



Title IX Coordinators: Decisions and Implementations

Presented by: Sarah Fama and Emma Sol

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Overview

Sarah E. Fama is a Partner in Lozano Smith's Walnut Creek office and co-chair of the firm's Title IX Practice Area. She represents public agencies through various aspects of employment and general liability issues.

Experience

Ms. Fama represents public employers at California Superior Court, California Labor Commission, California Unemployment Insurance Appeals Board, California Workers' Compensation Appeals Board, Department of Fair Employment and Housing, and Equal Employment Opportunity Commission. She regularly defends employers against claims of harassment, discrimination, wrongful termination, and wage and hour violations. Clients seek her out to provide guidance, education and training to employers regarding employment law compliance, in areas of harassment, discrimination, separation, accommodation, and wage and hour compliance.

She is routinely involved in investigations, either by guiding employers through the investigation process or by acting as an investigator herself. She also advises employers and provides training on various topics including investigations, Title IX, sexual harassment, Uniform Complaint Procedure, retaliation, discrimination and other complaints that may arise in an education setting.

Education

Ms. Fama received her Juris Doctor degree from the University of the Pacific, McGeorge School of Law, where she was named to the Dean's Honor List. Her J.D. concentration was focused on International Legal Studies. She earned her Bachelor of Arts in Sociology from the University of Alberta.

Practices
Labor & Employment
Litigation
Title IX
Investigations

Education
J.D., University of the Pacific,
McGeorge School of Law
B.A., University of Alberta

Admissions
California



Emma J. Sol

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Overview

Emma J. Sol is an Associate in Lozano Smith's Walnut Creek office. Ms. Sol focuses her practice primarily on Title IX, labor and employment, student and investigations issues.

Experience

Ms. Sol frequently advises clients on all aspects of Title IX compliance, including conducting investigations and drafting policies. She leverages her expertise to provide comprehensive trainings on Title IX topics, helping clients navigate this complex legal landscape. Additionally, she develops and delivers training on sexual harassment prevention, Uniform Complaint procedures, and workplace and misconduct investigations. Ms. Sol also serves as an investigator, decision-maker, and appeals officer for Title IX grievance procedures. She regularly assists clients with Title IX sports equity concerns and represents them in Office for Civil Rights investigations.

Ms. Sol provides legal guidance to clients on personnel matters, including investigations, discrimination, retaliation, and sexual harassment claims, and employee discipline. Ms. Sol is also familiar and experienced in guidance on student-related issues, such as student investigations, discipline, and constitutional student matters. She applies her background and knowledge in college athletic compliance in many areas of her representation of clients.

Education

Ms. Sol earned her law degree from Santa Clara University School of Law. She was a Dean's List graduate and received a High Tech Law Certificate, with honors. She also received CALI Awards in both Contracts and Negotiations. While in law school, she mentored first year law students as an Academic Support Program Fellow, and was the President of the Sports and Entertainment Law Society. Ms. Sol graduated magna cum laude from Texas Christian University, where she earned a Bachelor of Science in Sports Broadcasting, with an English minor and emphasis on Women & Gender Studies.

Practices

Title IX
Labor & Employment
Student
Investigations

Education

J.D., Santa Clara University School of Law
B.S., (*magna cum laude*), Texas Christian University

Admissions

California

Lozano Smith

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- > *Charter Schools*
- > *Community Colleges*
- > *Construction Advice and Litigation*
- > *Facilities & Business*
- > *Governance*
- > *Investigations*
- > *Labor & Employment*
- > *Litigation*
- > *Municipal*
- > *Public Finance*
- > *Special Education*
- > *Student*
- > *Title IX*

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DIVERSITY IS KEY and we consciously practice it in all that we do. It is one of our core beliefs that there is a measurable level of strength and sensitivity fostered by bringing together individuals from a wide variety of different backgrounds, cultures and life experiences. Both the firm and the clients benefit from this practice, with a higher level of creative thinking, deeper understanding of issues, more compassion, and the powerful solutions that emerge as a result.

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- > *Fresno*
- > *San Diego*
- > *San Luis Obispo*
- > *Walnut Creek*
- > *Los Angeles*
- > *Monterey*
- > *Bakersfield*

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Lozano Smith's signature "**Blue Hat**" Project symbolizes our team's hands-on pledge to engage in our communities. With involvement by more than 150 Lozano Smith employees, we have assembled care kits, volunteered on campuses, and invested in our communities through partner projects. Lozano Smith has partnered with school districts, several statewide associations and various community agencies to help impact hundreds of students and many communities throughout California. Featured programs include, for example:

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- > *Backpack Giveaways*
- > *Bullying Prevention Awards*
- > *Campus Beautifications*
- > *Distribution of Care Kits*
- > *Leadership Academies*
- > *Mentoring Program Awards*
- > *Music Scholarships*

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Content Advisory

Please note that some of the topics and content of this presentation is explicit and may be triggering for some individuals.

Viewer discretion is advised. If at any time you need to step away, please feel free to do so.

Thank you for your understanding and participation in this important conversation.



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Topics



- Sexual Harassment
 - Scope and Jurisdiction of Title IX Regulations
 - Effective Title IX Team
 - Title IX Coordinator Decisions
 - Title IX Regulations Compliance
- Title IX Compliance: Athletics and Facilities
- Title IX and Gender Identity



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**Scope and
Jurisdiction of Title
IX Regulations**

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2020 Title IX Definitions – Sexual Harassment

Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following:

- Employee quid pro quo;*
- Severe, pervasive, and objectively offensive; or*
- Sexual assault, dating violence, domestic violence, or stalking.*





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GROUP ACTIVITY

Under the Title IX Regulations, the District must conduct a formal investigation into an incident in which a teacher made multiple inappropriate comments to his colleague about her body while chaperoning an overnight field trip.

True or False?

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Title IX Jurisdiction

United States;

Substantial control over both:

- 1) the *respondent* and
- 2) the *context;* and

Participating/attempting to participate.



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GROUP ACTIVITY

Under the Title IX Regulations, the District must conduct a formal investigation into an incident where a student was sexually assaulted on the way home from a high school football game.

True or False?



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GROUP ACTIVITY

A 10th grade student alleges sexual assault by classmate in a private home over the weekend.

Is this Title IX?



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GROUP ACTIVITY

You receive a call from a student who graduated the year prior. They report that they had been sexually harassed by their math teacher during their junior year.

Is this Title IX?



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GROUP ACTIVITY

That same former student reports that she heard the math teacher is now sexually harassing her friend's younger sister.



Is this Title IX?



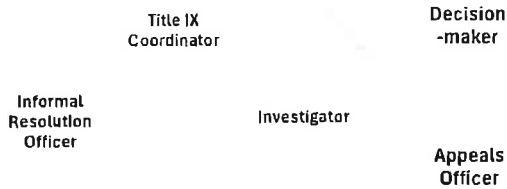
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Having an Effective Title IX Team

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What Roles Can Overlap?



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Responsibilities of the Title IX Coordinator:

- Provides or coordinates Title IX trainings and preventative measures.
- Offers supportive measures to complainant and respondent.
- Explains the complaint/grievance process to the complainant.
- Receives all complaints and oversees the complaint/grievance or informal resolution process.
- Determines mandatory and discretionary dismissals.
- Evaluates corrective actions.
- Addresses patterns or problems.

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Internal Process

- Every District has a different internal process that makes sense for their size and community.
- What does your internal process look like?

Who is available for investigators, decision-makers, appeals officers? (Training)	Are all issues and complaints brought to Title IX Coordinator?
Do all site admin have a certain level of training?	Does each site have its own designated Title IX Coordinator?

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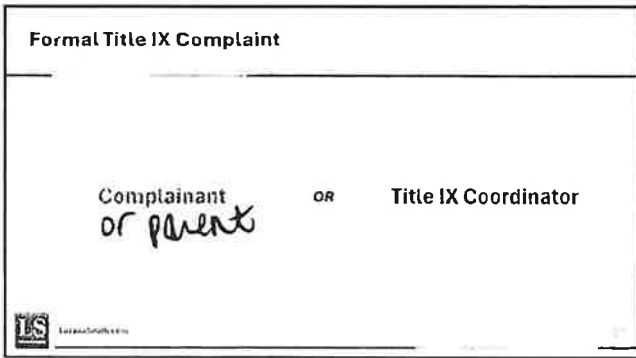
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**Title IX
Coordinator
Decisions**

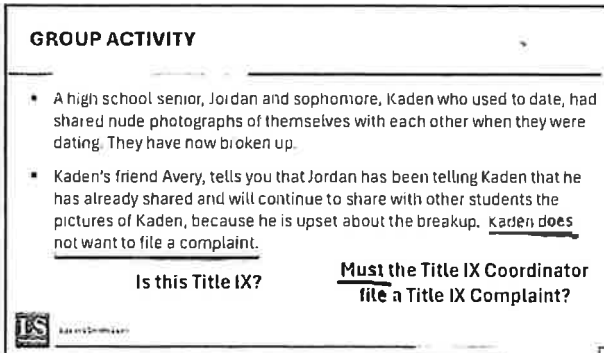
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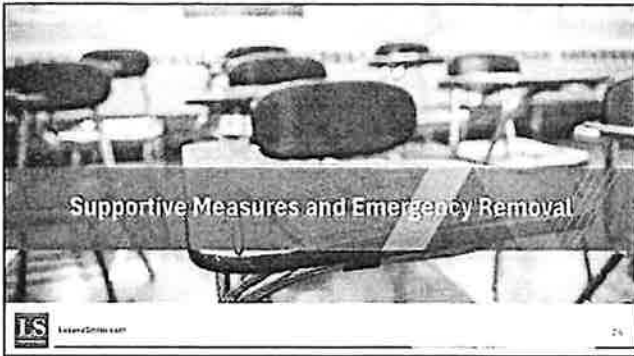
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Emergency Removals (Students)

Title IX Regulations contemplate that the full Title IX grievance procedure be completed prior to discipline being imposed.

EXCEPTION: Emergency Removal

- Respondent must be an **immediate threat** to the physical health or safety of any student or individual;
- The immediate threat must arise from the allegations of sexual harassment; and
- Respondent is provided with notice and an opportunity to challenge the decision immediately after removal.

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Emergency Removals (Students)

Considerations for Emergency Removal

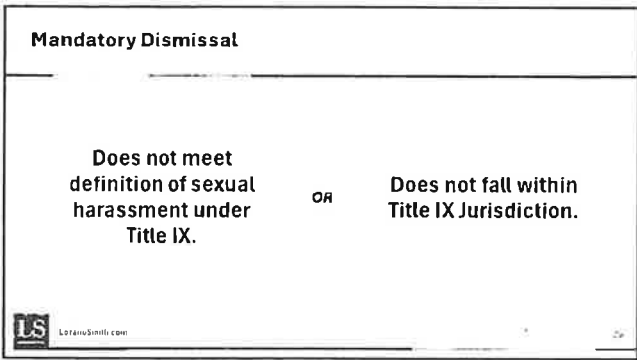
- Conduct meets definitional and jurisdictional requirements of Title IX;
- The District is capable of initiating a Title IX Investigation (i.e., complainant, student witnesses will participate); and
- Either:
 - Formal Title IX Complaint has been filed;
 - Complainant wants to file a Formal Title IX Complaint; or
 - Title IX Coordinator intends to file a Formal Title IX Complaint.

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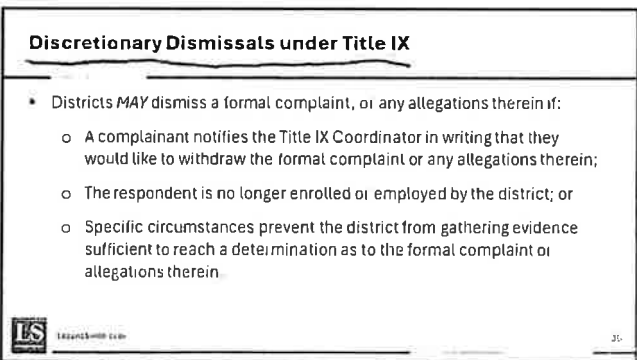
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GROUP ACTIVITY

A formal Title IX complaint is filed, alleging that a campus supervisor has been making inappropriate comments about students to his colleagues. After gathering more information, it's evident that these comments are sexual in nature, and have been made multiple times a week over the duration of his employment with the District. When the campus supervisor receives his Title IX notice of investigation, he resigns, effective immediately.

Do you dismiss?



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Dismissals under Title IX (Mandatory and Discretionary)

Notice of dismissal must be issued to both parties in writing.

Appeal rights:

- Procedural irregularity;
- New evidence that was not reasonably available earlier; or
- Involved personnel had a conflict of interest or bias.



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No Discipline

You **CANNOT** discipline students/employees prior to the completion of the Title IX process.

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Corrective Actions

Staff/student discipline.	Ensuring no retaliation.
Additional support for involved parties.	Generalized training for staff/students in class, school, or district-wide.
Generalized notification of policies/rules.	Increased monitoring and check-ins.
Changes to District practice.	

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Reflect

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Reflect



During and after each Title IX process, reflect on how things went.

- Are there patterns of behavior that need to be addressed?
- Are additional trainings required to better assist the Title IX team for future cases?
- Do policies need to be updated/reworked to better fit the community, while remaining consistent with current law?

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Title IX Regulations Compliance

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Title IX Log

Case Number	Date of Report/Complaint	Complainant Information	Respondent Information
Nature of Complaint	If Complaint Dismissed, Reason Why	Informal Resolution	Investigator
Key Dates	Outcome/Decision	Appeal Notes	

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Maintaining Records (7 years)

Formal Title IX Complaints:		No Formal Title IX Complaint:	Training Materials:
Any investigation of sexual harassment.	Any appeal and the result therefrom.	Any informal resolution and the result therefrom.	Documentation of all actions to demonstrate the response was not deliberately indifferent.
			All training materials.

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Title IX Trainings




Who is required to be trained?

- Who needs to be trained?
 - Title IX Team
 - Site admin & Directors
 - All employees
- What do they need to be trained about?
- How often are trainings?

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Title IX Policies



- Clear policies that comply with the law.
 - 2024 Regulations.
- Review model policies.

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Title IX Website Requirements

Non-discrimination policy.

Title IX coordinator contact information.

How to report.

Title IX team training materials.




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Title IX Notification

Who	What
<ul style="list-style-type: none">▪ Students, parents/legal guardians, applicants, employees, and unions.	<ul style="list-style-type: none">▪ Title IX contact information.▪ Title IX grievance procedures.▪ Non-discrimination policy.



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**Title IX Compliance:
Athletics and Facilities**

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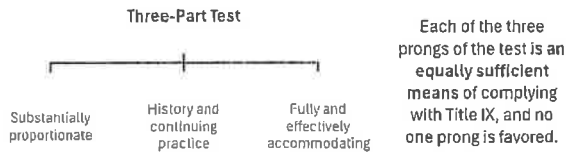
Title IX: Sports Equity

- Schools must provide equal athletic **opportunity** for members of both sexes.
- In determining Title IX compliance, OCR looks at multiple factors under three categories:
 1. Accommodation of Interests and Abilities;
 2. Athletic Scholarships;
 3. Other Benefits, Treatment, and Services.



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Accommodation of Interests and Abilities (3-part Test)



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Athletic Scholarships


- **Proportional**
 - To number of athletes.



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“Benefits, Treatment, and Services”

- Provision of equipment and supplies.
- Scheduling of games and practice time.
- Travel and per diem allowance.
- Opportunity to receiving coaching and academic tutoring.
- Assignment and compensation of coaches and tutors.
- Publicity.
- Provision of locker rooms, practice and competitive facilities.
- Provision of medical and training facilities and services.
- Provision of housing and dining facilities and services.
- Recruitment.




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Title IX: Facilities

<p>Good Practices</p> <ul style="list-style-type: none"> The conditions of playing fields, courts, pools, and other practice/game facilities for boys and girls' teams are equivalent including: <ul style="list-style-type: none"> Quality, maintenance, Access to restrooms. Availability of spectator seating. Availability of scoreboards, lighting, and other amenities etc. 	<p>Violations of Title IX</p> <ul style="list-style-type: none"> The girls' softball field is located off campus while boys' baseball team is located on campus. There is an outfield fence for the boys' baseball field but there is no such a fence for the girls' softball field; Boys' baseball field is regularly maintained by the maintenance team while the girls' softball team and its coach perform maintenance on the field by themselves, Girls' softball field is used for physical education classes while boys' baseball field is not used for any purposes other than boys' baseball team's practice
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Title IX: Facilities

- Under Title IX, male and female students must have equitable access to facilities.
- This includes bathroom access, locker room access, field access, etc.

California Law – access consistent with gender identity.
 Federal Law – split and changing.



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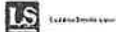


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Title IX: Gender Identity

- Unsettled whether gender identity is covered under Title IX.
- California law still provides protections for those discriminated against based on their gender identity.

How to process?




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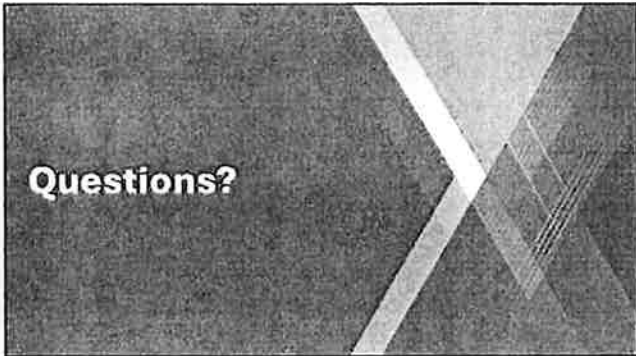


Takeaways


- Doing nothing is not an option, if you observe/suspect sexual harassment, you must act.
- Even if conduct does not fall under Title IX, it may still need to be addressed.
- Title IX Compliance



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For more information or questions about the presentation, please feel free to contact:



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