



Title IX Compliance

PRESENTATION FOR OKEECHOBEE COUNTY SCHOOL BOARD ADMINISTRATORS

Overview

- ▶ The requirements surrounding Title IX have been updated. These updates require additional training for all employees of the Okeechobee County School Board.
- ▶ Teachers and Staff have received training through a module in the Safe Schools platform.
- ▶ Administrators will receive training through this presentation.
- ▶ A makeup training for Assistant Principals and any absent administrators will be scheduled.

Protected Categories

Age

Color

Disability

Ethnic/National Origin

Family Medical Leave Act

Gender

Sexual Harassment

GINA

Race

Religion

Pregnancy

Citizenship Status

Gender Identity

Marital Status

Political Beliefs

Social/Family Background

Sexual Orientation

Linguistic Preference

Retaliation

- Filing a complaint
- Participating in a complaint

Training Objectives

- ▶ Provide an overview of the recent changes to Title IX
- ▶ Provide an overview of the mandatory reporting requirements pursuant to Title IX and School Board Policy
- ▶ Help you understand the role you play on the Title IX team

“

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.

”

-TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Title IX

Title IX Definition of Sexual Harassment

- ▶ Under the regulations, any of the following conduct on the basis of sex, constitutes sexual harassment:
 - ▶ A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called "quid pro quo" harassment);
 - ▶ Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
 - ▶ Sexual assault, dating violence, domestic violence, or stalking as defined by Federal law.

Changes to Title IX Regulations

- ▶ The new Title IX regulations were issued on May 6, 2020.
- ▶ School districts across the country were expected to become compliant by August 14, 2020.

Important Provisions

- ▶ Both parties must now receive written notice of the allegations with sufficient detail for a respondent to respond (i.e. who, when, where, etc.)
- ▶ The parties have the right to select an advisor of their choice to be present at all stages of the investigative process.
 - ▶ May be an attorney and can be in addition to their parent, in the case of a student respondent, and in addition to a union representative in the case of an employee respondent.
- ▶ The parties have the right to submit and review evidence throughout the investigation.
- ▶ There is a presumption that the respondent is not responsible during the grievance process. The standard of proof must be stated.

Important Provisions

- ▶ No “single investigator” models.
- ▶ It is very important to note that no disciplinary action can be taken against a respondent in a Title IX sexual harassment case before this entire process (through appeal) is completed.
- ▶ The parties are now given the opportunity to submit written questions for the other parties and witnesses to answer.
- ▶ Both parties have an equal opportunity to appeal on 3 enumerated bases.
- ▶ Records of all sexual harassment reports and investigations be maintained for 7 years.



REPORTING SEXUAL HARASSMENT

Title IX Sexual Harassment
Manual



Title IX Sexual Harassment Manual

When must a school respond?

- ▶ A school must respond when the school has actual knowledge* of sexual harassment; which occurred within the school's education program or activity (situations over which the school exercised substantial control); against a person in the United States.

*The Final Rule expands "actual knowledge" to include notice to any elementary or secondary school employee.



Sexual Harassment

- ▶ The new Title IX regulations define Sexual harassment as conduct on the basis of sex which satisfies one or more of the following three definitions:
- ▶ Quid pro quo An employee of the recipient (OCSB) conditioning the provision of an aid, benefit, or service of the recipient (OCSB) on an individual's participation in unwelcome sexual conduct;
- ▶ Unwelcomed conduct determined by reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
- ▶ Any of the following:
 - ▶ "sexual assault" as defined by 20 U.S.C. 1092(f)(6)(A)(v)
 - ▶ "dating violence" as defined by 34 U.S.C. 12291(a)(10)
 - ▶ "domestic violence" as defined by 34 U.S.C. 12291(a)(8)
 - ▶ "stalking" as defined in 34 U.S.C. 122919(a)(30).

Complainants and Respondents

- ▶ **Complainant:** an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
 - ▶ Includes students, applicants, employees or anyone attempting to access an educational program or activity.
- ▶ **Respondent:** an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Educational Program or Activity

- ▶ Schools must address allegations of sexual harassment that occur in “the school’s education program or activity, against a person in the United States.”
 - ▶ “Education program or activity” is broadly defined to include locations, events, or circumstances over which the school exercises **substantial** control.
 - ▶ Examples include school field trips, school dances and sporting events.
- ▶ The school must have substantial control over both the respondent (i.e., the alleged harasser) and the context in which the sexual harassment occurs.

Actual Knowledge

- ▶ **Actual Knowledge** is defined as notice of sexual harassment or allegations of sexual harassment to a District's Title IX Coordinator or any official of the district who has the authority to institute corrective measures on behalf of the recipient or to any employee of an elementary or secondary school. Once a school receives notice, it must respond and take action whether a formal complaint is filed or not.

Supportive Measures

- ▶ **Supportive Measures** are defined as non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the institution's education program or activity without unreasonably burdening the other party, including measures design to protect the safety of all parties or the institutions educational environment, or deter sexual harassment.
- ▶ Supportive Measures include:
 - ▶ Counseling
 - ▶ Extension of deadlines or other course related adjustments,
 - ▶ Modifications of work or class schedules,
 - ▶ Campus escort services,
 - ▶ Mutual restrictions on contact between the parties,
 - ▶ Changes in work locations,
 - ▶ Increased security and monitoring of certain areas of the campus, and other similar measures

Formal Complaint

- ▶ **Formal Complaint** is defined as a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the school district investigate the allegations of sexual harassment.

Evidence

- ▶ **Relevant Evidence** is defined as evidence that has value in proving or disproving a fact at issue. Evidence of the Complainant's sexual behavior or predisposition is explicitly not relevant unless it is:
 1. offered to prove that someone other than the Respondent committed the conduct alleged, or
 2. concerns specific incidents of the Respondent's sexual behavior with respect to the Respondent and is offered to prove consent.
- ▶ **Inculpatory Evidence** is evidence that tends to establish a Respondent's responsibility for alleged sexual harassment.
- ▶ **Exculpatory Evidence** is evidence that tends to clear or excuse a Respondent from allegations of sexual harassment.

Deliberate Indifference

- ▶ **Deliberate Indifference** is defined as a response to sexual harassment that is clearly unreasonable considering the known circumstances.

Title IX Team Roles

▶ Title IX Coordinator

- ▶ The Title IX Coordinator is responsible for training investigators, Decision-Makers and appellate Decision-Makers, supervision of investigative process, helping investigators develop investigation strategy, coordinating supportive measures, guiding timeline compliance, and recordkeeping.

▶ Deputy Title IX Coordinators

- ▶ Deputy Title IX Coordinators assist the District Title IX Coordinator with duties such as conducting an initial assessment of allegations and/or complaints, assisting with complaints, notices of allegations and investigation protocols, coordinating the investigation, reviewing the investigative report, assisting the school with implementation and efficacy of supportive measures, and recordkeeping.

Title IX Team Roles

▶ School Site Title IX Liaisons

- ▶ School site Title Liaisons are Assistant Principals who have been trained and are designated to facilitate the flow of information between the school site and the District's Title IX Office.

▶ Investigators

- ▶ Investigators are responsible for investigating formal complaints of sexual-harassment; conducting thorough, reliable and prompt investigations, acting impartially, by avoiding pre-judgment, bias and conflicts of interest; reviewing the applicable School Board Policies and the OCSB Title IX Sexual Harassment Manual to ensure that all necessary evidence has been gathered for Decision-Makers; understanding relevant evidence; drafting an investigation report that fairly summarizes all relevant evidence and providing the investigative report to Decision-Makers.

Title IX Team Roles

▶ Decision-Makers

- ▶ Decision-Makers are responsible for receiving the investigative report and evidence; facilitating a follow up question and answer process for the Complainant and Respondent; using the definitions contained within the Title IX Sexual Harassment Manual and applicable School Board Policies to render a decision based on the information contained in the investigative report.

▶ Appellate Decision-Makers

- ▶ Appellate Decision-Makers are responsible for understanding the pertinent definitions, the grounds for appeal, responding to appeals in a timely manner, remanding the determination to the Decision-Maker as necessary, and providing the parties with a determination on the appeal.

Title IX Team Roles

▶ Advisors

- ▶ Parties (Complainants and Respondents) have the right to have an advisor of their choice to assist them throughout the process, including attending meetings and/or interviews.
- ▶ An advisor may be an attorney but is not required to be an attorney.
- ▶ If the Complainant or Respondent is a student, the advisor can be a person in addition to their parent or guardian. If the Respondent is an employee, the advisor can be another person in addition to their union representative. An advisor is someone allowed to be present in addition to a parties' parent/guardian or an employee's union representative.

Designation of Title IX Liaison

- ▶ Each school must designate a Title IX Liaison.
- ▶ The Title IX Liaison must be an Assistant Principal.
- ▶ These school site liaisons will work to facilitate information to and from the Title IX and Deputy Title IX Coordinators regarding any allegation of a sexual nature.
 - ▶ It is imperative that we gather the information necessary to determine what type of investigation is required based on the information available.
 - ▶ The information gathered from the Title IX Liaisons will determine whether a matter needs to follow the detailed Title IX procedures required by Federal law or other School Board policies and procedures.

Evaluating Bias and Conflict of Interest

All members of the Title IX Team must ensure the investigation and decision-making processes are free from conflict of interest and bias, as these may be grounds for an appeal on the case. Every member of the Title IX Team should assess for any bias or conflicts of interests before and during the Title IX process.

- ▶ Circumstances that tend to demonstrate bias include:
 - ▶ Direct: an interest directly tied to the parties, their family or career
 - ▶ Indirect: the interest of a group, person or business of one of the parties is or was closely connected (e.g. a friend of a friend, or a previous relationship between those close to a member of the Title IX team or a party)
 - ▶ Financial: monetary gain or loss based on the outcome of the investigation
 - ▶ Non-financial: “favoritism or prejudice resulting from friendship, animosity, or other personal involvement with another person or group”

Evaluating Bias and Conflict of Interest

- ▶ A conflict of interest is when a member of the Title IX Team is in a position to derive personal benefit from actions or decisions made in their official capacity.
- ▶ If a member of the Title IX Team believes they may have a conflict of interest or bias, it should be brought to the attention of the Title IX Coordinator immediately.
- ▶ Should any member of the Title IX Team believe or question whether they may have a bias or conflict of interest on a given case, they should consult with the Title IX Coordinator immediately (i.e. before taking any action on a case if possible.)

Role of the Principal in Title IX Matters

- ▶ Encourage staff and those with questions or concerns about sexual harassment and discrimination to contact the Human Resources Department.
- ▶ Sexual harassment and civil rights matters can be extraordinarily complicated. We do not want you to feel as if you have to figure them out on your own.
- ▶ We are here to assist you and ensure the safety of our students and staff so that everyone can gain the maximum benefit of our District's educational programs and activities.

Retaliation

- ▶ Anyone who provides information related to harassment based on sex, including sexual harassment or any other protected category is expressly protected from retaliation.
- ▶ This means a person cannot take adverse action against a person who makes a report of harassment or discrimination which would likely cause a reasonable person to be dissuaded from reporting such events in the future.
- ▶ Any person who retaliates against someone based on their involvement in a civil rights matter is subjected to disciplinary action.