SEXUAL HARASSMENT OF STUDENTS

The policy of this school district forbids discrimination against, or harassment of any student on the basis of sex. The Cashion Board of Education will not tolerate sexual harassment by any of its employees or students. This policy applies to all students and employees including non-employee volunteers whose work is subject to the control of school personnel. Policy DA applies to sexual harassment of employees.

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

   a. An employee of the school district conditioning the provision of an aid, benefit, or service of the school district on a student's participation in unwelcome sexual conduct. This is referred to as quid pro quo sexual harassment;

   b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a student equal access to the school district's educational program or activity; or

   c. Sexual assault, dating violence, domestic violence or stalking as defined by federal law.

   For the purpose of this policy, examples of sexual harassment include, but are not limited to:

   Verbal or physical sexual advances, including subtle pressure for sexual activity; touching, pinching, patting, or brushing against; comments regarding physical or personality characteristics of a sexual nature; and sexually-oriented "kidding" "teasing," double meanings, and jokes.

   Demeaning comments about a girl's ability to excel in a class historically considered a "boy's" subject, privately talking to a student about sexual matters, hugging or touching a student inappropriately may constitute sexual harassment.

   Writing graffiti that names a student or otherwise identifies a student is potentially slanderous and constitutes sexual harassment. Graffiti of any kind will not be tolerated on school property. The superintendent is directed to cause any graffiti or unauthorized writings to be removed immediately. Use of e-mail, the internet, or technology may constitute sexual harassment as much as use of in-person, postal mail, handwritten or other communication.

   Any of the aforementioned conduct that effectively deprives a student of equal access to educational opportunities or benefits provided by the school.

2. Specific Prohibitions

   A. Administrators and Supervisors

      1. It is sexual harassment for an administrator, supervisor, support employee, or teacher to use his or her authority to solicit sexual favors or attention from students.

      2. Administrators, supervisors, support personnel, or teachers who either engage in sexual harassment of students or tolerate such conduct by other employees shall be subject to sanctions, as described below.

SEXUAL HARASSMENT OF STUDENTS (Cont.)

3. The "off-duty" conduct of school personnel that has or will have a negative impact on the educational process of the school or constitutes an illegal or inappropriate relationship with a student may subject the employee to disciplinary action which could include termination of employment. Any romantic or sexual affiliation between school personnel and students, including students who have reached the age of majority (18), during school hours will have a negative impact on the educational process and shall constitute a violation of school policy. Such violations may result in suspension of the student and suspension or termination for the employee. Any sexual affiliation between teachers and students under the age of 20 constitutes a crime under Oklahoma law and will most likely result in the suspension of certification by the State of Oklahoma.

3. Notice of this policy and grievance procedure, including how to file or report sexual harassment and how the district will respond shall be provided to applicants for admission and employment, students, parents or legal guardians, and unions or professional organizations holding agreements with the school district.

4. Reporting Allegations of Sexual Harassment

A. It is the express policy of the board of education to encourage student victims of sexual harassment to come forward with such claims.

1. Students who feel that administrators, supervisors, support personnel, teachers, or other students are subjecting them to sexual harassment are encouraged to report these conditions, or have their parents report these conditions, to the appropriate administrator or teacher. If the student's immediate administrator or teacher is the alleged offending person, the report will be made to the next higher level of administration or supervision or to any responsible adult person. The employee to whom the report was made will provide notice of the report to the Title IX coordinator. The Title IX coordinator should then provide the appropriate paperwork to the student or parent/guardian so that the student (complainant) may file a formal complaint with the Title IX coordinator by mail, e-mail or as directed by the Title IX coordinator.

2. Every attempt will be made to maintain confidentiality; however, absolute confidentiality cannot be guaranteed because of due process concerns that arise in sexual harassment investigations. No reprisals or retaliation will be allowed to occur as a result of the good faith reporting of charges of sexual harassment.

B. Upon notice from an employee that a student or parent/guardian has reported possible sexual harassment, the Title IX coordinator will promptly contact the student (alleged victim) to discuss the availability of supportive measures, consider the student's wishes with regard to supportive measures, and explain the process that will be involved with a formal complaint.

SEXUAL HARASSMENT OF STUDENTS (Cont.)

5. Grievance Procedure.

   A. Equitable Treatment. Both the alleged victim (complainant) and the alleged respondent (respondent) will be treated equitably by the school district.

   B. Objective Evaluation of Evidence. All evidence both inculpatory and exculpatory will be evaluated objectively. Credibility determinations will not be made based upon the party's status as complainant, respondent, or witness.

   C. Conflict of Interest. Any person serving as the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate the process shall not have a conflict of interest against complainants and respondents generally or against the particular complainant and respondent.

   D. Presumption. There will be a presumption that the respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.

   E. Timeliness. The grievance process will proceed in a timely manner. Any delay in the process for good cause such as law enforcement involvement, absence of a party, witness or advisor, translation, or accommodation needs will be documented, and written notice provided to both parties explaining the reason for the delay.

   F. Possible outcomes. A description or listing of possible disciplinary outcomes and remedies that may be implemented following a determination of responsibility must be provided to both parties.

   G. Standard of Review. The school district will utilize (a preponderance of the evidence standard) or (a clear and convincing evidence standard) to determine responsibility. *** The standard selected by the school district will need to be the same standard that is applied to all formal complaints including those against employees.

   H. Privileged Information. The school district will not require, allow or use evidence or questions that constitute or seek legally privileged information, unless the privilege is waived.

6. Written Notice. Upon receipt of a formal complaint, the school district will provide written notice to all known parties in sufficient time to give the respondent time to prepare a response before an initial interview. The written notice must include:

   A. Notice of the grievance process, including any informal resolution process;

   B. Notice of the allegations, including sufficient details to allow the respondent to prepare a response;

   C. A statement that the respondent is presumed not responsible for the conduct and that responsibility will be determined at the conclusion of the grievance process;

   D. Notice of the parties' right to have an advisor and to inspect and review evidence. The advisor may but is not required to be an attorney.

SEXUAL HARASSMENT OF STUDENTS (Cont.)

E. Notice of any provision in the student discipline code that prohibits knowingly making false statements or providing false information in the grievance process.

If in the course of an investigation, the school district obtains additional information about the respondent or complainant that was not included in the original written notice, notice of the additional allegations must be provided in writing to both parties.

7. Investigation of the Allegations. The school district will designate an investigator to conduct a thorough investigation of allegations. Contact information for the investigator will be provided to both the complainant and the respondent.

A. The burden of proof and of gathering evidence remains on the school district.

B. An equal opportunity will be provided to both parties to present witnesses and evidence during the investigation.

C. Neither the complainant or respondent will be prohibited from discussing the allegations or gathering and presenting evidence to the investigator.

D. Both parties will have the opportunity to have others present during interviews or related proceedings. This may include an advisor who may but is not required to be an attorney.

E. Written notice of the date, time, participants, purpose and location of any investigate interview, hearing, or other meeting shall be provided to the party who is invited or expected to attend.

F. Both parties and their advisors, if any, will be provided an opportunity to review all evidence that is directly related to the allegations in the formal complaint. This would include any evidence on which the school district does not intend to rely and any exculpatory or inculpatory evidence from any source. Such evidence must be provided prior to the completion of the final investigation report and in time to give the parties at least ten (10) days to prepare a written response, which the investigator must consider prior to completing the investigation report.

G. A written investigation report will be provided that summarizes the relevant evidence. This report will be provided to the parties and their advisors, if any, for their review and written response at least ten (10) days before a hearing or determination of responsibility.

8. Hearing. The Title IX coordinator will determine whether a live hearing is necessary on a case-by-case basis if both parties request or consent to such a hearing (the live hearing component is optional for K-12 schools). Regardless of whether a live hearing is held, or a written hearing is conducted, each party will have ten (10) days from the receipt of the investigation report to submit written, relevant questions that the party wants asked of another party or witness. Both parties will be provided with the answers and follow up questions. Federal law determines when questions regarding a complainant's prior sexual behavior or sexual predisposition are considered relevant in a hearing provided by a school district.

SEXUAL HARASSMENT OF STUDENTS (Cont.)

9. Determination of Responsibility. A decisionmaker, who is not the Title IX coordinator or the investigator, will apply (a preponderance of the evidence standard) or (a clear and convincing evidence standard) to determine responsibility, and will issue a written determination of responsibility that:

A. Identifies the allegations that potentially constitute sexual harassment;

B. Describes the school district's procedural steps taken from the receipt of the complaint to the determination;

C. Includes findings of fact to support the determination;

D. Includes conclusions regarding applicants of the discipline code to the facts;

E. Includes a statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions, and whether remedies to restore or preserve equal access to the school's educational programs or activities will be provided to the complainant; and

F. The procedures and permissible basis for appeals.

10. Appeals. Within ten (10) days of a determination of responsibility, dismissal of a complaint or any allegations therein either party may appeal for one of the following reasons:

A. A procedural error affected the outcome.

B. New evidence that was not reasonably available at the time of the determination and could affect the outcome;

C. Conflicts of interest on the part of the Title IX coordinator, investigator or decision maker that affected the outcome.

If an appeal is made, the school district will provide written notice to both parties of the appeal. Both parties will be provided an equal opportunity to submit a written statement in support of or challenging the determination within ten (10) days of the written notice to both parties of the appeal being filed. The appeal will be heard by an appeal decision maker who is not the Title IX coordinator, the investigator or the original decisionmaker. The appeal decisionmaker cannot have a conflict of interest or bias against complainants and respondents generally or the particular complainant and respondent. The appeal decisionmaker will receive training as mandated by law. The decision of the appeal decisionmaker will be final and nonappealable. The written decision of the appeal decisionmaker will be provided within ten (10) days of the deadline for written statements supporting or challenging the initial determination. The written decision will be provided simultaneously to both parties.

10. Recordkeeping. The school district will keep records related to reports of alleged sexual harassment for a minimum of seven (7) years. Records maintained will include investigation records, disciplinary sanctions, remedies, appeals, and records of any action taken including supportive measures. Records will document in each instance that the school district's response was not indifferent and that measures were taken to restore or preserve equal access to educational programs or activities. If the school does not offer supportive measures in response to a report, the records should document why the response was not clearly unreasonable under the known circumstance.

SEXUAL HARASSMENT OF STUDENTS (Cont.)

The district will also post the training materials used to train Title IX coordinators, investigators, and decisionmakers on the district website at: www.cashionps.org. These materials will also be available to the public.

11. Retaliation. The board of education prohibits retaliation by the school district or any employees of the school district against any person for the purpose of interfering with Title IX rights or because the person has participated or refused to participate in any manner in a proceeding under Title (X regulations. Complaints of retaliation will be addressed under the district's grievance process.

Charing a person with a discipline violation or code of conduct violation based on a person's knowingly making a materially false statement in bad faith in an investigation is not retaliation.

REFERENCE: Title VII of the Civil Rights Act of 1964
42 U.S.C. §2000e-2
29 C.F.R. §1604.1, et seq.
U.S. Department of Education of Education, OCR, Title IX Regulations Addressing Sexual Harassment.

WRITTEN NOTICE TO KNOWN PARTIES REGARDING ALLEGATIONS OF SEXUAL HARASSMENT

On the __ day of _____, 20__, the district received formal notification of an allegation of sexual harassment. The respondent is presumed not responsible for the conduct. Responsibility will be determined at the conclusion of the grievance process. Both parties are entitled to have an advisor and to review and inspect evidence. The district's student discipline policies prohibit making false statements or providing false information in the grievance process. Both parties will be treated equally during the investigation and process to resolve the allegations. The district's grievance procedure is located at policy FB, a copy of which is attached to this correspondence, and includes the following steps:

1. Informal resolution. If the parties' consent, informal resolution procedures may be utilized to revolve the allegation.

2. Notice and Summary of Allegations. (Sufficient details must be included here to allow the respondent to prepare a response).

3. Investigation of Allegations. The school district has designated _____ to act in the role of the investigator. Contact information is as follows: .

4. Interviews. Interviews may be scheduled in accordance with school district policy.

5. Evidence. Both parties will have the right to review all evidence that is directly related to the allegations in the complaint.

6. Report. A written investigation report will be provided to both parties at least ten days prior to a hearing or determination of responsibility.

7. Hearing. The Title IX coordinator will determine on a case by case basis as to whether the hearing will be a live hearing or whether it will be a written hearing.

8. Determination of Responsibility. A decisionmaker, who is not the Title IX coordinator or the investigator, will apply (a preponderance of the evidence or a clear and convincing evidence standard) to determine responsibility and will issue a written determination.

9. Appeals. An appeal may be filed by either party in accordance with district policy.

Records of this allegation will be maintained for a minimum of seven (7) years.

At this time, the respondent may prepare a written response before an initial interview. The interview is tentatively scheduled for _____.and will be held at _____. If you have any questions, please contact me at _____.

Sincerely,

Title IX Coordinator

Title IX staff training information

Global Compliance Network

Title IX

Approximate Time: 19 min
Date Last Updated: 5-18-2020

Title IX is part of the Education Amendments of 1972, prohibiting discrimination on the basis of sex in education programs and activities receiving Federal assistance. For over three decades, Title IX has worked to promote equality in educational opportunities, yet it continues to face opposition. This tutorial will discuss the impact and importance of Title IX in schools. We will also discuss how to stay in compliance with the law. In this tutorial, you will learn the following objectives. - What is Title IX? - 10 Key Areas Addressed by the Law - Who Enforces Title IX? - How to File a Complaint - Grievance Procedures - Filing with the OCR. Updated 5/18/2020: to reflect "Final Rule" regulations towards Sexual Harassment

Slide 1: Introduction

Title IX is part of the Education Amendments of 1972, prohibiting discrimination on the basis of gender in education programs and activities receiving Federal assistance. For over four decades, Title IX has worked to promote equality in educational opportunities, yet it continues to face opposition. This tutorial will discuss the impact and importance of Title IX in schools; including how to stay in compliance with the law.

Slide 2: Objectives

In this tutorial, we will discuss the following objectives. -What is Title IX? -10 Key Areas Addressed by the Law -Who Enforces Title IX? -How to File a Complaint -Grievance Procedures -Filing with the OCR

Slide 3: What is Title IX?

According to Title IX regulations: "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." According to the U.S. Department of Education, federally-backed educational agencies include approximately 16,500 local school districts, 7,000 post-secondary institutions as well as charter schools, for-profit schools, libraries, and museums. These agencies must operate in a nondiscriminatory manner.

Slide 4: Scope of Title IX

Some key issue areas in which recipients have Title IX obligations are: Recruitment, admissions and counseling; financial assistance; treatment of pregnant and parenting students; discipline; single-sex education; and employment. A recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or make charges, testify or participate in any complaint action under Title IX. For a recipient to retaliate in any way is considered a violation of Title IX.

Slide 5: 10 Key Areas Addressed by the Law

Title IX covers the following 10 key areas: Access to Higher Education, Athletics, Career Education, Education for Pregnant Students, Employment, Learning Environment, Math and Science, Sexual Harassment, Standardized Testing, and Technology. The following slides will discuss these key areas in more detail.

Slide 6: Access to Higher Education

Prior to the 1970s, some colleges and universities refused to admit women into their programs or maintained artificially depressed caps or "ceilings" on the number of women who could be admitted to the program, arguing that women's concerns are more about marriage and children than higher education. The passing of Title IX has allowed greater access to higher education for women. Women now earn more undergraduate and graduate degrees than in previous years, including in male-dominated fields such as law and medicine. This growth has contributed to the economic progress of women.

Slide 7: Recruitment

Title IX prohibits recipient institutions of vocational education, professional education, graduate higher education, and public colleges and universities from discriminating on the basis of sex in the recruitment or admission of students. The Department's Title IX regulations also prohibit all recipients from discriminating on the basis of sex in counseling or guiding students or applicants for admission.

Slide 8: Financial Assistance

Generally, a recipient may not: (a) provide different amounts or types of financial assistance, limit eligibility for such assistance, apply different criteria or otherwise discriminate on the basis of sex in administering such assistance; or (b) assist any agency, organization, or person which offers sex restricted student aid.

Slide 9: Exceptions to Financial Assistance

The Department's Title IX regulations provide three exceptions to these general prohibitions. Recipients are permitted to administer or assist in the administration of scholarships, fellowships, or other awards that are restricted to members of one sex if the award is: (a) created by certain legal instruments, including wills or trusts, or by acts of a foreign government, provided the overall effect is nondiscriminatory; (b) for study at foreign institutions if the recipient provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex; or (c) athletic financial assistance.

Slide 10: Athletics

The regulation on women's participation in athletics is the most discussed of the Title IX key areas. Aiming to provide equal access to athletics for women, Title IX requires federally-backed programs to demonstrate any ONE of the following: -The percentages of male and female athletes correlate to the percentages of the male and female students enrolled; -The school has a history and continuing effort to expanding athletic opportunities for the underrepresented gender; -The school is effectively meeting the athletic interests and abilities of female students.

Slide 11: Effectively Meeting the Athletic Interests and Abilities of Female Students

In evaluating whether the college is effectively meeting the interest and abilities of female students, the Office of Civil Rights will consider the following: ? Whether there is unmet interest in a particular sport? ? Whether there is sufficient ability to sustain a team sport? ? Whether there is a reasonable expectation of competition for the team? OCR will typically find the school is not meeting or fully accommodating the interests of female students if the answer to all 3 of the above questions is yes.

Slide 12: Career Education in Schools

Prior to Title IX, it was not uncommon for schools to deny female students the option of taking career courses that were traditionally dominated by males like woodworking or automotive repair. Vocational courses such as home economics and cosmetology were considered more appropriate for women, but they often resulted in limited and low-wage career options after high school. Title IX regulations mean that schools cannot legally deny or limit access to career training on the basis of gender. Females and males alike must be free to pursue vocational training in the field of their own choosing.

Slide 13: Education for Pregnant and Parenting Students

Under Title IX, schools must provide pregnant and parenting students with options to continue their education. Access to education is important not only to the retention, graduation, self-sufficiency and economic progress of the student but also to the health and development of the child. Schools are permitted to have a separate program for these students, but enrollment must be voluntary and comparable to regular school programs.

Slide 14: Accommodating the Pregnant Student

Title IX has been interpreted by OCR to require a number of routine accommodations (or prohibitions) related to the treatment of pregnant students, including: - Excusing any absences due to pregnancy as long as the student's doctor finds them medically necessary; - Providing special services (such as homebound or hospital-based instruction) to pregnant students under the same conditions as these are provided to other students with temporary disabilities; - Requiring pregnant students to submit medical certification only if this is also required of all students receiving similar medical attention (for example, hospitalization).

Slide 15: Employment

Title IX also made way for employment for women in high schools and universities as faculty members, instructors, professors and administrators. Prior to 1972, women were often passed over for jobs in higher education, could not earn tenure, and received lower wages than males. Despite continuing under-representation in top educational positions and in equal wages, Title IX has allowed these gaps to narrow.

Slide 16: Learning Environment

To be conducive to academic success, the learning environment must be free of harmful gender stereotypes. Female and male students should be given equal attention and support in all subjects. They should be encouraged to think about their futures in careers of all types.

Slide 17: Single-Sex Classrooms and Schools

Title IX regulations generally prohibit single sex education, though one long-standing exception to this rule permits single-sex classrooms for sex education classes. In 2007, the Department of Education amended this rule to allow additional single-sex classes to meet specific, identified needs of a school's students or to improve overall educational achievement.

Slide 18: Enrollment in Single-Sex Classrooms and Schools

Enrollment in any such class must be voluntary and a substantially equal coeducational class must be offered (a substantially equal single sex class of the excluded sex may also be required). In December of 2014, the Department updated these materials to require that schools show a "substantial relationship" between the single sex program and either of the two objectives mentioned above.

Slide 19: Science

Traditional stereotypes such as "women just aren't as good at math and science" are detrimental to their educational possibilities and career options. Careers as doctors, lawyers, scientists, engineers, etc. require upper-level mathematics and science. Under Title IX, females take these upper-level courses at the same rate as males. As a result, they are better prepared to continue their studies in these areas and qualify for a larger range of career options.

Slide 20: Technology

The role of technology today is undeniable. According to a study by the Department of Labor, approximately 75% of future jobs will require computer use. Title IX keeps the playing field equal by assuring that women have the same opportunities and access to computer courses, training and equipment.

Slide 21: Definition of Sexual Harassment

Title IX requires schools to prevent and address sexual harassment against their students. Sexual harassment includes any unwanted conduct of a sexual nature that is sufficiently severe, persistent or pervasive as to limit a student's ability to participate in, or benefit from, the educational program, or which creates a hostile educational environment It is the school's responsibility to address any and all instances of sexual harassment. It is important to note that sexual harassment happens to males as well as females and can also take place between members of the same sex.

Slide 22: Definition of Sexual Harassment (updated)

The definition of sexual harassment has been updated to include acts of: • Sexual assault • Dating violence • Domestic violence • Stalking

Slide 23: Examples of Sexual Harassment

Examples of sexual harassment or conduct include: Making sexual propositions or pressuring students for sexual favors; Touching or writing graffiti of a sexual nature; Displaying or distributing sexually explicit drawings, pictures, or written materials; Performing sexual gestures or touching oneself sexually in front of others; Telling sexual or dirty jokes; Spreading sexual rumors or rating other students as to sexual activity or performance; or Circulating or showing e-mails or websites of a sexual nature

Slide 24: Updates to Title IX Protections

As of May 2020, there have been updates to Title IX protections for all students. Those provisions are as follows: • Requires schools to offer clear, accessible options for any person to report sexual harassment • Empowers survivors to make decisions about how a school responds to incidents of sexual harassment • Requires the school to offer survivors supportive measures, such as class or dorm reassignments or no-contact orders

Slide 25: Updates to Title IX Protections -- Part II

-Protects K-12 students by requiring elementary and secondary schools to respond promptly when any school employee has notice of sexual harassment -Holds colleges responsible for off-campus sexual harassment at houses owned or under the control of school-sanctioned fraternities and sororities -Restores fairness on college and university campuses by upholding all students' right to written notice of allegations, the right to an advisor, and the right to submit, cross-examine, and challenge evidence at a live hearing

Slide 26: Updates to Title IX Protections -- Part III

• Shields survivors from having to come face-to-face with the accused during a hearing and from answering questions posed personally by the accused • Requires schools to select one of two standards of evidence, the preponderance of the evidence standard or the clear and convincing evidence standard – and to apply the selected standard evenly to proceedings for all students and employees, including faculty • Provides "rape shield" protections and ensures survivors are not required to divulge any medical, psychological, or similar privileged records

Slide 27: Updates to Title IX Protections -- Part IV

• Requires schools to offer an equal right of appeal for both parties to a Title IX proceeding • Gives schools flexibility to use technology to conduct Title IX investigations and hearings remotely • Protects students and faculty by prohibiting schools from using Title IX in a manner that deprives students and faculty of rights guaranteed by the First Amendment

Slide 28: Sexual Harassment -- Part I

In a lawsuit, the courts require a complainant to show that a school official with the ability to stop the harassment was actually aware of the behavior which violated Title IX. While OCR has adopted a "knew or should have known [about the harassing behavior] standard" in their enforcement criteria, in practice that Office has stated that the school is always given actual notice and an opportunity to take corrective action.

Slide 29: Sexual Harassment -- Part II

Schools are required to investigate and take action in a prompt and fair way; taking steps to end and prevent the harassment from reoccurring. Practice Pointer: If the School learns that their initial response has not prevented the harassment from continuing to occur, then the School may well be expected to implement escalating measures to attempt to stop the harasser's behavior.

Slide 30: Sexual Harassment -- Part III

If the School's investigation finds that student-to-student misconduct occurred, but was NOT sufficiently severe to amount to sexual harassment as defined above, there may well be other applicable rules under the Student Code of Conduct which may be considered as a basis for action, including: - Obscene, profane or vulgar language - Inappropriate physical contact or assault - Possession of pornography (including on electronic devices) - Disrespectful behavior

Slide 31: Standardized Testing

Under Title IX, standardized testing must be developed as an unbiased predictor of academic success. The types of questions and their wording must reasonably reflect the areas which are being tested. If a test doesn't meet that standard and yields disproportionately lower test results among members of one gender, the test may be unlawful.

Slide 32: Who Enforces Title IX?

The Office of Civil Rights (OCR) in the U.S. Department of Education enforces Title IX. The primary enforcement activity is the investigation and resolution of complaints filed by people alleging sex discrimination. OCR is unable to investigate all federally-backed institutions due to the high number; instead, it provides information and guidance to assist institutions in voluntarily complying with the law.

Slide 33: Title IX Coordinator

Title IX requires that a district designate at least one employee by name and title as a "Title IX Coordinator" to ensure that the school is in compliance. Practice Pointer: Schools should be sure to review and update this information annually and to provide multiple points of contact for the designated Title IX Coordinator (phone number, email, physical office address, etc.)

Slide 34: How to File a Complaint -- Part I

Schools are required to adopt and publish internal grievance procedures in handling violation complaints promptly and fairly. Anyone who believes there has been an act of sex discrimination, including sexual harassment or sexual violence, may file a complaint with their Title IX Coordinator within 180 days of the last act of alleged discrimination.

Slide 35: How to File a Complaint -- Part II

This complaint can come from a victim of discrimination or on behalf of another person or group. Practice Pointer: Educators with a certificate or license from their State may under their Codes of Ethics, as well as child abuse reporting laws, have an independent duty to report some actions by students or staff which also violate Title IX.

Slide 36: Grievance Procedures - Part I

In the April 2011 "Dear Colleague Letter", the OCR outlined the requirements of internal grievance procedures and the rights of the complainant. That letter has since been rescinded because the document ignored notice and comment requirements creating a system that lacked elements of due process, failing to ensure fundamental fairness. Institutional grievance procedures will vary between districts but must provide the following rights.

Slide 37: Grievance Procedures - Part II

1. Every complainant has the right to present his or her case. This includes the right to adequate, reliable, and impartial investigation of complaints, the right to have an equal opportunity to present witnesses and other evidence, and the right to the same appeal processes, for both parties.

Slide 38: Grievance Procedures - Part III

2. Every complainant has the right to be notified of the time frame within which: (a) the school will conduct a full investigation of the complaint; (b) the parties will be notified of the outcome of the complaint; and (c) the parties may file an appeal, if applicable

Slide 39: Grievance Procedures - Part IV

3. Every complainant has the right for the complaint to be decided using a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred). 4. Every complainant has the right to be notified, in writing, of the outcome of the complaint. Practice Pointer: The Title IX Coordinator should also remain mindful of the confidentiality rights of other students as they document their investigation, decision and finding in any Title IX complaint. Remember that notice of the outcome of the complaint is not necessarily equivalent to receiving a complete copy of the Coordinator's investigation and finding.

Slide 40: Grievance Procedures - Part V

5. Grievance procedures may include voluntary informal methods (e.g., mediation) for resolving some types of sexual harassment complaints. However, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of

the complaint process. In cases involving allegations of sexual assault, mediation is not appropriate.

Slide 41: Filing with the OCR

While internal grievances are preferred, a complainant is not required by law to use these procedures prior to filing with the OCR. If a complainant uses an institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after the last act of the institutional grievance process. Otherwise, a complaint with OCR should be filed within 180 days of the incident that is the basis of the complaint. And in addition to or in the alternative to either of the above (internal grievance or OCR complaint), a complainant may also file a lawsuit seeking money damages.

Slide 42: Additional Information

For additional information about Title IX, filing a complaint directly with the OCR, or a copy of the regulations which detail the requirements of Title IX, write or phone the OCR enforcement office which serves your state or territory, or you may call 1-800-421-3481. Or you can visit the following websites:
http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html www.titleix.info/

Slide 43: Summary

Under Title IX of the Education Amendments of 1972 and its implementing regulations, an institution that receives federal funds must ensure that no student suffers a deprivation of his or her access to educational opportunities on the basis of sex. In this tutorial, you learned: What is Title IX, scope and key areas addressed in Title IX, enforcement of Title IX, definition of sexual harassment, and how to file a complaint for alleged acts of discrimination.

Slide 44: Question 1

An individual who believes their (or their child's) rights under Title IX have been violated may file the following:

✓: All of the above

x: A complaint with the regional office of Office of Civil Rights

x: A private lawsuit seeking money damages

x: An internal grievance under the School's grievance policy

All of the above

Slide 45: Question 2

Public Charter Schools are required to comply with all aspects of Title IX discussed above.

✓: TRUE

x: FALSE

TRUE. All public educational programs, including regular, charter, alternative, magnet or other special schools, are required to follow Title IX's requirements.

Slide 46: Question 3

Schools may be held responsible for the harassment of students by the following individuals:

✓: **All of the above**

x: Fellow student

x: Teachers and other staff

x: Third parties

All of the Above

Slide 47: Question 4

The Department of Education Office of Civil Rights enforces Title IX regulations.

✓: **TRUE**

x: FALSE

TRUE. The Department of Education OCR is responsible for enforcing Title IX.

Slide 48: Question 5

Schools are required to adopt and publish internal grievance procedures in handling violation complaints.

✓: **TRUE**

x: FALSE

TRUE. Internal grievance procedures must be established, published school-wide, and available through the Title IX coordinator.

Slide 49: References

United States Department of Education. (2008, September). Sexual Harassment: It's Not Academic. Retrieved Feb. 2, 2019 from: https://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.html#_t1a

United States Department of Education. (2015, April). Title and Sex Discrimination. Retrieved Jan. 11, 2019 from: https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

United States Department of Education. (N.D.). Subtitle B Regulations of the Offices of the Department of Education. Retrieved Jan. 11, 2019 from: https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr106.html

United States Department of Education Office of Civil Rights (2017, Sept.). Q&A on Campus Sexual Misconduct. Retrieved Jan. 23, 2019 from: https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf

United States Department of Justice, Office of Civil Rights. Retrieved Jan. 24, 2019 from: https://www.justice.gov/crt/overview-title-ix-education-amendments-1972-20-usc-1681-et-seq

New regulation defines sexual harassment, requires supportive measures for survivors, restores due process on campus: May 6, 2020
https://www.ed.gov/news/press-releases/secretary-devos-takes-historic-action-strengthen-title-ix-protections-all-students