

# Title IX: Rocking the PreK-12 World

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Brevard Public Schools

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More than equity in athletics

# The Title IX We All Know, and Love

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.

(Education Amendments of 1972)



# New Regulations – Changes, Changes and More Changes

Change  
Definition of  
Sexual Harassment

Case Resolution  
Timeline

Definition  
Of  
Notice

Responsible  
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Guidelines

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Notice  
To  
Parties

Advisor  
Of  
Choice

Burden  
Of  
Proof

Evidence  
Review

Investigation  
Report

Cross  
Examination  
Questions

Standards  
Of  
Evidence

Outcome  
Report

Appeals



# Changes to Definition of Sexual Harassment

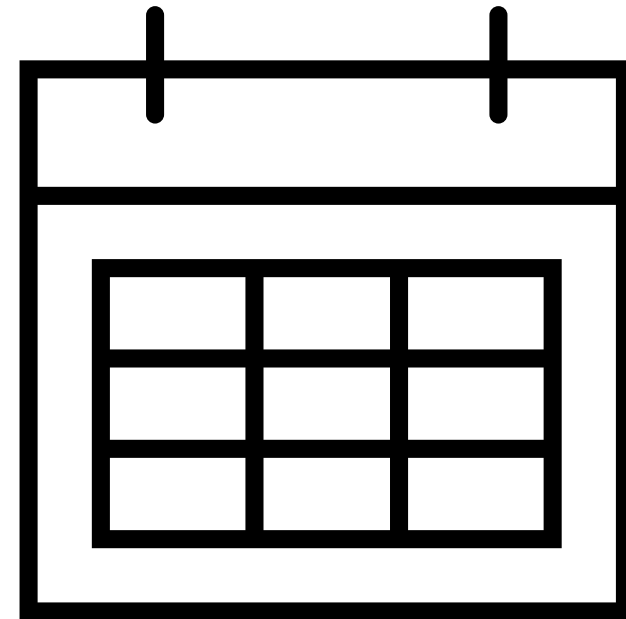
Changes the definition of sexual harassment, will no longer align with the definition other agencies use. (EEOC)

- **Current-** Unwelcome conduct, sexual in nature, that is so severe, persistent OR pervasive that it limits a person's access to programs and activities.
- **New -** Unwelcome conduct, on the basis of sex, that is so severe, pervasive AND objectively offensive that it effectively denies a person access to programs or activities.

# TIMELINE

REASONABLY  
PROMPT  
TIMEFRAME

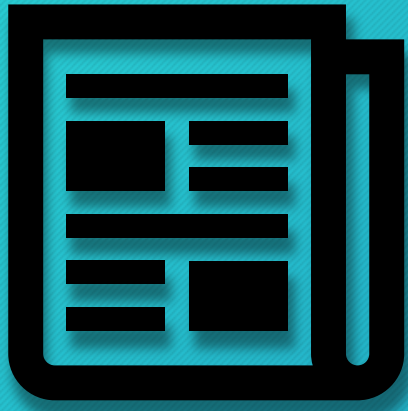
20+ days





# Actual Notice

## Complaint or Notice to Title IX Coordinator



- Any person may report sexual harassment
- Formal written complaint (form, email, letter)
- Triggers obligation to investigate
- Strategy Development

Beware of “Deliberate Indifference”

# Dismissal

1. Does not meet the definition of sexual harassment
2. Did not occur in a school educational program or activities
3. Issue can be addressed under student code of conduct (disciplinary action)
4. Complainant withdraws formal complaint
5. Respondent is no longer enrolled/employed by school
6. Specific circumstances prevent school from gathering evidence

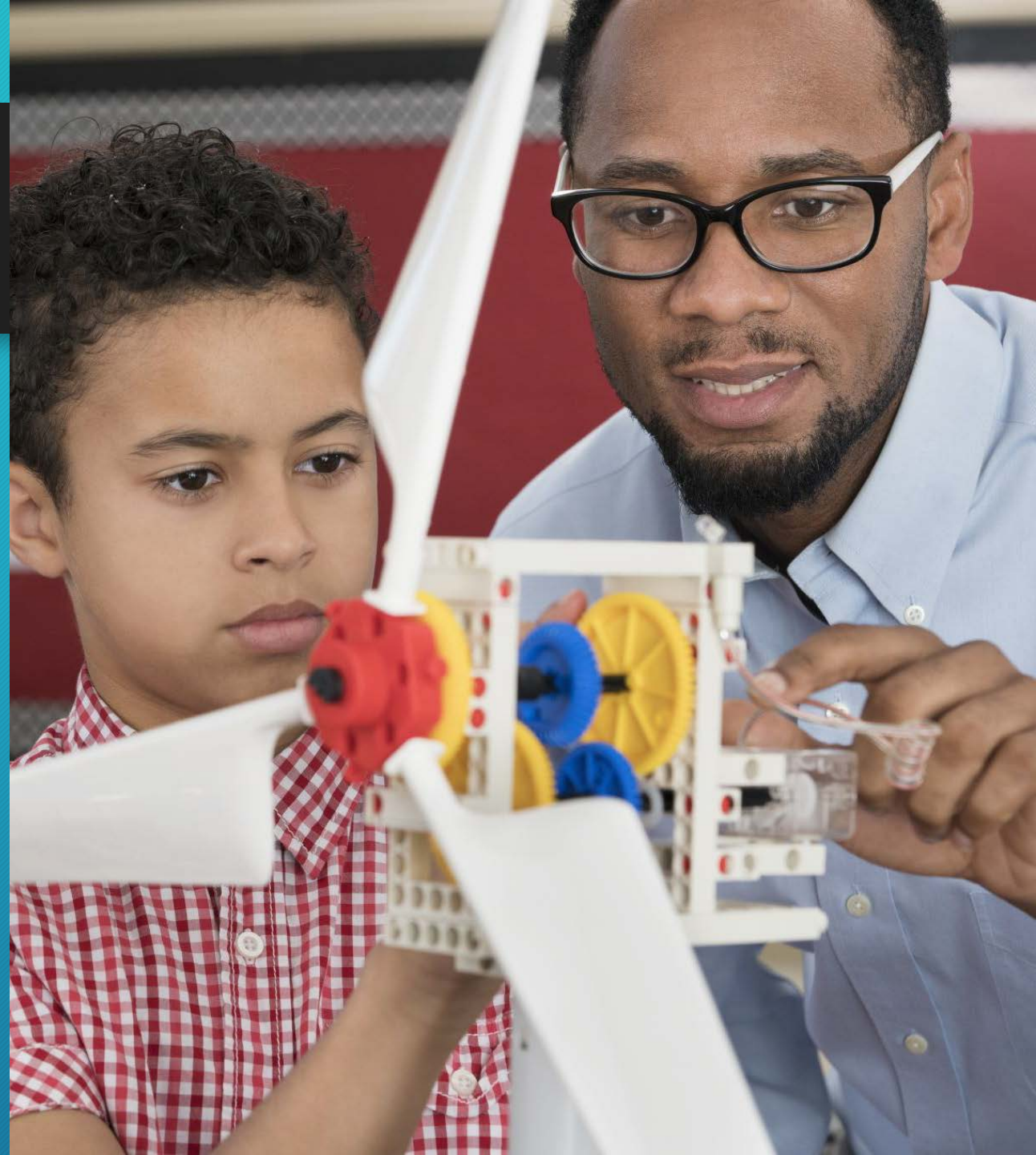
\*\*\*\*Procedure - Promptly send written notice of dismissal and reason to both parties

# Responsible Employee

K-12

ALL Employees  
are  
Mandatory Reporters

Per statute 1006.061





# Initial Assessment

- Jurisdiction -locations, events and circumstances where a school exercised substantial control
- Dismissal
- Policy implication
- Informal or Formal resolution



# Informal Resolution

Mutually Agree  
(cannot use for sexual assault)

Facilitate Discussion

Needs of Both Parties  
Addressed

Can Change to Formal  
Investigation at Any Time



# Roles and Responsibilities

Title IX Coordinator

Investigator

Decision Maker

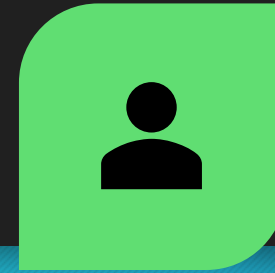


\* Coordinator may be the investigator but cannot be decision maker



# Supportive Measures Available for Both Parties

- Supportive measures are free, individualized services designed to restore or preserve equal access to education, to protect safety and deter sexual harassment
- Support students they are not punitive or disciplinary with respect to another student
- Doesn't unreasonably burden any other person
- Consider the complainant's wishes
- Supportive measures are to be confidential
- Title IX Coordinator is responsible for implementing
- Example:
  - Counseling
  - Modifications of class schedules
  - Campus escort services
  - Mutual restrictions on contact between individuals



THE IDENTITY OF THE  
PARTIES



THE ALLEGATION(S)  
WITH REFERENCE TO  
POLICY VIOLATIONS(S)

# Notice to Parties



THE DATE AND  
LOCATION OF THE  
ALLEGED MISCONDUCT



# Advisor of Choice

- Both parties may choose to have an advisor present
- Advisor can be a parent, pastor, attorney, etc.
- If the student doesn't choose an advisor, the school must select one who is "aligned with the party"
- Advisor's role is supportive not participatory
- Must obtain release of information document
- Advisor must be included in scheduled interviews and/or meetings with their party

# Standard of Evidence and Burden of Proof

**Preponderance of Evidence**  
more likely than not to have  
occurred

**Burden of Proof**  
is upon the  
Recipient (school)





# Gathering Evidence & Investigation Report



Must give both parties specific, equal rights and protections  
Presumption of innocence for respondent



The school is not allowed to access a party's personal records (medical or psychological)



Both parties are provided an equal opportunity to have witnesses and submit evidence



May not restrict the ability of either party to discuss the allegations under investigation, or to gather and present relevant evidence



Meaningful opportunity to respond to the evidence after the school has provided it



Equal opportunity to submit relevant, written questions to each other



Both parties get the outcome report including the rationale and finding of fact for each allegation



# Investigation Reports

Must prepare an investigative report on the allegations of the formal complaint

Draft report is to be shared with Title IX Coordinator for accuracy review

Report must fairly summarize all relevant evidence

Both parties get the outcome report including the rationale and finding of fact for each allegation

Parties have ten (10) days to respond to the evidence in writing, which must be considered before finalizing the investigative report

Retaliation language from Policy 3317



# Outcome Reports



STATEMENT OF FINDING AND RATIONAL FOR EACH FINDING OF FACT FOR EACH ALLEGATION



DETAIL ANALYSIS AND ALL REMEDIAL ACTIONS (SANCTIONS, DISCIPLINE) ON THE RESPONDING PARTY MUST BE DESIGNED TO ENSURE ONGOING ACCESS TO EDUCATIONAL PROGRAMS AND ACTIVITIES TO ALL PARTIES



INVESTIGATED REPORT IS FINALIZED AND PROVIDED TO BOTH PARTIES AT THE SAME TIME



REPORT MUST BE SENT TEN (10) DAYS BEFORE ANY DETERMINATION OF RESPONSIBILITY OR ASSIGNMENT OF SANCTIONS

# Determination

- Prior exchange of written questions
- Determination
- Assignment of Sanctions



# Appeal

- Schools have to offer both parties an opportunity to appeal
- Grounds for Appeal
  - Procedural irregularity affected the outcome of the matter
  - New evidence has been discovered that was not reasonably available
  - A conflict of interest on the part of the Title IX Coordinator, Investigator or Decision Maker which affected the outcome

## Step 1: Informal Discussion with Title IX Coordinator

Student and/or parent/guardian may appeal in writing to the Dean, Asst. Principal or designee who completed the investigation. That school representative will have a conference with the student and parent/guardian to discuss concerns related to the investigation.

## Step 2: Appeal to Principal (Decision Maker)

Within thirty (30) days after the date of the informal discussion, student and/or parent/legal guardian may send a written statement to request a formal appeal. The Principal must respond in writing within seven (7) days to uphold, modify or deny the resolution.

## Step 3: Appeal to the District Title IX Coordinator

The student and/or parent/legal guardian may appeal in writing to the District Title IX Coordinator, Director of Elementary Learning and Learning, Stephanie Archer. The District's Title IX Coordinator will respond in writing within seven (7) days with a final decision to uphold, modify or deny the resolution sought.