint* means a document filed by a complainant **or signed by the Title IX Coordinator** alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. . . . Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party under this part or under § 106.45, and must comply with the requirements of this part, including § 106.45(b)(1)(iii). ”
- If Complainant does not file a formal complaint, consider option of signing a formal complaint as Title IX Coordinator.
- Discretion
- Must still remain free from conflicts of interest and bias, and must still be impartial
- Not then considered the complainant



Respondent (and Complainant) Notice

- Provide required written notices to both Complainant and Respondent (review policy and regs for required components of notice)
- Offer meeting
- Discuss grievance policy and process
- Discuss supportive measures with Respondent as well
- Inform of advisor right
- Inform of Informal Resolution, if available



Consider Dismissal

- If a formal complaint is filed, the school must investigate the allegations within it
- Mandatory Dismissal
 - Within the scope of the educational program or activity?
 - locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs
 - Outside the US?
 - Sexual harassment definition?
- Permissive Dismissal
 - Respondent still a student or employed by the school?
 - Does Complainant want to withdraw?
 - Any other specific circumstances preventing the school from gathering evidence sufficient to reach a determination?
- Consider throughout and promptly send written notice and reason(s)



Consider Removal

- Title IX Coordinator responsibility?
- Need to direct to appropriate individual for review/consideration?
- Ensure that individualized safety and risk analysis occurs
- Need determination of an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment to justify removal.
- Ensure that proper notice and opportunity to challenge the decision immediately following the removal is provided to respondent.
- Follow IDEA and ADA, as applicable!



Consider Administrative Leave for Employee

- “during the pendency of a grievance process”
- Title IX Coordinator responsibility?
- Need to direct to appropriate individual for review/consideration?
- Follow Section 504 and ADA, as applicable!

Informal Resolution Process

- Not required to offer an informal resolution process—review your policy
- ONLY AFTER A FORMAL COMPLAINT IS FILED
- No definition
 - “such as mediation that does not involve a full investigation and adjudication”
 - “may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice”
 - “free to craft or not craft an informal resolution process”
- Still needs to include reasonably prompt time frame
- Cannot require waiver of the right to an investigation and adjudication of formal complaints of sexual harassment
- **Cannot require participation**
- Cannot be used for allegations that an employee sexually harassed a student
- **PROVIDE WRITTEN NOTICE**



IF YOU HOLD A HEARING...(not required for traditional K-12)

- Advisor Appointment, if necessary
 - Only an advisor may ask the other party and any witnesses questions and follow-up questions (never a party personally)
 - If there is no advisor, appoint one for cross-examination
 - If a party does not show up to the hearing, but the other party shows up to the hearing, appoint an advisor for cross-examination of the appearing party.
- Assist with scheduling and make sure regulations are followed



Ensure Grievance Process (as applicable) Is Followed and All Notices Provided

- § 106.8 (a) “*Designation of coordinator.* Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under this part, which employee must be referred to as the ‘Title IX Coordinator.’”
- BE FAMILIAR WITH YOUR POLICY
- Refer back to policy
- Make sure all written notices timely provided
- Assist decision-makers with correspondence to parties as necessary



Coordinate the Effective Implementation of Any Remedies

- Once there is a determination of responsibility, **the Title IX Coordinator “is responsible for effective implementation of any remedies.”**
- Remedies are designed to restore or preserve equal access to the recipient’s education program or activity
- Decision-maker must include a statement in their Determination of Responsibility of whether remedies will be provided by the school to the complainant.



The Coordinator MAY also...

Coordinate Notices, and/or Party Inspection and Review of Evidence and Investigative Report

- Parties have the right to written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time to prepare.
- Parties have the right to review evidence obtained as part of the investigation so that they can respond prior to the conclusion of the investigation
- Parties have the right to be sent all evidence prior to conclusion of the investigative report and have 10 days to respond
- Parties have the right to have all such evidence available at any hearing for use
- Parties have the right to review the investigative report and respond
- **THE TITLE IX COORDINATOR CAN COORDINATE THE FOREGOING**



Coordinate Appeal Process

- Can coordinate and assist with:
 - offering both parties an appeal from the determination regarding responsibility
 - notifying the other party in writing when an appeal is filed
 - implementing appeal procedures equally for both parties
 - allowing both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
 - providing the written decision on appeal simultaneously to both parties



Perform Investigation

- May be the Title IX Coordinator, may be someone else (CHECK POLICY)
- Be neutral
- Stay open
- No prejudgments
- No bias
- No conflict of interest
- Don't rely on sex stereotypes
- Don't make assumptions
- Gather the facts



- Burden of gathering evidence is on the school
- Allow parties equal opportunity to present evidence and present witnesses
- Don't restrict the ability of either party to discuss the allegations
- Allow each party to have an advisor present
- Provide requisite notice and allow time to prepare for interviews and meetings
- Allow parties (and advisors if any) to inspect/review evidence (that is directly related to the allegations) and respond
- Send parties (and advisors if any) the evidence prior to completion of the investigative report and give 10 days to respond
- Consider responses
- Send parties (and advisors if any) the investigative report 10 days before any hearing or determination of responsibility
- Remember, you are not the decision-maker



- Do not require, allow, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege
- Do not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the school obtains that party's voluntary, written consent to do so for a grievance process under this section (or their parent's if not an eligible student as defined in 34 CFR 99.3)



• Interview

- Determine witness list and in what order to interview
- Craft questions in advance of interview, subject to addition/change
- Have relevant evidence and policies/handbooks with you during interview
- Ask open-ended questions, then more detailed as necessary to clarify
- Keep detailed notes with exact quotes if possible
- Explain that there can be no retaliation
- Use complainant and respondent when referring to parties
- Be sensitive; consider how you word your questions carefully
- Ask for copies of documents/evidence mentioned
- Notify of next steps and follow-up as necessary

- Investigative report
 - Be detailed/specific
 - Use polices/procedures
 - Use direct quotes when possible
 - Provide background
 - Include allegations
 - State who was interviewed and when
 - Fairly summarize relevant evidence—cite to the record, attach exhibits
 - Remember privilege
 - Remember presumption that the respondent is not responsible for the alleged conduct

• Confidentiality

- “The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.”
- “The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. “



Lawyerly Disclaimer . . .

- These training materials are informational in nature and should not be construed as legal advice and are not provided to address specific grievance situations.
- Consult with your legal counsel as necessary to address specific Title IX report and grievance situations and investigations.
- Use the chat function to ask general questions, or email your school law attorney, or Adam Schira or Chelsea Canaday at:
- aschira@dickinsonwright.com
- ccanaday@dickinsonwright.com

