

Title IX Training

Title IX Workshop

Presented by:

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What is Title IX?

Title IX of the Education Amendments of 1972 (Title IX) and the Department of Education's (Department) implementing regulations prohibit discrimination on the basis of sex in federally assisted education programs and activities. The Supreme Court, Congress, and Federal executive departments and agencies, including the Department of Education, have recognized that sexual harassment of students can constitute discrimination prohibited by Title IX.

What is Title IX?

Update as of August 16, 2024

The U.S. Department of Education's Office of Civil Rights issued a Notice of Interpretation explaining that it will enforce Title IX's prohibition on discrimination on the basis of sex to include:

1. discrimination based on sexual orientation; and
2. discrimination based on gender identity

The Department's interpretation stems from the landmark U.S. Supreme Court decision in *Bostock v. Clayton County*, issued a year ago in which the Supreme Court recognized that it is impossible to discriminate against a person based on sexual orientation or gender identity without discriminating against that person based on sex.

Title IX Provision

Title IX provides: 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.

20 U.S. Code §1681.Sex

Sexual Harassment defined

Definition:

- Unwelcome conduct
- Determined by a reasonable person
- To be so severe, pervasive, and objectively offensive that it effectively denies a person's equal access to the recipient's education program or activity.

Reporting Sexual Harassment: Who, How and When?

- Any person may report sex discrimination, regardless of whether the person is the alleged victim of the reported conduct
- Reports can be made by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator
- Or by any means that results in the Title IX Coordinator receiving the person's 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

What falls under Title IX:

- Sexual Harassment
- Sexual Assault
- Sexual Violence
- Harassment and Bullying based on gender or sexual orientation
- Transgender student matters
- Expectant and Parenting student matters

When must a school respond to sexual harassment?

A recipient (school system) with actual knowledge of sexual harassment in an education program or activity against a person in the United States must respond promptly and in a manner that is not deliberately indifferent.

Knowledge: Notice of sexual harassment or allegations of sexual harassment to:

1. A district's Title coordinator
2. Any official of the district who has authority to institute corrective measures on behalf of the district
3. Any employee of an elementary or secondary school

District's Responsibility

Old Definition (OCR Guidance):

- **Stop**/end the behavior
- **Prevent** it from reoccurring
- **Remedy** the effects of the misconduct

District's Responsibility

New Definition (Final Rule):

- Respond reasonably in light of known circumstances

Site designee's responsibility

Conduct an Initial Investigation

- Conduct an preliminary investigation

Obtain written statement from:

- Complainant/reporting party
- Respondent/party being accused
- Witnesses

Site designee's responsibility (Cont'd)

Gather evidence/information:

- Name of complainant (victim)
- Name of respondent (accused)
- Pertinent documents (texts, letters, e-mails, social media postings, etc.)
- Pictures, Videos, Audios if available
- School video surveillance if applicable

Site designee's responsibility (Cont'd)

Report incident to Title IX Coordinator

Immediately Report and forward all evidence/information to the **Title IX Coordinator** for review or further investigation

Avoiding Liability under Title IX

A school district is not held liable for damages under Title IX unless:

- School district must have exercised *substantial control over* both the *harasser and* the *context* in which the *harassment occurred*;
- The misconduct is so *severe, pervasive, and objectively offensive*, that it effectively deprived the victim of access to the educational opportunities or benefits provided by the school district;
- School district must have *Actual Notice*/knowledge of the misconduct, and was
- School district was *deliberately Indifferent* to the misconduct
- School district's indifference subjected victim to harassment
- The incident occurred in the United States

The District can be liable for money damages under Title IX for Employee-on-Student harassment if:

- An official of the school district who at a minimum has authority to institute corrective measures on the district's behalf
- Has actual notice of the teacher's misconduct
- Is deliberately indifferent to the teacher's misconduct (i.e. an official decision by the recipient not to remedy the violation)

The District can be liable for money damages under Title IX for Student-on-Student Harassment if:

- Notice and deliberate indifference standards are met
- The school has substantial control over the “context in which the harassment occurs and over the harasser
- The conduct is “Sexual Harassment”, which is “so severe, pervasive, and objectively offensive” that it “effectively denie[s] equal access to an institution’s resources or opportunities”

To Do

- Place a Title IX poster in a prominent place both in the front office and a commons area.
- Review Title IX protocol and instructions on the EBR website
- Assign a site designee to triage Title IX complaints

Title IX Coordinator Information

Title IX Coordinator: Andrew Davis

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Where to find Title IX information and instructions

Go to the East Baton Rouge Parish School System's web site and find the "Title IX" link at the bottom of the home page.