



Northern  
California ReLiEF

## TITLE IX Training Series

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T I T L E I X



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# NCR's Title IX Training Series

## **Title IX Training for All Employees of K12 School Districts**

July 20, 2022

12:00-1:00PM PDT Zoom Training

### **Title IX Coordinator Training**

August 10, 2022

12:00-3:00PM PDT Zoom Training

### **Title IX Investigator Training**

August 17, 2022

12:00-3:30PM PDT Zoom Training

### **Title IX Decision-maker Training**

August 24, 2022

12:00-2:00PM PDT Zoom Training



**For more information:** <https://ww2.keenan.com/ncr-titleix-training-series>



# Title IX Training

For All Employees



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- This training is intended for educational purposes only, and is not and does not replace legal advice or contain sample forms for use in Title IX investigation and/or decision-making process.



# Title IX Training Overview

- Introduction to Title IX law and regulations
- Education institution's legal obligations under Title IX
- Employees' responsibilities to enforce Title IX
- Title IX Coordinator role
- Title IX definitions and grievance process overview
- State law obligations
  - Sexual Harassment in employment
  - Sexual Harassment in education program and activities for students
- Board Policies and Administrative Regulations that govern Title IX and Sexual Harassment at California school districts.



# Title IX Law

- Federal law passed in 1972
- 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.
  - Prohibits sex discrimination and sexual harassment
- Enforced through the Department of Education, Office for Civil Rights (OCR)





# Final Rule on Title IX (effective 08/14/20)

- Has the force and effect of law
- Set legal standard under Title IX for K-12 school districts
- Defined Title IX Coordinator's Role
- Clarified parties and other administrative roles in Title IX enforcement at the district
- Defined sexual harassment under federal law
- Described compliant grievance process
  - Supportive measures
  - Requirements for the process and informal resolution
  - Due process obligations



## LEGAL OBLIGATION

Educational institution must respond in a manner that isn't deliberately indifferent when it has actual knowledge of sexual harassment occurring in the institution's education program or activity against a person in the United States.



# Actual Knowledge of Sexual Harassment

- When sexual harassment or allegations of sexual harassment come to the attention of **ANY EMPLOYEE** of a K-12 district, all employees **MUST** report to the **TITLE IX COORDINATOR**
- No employee of the district can promise confidentiality to a party or witness and/or make the decision not to report unless they hold confidential status (ex., licensed mental health counselor)
- Failure to report could lead to an inadequate response
  - Proof of deliberate indifference
  - Legal responsibility for sexual harassment



# Title IX Coordinator's Role

- Title IX Coordinator is tasked with managing the Title IX response on behalf of the school
  - Name, office address, email address, phone number of “Title IX Coordinator” available
  - Distributed to students, employees, applicants for admission and employment, parents and legal guardians, and unions
  - Accepts reports of potential Title IX violations by telephone, email, and verbal reports



# Title IX – Parties and Administrators

## Parties

- Complainant – alleged victim/survivor
- Respondent – respond the allegation

## Administration of Claims

- Title IX Coordinator
- Title IX Investigator
- Title IX Decision-Maker
- Title IX Appeal Officer
- Title IX Advisor
- Title IX Informal Resolution Officer



# Title IX Sexual Harassment

Under 2020 Regulations



# Title IX Definition of Sexual Harassment

## **Defined conduct on the basis of sex and includes:**

- Quid pro quo harassment
- Hostile environment harassment
- Sexual assault
- Dating/domestic violence
- Stalking



# Title IX Definition of Sexual Harassment, continued

- **Quid pro quo** - An employee who conditions the receipt of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct.
- **Hostile environment** sexual harassment, defined as unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectionably offensive that it effectively denies a person equal access to the school's education program or activity.





# Title IX Definition of Sexual Harassment, continued

## Sexual Assault

- Rape
- Fondling
- Incest
- Statutory Rape

## Dating/Domestic Violence

## Stalking



# Title IX Jurisdiction Issues

- In order for the district to have jurisdiction, the incident must have occurred in the institution's education program or activity, which is defined to include:
  - "locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurs"
- In order for the district to have jurisdiction, the matter must be brought related to an incident that occurred in the United States



# Title IX Dismissals - Mandatory and Permissive

## **Mandatory dismissal**

- Would not constitute sexual harassment as defined in regulations
- Did not occur in education program or activity
- Did not occur against a person in the United States

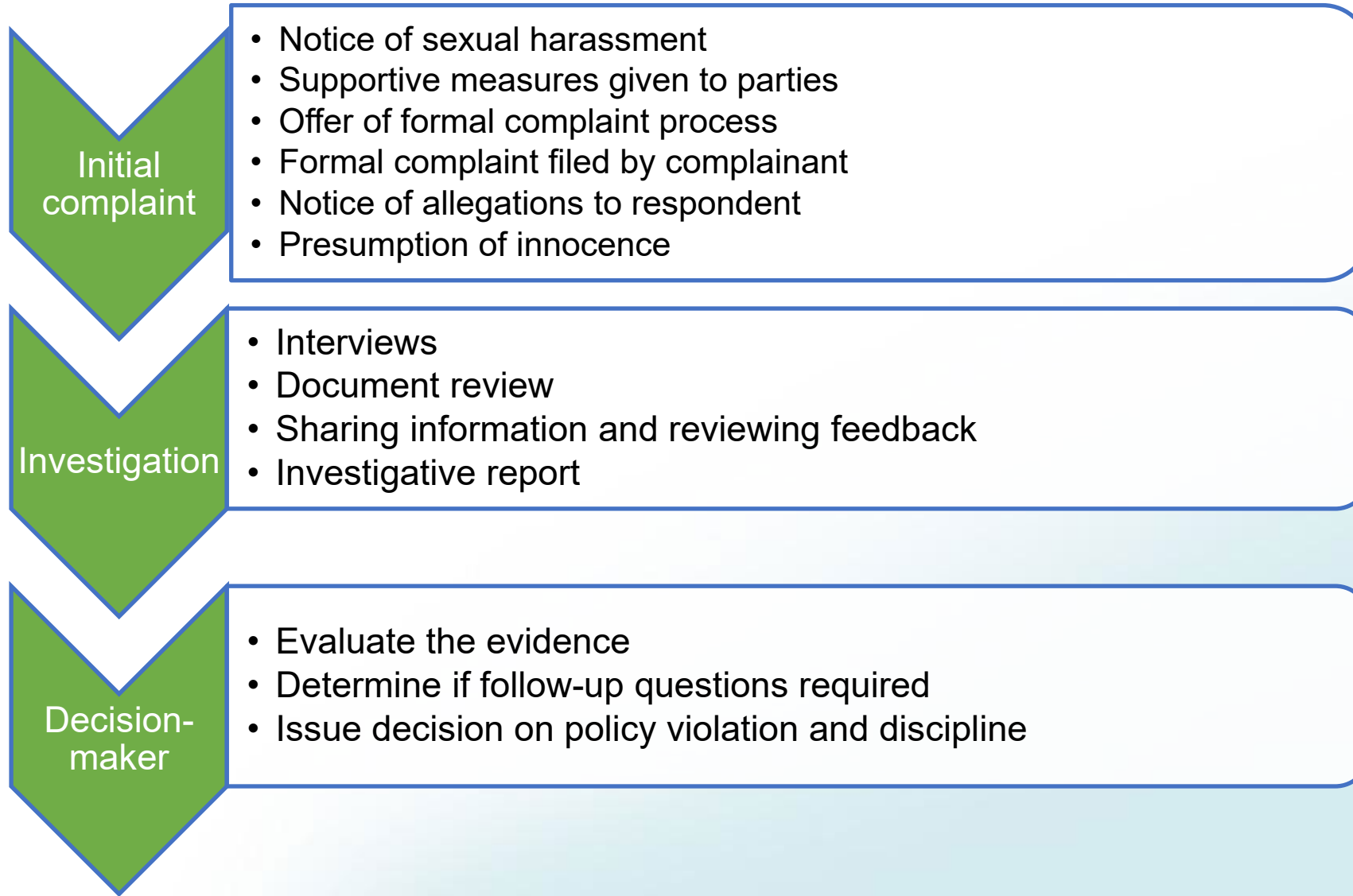
## **Permissive dismissal**

- Complainant notifies Title IX Coordinator in writing that Complainant would like to withdraw formal complaint or allegations
- Respondent is no longer enrolled or employed by school district
- Specific circumstances prevent the school district from gathering evidence sufficient to reach a determination



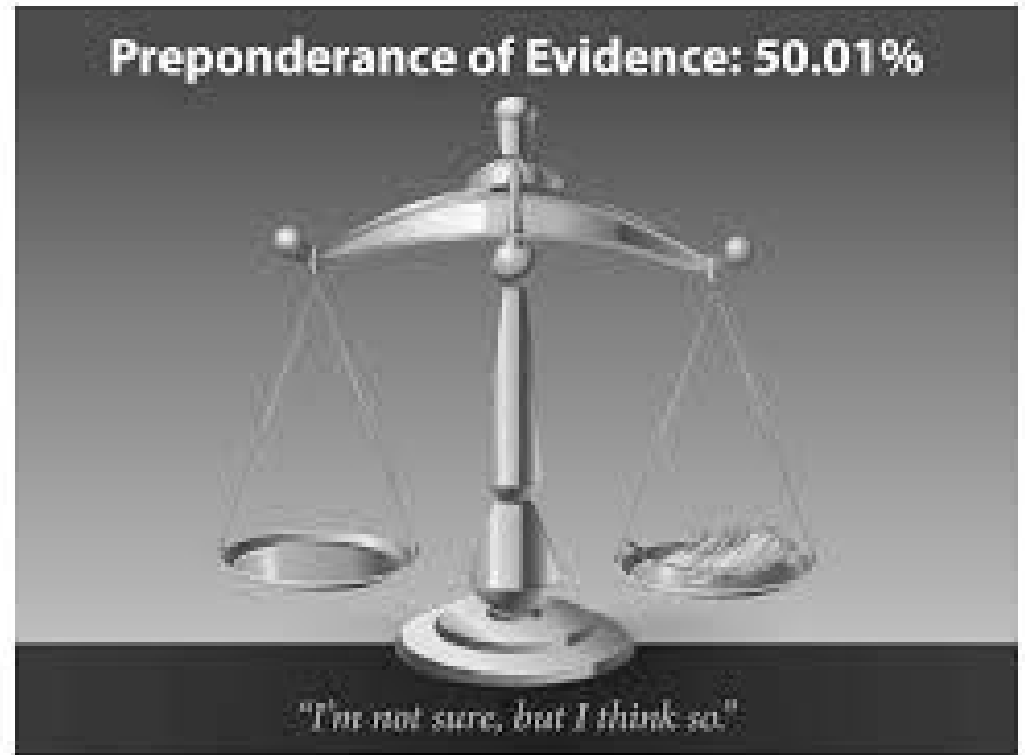
# Overview of Title IX Grievance Process

**OBLIGATION: Respond promptly in a manner that is not deliberately indifferent**



# Title IX Burden of Proof

- Preponderance of the evidence standard is used in concluding a potential Title IX violation
- Clear and convincing standard may be used

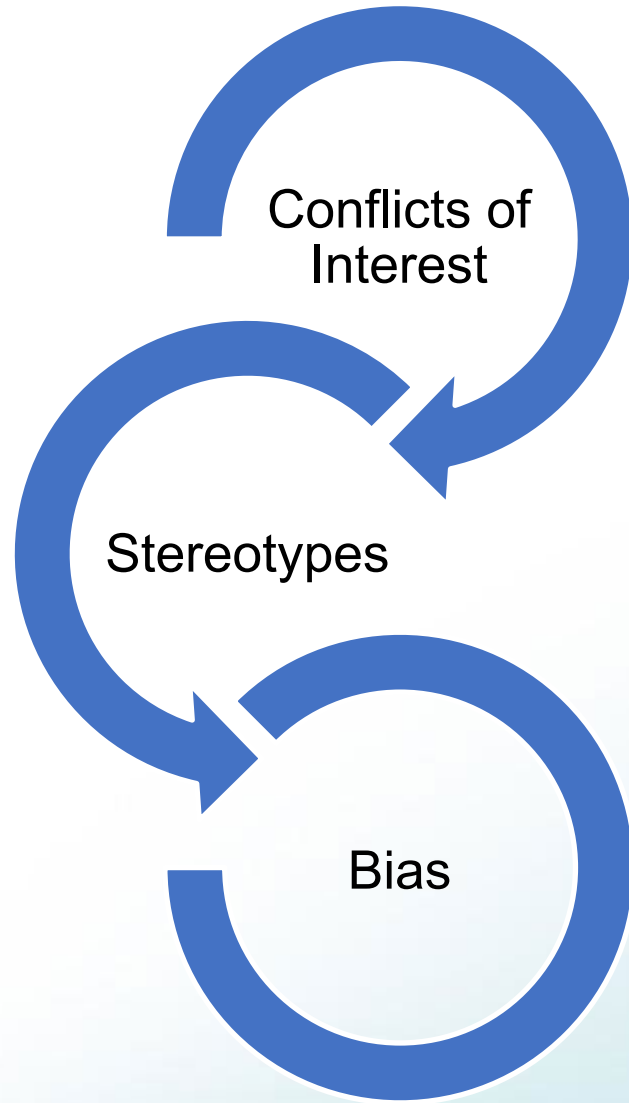


# Title IX ensures Constitutional Protections

- Under Title IX, schools may not restrict the rights afforded under:
  - First Amendment (Free Speech)
  - Fifth Amendment (Protection against Self-Incrimination)
  - Fourteen Amendment (Due Process)



# Title IX Process MUST avoid



# Title IX Prohibition against Retaliation

- Prohibition against retaliation for any participant in the Title IX investigation process
- Requires some level of school action





# STATE LAW - Sexual Harassment

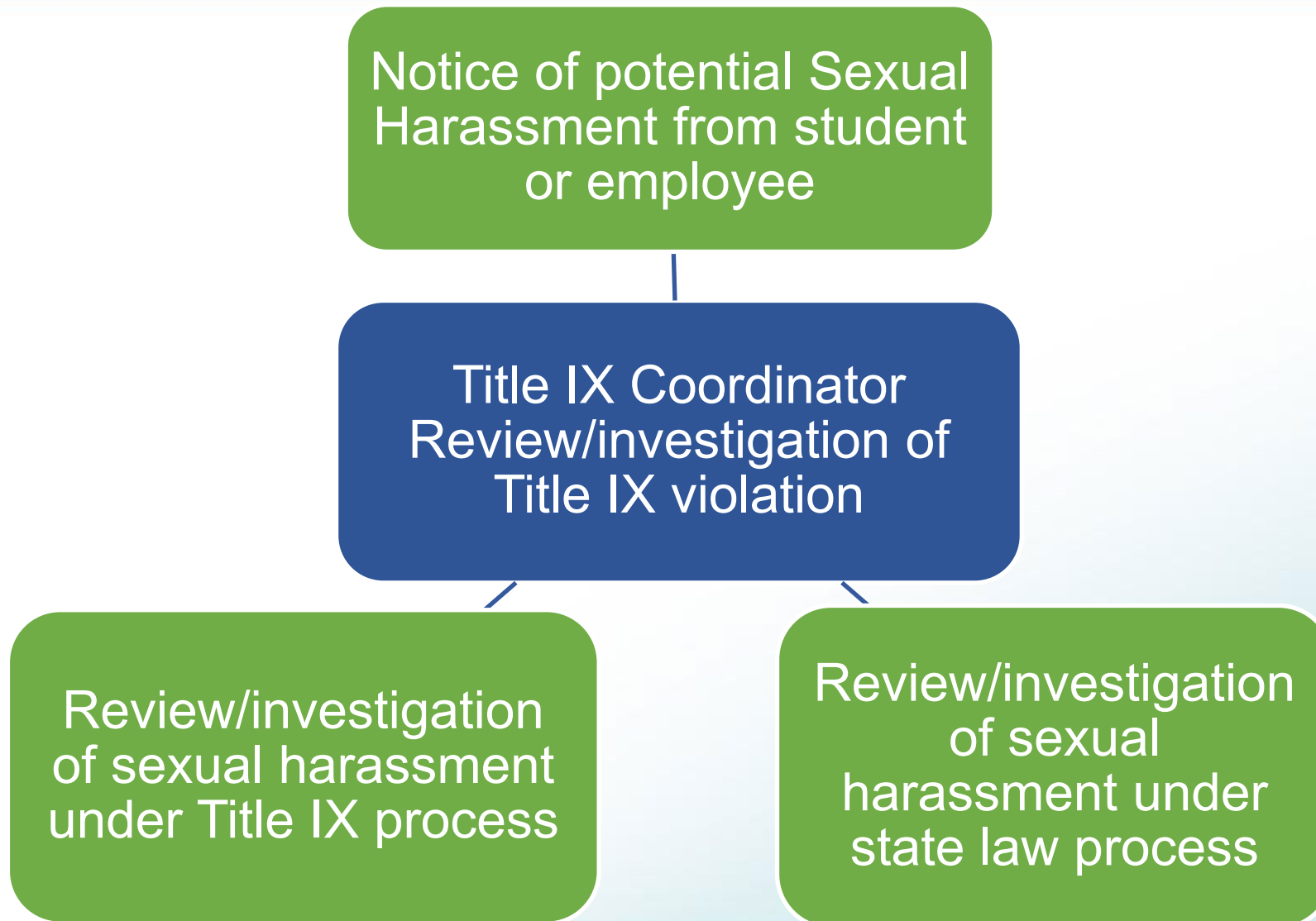


# State Law Distinctions

- Definitions of sexual harassment
  - Quid pro quo
  - Hostile environment
- Processing an allegation of sexual harassment
  - Uniform Complaint Procedures



# Sexual Harassment Process



# Title IX Coordinator

NAME

**Title IX Coordinator**

Physical Address

Office Location

Phone Numbers

Email Address



# CA BP/ARs Impacted by Title IX

## **STOP and review:**

### Student policies

- BP 5145.7 – Sexual Harassment
- AR 5145.7 – Sexual Harassment
- AR 5145.71 – Title IX Sexual Harassment Procedures

### Employee policies

- BP 4119.11, 4219.11, 4319.11 – Sexual Harassment
- AR 4119.11, 4219.11, 4319.11 – Sexual Harassment
- AR 4119.12, 4219.12, 4319.12- Title IX Sexual Harassment Procedures

### Process – Uniform Complaint Procedures

- BP 1312.3
- AR 1312.3



# Final Reminder

When sexual harassment or allegations of sexual harassment come to the attention of **ANY EMPLOYEE** of a K-12 district, all employees **MUST** report this information to the Title IX Coordinator.

- No employee of the district can promise confidentiality to a party or witness and/or make the decision not to report
- Failure to report could lead to an inadequate response
  - Proof of deliberate indifference
  - Legal responsibility for sexual harassment



# Title IX: Notice of Proposed Rulemaking

- Proposed new regulations released 6/23/22
- Comments due by 9/12/22
- New regulations in the future with an unknown effective date
- Key areas that are expected to change:
  - Pregnancy
  - Jurisdiction
  - Definitions
  - Grievance Process
  - Much, much more!



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