

Title IX Training – All Administrators

August 2025

Overview

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Title IX Regulations

The 2020 federal regulations place a premium on a school district's ability to:

- ▶ **Recognize possible incidents**, reports, and complaints of conduct that could constitute sexual harassment.
- ▶ **Implement a response** that complies with Title IX, other applicable laws, and district policy.
- ▶ **Use a team-based approach** among relevant administrators and supervisors (including the district's Title IX Coordinator) **to appropriately address and resolve all such incidents.**



Scope of the Conduct that Constitutes Sex Discrimination

Scope of the Conduct

Sex Discrimination is prohibited in the following areas:

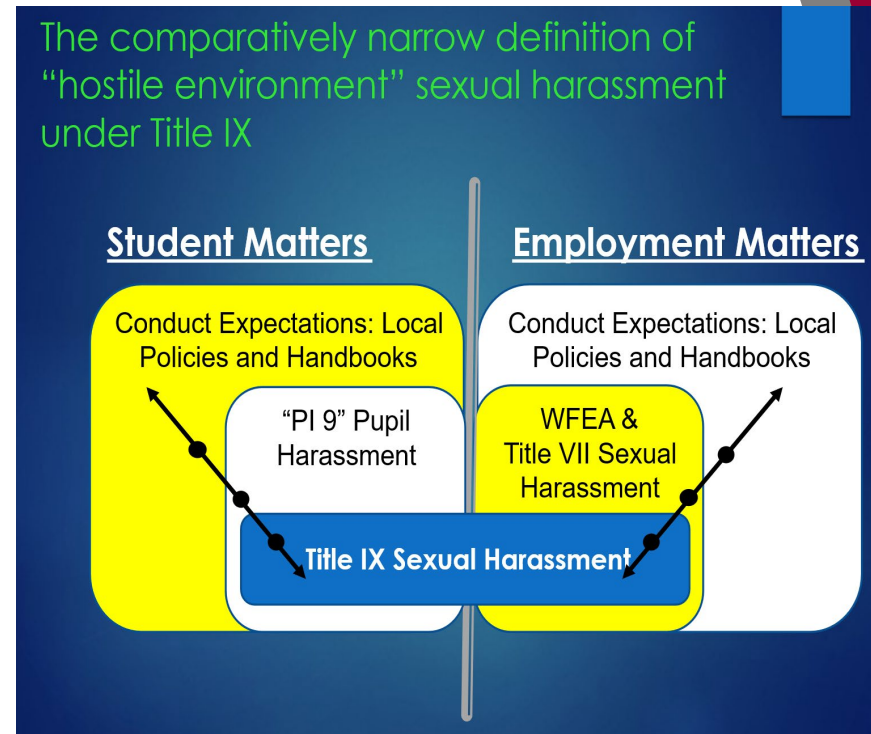
- ▶ Education Programs or Activities
- ▶ Athletics
- ▶ Employment

Sexual harassment under Title IX is defined as:

- ▶ Quid pro quo
 - ▶ Unwelcomed conduct that is severe, pervasive, and objectively offensive
 - ▶ Criminal activity relating to sexual assault, stalking, dating violence, and domestic violence
- ▶ [34 CFR 106.30\(a\) "Sexual harassment" \(Aug. 15, 2020\); 34 CFR 106.31 \(Aug. 15, 2020\)](#)

Title IX Sexual Harassment

- ▶ The Title IX definition of sexual harassment is generally understood to be narrower (i.e., cover less conduct) than the broader definitions of sexual harassment that apply under other laws:
 - ▶ The Wisconsin Fair Employment Act
 - ▶ Federal Title VII
 - ▶ The Pupil Nondiscrimination Statute and the DPI Rules in Chapter PI 9
 - ▶ The District's Code of Student Conduct and Employee Handbooks



Title IX Sexual Harassment

- ▶ Employees and students are expected to avoid engaging in inappropriate conduct no matter whether the conduct is prohibited by one law, by multiple laws, or only by the policies, rules, and expectations that have established by the school district.
- ▶ School district employees are expected to report known or suspected incidents of prohibited harassment that could violate any nondiscrimination law.
 - ▶ In making an initial referral or report, employees do not have to determine which specific law(s) may have been violated. **The Title IX Coordinator and appropriate administrators/supervisors are responsible for making those determinations once they are aware of the allegations.**
- ▶ To the extent a person is a victim of sexual harassment, or is accused of alleged sexual harassment, it is important to know that special rights and procedures apply when the allegations assert a possible violation of Title IX.

Title IX Sexual Harassment

- ▶ It can **sometimes** be harder to allege and prove a “hostile environment” claim under Title IX than under other legal standards.
- ▶ A school district is required to implement a full **Title IX response** to allegations of sexual harassment **only when the allegations reflect conduct that, if proven, could constitute a violation of Title IX’s definition of sexual harassment.**
- ▶ **When Title IX does not apply**, the district may still assess the conduct and process the report under other legal standards and/or under the district’s own policies or rules.



Response to Notification of Conduct

Title IX Grievance Process

- ▶ Once the district has **actual knowledge** of a Title IX sexual harassment allegation, the district should first seek to implement **supportive measures** for the complainant and respondent.
- ▶ **Formal Complaint:** A formal complaint must then be filed with the Title IX coordinator or filed by the Title IX coordinator on behalf of the complainant to start the Title IX grievance process.
- ▶ **Notice:** Certain written notices must be provided to the parties, including notice of the formal complaint and advance written notice of any investigative interview.

Title IX Grievance Process

- ▶ **Investigation:** At the close of the investigation, the investigator will have to provide the parties with a copy of all material evidence gathered during the investigation and provide the parties with an opportunity to respond to the evidence. Then the investigator must produce a factually summarized investigative report for review and give the parties a chance to provide a written response to be reviewed by the decision-maker.
- ▶ **Determination of Responsibility:** The person who determines whether a respondent is responsible for misconduct must be someone other than the person who conducted the investigation to develop the relevant facts/evidence. Both of these individuals must have completed training that is mandated by Title IX. Before making a decision, the decision-maker must offer the parties an opportunity to identify questions for the other party or for a witness.

| Title IX Coordinator | Investigator | Responsibility Decision-maker | Appeal Decision-maker | Informal Resolution Facilitator |
|--|---|--|--|---|
| <p>May <u>NOT</u> serve as Title IX Coordinator and:</p> <ul style="list-style-type: none"> • Responsibility Decision-maker • Appeal Decision-maker | <p>May <u>NOT</u> serve as the Investigator and:</p> <ul style="list-style-type: none"> • Responsibility Decision-maker • Appeal Decision-maker | <p>May <u>NOT</u> serve as the Responsibility Decision-maker and:</p> <ul style="list-style-type: none"> • Appeal Decision-maker • Title IX Coordinator • Investigator | <p>May <u>NOT</u> serve as the Appeal Decision-maker and:</p> <ul style="list-style-type: none"> • Responsibility Decision-maker • Title IX Coordinator • Investigator | <p>The WASB and Boardman Clark generally recommend that the facilitator does <u>NOT</u> serve as:</p> <ul style="list-style-type: none"> • Investigator • Responsibility Decision-maker • Appeal Decision-maker |
| <p>May serve as:</p> <ul style="list-style-type: none"> • Investigator • Informal Resolution Facilitator | <p>May serve as:</p> <ul style="list-style-type: none"> • Title IX Coordinator • See the WASB and Boardman Clark recommendation given for the <i>Informal Resolution Facilitator</i>. | <p>See the WASB and Boardman Clark recommendation given for the <i>Informal Resolution Facilitator</i>.</p> | <p>See the WASB and Boardman Clark recommendation given for the <i>Informal Resolution Facilitator</i>.</p> | <p>May serve as:</p> <p>Title IX Coordinator</p> |



Policies that prohibit discrimination

Report, complaint, or other notice of non-Title IX issue

Report, complaint, or other notice of possible sex discrimination could be a violation of Title IX

Allegation or other notice of Title IX sexual harassment

Contact alleged victim, provide "supportive measures," start Title IX documentation, etc.

Is there a documented "formal complaint" of sexual harassment?

NO

Evaluate options & obligations; authority to discipline is limited.

YES

Address using the district's Title IX "grievance process"

If allegations are substantiated, then discipline/sanctions are possible

Report/complaint alleges some other type of sex discrimination

Address using the district's "grievance procedures"



Administrative Leave

In connection with responding to allegations of Title IX sexual harassment, a school district may also decide to take either of the following steps in appropriate cases, and the Title IX Coordinator will often be in a position to recognize whether either of the actions should be considered:

- ▶ **Administrative Leave:** The Title IX regulations allow a school district to place an employee on administrative leave if a formal complaint is pending and the district is using its grievance process to resolve the complaint.
- ▶ It is likely that the regulations assume that the administrative leave is paid leave.
- ▶ The allowance for administrative leave may not be construed to modify any rights under Section 504 or the ADA.

Emergency Removal

- ▶ **Emergency Removal:** The district may remove a respondent from the education program or activity on an emergency basis.
- ▶ The district must undertake an individualized safety and risk analysis, determine that there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment that justifies removal, and provide the respondent with notice and opportunity to challenge following the removal.

Emergency Removal

- ▶ **Emergency Removal:** The district may remove a respondent from the education program or activity on an emergency basis.
- ▶ The allowance for emergency removal may not be construed to modify any rights under the IDEA, Section 504, or the ADA.
- ▶ Implementing an emergency removal may sometimes require a school district to additionally follow certain non-Title IX procedures (e.g., if an emergency removal is structured such that a student is not permitted to attend school, then the removal may also constitute a suspension/expulsion, and the school would need to consider its obligations to also follow applicable legal procedures related to suspension/expulsion).

Additional Reporting Requirements

Examples:

- ▶ Some sexual harassment scenarios involving students who are minors can also constitute **child abuse** (or suspected child abuse) that is subject to mandatory reporting to appropriate authorities.
- ▶ Some sexual harassment scenarios can involve a **threat of school violence** that is subject to mandatory reporting to law enforcement.
- ▶ Some sexual harassment scenarios may involve a need to consider whether an administrator needs to make a **report of educator misconduct** to DPI (i.e., for purposes of a licensing-related investigation).
- ▶ Administrators will need to harmonize Title IX obligations and nondiscrimination policies with student bullying policies, codes of conduct, extracurricular codes, employee conduct policies, etc.

Title IX in Practice



Employee Reporting

- ▶ A district employee's **knowledge** of conduct that could constitute sexual harassment under Title IX **triggers the district's obligation to respond** to the situation promptly and in a manner that otherwise complies with Title IX.
- ▶ In many cases, the only way that the Title IX Coordinator (and other employees who are responsible for responding to harassment on behalf of the district) will be able to comply with Title IX is for the employee who has knowledge/notice of the situation to **report the relevant information to the Title IX Coordinator** (or as otherwise provided under the district's local procedures).
- ▶ If an employee (including a supervisor or administrator) fails to further report known or reasonably suspected unlawful harassment, the employee compromises the district's ability to meet its legal obligations and exposes himself/herself to possible consequences.

Team-Based Approach

- ▶ **Administrators and supervisors who are not Title IX coordinators will often be on the front line of the district's "actual knowledge" of possible Title IX sexual harassment.**
- ▶ Parents will often initially present situations to a school principal.
- ▶ School district staff will often initially present situations to their immediate supervisor, their school principal, etc.
- ▶ Local policies and procedures may create formal reporting channels that run through school principals, immediate supervisors, etc.
- ▶ The ability of an administrator or supervisor to recognize situations as potentially implicating Title IX could easily determine whether the district will properly "sort" a conduct issue into a Title IX track or a non-Title IX track.
- ▶ Never hesitate to consult with the district's Title IX Coordinator.

Team-Based Approach

- ▶ Sexual harassment issues require greater time and involvement than prior to 2020.
- ▶ In the past, reaching an informal resolution at the school level or at the departmental level may have been viewed as a desirable/successful outcome. Now, failing to involve the district's Title IX Coordinator from the outset can constitute, or at least easily lead to, a violation of the Title IX regulations.
- ▶ The district must initiate an appropriate response to potential Title IX sexual harassment and have adequate documentation of that response.
- ▶ The Title IX regulations actually regulate the use of “informal resolution processes” in connection with reports or other allegations of Title IX sexual harassment. The Title IX Coordinator needs to help navigate the applicable requirements and procedures.
- ▶ Moving too quickly to a disciplinary response can also be problematic.

Restrictions on Discipline

- ▶ If the district has notice of conduct that could constitute sexual harassment under Title IX, the alleged perpetrator of the conduct may be disciplined for that conduct **only after** a determination of fault/responsibility is made through the district's Title IX **grievance process**.
- ▶ The district (via the Title IX Coordinator) must consider and offer appropriate, non-disciplinary “supportive measures” regardless of whether potential discipline is pursued.
- ▶ The district may consider placing an employee on paid administrative leave and, in other limited circumstances, may consider the “emergency removal” of a respondent.
- ▶ In practice, due primarily to the availability of administrative leave for an employee, the most complicated Title IX scenarios will likely arise in the student context.

Restrictions on Discipline

► Example:

Two high school seniors are accused of sexual harassment via verbal and electronic communications in connection with the non-physical “hazing” of a freshman athlete. The reported victim and a witness provided the head coach with copies of several sexually-explicit and sexually-derogatory electronic messages that were sent to team members during school and while the team was traveling on a school bus to/from an away game. The two students accused of the misconduct admitted to the coach that they had verbally teased the victim, but they denied some of the more serious allegations. Assume that the totality of the alleged conduct could constitute Title IX sexual harassment.

Restrictions on Discipline

► Question:

Prior to the conclusion of the local Title IX grievance process, can the school district suspend the two seniors from school for the harassing conduct? What about imposing a disciplinary sanction under the school's extracurricular code of conduct?

► Key Issues for the School:

The Title IX Coordinator needs to be notified of the situation. School employees such as the coach, athletic director, school principal, and Title IX Coordinator will need to work through the scenario in a coordinated fashion.

Restrictions on Discipline

► Example:

Two high school students have been involved in an “on-again/off-again” dating relationship for almost two years. During school, the two students met in an otherwise-empty gym and were talking in the bleachers about their relationship. One of the students became very angry, grabbed the other student by the hair and the arm, and very forcefully pushed the other student down about three rows of bleachers. Video of the incident was clearly captured on a security camera. The victim reported that, as he left, the assailant made a statement that the victim interpreted as a threat of further physical violence. The victim cut her forehead and injured her wrist in the fall.

► Question:

In the past, the school administration would have contacted law enforcement and moved to immediately suspend the assailant from school, pending notice of an expulsion hearing. How do the new Title IX regulations affect how the school will process this incident?

Restrictions on Discipline

► Some of the considerations:

- Contacting law enforcement is still appropriate—not only to address the assault, but school personnel may also have a separate obligation to report child abuse and/or a “threat of school violence.”
- The Title IX definition of sexual harassment includes incidents of “dating violence.” It is critical for school employees who have notice of the incident to identify the incident as conduct that could constitute Title IX sexual harassment and involve the Title IX Coordinator.
- The Title IX Coordinator will need to contact the victim/complainant.
- The district will have to navigate the Title IX restrictions on discipline. “Emergency removal” might be a consideration.
 - Note that an emergency removal under Title IX might constitute a suspension from school, creating a need to harmonize Title IX and state law.

Restrictions on Discipline

► A change to the facts of the prior scenario:

The school resource officer quickly responded to the scene and, in a search incident to arrest, the student who committed the assault was found to be in possession of a switchblade knife at the time of the assault (although it was never brandished during the incident). The student said he regularly carries the knife “for self-defense” and admitted to having the knife in his possession at school all day.

Restrictions on Discipline

► How does this change the school's disciplinary analysis/options?

The possession of the weapon at school creates a conduct issue that might be viewed independently of the “dating violence” that could constitute Title IX sexual harassment. The student committed a serious, criminal offense simply by arriving at school with the dangerous weapon. Thus, the district might pursue discipline (even expulsion) for possession of the weapon, while processing the physical assault (and possible Title IX sexual harassment) on a different track

Conclusion



Conclusion

- ▶ Verify that you are able to locate the district's Title IX notice on the district's website.
- ▶ Read through the written policies and procedures that your district has revised in light of the 2020 Title IX regulations, paying special attention to:
 - ▶ The procedures the district has established for reporting discrimination/harassment and for filing a formal complaint of Title IX sexual harassment.
 - ▶ The district's "grievance procedures" for responding to reports or complaints of unlawful discrimination (including sex discrimination).
 - ▶ The district's "grievance process" for investigating and resolving documented formal complaints of Title IX sexual harassment.
- ▶ Ensure that there is a plan in place to inform the employees you supervise (both now and in the future) of their role in further reporting prohibited discrimination, including any notice ("actual knowledge") of alleged sexual harassment.
- ▶ Contact a district Title IX Coordinator with any immediate questions or concerns that you may have.

Presenter Bio

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Presenter Bio

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Presenter Bio

Kara Conley graduated from Marquette University Law School and joined the WASB in June 2025 as a full-time staff counsel. She has worked with the WASB since 2023, starting as a Marquette University legal intern and most recently serving as a law clerk.

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