

Title IX Refresher

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Roles

- Title IX Coordinator- consistent, does not typically make disciplinary decisions, takes up the most time in the process (can be Investigator)
- Investigator- neutral fact finder, has not been involved in the situation (can be Coordinator)
- Decision Maker- has disciplinary authority, has not been otherwise involved (cannot play any other role)
- Appellate Decision Maker- has not been otherwise involved (cannot play any other role)

Examples (vary depending on size of district)

- Coordinator- Clerk/Business Manager, Curriculum Director, Human Resource Director
- Investigator- Principal from another school, outsourced, Coordinator
- Decision Maker- Superintendent, Assistant Superintendent, Principal from another school, outsourced
- Appellate Decision Maker- Assistant Superintendent, Superintendent, Principal, County Superintendent, outsourced
- One of the benefits of being in a district with multiple schools, is that you can use administrators from different schools for the investigator, decision maker, and appellate decision maker roles.
- Reminder- the Investigator/Coordinator cannot act as the Decision Maker or Appellate Decision Maker

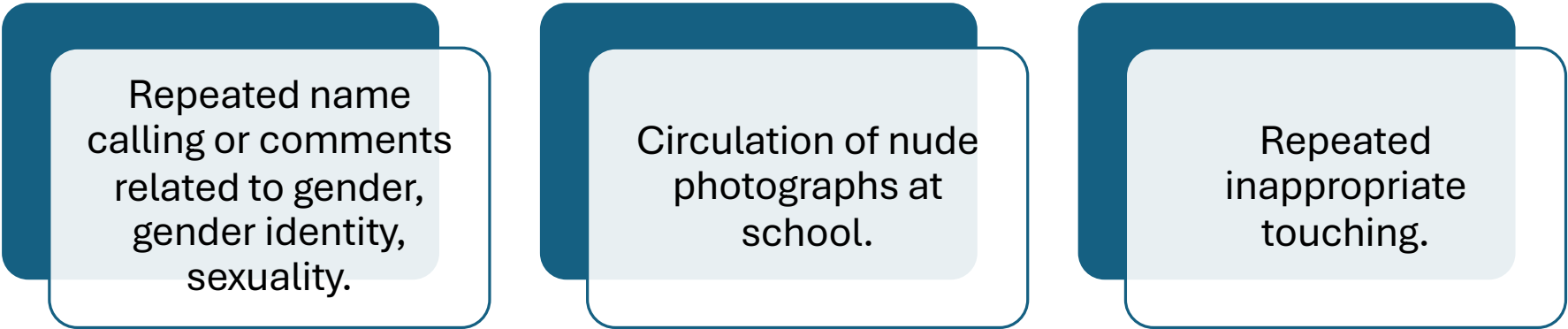
Why Does it Matter?

Your Coordinator must be identified on your website and in your policy, depending on what policies you use.

This process is long and takes a bit of a time commitment from each individual.

You want to make sure there are no grounds for appeal (potential bias).

Could this be Title IX



Repeated name
calling or comments
related to gender,
gender identity,
sexuality.

Circulation of nude
photographs at
school.

Repeated
inappropriate
touching.

Opportunity to File Complaint and Offer Supportive Measures

- If any reported conduct could fall under the definition of sexual harassment as defined in your Policy 3225, the Title IX Coordinator must meet with the potential Complainant and their parents and offer them the opportunity to file a complaint and offer supportive measures. They should be provided a copy of your Title IX policies at this meeting.
- All staff should be aware of this as students might go to their teacher, counselor, or principal with issues.

Who Can Make a Title IX Complaint

- Student who the conduct was against, or their parent.
- Staff member who the conduct was against.
- Title IX Coordinator.



Supportive Measures

- Examples: Access to the counselor, extra time on assignments, telling the parties not to contact each other at school.
- We do not have to provide everything they ask for, but need to consider reasonable requests.
- Make sure the appropriate staff members are aware of the supportive measures. This likely means the administrator of the school. Coordinator is responsible for making sure these are in place, but needs help.
- Supportive measures are available before, during, and after the process.
- Supportive measures cannot be punitive to either party, but retaliation is prohibited.

What Happens After The Coordinator Receives A Complaint?

Step 1: Determine whether the Title IX process will move forward. Remember that just because you determine something will not rise to the level of a Title IX violation doesn't mean you shouldn't investigate and discipline the student under one of your other policies. (Does it meet the definition of sexual harassment under your policy).

Step 2: If the complaint is moving forward under Title IX, send the Respondent and Complainant Notice of the Complaint. If the Complaint is not moving forward, send a Notice of Dismissal. Note: even if it is dismissed, continue to provide access to supportive measures.

Can Someone Remain Anonymous?



Parties cannot be anonymous during this process.



Witnesses can be anonymous and identified with “markers” in the documentation.

Investigation

- Send Notices of Interviews to parties and witnesses.
- Conduct interviews of the parties and witnesses. Start with Complainant and end with Respondent, when possible.
- Parents, advocates, and attorneys are allowed in interviews, but cannot answer for the individual they are with.
- During this time, also collect evidence.
- Reminder: no one is required to participate and lack of participation cannot be used against either party.

Evidence Review Period

- Prior to completion of the Investigation Report, the Investigator must send all parties a Notice of Right to Inspect Evidence and give them 10 days after inspection to provide a written response to the evidence. A notice should also go out indicating if there is no evidence.
- Some evidence can be sent as copies with the Notice. Other things like documents containing confidential information and video footage should not be sent out. Give the parties the option to schedule a time to come review that evidence with the Coordinator. The 10-day response period will start after they review the evidence.
- The Investigator does not need to respond to any written responses to evidence, they just must consider it in their Investigation Report.

Investigation Report

- After the investigation is complete and the parties have been provided the opportunity to respond to evidence, the Investigator can complete the Investigation Report.
- This report does not include any conclusions but rather outlines all the information and evidence in an objective manner.
- Once the report is complete, it must be sent simultaneously to both parties along with notice that they have 10 days to provide a written response to the Investigation Report to the Decision Maker.



Written Questions Period

- Depending on your policy, this may take place during the 10-day period to respond to the Investigation Report.
- MTSBA- Notice of Right to Submit Written questions must take place within 3 days of the Investigation Report going out, so just do it all at the same time.
- Our Policies- Send after the time has passed to respond to the Investigation report.
- Your policy may or may not say how long they have to submit the actual written questions.
- Irrelevant questions are excluded as determined by the Decision Maker.
- Opportunity for limited follow-up.

Written Determination

After the 10-day response to Investigation Report window and written questions period have passed, the Written Determination can be issued.

The Written Determination indicates whether the district's Title IX policy, or any other policy or handbook provision, has been violated. This determination also contains information on actions that will be taken following completion of the process.

Analyzing the Elements of Sexual Harassment-Decision Maker

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v)*, "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30).

*The definition of fondling changed to "criminal sexual contact" in 2025, which means: the intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation." The new definition also includes, "The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation."

Appeals

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- There are limited grounds for appeal of a decision, so the Appellate Decision Maker will determine which appeals are granted or denied.
 - Note that both parties must be given an opportunity to provide a written statement in support of or challenging the outcome. Your policy states that a decision regarding the appeal will be issued within 10 days of receipt of the appeal. This is a really tight timeline, so you need to be on the ball.

Discipline

- If the Decision Maker determines there was a Title IX violation, then the Respondent's discipline is contained in the Written Determination.
- Do not discipline until the appeal deadline has run.
- Supportive measures cannot be punitive to either party.
- If the Decision Maker determines that there was a violation of another policy or handbook provision, then the Written Determination will just note that discipline will take place in accordance with the district's policies and procedures.
- If you are unsure if a Title IX investigation should be done, contact an attorney. Do not do your own investigation and subsequent discipline.

The Elements of Sexual Harassment (Again)

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

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Examples of each type of sexual harassment

An employee of the District conditioning the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct;

Teacher says they will improve a student's grade if the student has sex with them.

Coach promises to start a player if they send them nude photographs.



Examples Cont.

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity; or
- Repeatedly making sexual comments
- Repeatedly calling someone sexually charged slurs
- One of instances are typically not going to rise to this level- there may be exceptions

Examples cont.

- “Sexual assault” as defined in 20 U.S.C. § 1092(f)(6)(A)(v)*, “dating violence” as defined in 34 U.S.C. § 12291(a)(10), “domestic violence” as defined in 34 U.S.C. § 12291(a)(8), or “stalking” as defined in 34 U.S.C. § 12291(a)(30).

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Timelines

- Depending on your policy you likely have a 60 or 120-day deadline for the whole process.
- While there is no specific timeline in which the Investigation must be done, do not use up all your time on this step. There are other steps that end up taking up a lot of days, so use them wisely.
- Check your policies and procedures to see if there are specific deadlines and timelines to ensure you are following it.
- Calendar everything
- Deadlines may be extended ***for good cause.***

Thank You!

- If you are not sure- please call or email!