



Title IX Investigator

Presented By: Jackie Saxenmeyer

District Title IX Coordinator

Agenda

- 1) Title IX Overview & Legal Case Briefs
- 2) When Does Title IX Apply
- 3) Definitions of Sexual Harassment
- 4) Overview of the Title IX Grievance Process
- 5) The Title IX Team – Bias and Conflicts of Interest
- 6) Before the Formal Investigation
- 7) Beginning the Formal Investigation
- 8) Case Study



Title IX Overview & Legal Case Briefs

What is Title IX?

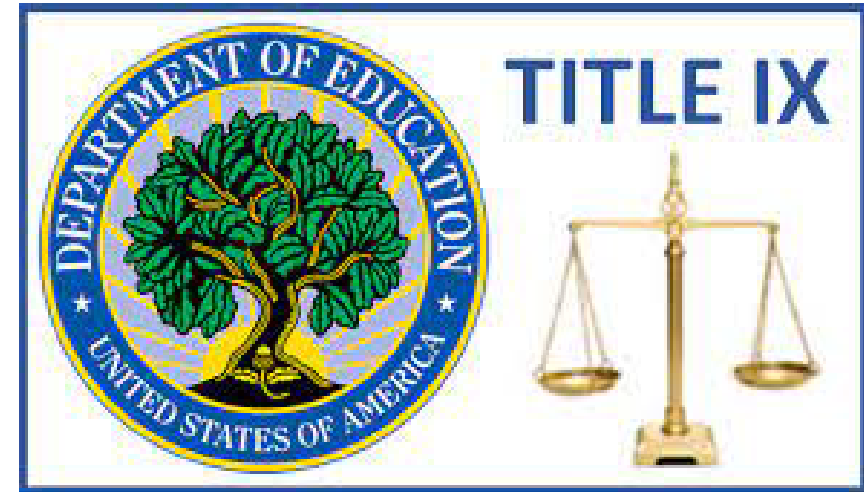


Title IX of the Education Amendments of 1972 is a federal civil rights laws that prohibits federally funded educational institutions from discriminating against students or employees based on sex.

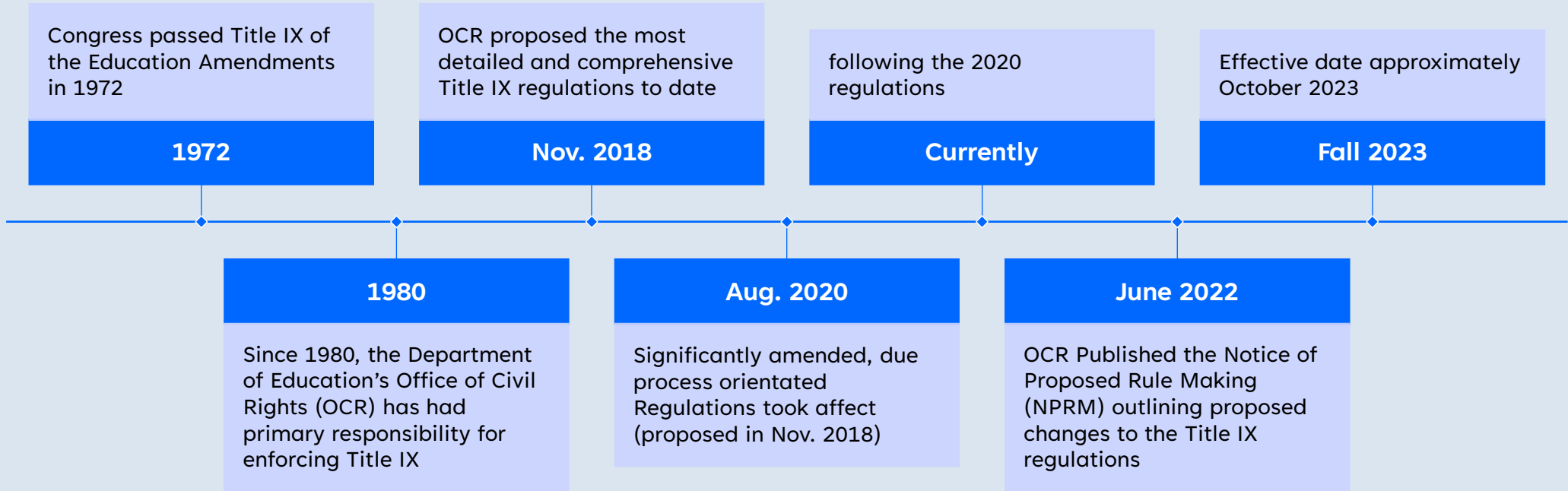
“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”
20 U.S.C. § 1681 et seq.

Role of OCR & Title IX

- The Office for Civil Rights (OCR) under the U.S. Department of Education is responsible for establishing the compliance standards to be applied in investigations and enforcement of Title IX regarding sexual harassment.
- OCR administratively enforces Title IX by conducting investigations of complaints filed by an individual, a representative, or group.
- Technical Assistance: OPEN Center
 - OCR's Outreach, Prevention, Education and Nondiscrimination (OPEN) Center



Title IX Regulations



Title IX Related Issues

Sex/Gender-Based Discrimination

- Program Equity
- Recruitment, Admissions, and Access
- Pregnancy
- Athletics
- Employment, Recruitment, and Hiring
- Extra-curricular Activities
- Housing
- Access to Course Offerings
- Salaries and Benefits
- Financial Assistance
- Facilities
- Funding
- Sex, Sexual Orientation, Gender Identity.

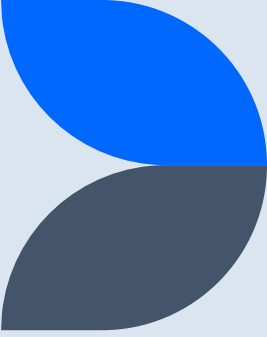
Sexual Harassment

- Quid Pro Quo
- Hostile Environment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking

Retaliation

GEBSER V. LAGO VISTA INDEP. SCHOOL

524 U.S. 274 (1998)



Case summary: A high school student in Lago Vista Independent School District in Texas, had a secret sexual relationship with one of her teachers. She did not report the relationship to school officials. The teacher was arrested by law enforcement and fired after it was discovered that the two were engaging in sex.

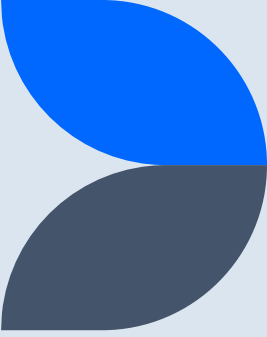
The U.S. Supreme Court ruled individuals cannot recover monetary damages against the school unless:

Three-part standard:

1. An official of the educational institution must have had “**actual notice**” of harassment;
2. The official must have authority to “**institute corrective measures**” to resolve the harassment problem;
AND
3. The official must have “**failed to adequately respond**” to the harassment and, in failing to respond, must have acted with “**deliberate indifference**”.

DAVIS V. MONROE COUNTY BD. OF ED

526 U.S. 629 (1999)



Case Summary: This case involved L.D. a fifth grader in Monroe county, Georgia. Over a period of six months a classmate allegedly sexually harassed L.D. by attempting to fondle her, touching her, and directing offensive language towards her. The behavior was reported to teachers and the principal however no disciplinary action was taken.

Finding in favor of Davis, the Supreme Court expanded on the Gebser case:

- Harassment must be “severe, pervasive, and objectively offensive,” and the indifference “systemic,” to the extent that the victim is deprived of educational opportunities or services.

When Does Title IX Apply?

When Does Title IX Apply?

Brevard Public Schools Policy 2266: *Nondiscrimination on The Basis of Sex in Education Programs and Activities*, outlines the grievance process.

Title IX applies, and BPS Policy 2266 grievance process must be used to resolve allegations of sexual harassment when the District has:

- Control over the **Context** of the harassment

AND

- Control over the **Respondent**

**** Jurisdiction will be determined by the School-Based Title IX Coordinator ****

Control of the Context

At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the District with which the formal complaint is filed.

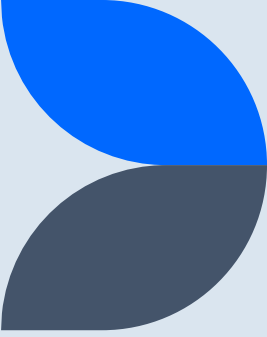
Control of the Context Cont.

“Education program or activity”: refers to locations, events, and circumstances over which the District exercised substantial control. This applies to all operations of the District, including but not limited to in-person and online educational instruction, employment, extra-curricular activities, athletics, performances, and community engagement and outreach programs.

- All programs or activities that occur on school grounds or on other property owned or controlled by the District
- Programs and activities that take place off-school property/grounds over which the District exercises substantial control over both the Respondent and the context in which the sexual harassment occurs (e.g., field trips, incidents on the school bus to/from school ect.).
- Conduct that occurs through the use of data or computer software that is accessed at a non-school related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by the District or school, if the harassment substantially interferes with or limits the Complainants ability to participate in or benefit from the services, activities, or opportunities offered by the District or school or substantially disrupts the education process or operation of a school.



Control over the Respondent



Personal Jurisdiction

-If the Respondent is **not** affiliated with the District in any way, the District **lacks authority** to take disciplinary action.

- Employee of an outside company (e.g., vendor, construction worker)
- Guest of invitee
- Former student
- Former employee
- Student from another institution

-The District has control over the Respondent when the District is able to take disciplinary action to address their behavior. Typically, a Respondent must be a member of the “School District Community” for the school District to have control over the Respondent.

Third Party Respondent

-**“Third Party”**- third parties include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with the District, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off District Property).

-Per BPS Policy 2266: The District retains the right to limit any vendor’s, contractors, or third-party’s access to school grounds for any reason. The District further retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third party, irrespective of any process or outcome under this Title IX policy.



If TIX Jurisdiction Is Not Present

Behavior may still violate:

- Student Code of Conduct policies
- Technology/Acceptable Use policies
- Employee Handbook/Policies
- Professionalism standards

Brevard County, Florida



**Elementary and Secondary
Code of Student Conduct
2022-2023 School Year**

Approved by the School Board on September 8, 2022

Definitions of Sexual Harassment

Definitions of Sexual Harassment

- Quid pro Quo Sexual Harassment
- Hostile Environment Sexual Harassment
- Sexual Assault
- Domestic Violence
- Dating violence
- Stalking

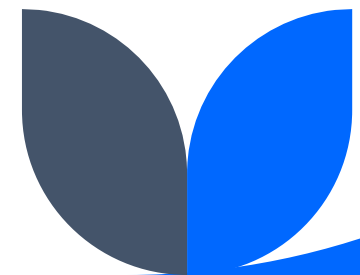


Quid Pro Quo Sexual Harassment

Quid Pro Quo Is intended to compel a student to engage in “unwelcome” sexual conduct in order to gain or maintain some type of benefit or favor. It applies to any situation a teacher, faculty member, coach, or any other employee of the District holds control or authority over a student. “This for that”.

Examples:

- In order to receive good grades
- Please the teacher
- Avoid getting in trouble
- Holding position within athletic team



Hostile Environment Sexual Harassment

SPOO: Unwelcomed conduct on the basis of sex that is determined by a reasonable person to be so severe, AND pervasive, AND objectively offensive that it effectively denies, a person equal access to the District's education program or activity.

“Unwelcomed”- is subjective and determined by the complainant(except when the Complainant is younger than the age of consent)

“Reasonable Person”- The perspective of an individual in the same or similar circumstance. (In the shoes of the complainant)

Hostile Environment “Severe”

- Physical conduct is more likely to be severe
- Accompanied by threats or violence (Verbal threat to cause physical harm, text, social media)
- Consider the circumstances (The ability of the complainant to remove themselves from the harassment)



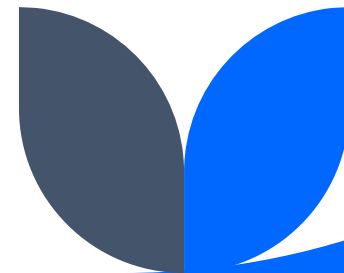
Hostile Environment “Pervasive”

- Widespread
- Openly practiced
- Occurring in public spaces (more likely to be pervasive)
- Frequency for the conduct is often a variable in assessing pervasiveness
- Does not have to be multiple incidents
- Impact on student/employee (not wanting to go to school/work)



Hostile Environment “Objectively Offensive”

- Reasonable person standard
- Age and relationship of complainant and respondent
- Number of person involved
- Frequency
- Physically threatening
- Humiliating
- Intimidating
- Abusive
- Ridiculing



Sexual Assault

- Any sexual act directed against another person, without the consent of the Complainant including instances where the Complainant is incapable of giving consent.
- Sexual Assault covers all the below definitions:

Rape

Sodomy

Sexual Assault with an Object

Fondling

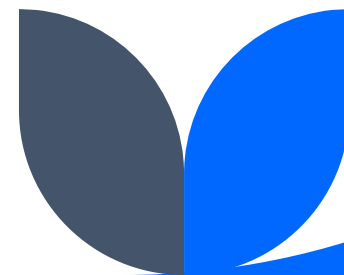
Incest

Statutory Rape



Sexual Assault Cont.

- **Rape**- Penetration, no matter how slight, of the vagina or anus with any body part or object, or penetration by a sex organ of another person, without their consent, including instances where they are incapable of giving consent because of age or temporary or permanent mental or physical incapacity.
- **Sodomy**- Oral or anal sexual intercourse with another person, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent or physical incapacity.



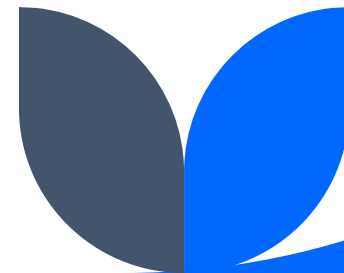
Sexual Assault Cont.

- **Sexual Assault with an object**- The use of an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against the person's will (non-consensually) or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **Fondling**- The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.



Sexual Assault Cont.

- **Incest**- Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Florida law.
- **Statutory Rape**- Nonforcible sexual intercourse with a person who is under the statutory age of consent in Florida.



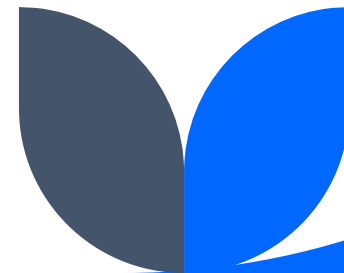
Dating Violence

- Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the **length of the relationship**, the **type of relationship**, and the **frequency of interaction**, between the persons involved in the relationship.
 - Dating violence includes but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating Violence does not include acts covered under the definition of domestic violence.



Domestic Violence

- A felony or misdemeanor crime of violence committed by:
 - A current or former spouse or intimate partner of the complainant
 - A person with whom the Complainant shares a child in common
 - A person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner
 - A person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Florida



Domestic Violence Cont.

- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Florida
- To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

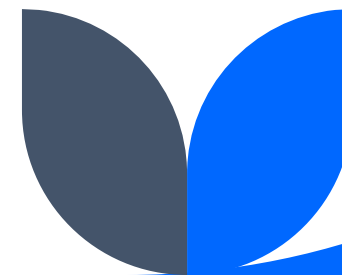


Stalking

- Engaging in a **course of conduct** directed at a specific person that would cause a **reasonable person** to:
 - Fear for the person's safety or the safety of others: or
 - Suffer **substantial emotional distress**

- For Purposes of this definition:

Course of Conduct: means two or more acts, including, but not limited to, acts in which the stalker directly, or indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates, to or about a person, or interferes with a person's property



Stalking Cont.

Reasonable Person: means a reasonable person under similar circumstances and with similar identities to the Complainant

Substantial Emotional Distress: means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling



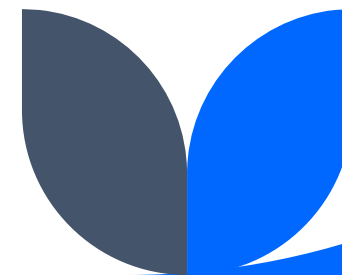
Overview of Title IX Grievance Process

The Title IX Grievance Process

Incident	Initial Assessment (Following a formal complaint)	Formal Investigation	Determination	Appeal
<ul style="list-style-type: none"> -Report- from anyone/anytime -Notification to the school Title IX Coordinator, and District Title IX Coordinator 	<ul style="list-style-type: none"> -Jurisdiction? -Policy violation implicated? 	<ul style="list-style-type: none"> -Notice to parties (NOIA) -Interview Scheduling (Complainant, Witnesses, Respondent) 	<ul style="list-style-type: none"> -Exchange of written relevant questions and answers with Decision-Maker (10 days) -Determination 	<ul style="list-style-type: none"> -5 days to appeal to District TIX Coordinator after receiving written determination from Decision-Maker -3 grounds for appeal (procedural error, new evidence, conflict of interest)
<ul style="list-style-type: none"> -Discuss/offer supportive measures -Explain process for filing a formal complaint (student/parent reporting form) 	<ul style="list-style-type: none"> -Mandatory or Permissive Dismissal? -Emergency Removal 	<ul style="list-style-type: none"> -Evidence Collection (Video surveillance, photos, text messages, etc.) -Share Directly Related Evidence with involved parties (10 days) 	<ul style="list-style-type: none"> -Sanctions/discipline -Written determination from Decision-Maker 	
<ul style="list-style-type: none"> -Report incident to LEO or DCF? 	<ul style="list-style-type: none"> -Informal or formal resolution 	<ul style="list-style-type: none"> -Complete Investigative Report 		

Grievance Process Timeframe

- There is no set requirement in the regulations to complete the investigation other than to have reasonably prompt timeframes for the conclusion of the process.
- BPS Policy 2266, “The District will endeavor to conclude the grievance process within **60 days** of receipt of the Formal Complaint”.
- BPS Policy 2266, “The timeline, however, may be subject to a temporary delay or a limited extension for **good cause** with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action”



Due Process: Current Issues

Due Process concerns are at the heart of 2020 regulations:

- Standard of evidence, “preponderance of Evidence”
- Requirements for “Emergency Removal”
- Detailed Notice of Investigation and Allegations (NOIA)
- Providing investigation report and evidence for review/response
- Title IX investigations are an exception to FERPA Rights
- Involvement of an advisor of choice
- Presumption of non-responsibility for Respondent
- Limited ability to take any punitive or disciplinary actions prior to completion or grievance process.
- Required opportunity to appeal for all parties
- Requirement to publicly post all training materials
- Parties may discuss the allegations under investigation



The Title IX Team

- District Title IX Coordinator
 - School Based Title IX Coordinator
- Investigator
- Informal Resolution Facilitator
- Decision-Maker
- Appellate Decision-Maker



School Based Title IX Coordinator

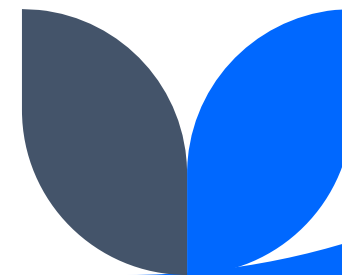
❖ Roles & Responsibilities

- Principal or Assistant Principal
- Point of contact for sexual harassment & Sex/Gender-Based Discrimination complaints
- Initial assessment
- Stop, Prevent, and Remedy
- The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, regardless of whether a formal complaint is filed and explain the process to file a formal complaint
- Notice of investigation and allegations
- Supervising investigators
- Timeline compliance
- The Title IX Coordinator may serve as an Investigator but may **not** be a Decision-Maker
- ****Mandatory Training****

Title IX Investigator

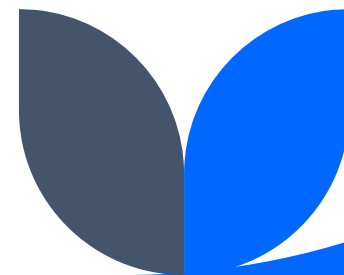
❖ Roles and Responsibilities

- Assistant Principal, Dean, Teacher on Assignment, Human Resources (Employee related matters)
- Conduct reliable, prompt, fair, and impartial investigations
- Identify and interview parties and witnesses
- Neutral fact-finder
- Gathers evidence
- Maintains accurate and thorough investigation records
- Sends formal letters to parties via email or mail
- Share the evidence with the parties and their advisors
- The parties have **10 days** to submit a response to the evidence, which the Investigator will consider prior to the completion of the investigative report
- Write investigative report
- The TIX Coordinator and TIX Investigator roles can be assigned to the same person, however it is **not ideal**
- ****Mandatory Training****



Informal Resolution Facilitator

- ❖ District Title IX Coordinator is the trained Facilitator
- **Informal Resolution:** a complaint resolution approved by both parties and the District Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- Must have a formal complaint in order to participate in informal resolution.
- Informal Resolution Includes: supportive measures only, accepted responsibility, and alternative resolution.



Decision Maker

❖ Roles and Responsibilities

- The TIX Decision Maker (DM) is selected from a pool of trained individuals at the District
- Determines whether District policy has been violated
- Sends written notice to both parties allowing them the opportunity to submit relevant questions that they want asked of any party or witness prior to final determination regarding responsibility
- The parties have **10 days** to submit a response to the DM
- Determines appropriate sanctions/discipline when a policy violation is found
- Sends out a written determination letter to the involved parties which outlines the rationale for their decision
- ****Mandatory Training****



Transitioning Decision-Maker Role

- This school year the District will be transitioning the Decision-Maker role to school principals.
- Principals will **NOT** be the Decision-Maker at their assigned school.
- The District will assign each school with a nearby neighboring school to act as the Decision-Maker for one another.
- Elementary and Secondary schools will be paired equally.
- Principals will remain the Coordinator at their assigned school.



Appellate Decision-Maker

- Both parties have the right to file an appeal to the written determination of responsibility issued by the DM, and the District Title IX Coordinator's dismissal of a formal complaint
- A party must submit a written appeal to the District Title IX Coordinator within **5 days** after receipt of the Decision-Makers determination of responsibility or the Title IX Coordinator's dismissal of a formal complaint
- The Appellate Decision-Maker can not be the coordinator, investigator, or decision-maker in the original grievance process
- ****Mandatory Training****



Bias and Conflicts of Interest

- Title IX Regulations prohibit conflicts of interest or bias with Coordinators, Investigators, and Decision-Makers against parties generally or an individual party.
- Simply knowing a student or an employee is typically not sufficient to create a conflict of interest if objectively not compromised.
- Previously disciplining a student or employee is often not enough to create a conflict of interest.
- Separation of roles
- Bias and Conflict of Interest on the part of the Title IX Coordinator, Investigator, or Decision-Maker = grounds for appeal
- For concerns of bias or a potential conflicts of interest by a Title IX team member, contact the District Title IX Coordinator.

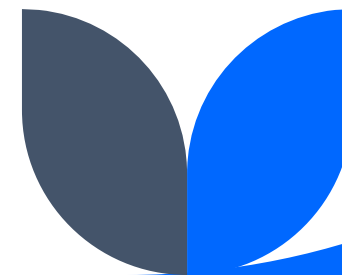


Before the Formal Investigation

Incident/Report

-Upon receiving a “report” (either from the would-be Complainant, parent/guardian, or third party):

- Notify School-based Title IX Coordinator
- Promptly reach out and provide support to the Complainant and Respondent by discussing and offering supportive measures
- Explain process to file a formal complaint
- Title IX Coordinator should complete Title IX Triage form





Bullying, Harassment and Cyberbullying and Title IX Sexual Harassment

Home Title IX Contact Us Outcome Letters Coord. Outcome Ltrs BPS Home Recent Site Contents

Search this site

Title IX

Administration Investigation Forms

+ new document or drag files here

Find a file

✓	Name	Modified
	Advisor Conduct Expectations Letter	... September 19, 2022
	Evidence Log	... August 26, 2021
	Refusal to Participate in Investigation	... January 14, 2021
	Release of Information and Participation in Title IX Process - Advisor	... August 14, 2020
	Reporting Form (Parent-Guardian, Witness, BPS Staff or Volunteer) 10-21-22 JS	... October 24, 2022
	Respondent's Statement Form	... January 7, 2021
	Safety Plan (Complainant)	... August 17, 2022
	Safety Plan (Respondent)	... August 17, 2022
	Stay Away Contract	... February 8, 2021
	Student Reporting Form 10-21-22 JS	... October 24, 2022
	Title IX Checklist - BPS	... January 7, 2021
	Witness Flowchart	... August 26, 2021
	Witness Statement	... October 14, 2020

Investigation Template Letters

Hope Scholarship

+ new document or drag files here

Find a file

✓	Name	Modified
	Hope Notification Form February 2023	... March 20
	Hope Scholarship Notification Form Spanish	... August 17, 2022

Reports

+ new document or drag files here

Find a file

✓	Name	Modified
	BPS Title IX Investigative Report Template updated 12-01-22	... December 1, 2022
	BPS Written Determination Template for Decision Maker 1-13-23 JS	... January 13

Resources

+ new document or drag files here

Find a file

✓	Name	Modified
---	------	----------

School Title IX Triage Form

The screenshot shows a web browser window with two tabs: 'BPS' and 'School Title IX Triage'. The address bar shows the URL: forms.office.com/pages/designpagev2.aspx?lang=en-US&origin=OfficeDotCom&route=Start&subpage=design&id=LGaFrd9pi0iFpl7ChwlywCUnZUr... The page title is 'School Title IX Triage - Saved'. The navigation bar includes 'Forms', 'Questions', 'Responses', 'Preview', 'Style', 'Collect responses', and 'Present'. The main content area features a title 'School Title IX Triage' and a list of four bullet points explaining the tool's purpose and usage. The bottom of the screen shows the Windows taskbar with various application icons and system tray information including the date and time (8/14/2023, 6:26 PM).

Forms School Title IX Triage - Saved

Questions Responses Preview Style Collect responses Present

School Title IX Triage

- This triage tool will help you determine whether a reported matter falls under Title IX (meets the definition of sexual harassment and falls within your education program or activity per the 2020 Title IX regulations) and therefore requires a Title IX Formal Grievance process. Remember that if the matter falls under Title IX, you cannot discipline the Respondent through another school/campus process.
- If the matter falls under Title IX, this triage will provide the administrator with some examples of supportive measures that could be provided to both the Complainant and Respondent as well as next steps to follow.
- If the matter does not rise to the level of Title IX Sexual Harassment or fall within your education program or activity, the matter can be referred to another process such as the Student Code of Conduct.
- The District Title IX Coordinator will be in contact with you to discuss the submission of your completed form.

Section 1

Type here to search 85°F 6:26 PM 8/14/2023

Formal Complaint- TIX Regulations

- A formal complaint can either be a document (student or parent reporting form) or electronic submission (email).
- Filed by the Complainant, preferably the parent/guardian.
- The District Title IX Coordinator has ultimate discretion to file a Formal Complaint “PPTVWM”.
- Alleging sex/gender-based discrimination or sexual harassment.
- Requesting an investigation be completed.
- Complainant must be participating or attempting to participate in the District’s education program or activity at the time of filing.
- Upon receipt of a formal complaint, investigation is required.



Parent and Student Reporting Form

Reporting Form (Parent-Guardian, Witness, BPS Staff or Volunteer) Revised 10-10-22 JS.pdf - Adobe Acrobat Pro DC (64-bit)

File Edit View E-Sign Window Help

Home Tools Reporting Form (Pa... x

For reports of sexual harassment as defined in Brevard Public Schools Policy 2266, do you want the school to conduct a formal investigation? Yes No

**The District Title IX Coordinator has the discretion to dismiss a formal complaint under the pervasions described within Brevard Public Schools Policy 2266, Subsection I, Dismissal of a Formal Complaint (Mandatory or Permissive).*

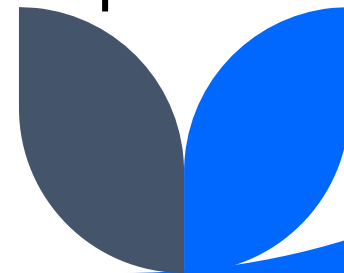
I certify that, to the best of my knowledge and belief, that the information provided by me on this form is “true and correct” and not a “false statement or charge” to the best of my knowledge. Providing false information may lead to discipline pursuant to federal and state law and/or regulations.

Signature _____ Date _____

Type here to search 72°F 7:57 PM 2/1/2023

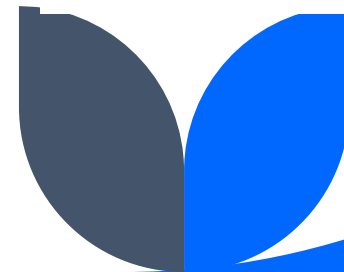
Mandatory Reporting

- All school board employees must comply with any mandatory reporting responsibilities regarding suspected abuse, abandonment, or neglect of a child pursuant to F.S. 39.201 and BPS policy 8462- Student Abuse, Abandonment, and Neglect.
- If the reported activity is criminal in nature, you must immediately notify your School Resource Officer/Law Enforcement and the Department of Children and Families (DCF).
- A reporting person may file criminal charges with law enforcement.
- The Title IX grievance process is a separate investigation conducted by the school in order to determine responsibility for a potential violation of BPS policy 2266.



Role of Law Enforcement

- Criminal investigations do not relieve the school of its duty to respond promptly and effectively
- Criminal investigations and Title IX investigations may run concurrently with one another
- Police investigations or case reports may not be determinative of whether harassment occurred under Title IX
- Temporary delays in Title IX investigation may occur by request of law enforcement
- Legal standards for criminal investigations are different



Supportive Measures

- Provided to both parties throughout the process:
 - Non disciplinary
 - Individualized services designed to restore and preserve equal access to education, protect student and employee safety, and deter sexual harassment.
 - A formal complaint is not required to provide supportive measures.
- **Examples of supportive measures:** stay away contract, safety plan, classes schedule change, class seating assignment, scheduled meeting with school counselor, academic support, extending assignment deadlines, increased security and monitoring ect.
- Coordinated by the Title IX Coordinator

Forms to Complete/Send: (Preferably by email, Convert to PDF) *Title IX Coordinator*

-BPS Notice 1(a) “Notice to Title IX Complainant of Report of Title IX Sexual Harassment and Supportive Measures Meeting” (Optional)

-BPS Notice 1(b) “Summary of Supportive Measures Meeting with Title IX Complainant”

Sending the NOIA

- The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Complainant and Respondent upon commencement of the Formal Grievance Process.
- State the Title IX charge(s)

Forms to Complete/Send: *Title IX Coordinator*

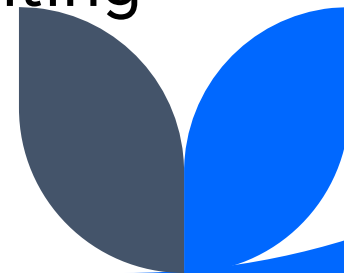
1. BPS Notice 2(a) Notice of Allegations of Title IX Sexual Harassment by a Complainant
2. Advisor Conduct Expectations Letter
3. Advisor Release of Information form
4. Copy of BPS Policy 2266



Hope Scholarship

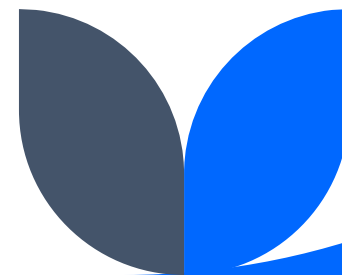
- Supportive measure- Formal Complaint must be filed first and NOIA sent
- Students subjected to an incident of violence or bullying at school have the opportunity to seek a transfer to another District school with capacity or request a scholarship to attend an eligible private school.
- Contingent upon availability, a student in grade k-12 is eligible for a Hope Scholarship if it is established that the student was subjected to, and subsequently reported to the principal or designee, any of the following incidents per F.S. 1002.40(3):

** Battery; harassment; hazing; bullying; kidnaping; physical attack; robbery; sexual offenses; threat or intimidation; fighting **



Advisor of Choice

- The Complainant and the Respondent may each have an Advisor of their choice present with them for all meetings, and interviews during the grievance process.
- For students, the Advisor is someone in addition to their parent/legal guardian.
- The Advisor can be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with throughout the grievance process.
- Advisors are present during interviews primarily to assist and support the party being interviewed. The interviewed party is responsible for presenting their own information.
- **Advisor Release of Information form**- If the party wishes to have the school share documentation and evidence related to the allegations with their Advisor.
- **Advisor Conduct Expectations letter**- Outlines the role of the Advisor and the school's discretion to remove an Advisor.



Emergency Removal

The District may remove a student Respondent from the education program or activity on an emergency basis, only after:

*****Must Consult with District Title IX Coordinator*****

1. Threat Assessment Team (TAT) completes an individualized safety risk analysis
2. Determining if an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal
3. Providing the Respondent with notice and an opportunity to challenge the decision immediately following the removal while respecting all rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as applicable.



Mandatory Dismissal

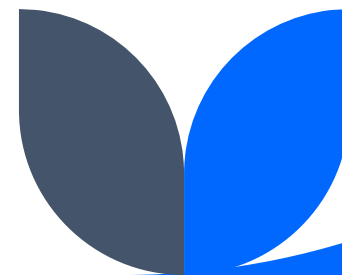
If one of the following preceding circumstances exist, the District Title IX Coordinator shall dismiss the formal complaint and close the Title IX investigation:

The conduct alleged does not constitute sexual harassment even if proven true

Conduct did not occur in an educational program or activity

Conduct did not occur against a person in the U.S.

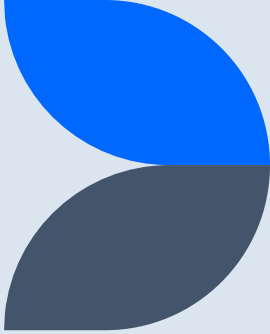
** Both parties have the right to appeal the District Title IX Coordinators dismissal of a formal complaint**



Mandatory Dismissal Cont.

If the District Title IX Coordinator dismisses the Formal Complaint due to one of the proceeding reasons, the District may still investigate and take action with respect to such alleged misconduct pursuant to another provision of any applicable student or employee code of conduct, Board policy, and/or Employee/Administrative Handbook.

Permissive Dismissal



The District Title IX Coordinator may dismiss a Formal Complaint, or any allegations therein, if at any time during the investigation:

The Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations therein;

The Respondent is no longer enrolled within BPS or employed by the Board; or

Specific circumstances prevent BPS from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations contained therein.

** Both parties have the right to appeal the District Title IX Coordinators dismissal of a formal complaint**

Informal Resolution

- Informal Resolution (IR) can include the following approaches:
 - **Supportive Resolution**- supportive measures (only) to remedy the situation
 - **Alternative Resolution**- Facilitated dialogue, mediation, restorative practice
 - **Accepted Responsibility**- Respondent accepts responsibility for violating policy and accepts the recommended sanction(s)
- District Title IX Coordinator must determine that IR is appropriate.
- To initiate IR, a Complainant must submit a formal complaint first.
- The Complainant and Respondent must both agree to participate in IR and sign “BPS Notice 5(a) Offer of Title IX Informal Resolution”



Beginning the Formal Investigation

Steps in the Investigation Process

1. Formal complaint received
2. Notice of Investigation and Allegations (NOIA)
3. Establish Investigation strategy
4. Formal comprehensive Investigation
 - Party/Witness interviews
 - Understanding evidence/Evidence gathering
5. Begin drafting investigation report
6. Meet with TIX Coordinator to review draft report and evidence
7. Provide all evidence directly related to the allegations to the involved parties and their Advisors for inspection and review (10 days)



Steps in the Investigation Process Cont.

8. Revise and finalize investigation report
9. Meet with Title IX Coordinator to review final investigation report
10. Schedule ESE Manifestation hearing(s) if applicable
11. Send final report to Decision-Maker and parties/Advisors for review and written response at least (10 days) prior to Decision-Maker making their determination of responsibility

****The District shall maintain a copy of all records for a period of 7 years****



When to Interview Parties and Witnesses

Complainant → Complainant's requested witnesses → Neutral Witnesses
→ Respondent → Respondent's requested witnesses → Any additional
Witnesses identified by parties → Follow up interviews

- Must provide parties written notice of the date, time, location, and list participants scheduled to meet for the interview.

Forms to complete/send: ***Title IX Investigator***

- "BPS Notice 6(a) Notice of Title IX Interview or Meeting with Title IX Party"
- "BPS Notice 6(b) Notice of Title IX Interview or Meeting with Non-Party Witness"

Formal Comprehensive Investigation

- Thorough
- Reliable
- Impartial
- Prompt
- Fair Investigation



Prepare For Each Interview

- Must receive parent approval before interviewing.
- Parents of witnesses must be made aware that statements collected are not confidential.
- Parties and Witnesses should be interviewed as soon as possible so that recollections are as fresh as possible.
- Outline interview questions in advance but be flexible. Be prepared to deviate from your script and insert a logical follow-up question, if necessary.
- Plan the order of interviews.
- Most beneficial to conduct interviews in person, if conditions permit. May interview by phone or virtually. A party may also choose to submit their response in writing.
- Interviews should be conducted in a neutral, quiet, and private setting with no or minimal likelihood of interruptions.
- Acknowledge the discomfort the interviewee may have when speaking to an adult about a personal situation.



Prepare For Each Interview Cont.

- Let the victim write their account of the incident and then follow up with questions.
- Use open-ended questions to draw out their side of the story: Who, What, Where, When, Why, and How
- Attempt to build a rapport with the interviewee
- Listen to the party and repeat their explanation back to them for clarification.
- Be neutral, non-judgmental, and non accusatory.
- Take good written notes and type up afterwards. Your notes are considered evidence.
- Considerations when interviewing students with a disability
- Consideration when interviewing younger students (e.g., k-5)
- NOIA may need to be updated if additional allegations are brought forward



Understanding Evidence

Types of Evidence

Documentary Evidence: Written statements and official documents

Electronic Evidence: Photos, text messages, videos, school video surveillance footage (Stored for 30 days)

Save video surveillance evidence immediately

Direct or Testimonial Evidence: “Eyewitness” personal observation or experience

Circumstantial Evidence: “Not Eyewitness”, but compelling

Real Evidence: Physical object (less common)



Evidence Gathering

- Timeliness must follow BPS policy
- Document who provided evidence to you or how it was obtained
- Examine evidence and make sure all leads are exhausted
- Evidence is generally considered relevant if it has value in proving or disproving a fact at issue (Inculpatory and Exculpatory)
- Law enforcement case reports maybe used as evidence by requesting a redacted version from the agencies records department



Evidence Issues Under 2020 Title IX Regs

- A party must sign a written consent form if they choose to provide a copy of any medical records as evidence. ([Authorization for Release and Exchange of Information form](#))
 - The party must be made aware that any documentation provided will be shared amongst the other party and their advisor.
- Evidence of the Complainant's sexual predisposition is never relevant.
- Evidence of the Complainant's prior sexual behavior is also not relevant, except for two limited expectations:
 - Offered to prove that someone other than the Respondent committed the conduct alleged.
 - Concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.

Directly Related Evidence

Evidence directly related to allegations must:

- Be sent to each party and their Advisor
- Any form of written evidence may be provided in electronic format or hard copy format
- Any video or audio evidence must be available for viewing or listening in person
- Include exculpatory and inculpatory evidence

Forms to complete/send: *Title IX Investigator*

- “BPS Notice 7(a) Notice of Directly Related Evidence”
- “BPS Notice 7(b) Notice of Other Party’s Written Response to the Evidence” (If applicable)

After sending the evidence, the investigator must:

- Allow **10 days** for written response
- The term “Days” means business day(s) that the Board Office is open. Mon-Fri, excluding state-recognized holidays.
- The parties may elect to waive the 10 days.
- The investigator will share the responses from the parties.
- Consider response prior to completion of investigative report



Investigative Report

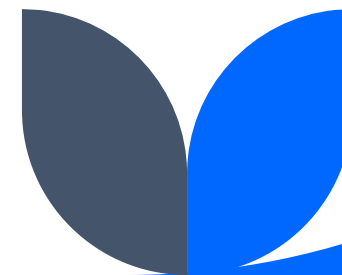
-At the conclusion of the investigation, the Investigator shall create an investigative report that fairly summarizes relevant evidence.

The Investigative Report must be sent:

1. To both parties, their advisor(s), and the Decision Maker
2. In an electronic format or hard copy
3. For the parties to review and provide written response to the Decision Maker
4. The parties have **10 days** to respond to the Investigative Report prior to the Decision Makers written determination.

Forms to Complete/Send: *Title IX Investigator*

- Investigative Report template



Case Study

Case Study: Emily and Travis

- 8th grade student Emily and 8th grade student Travis have been dating one another for approximately one month.
- Over the weekend Travis tells Emily that if she doesn't send nude photos of herself to him via text that he is going to break up with her.
- Emily feels pressured and eventually decides to send the nude photos to Travis.
- Monday morning while riding on the bus to school Travis decides to use his cell phone and air drop the nude photos of Emily.
- Tim a friend of Travis's who is riding on the bus receives the photos to his cell phone. Tim walks over to Travis who is laughing hysterically at his seat and tells him that he is going to notify Emily.
- Tim then sends a text message to Emily to make her aware. Emily's parents later contact the school administration and the SRO.



Case Study: Emily and Travis

You are beginning your formal investigation:

- What are the Title IX allegation(s)?
- Who would you want to interview?
- What evidence do you want to gather?



Questions?

Contact Info: 321-633-1000 ext. 11280

Saxenmeyer.J@brevardschools.org

