

DWK PRESENTS

# ALIGN WITH TITLE



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# Essential **Title IX** Training for **Title IX** Coordinators and Administrators

June 18, 2024



- What is Title IX?
- Obligation to address sex discrimination
- Complaint intake and triage
- Title IX jurisdiction
- Supportive Measures
- Emergency Removal
- Grievance Procedures
- Informal Resolution
- Sex Discrimination Other than Sex-Based Harassment
- How to serve impartially and without conflict of interest
- Recordkeeping
- Notice and information obligations
- Tracking barriers to reporting
- Checklist for August 1 compliance





“No person in the United States shall, on the basis of sex, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

(United States Congress, June 23, 1972.)



- Enforced by U.S. Department of Education (DOE), Office for Civil Rights (OCR)
  - OCR oversight
  - Loss of federal funds
- Implementing Regulations
  - Sex equity in sports programs
  - Prohibits discrimination on the basis of sex

- 2020 Overhaul
- Proposed changes in June 2022
- April 19, 2024, DOE unveiled its Final Rule
- Effective August 1, 2024

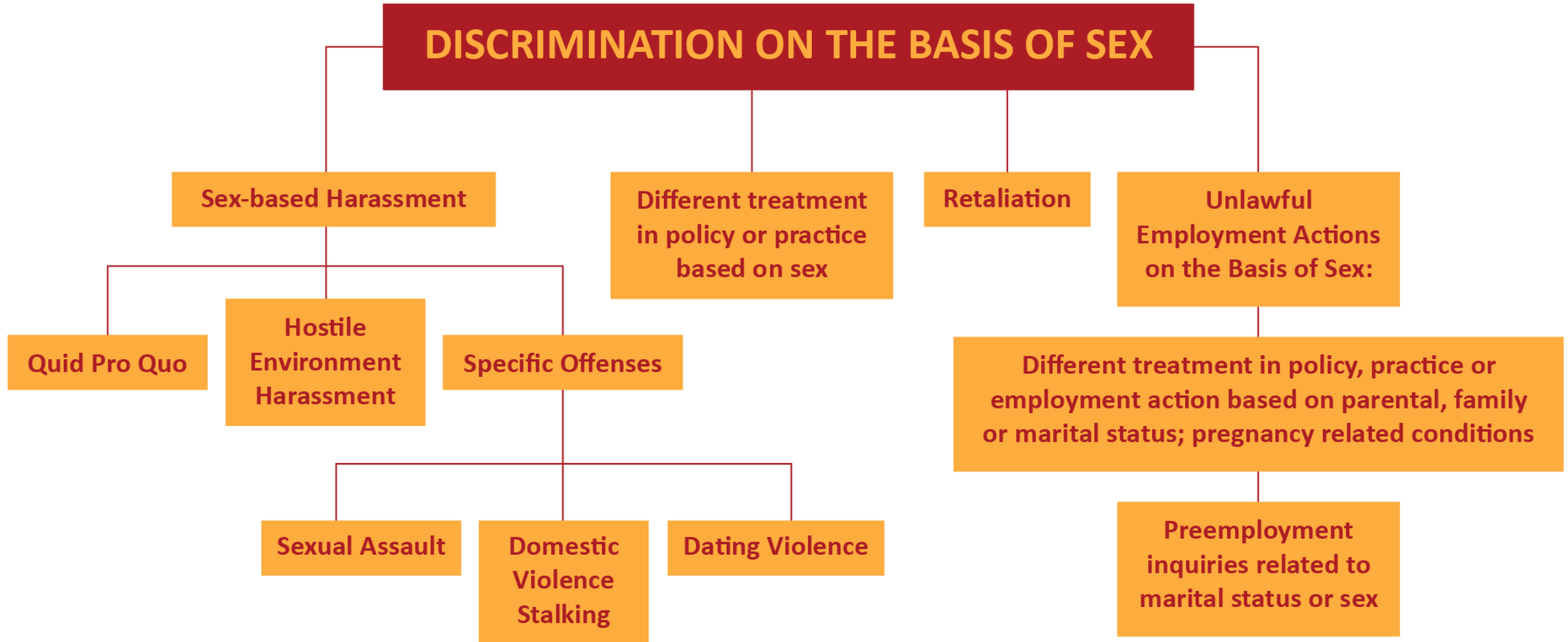


- Purpose of the new regulations: “To effectuate Title IX, which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any program or activity receiving Federal financial assistance.
- Scope: Discrimination on the basis of sex includes discrimination on the basis of:
  - Sex stereotypes
  - Sex characteristics
  - Pregnancy or related conditions
  - Sexual orientation and
  - Gender identity

§106.1







- Sex stereotypes: fixed or generalized expectations regarding a person's aptitudes, behavior, self presentation, or other attributes based on sex.
- Sex characteristics: physiological sex-based characteristics.
  - Sex discrimination based on a person's physiological sex characteristics may include discrimination based on a person's anatomy, hormones, and chromosomes associated with male or female bodies. Includes discrimination based on intersex traits
- Sexual orientation: the sex of a person to whom another person is attracted
- Gender identity: an individual's sense of their gender, which may or may not be different from their sex assigned at birth.





## Pregnancy or related conditions means:

- pregnancy, childbirth, termination of pregnancy, lactation,
- related medical conditions
- recovery from the above

§106.2

- No more “actual knowledge” and “deliberate indifference” standards.
- Now a LEA is deemed to have knowledge of sex-based discrimination in its education program or activity and an obligation to respond consistent with new regulations when any non-confidential employee has information about conduct that reasonably may constitute sex discrimination.

§106.44



- **Notification Requirements:** K-12 LEAs “must require all of its employees who are not confidential employees to notify the TIXC when the employee has information about conduct that may constitute sex discrimination under Title IX.”



§106.44

# Complaint Intake: Who Can Make a Complaint

- “Complainant” defined:
  - A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX.
  - A person other than a student or employee who is who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in in the LEA’s program or activity at the time of the alleged harassment.
- Includes former students or employees.
- Includes volunteers, visitors, prospective students/employees etc.



§106.2

- Complaint defined:
  - A complaint means an **oral or written request** to the LEA that **objectively can be understood** as a request for the LEA to investigate and make a determination about alleged discrimination under Title IX. **Remember – we are talking about complaints of discrimination generally AND complaints of sex-based harassment.**
  - If the complaint is regarding LEA’s policies or practices then LEA is not a respondent.



§106.2

- No more “formal complaints”
- Can be verbal but LEAs should develop some documentation
- Defined: An oral or written request to the LEA that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX.
  - “Reasonably understood”
  - Objective standard, no magic words



§106.2



- A nursing teacher intends to use a lactation room provided for per the District's board policies and administrative regulations. The lactation room is a repurposed supply closet that still contains old cleaning supplies, and doesn't lock. The teacher has been interrupted on multiple occasions while trying to pump. The teacher complains of a Title IX violation.
- A District has a policy that students must take sex-ed with peers based on their assigned sex assigned at birth. Then a transgender student complains to the school principal and expresses her anxiety and feeling of being misgendered by being placed in a sex-ed class that does not match her gender identity.
  - Would these be claims of sex-based harassment or sex discrimination?
  - Who is the respondent?



- In the absence of a complaint or when a complaint is withdrawn, the TIXC **must** consider specific factors to determine whether they should initiate a complaint.
- Still permissive: if, after considering the factors, the TIXC determines the alleged conduct presents an imminent and serious threat to the health and safety or that the alleged conduct prevents the LEA from ensuring equal access on the basis of sex to education, then the TIXC may initiate a complaint.

## Factors the TIXC Must Consider:

1. Complainant's request not to proceed
2. Complainant's reasonable safety concerns regarding the initiation of the complaint
3. The risk additional acts of sex discrimination would occur if no complaint is initiated
4. Severity of the alleged discrimination, including possible disciplinary sanctions that could occur if substantiated
5. Age and relationship of the parties
6. Scope of the alleged discrimination, including information regarding patterns or ongoing discrimination
7. Availability of evidence
8. Whether the LEA could end the discrimination without initiating the grievance procedures

§106.44(f)



## Guiding Questions:

- Is the conduct of a nature that it “may reasonably constitute sex discrimination” under Title IX?
  - If not, does this complaint need to be processed through a separate procedure?
- Who is the Complainant(s)?
  - Former students?
- Who is the Respondent(s)?
- When did the conduct occur?
- Is it a part of a school/district education program or activity?



Quid Pro Quo

Hostile Environment

Sexual Assault

Dating Violence

Domestic Violence

Stalking



- An employee, agent or other person authorized by the Recipient to provide an aid, benefit, or service under the Recipient's education program or activity
- Can encompass:
  - Extracurriculars and academics
  - Detriment or threat thereof
  - If an individual purports to have authority to provide some aid, benefit, or service even if they are unable to do so

Ann Akins, a student, tells Blake Bennett, a fellow student, that she will vote for him to be Student Body President if he takes her on a date.

- Is this sex-based harassment under Title IX? Does this qualify as “quid pro quo” harassment?
- What if Ann is not a student, but the high school basketball coach, and promises to tell her players to vote for Blake?





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 your education program or activity.



§106.2



Carly, Dylan, and Evan are assigned as a group for a science project. Carly created a group chat for the three to discuss their project. Dylan frequently texts sexual jokes in the group chat, involving breast and penis size. Dylan told Carly to make some sandwiches for their project meeting and told her to wear a tight, low-cut shirt during their presentation. He also told Evan his mom is a MILF.

- Would this conduct be considered hostile environment harassment? Who are the potential complainants?
- Would this have constituted sexual harassment under the 2020 regs?

## **Fact Specific Inquiry:**

- Complainant's ability to access the education program or activity
- Type, frequency, and duration of the conduct
- Parties' ages, roles, and previous interactions
- Location and context of the conduct
- Other sex-based harassment in the recipient's education program or activity

Kyle Tran is a transgender Student who legally changed his name to Kyle during the school year. Kyle's PE teacher, Ms. Smith, frequently misgendered Kyle and often called Kyle by his former name, which she claimed was accidental. When taking attendance, she once called him "Kyle Trans" in front of the class. Ms. Smith asked Kyle if he would ever be able to grow a beard.

- Is this sexual harassment under Title IX? How about under the 2020 regs?

One day, a classmate sent Kyle a screenshot of a post Ms. Smith had made on her public Facebook page, which said: "Transgender people are mentally ill." Kyle began failing PE.

- What factors would be considered in finding the public Facebook post contributed towards a hostile environment?



## Conduct that:

- occurs under a recipient's education program or activity includes but is not limited to conduct that occurs in a building owned
- is subject to the recipient's disciplinary authority

§106.11

A recipient has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's education program or activity or outside the United States.



§106.11



Classmates Liam and Maddy dated for two years. During that time, Maddy sent Liam topless photos. When Maddy and Liam broke up during summer break, Liam angrily sent the topless photos of Maddy to his football teammates, and dozens of their other classmates via text. When Maddy found out, she developed anxiety about returning to school. When school started up again, some male students continued to talk about the topless photos and would mimic Maddy's pose during class to make fun of her. Maddy became withdrawn at school.

- Does the District have jurisdiction? Do they have an obligation to respond?

- Individualized measures designed to:
  - Restore or preserve access
  - Protect safety of parties or educational environment
  - Provide support during Resolution Process
- May not unreasonably burden a party
- May not be for punitive or disciplinary reasons
- Must be without fee or charge
- School district may deem which supportive measures are reasonably available
- Disclosure of information on a need-to-know basis



- counseling;
- extensions of deadlines and other course-related adjustments;
- campus escort services;
- increased security and monitoring of certain areas of the campus;
- restrictions on contact applied to one or more parties;
- leaves of absence;
- changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and
- training and education programs related to sex-based harassment

- Timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of supportive measures
- Impartial employee must be someone other than the employee who made the challenged decisions and must have authority to modify or reverse the decision
- Opportunity to seek additional modification or termination of supportive measures if circumstances change materially





If the complainant or respondent is a student with a disability:

- Title IX Coordinator to consult with one or more members, as appropriate, of the student's IEP team, or
- One or more members, as appropriate, of the group of persons responsible for the student's placement decision per the requirement of Section 504, if any
- To determine how to comply with the requirements of the IDEA and Section 504, in the implementation of supportive measures.

§106.44(g)(6)(i)

Nikita is a 5<sup>th</sup> grade student with an IEP and is eligible in the category of Autism. Nikita is nonbinary and uses they/them pronouns. Nikita recently began grabbing, hugging, and trying to kiss their female classmates and female employees whenever they came within reach. One of Nikita's classmates and an aide in their classroom both complained to school site administrators that they have been touched by Nikita and feel uncomfortable being near them. The school site moved Nikita's seat away from their classmate and transferred the aide to another classroom.

- What are the next steps the school site should take regarding Nikita? Who should be present?
- What are some supportive measures that have already been enacted? What other supportive measures might be considered?





A School District may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the recipient's grievance procedures that the respondent engaged in prohibited sex discrimination.

§106.45(h)

## Individualized safety and risk analysis:

- imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal
- provides the respondent with notice and an opportunity to challenge the decision immediately following the removal



Create an individualized safety and risk analysis team.

- Cannot modify any rights under the IDEA, Section 504, or ADA
- Confer with IEP team members
  - one of the members of the individualized safety and risk analysis team could be an IEP team member
- Hold manifestation determination meeting if emergency removal is going to be used

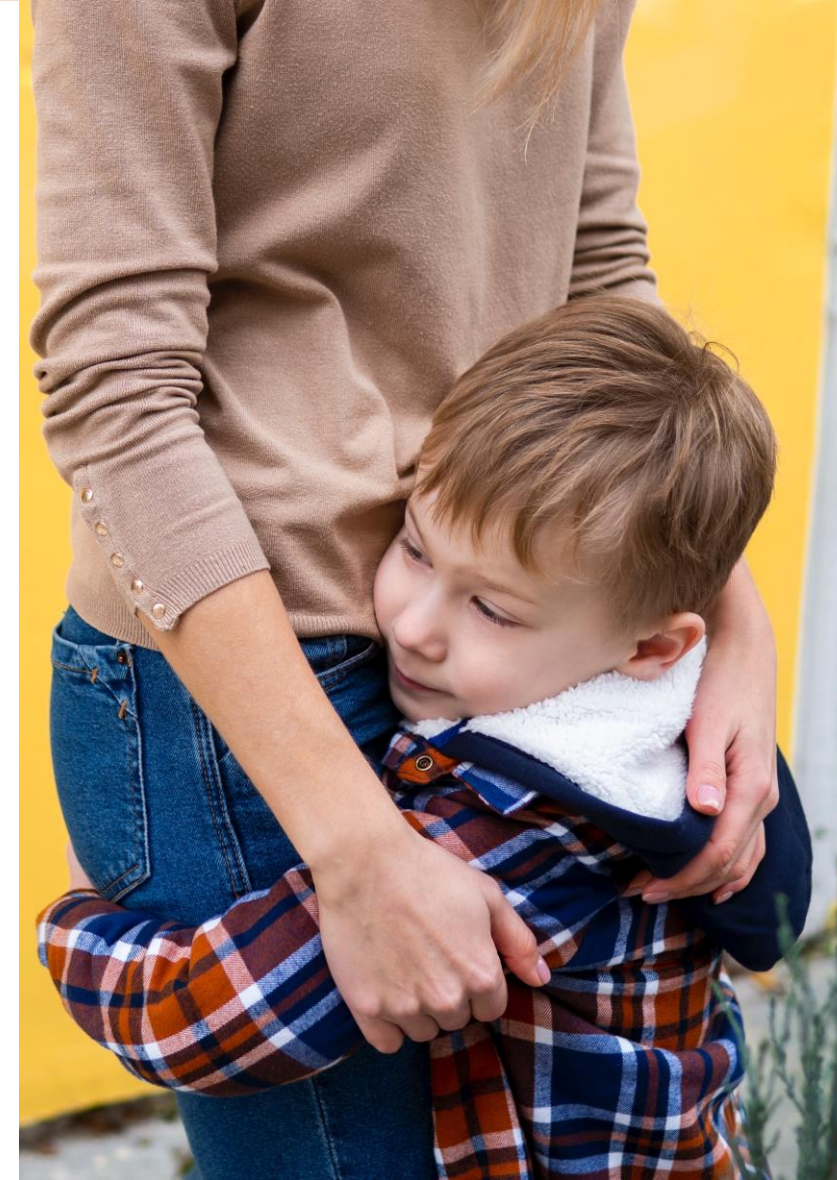


- Proceed with caution, but in some cases, a partial removal (such as a schedule change or independent study) can be a supportive measure as long as it does not have a disciplinary or punitive purpose
- The change should be for the purpose of preserving access, protecting safety, or providing support
- MD/IEP meeting for students with disabilities still required because a partial removal is a change in placement



Returning to Nikita, the 5th grade student who tried to grab, hug, and kiss classmates and staff. Despite supportive measures, which were effective in most of their classes, Nikita continues to have behavioral challenges (grabbing and kissing female students) in PE, in part due to the less-structured environment.

- Would a partial removal be an appropriate measure in this case? Why?
- What might a partial removal look like?



- Other common complaint processes:
  - UCP
  - Nondiscrimination In Employment
  - Complaint Against an Employee
- All(?) complaints of sex-based discrimination are going to fall under the purview of Title IX.



Design your policy to consider the requirements of UCP so that you are compliant with both.



A school librarian's contract was not renewed for the following school year due to budget cuts. The librarian, a woman, alleges she was discriminated against based on her sex. The librarian claims she overheard the principal telling another employee that the librarian was so attractive that she was distracting the students and she would have an easier time finding new employment. She also complained that the principal's admin assistant stole her personal air purifier from the library and gave her dirty looks.

- Should this complaint be processed under Title IX?
- What other complaint procedures might be used?
- How would these complaint procedures work together?

- **Basic requirements for all K-12 LEAs grievance procedures outlined in 34 CFR 106.45**
  - Procedure must be in writing
- **These requirements are the floor, but you can customize and tailor your procedures in your BP/AR**
- **Your written grievance procedure must:**
  1. Treat complainant and respondent equally
  2. Require all TIX administrators to have no conflict of interest or bias
  3. Include a presumption of non-responsibility
  4. Establish reasonably prompt timeframes
  5. Require the LEA take reasonable steps to protect privacy
  6. Require an objective evaluation of all relevant evidence
  7. Require the exclusion of impermissible evidence
- **In addition, all grievance procedures should outline the process. The new regulations require the following to take place (see next slides)**

- **Upon initiation of the grievance procedures, the LEA must provide notice of the allegations to the parties whose identifies are known.**
- **The notice must include:**
  1. A copy of the LEA's written grievance procedure (BP/AR)
  2. Sufficient information to allow the parties to respond to the allegations. This includes the identities of the parties involved in the incident, the conduct alleged to constitute sex discrimination under Title IX or this part, and the date and location of the alleged incident, if available.
  3. A statement that retaliation is prohibited
  4. A statement that parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence
- **No longer required to be in writing, but best practices for record-keeping to do so.**
- **No more right to an advisor**



Consider whether it may be best practice to allow advisors and be consistent, treat all parties equally in this regard.

- **All dismissals are discretionary now, no more mandatory dismissals**
- **Four permissible reasons for dismissing a complaint:**
  1. LEA is unable to identify the respondent after taking reasonable steps to do so
  2. The respondent is not participating the LEA's program or activity and is not employed by the LEA
  3. The complainant voluntarily withdraws, the TIXC declines to initiate a complaint and the LEA determines that, without the withdrawn allegations, the conduct that remains alleged, if any, would not constitute sex discrimination under Title IX
  4. The LEA determines that the conduct, even if proven would not constitute sex discrimination under Title IX
    - Before dismissing under #4, the LEA must make "reasonable efforts to clarify the allegations in the complaint."
- **Timing of dismissals is key**
  - Before or after notice to respondent matters

§106.45(d)

- **Required logistics of dismissals**
  - Notify complainant of basis for dismissal
    - Can be verbal or in writing. Best practice: keep a written record.
    - If you have already given notice of the allegations to the respondent, you must also notify the respondent of the dismissal and the basis for dismissal (after talking to complainant if notice given verbally, or simultaneously if notice given in writing)
- **Notify complainant that the dismissal may be appealed and provide and opportunity to appeal**
  - Can be verbal or in writing. Best practice: keep a written record.
  - If you have already given notice of the allegations to the respondent, you must also notify the respondent that the dismissal may be appealed (after talking to complainant if notice given verbally, or simultaneously if notice given in writing)



**LEAs must provide adequate, reliable and impartial investigation of complaints. The basics requirements of an investigation are:**

1. Gather sufficient evidence to determine whether the alleged conduct occurred
2. Provide equal opportunity to both parties to present fact witnesses and evidence
3. Review all evidence gathered and determine what is relevant and impermissible
4. Provide parties equal opportunity to access evidence and respond to the evidence

§106.45(f)



# Grievance Procedure: Who Should Investigate?

- Return to the “single investigator model”
- TIXC can wear all the hats (i.e., be the TIXC, Investigator and decisionmaker)
- But consider, whether this is best practice?
- Possible benefits of having a separate person investigate
  - Avoid conflict of interest and bias challenges
  - Workload and capacity
  - An outside attorney investigator can conduct investigation and gather evidence under attorney-client privilege



**Similar to the 2020 regs, it may be useful to have a “bench” of trained Title IX administrators who can fill various roles in any given TIX matter on a case by case basis**

# Grievance Procedure: Investigation (Gather Evidence)



- LEAs must gather sufficient evidence to determine whether the alleged conduct occurred
- Make an investigation plan
  - Who will investigate? Can be the same person as the Title IX Coordinator.
- Consider what kind of evidence to gather
  - Witness interviews
  - Documents
  - Photos, video, social media posts



A student posted a video on Tik Tok alleging that he saw a teacher watching porn in his classroom during lunchtime. The Tik Tok video included a description of the video and the date of the alleged incident. The District has video surveillance of the hallway outside the teacher's room. On the day in question, the teacher is visible through a window sitting at his desk. The teacher appears to be watching a video on his district-issued laptop.

- What might be considered evidence in this case?
- What steps should the investigator take to secure the evidence?



- LEAs must provide equal opportunity to both parties to present fact witnesses and evidence (both inculpatory and exculpatory)
- Title IX Investigators should ensure they:
  - Ask complainant and respondent, “Is there anyone else you think I should talk to?”
  - Give complainant and respondent opportunity to follow up with additional information after an interview
  - Do not ask questions seeking impermissible evidence (see slide on impermissible evidence)
- Note distinction between fact witnesses and character witnesses



**Consider how this will be done. Through interviews?  
Following up with a letter?**

§106.45(f)

- **Access**

- LEA must provide parties equal opportunity to access evidence and respond to the relevant and not otherwise impermissible evidence
- Similar to the 2020 regulations first evidence review phase
- Two ways to provide access to evidence:
  1. Evidence: Prepare and provide the evidence (e.g., in a packet)
  2. Description: Prepare an accurate description of the evidence (e.g., in an investigation report or executive summary)
    - If LEA uses description option, it must provide access to the evidence itself upon request
- No requirement this access be provided in writing
  - LEA has the option to provide access verbally or in an investigation report

§106.45(f)



- ***LEAs must review*** all evidence gathered and determine what is relevant and impermissible
- Practically, this step will take place when the Investigator is done collecting evidence
- Consider who makes this determination. TIXC or Investigator?
- No longer required to prepare an investigation report.
  - But consider how evidence will be presented to parties to review and handed off to decisionmaker otherwise.

§106.45(f)

- Relevant means related to the allegations of sex discrimination under investigation. Evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.
- Hypothetical: An assistant principal with 4 years of experience filed a Title IX complaint, alleging that he was discriminated against on the basis of sex when he was not offered a job as a principal in the District for the upcoming school year. The evidence gathered is as follows:
  - Another male assistant principal at a different school site was not hired as a principal in the District last year.
    - Relevant?
  - A rejection email to the candidate that the District was looking for someone with 5-7 years' experience.
    - Relevant?
  - Superintendent's PRIDE month post on social media that she loves women and is a member of the LGBTQ+ community.
    - Relevant?
  - Superintendent's email to the interview panel that she would prefer to fill the position with a female candidate.
    - Relevant?

- Impermissible Evidence: The following types of evidence (and questions seeking this kind of evidence) are not allowed, regardless of whether is it relevant:
  1. Evidence protected under a privilege
  2. Party 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 (unless LEA obtains voluntary, written consent
  3. Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless:
    1. offered to prove consent or
    2. that someone other than the respondent committed the alleged conduct

§106.45(b)





- **LEAs must not disclose personally identifiable information obtained in the course of complying with Title IX**
- **Broad exceptions:**
  - With prior written consent
  - To a parent, guardian or authorized legal representative
  - To carry out obligations under Title IX
    - Recall obligation to allow access to all relevant and permissible evidence
  - When required by state or Federal law
- **Redactions?**
  - The Department takes the position that principles of due process and fundamental fairness require the disclosure of unredacted information to the parties that is relevant to the allegations and not otherwise impermissible.
  - Similar to 2020 regs, when this conflicts with FERPA, Title IX trumps.

- **Response**

- LEAs must provide parties with an equal opportunity to respond to the evidence
  - Timeline should be outlined in your new TIX policy
- Must take reasonable steps to prevent parties from unauthorized disclosure



Similar to 2020 regs, LEAs should consider written admonition to parties regarding disclosure during the access and response phase.

§106.45(f)



- After the investigation and evaluation of evidence, LEAs must make a determination whether sex discrimination occurred
- Must use the preponderance of the evidence standard of proof (unless another standard is used in all other comparable proceedings, which is unlikely for K-12 LEAs)
  - Preponderance: More likely than not. Feather test.
  - If the decisionmaker is not persuaded under the standard of proof then they must not determine the sex discrimination occurred
- Decisionmaker must have the opportunity to question parties and witnesses to assess credibility
- Who should make this determination? May be the same as the TIXC Coordinator and/or investigator.
  - But consider if this is best practice?



- LEAs must have process that enables decisionmakers to question parties and witnesses to adequately assess a party's witness's credibility if credibility is in dispute
- Credibility factors to consider:
  - Corroboration/Lack of corroboration
  - Consistent/Lack of Consistency
  - Knowledge or opportunity to observe
  - Inherent plausibility
  - Motive to falsify
  - Consistent past conduct



- LEAs must notify the parties in writing of the determination whether sex discrimination occurred. The notice must include:
  1. Rationale for the determination
  2. Procedures and permissible bases for the complainant and respondent to appeal



- If there is a determination that sex discrimination occurred, the TIXC must:
  - coordinate the provision and implementation of remedies to the complainant and anyone else identified as having been denied equal access to the education program or activity
  - coordinate the imposition of any disciplinary sanctions
  - notify the complainant of any disciplinary sanctions
  - Take appropriate, prompt and effective steps to ensure sex discrimination does not continue

§106.45(h)

- LEAs must offer the parties an appeal process that, at minimum, is the same as it offers in all other comparable proceedings.
- More flexibility to craft your own appeals processes
  - Look to your UCP and Nondiscrimination in Employment policies
    - UCP - appeals to CDE
    - Disciplinary Hearing – appeals to County Office of Ed
    - Records Challenge – appeals to School Board
    - Complaints against employees – depends. Some policies appeals to Board or internal hearing panel or Superintendent)



**Offer an appeal to OCR and CDE. Consider whether you should also offer an internal appeal process (i.e., to Board or Superintendent comparable to other policies).**

- Optional
- Title IX Coordinator's discretion
- Title IX Coordinator must:
  - Obtain the parties' voluntary consent
  - Provides the parties Notice of Allegations and IR Process
- Parties may:
  - Request IR at any time prior to determination
  - Withdraw from IR at any time prior to agreement
- If agreement is reached through IR, parties are precluded from initiating/resuming investigation





- Regulations do not specify IR procedures or forms
  - But must be spelled out in policy
- IR facilitator may not serve as Investigator or Decision-Maker and must be trained in IR process and Title IX




**Consider using your UCP informal resolution process.**

- **Discrimination Complaints that are Non-harassment Complaints**
  - Different treatment in policy or practice based on sex
    - Recall scope of “based on sex” (gender, pregnancy or related conditions, etc.)
  - Retaliation
  - **Unlawful Employment Actions on the Basis of Sex**
    - Different treatment in policy, practice or employment action based on parental, family or marital status; pregnancy related conditions
    - Preemployment inquiries related to marital status or sex

- When a pregnant student informs any employee of their pregnancy or related conditions, the employee must inform student of:
  - TIXC's contact information
  - Support available through the TIXC
- TIXC coordinates actions to ensure equal access
- Treat in the “same manner” as other temporary medical conditions
- Reasonable modifications
- May **not** require certification from a medical provider that the student is able to participate in a class or activity

- Must permit voluntary leave of absence for student or employee
- Must ensure access to lactation spaces for students and employee



- 
- Preemployment inquiries related to:
    - Marital status: no questions regarding marital status (Ms. vs. Miss; “head of household”)
- OR
- Sex prohibited unless asked of all applicants and not used to discriminate



- Intimidation, threats, coercion, or discrimination against any person
- By the school/district, a student, an employee, or other person...
  - For the purpose of interfering with any right or privilege under Title IX
  - Because the person has reported information, made a complaint, testified, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing in the Title IX grievance process

Impartiality is a legal requirement

Practice fundamental  
fairness to both parties

Avoid bias

Avoid conflict of interest

- Preconceived judgment or opinion without just grounds and based on insufficient knowledge
- Can be conscious or unconscious
- Biases, or stereotypes, are beliefs that most members of a group have some characteristic
- Examples:
  - women are nurturing
  - teachers drink a lot of coffee





# Avoiding Bias & Conflict of Interest: Types of Bias



- **Explicit Bias:** An explicit stereotype is the kind that you deliberately think about and report
- **Implicit Bias:** An implicit bias is one that is relatively inaccessible to conscious awareness and/or control
- **Confirmation Bias:** The tendency to seek out, favor or interpret information in a manner that confirms previously held beliefs
- **Priming:** The unconscious influence of external information on what we expect to be an independent decision

## Tips for Avoiding bias:

- Avoid early hypotheses
- Recognize all possible outcomes.
- Obtain and consider all relevant, permissible evidence.
- Ask open-ended questions.
- Seek to improve cultural competency.





- Avoid Conflict of Interest
- What could be considered a conflict of interest
  - A close relationship with a complainant or respondent
- What is not conflict of interest
  - Being the same gender as the parties
  - Being an employee of the LEA
- Identify potential conflicts of interest early and make appropriate TIX Administrator assignments to avoid them
  - Ongoing obligation to assess whether conflict of interest exists

- Must maintain records for 7 years
  - Documentation of IR or Resolution Process
  - For each notification of sex discrimination, any documentation on the District's response
  - All materials used to provide training post August 1, 2024
    - Make available upon request



No requirement to  
post publicly

## Required content:

1. Statement that the recipient does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX;
2. A statement that inquiries about the application of Title IX and this part to the recipient may be referred to the recipient's Title IX Coordinator, the Office for Civil Rights, or both;
3. The name or title, office address, email address, and telephone number of the recipient's Title IX Coordinator;
4. How to locate the recipient's nondiscrimination policy; and the recipient's grievance procedures; and
5. How to report information about conduct that may constitute sex discrimination under Title IX; and how to make a complaint of sex discrimination under this part.



Each recipient must prominently include all elements of its notice of nondiscrimination on its website and in each handbook, catalog, announcement, bulletin, and application form that it makes available to persons entitled to notice (student, parents/guardians, employees, applicants for employment, and all unions and professional organizations holding collective bargaining or professional agreements with the recipient)

- Title IX Coordinator has obligation to monitor the program/activity for barriers to reporting and must take steps reasonably calculated to address such barriers
- Consider possible barriers:
  - Accessibility of reporting process
  - Confusing or delayed procedures
  - Difficulty finding information or contacting Title IX staff
  - Perception of bias



Consider regular, proactive  
internal assessment/self-  
audit

# Checklist for August 1 Compliance



- Update Board Policy/Administrative Regulation to comply with new grievance procedures and definitions
  - In both your student and employee sections
  - Consider updating corresponding policies (i.e., Sexual Harassment, UCP, Nondiscrimination and Complaints Concerning Employees, Gender Identity, Bullying etc.)
- Update Website and Notices (handbooks, announcements, admitted students packet etc.)
- Make a plan to train all employees
- Train all employees on obligation to address sex discrimination in its education program or activity, the scope of conduct that constitutes sex discrimination under Title IX, including the definition of sex-based harassment, and notification and information requirements
- Identify any specific TIXC duties that will be delegated and ensure that any designee is trained, including training in how to avoid bias and conflict of interest





Questions?

# THANK YOU!



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