

# Title IX Sexual Harassment Training

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**What you need to know to comply with the  
U.S. Department of Education's  
New Title IX Regulations.**

**Brought to you by MABE, MNS, and PK Law**

# Agenda

- Title IX Generally
- LEA Policy/Procedure Requirement
- Definitions
- Grievance Procedure
- Hypotheticals
- Action Items

# Title IX

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex, including sexual harassment, in education programs and activities.

This law applies to all institutions receiving federal funds.

In May 2020, the U.S. Department of Education issued regulations to implement Title IX which set forth requirements for the investigation and resolution of complaints of sexual harassment in education programs and activities. *See* 34 CFR Part 106.

# LEA Policy and Procedure re Title IX

- LEAs typically maintain policies generally prohibiting discrimination
- LEAs typically maintain procedures addressing how to report and respond to allegations of discrimination and harassment
- Title IX and its implementing regulations require LEAs to adopt grievance procedures for responding to complaints of sexual harassment



# Definition of Sexual Harassment

- **Sexual harassment** means conduct on the basis of sex that satisfies one or more of the following:
  - ***Quid Pro Quo***: An employee of the Board of Education conditioning the provision of an aid, benefit, or service of the Board of Education on an individual's participation in unwelcome sexual conduct;
  - **Hostile School Environment (*Gebser/Davis* Framework)**: 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 Board of Education's education program or activity; **or**
  - **Sexual Violence**: "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30)

# Definition of Sexual Assault

**Sexual assault** means an offense classified as a **forcible or nonforcible sex offense** under the uniform crime reporting system of the Federal Bureau of Investigation.

- **Sex Offenses, Forcible:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent
  - **Forcible Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
  - **Forcible Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
  - **Sexual Assault with an Object:** To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
  - **Forcible Fondling:** The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

# Definition of Sexual Assault

**Sex Offenses, Nonforcible:** Nonforcible sexual intercourse

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

# Definition of Dating Violence

**“Dating violence”** means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

- The existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship.
  - The type of relationship.
  - The frequency of interaction between the persons involved in the relationship.



# Definition of Domestic Violence

**“Domestic violence”** includes felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim;
- By a person with whom the victim shares a child in common;
- By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- By a person similarly situated to a spouse of the victim under the domestic or family violence laws of Maryland; or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Maryland.

# Definition of Stalking

**“Stalking”** means 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.

**But note: First Amendment rights of students and staff**

# Examples of Sexual Harassment

- Examples of sexual harassment include, but are not limited to:
  - Offensive language (epithets, dirty jokes, derogatory comments, or slurs of a sexual nature) communicated verbally or in writing, including electronic formats
  - Visual harassment such as derogatory posters, photography, cartoons, drawings, clothing, or gestures
  - Offensive touching or impeding or blocking a person's physical movement
  - Making unwelcome sexual contact
  - Spreading rumors about or evaluating someone for their looks or sexual behavior
  - Taunting or ridiculing someone because of perceived or actual sexual orientation
  - Pressuring someone for sexual activity

# Examples Of Sexual Harassment

- **More Examples - VERBAL**
  - Repeated requests for dates or sex
  - Sexual comments about clothing or body parts
  - Sexually oriented humor or language
  - Kissing sounds, whistling, cat calls
  - Obscene phone calls
  - Comments about sexual likes/dislikes
  - Comments about sexual behavior



# Examples of Sexual Harassment

- **More Examples - NON-VERBAL:**

- Leering or ogling
- Pornographic images
- Repeated “love” letters
- Sexually oriented electronic messages or images
- Sexual hand or body gestures
- Invading someone’s personal space

- **More Examples - PHYSICAL:**

- Unwelcome/intrusive touching, including pats, hugs, squeezes, pinches, and/or brushing up against another

## Scope of LEAs' "Education Programs or Activities"

- LEAs must respond to **actual knowledge** of sexual harassment in their **"education program or activity"** in a manner that is **"not deliberately indifferent"**
- **"Education program or activity"** includes locations, events, or circumstances over which the LEA exercises **substantial control over both the respondent and the context in which the sexual harassment occurred**. Includes:
  - Academic, educational, extracurricular, athletic, and other programs or activities of schools, regardless of the location (within the United States);
  - Online activity that occurs on computer and internet networks, digital platforms, and computer hardware and software owned or operated by, or used in the operations of, the LEA
  - Off-campus and/or online sexual harassment? Depends on the factual circumstances of each case.

## More Key Definitions in Title IX Grievance Procedure

- **Complainant** – An individual who is alleged to be the victim of conduct that could constitute sexual harassment
- **Respondent** - An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
- **Preponderance of the evidence** - evidence which is of greater weight or more convincing than the evidence to the contrary; evidence which shows that something is more likely than not to be true or to have occurred

# More Key Definitions in Title IX Grievance Procedure

**Formal Complaint** means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the LEA investigate the allegation of sexual harassment

- May be **filed with the Title IX Coordinator** by mail or by electronic mail
- May be a document or electronic submission (such as electronic mail)
- Contains the complainant's physical or digital signature (indicates that the complainant is the person filing the formal complaint)
- Third parties may **not** file formal complaints
- Title IX Coordinator may sign a formal complaint based upon a third party complaint or based upon an informal complaint by a complainant (does not make the Title IX Coordinator a party in grievance process)
- The Title IX Coordinator may sign a formal complaint over a complainant's objections - ensures that the LEA does not respond with deliberate indifference to sex discrimination, including sexual harassment, in its programs and activities



# More Key Definitions in Title IX Grievance Procedure

**Supportive Measures** means non-disciplinary, non-punitive individualized services offered to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed.

- Restore or preserve equal access to the LEA's education program or activity without unreasonably burdening the other party;
- Designed to protect the safety of all parties or the LEA's educational environment, or deter sexual harassment;
- Examples: counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of schools or other LEA buildings, and other similar measures;
- Kept confidential to the extent possible;
- The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

# Who is the LEA's Title IX Coordinator?

## For students?

Generally the Director of Student Services (or similar position within your school system)

## For employees?

Generally the Director of Human Resources (or similar position within your school system)

\*The LEA need not designate more than 1 Title IX Coordinator

# General Response to Complaints of Sexual Harassment

## Reporting

- *All* members of the school community should promptly report sexual harassment to the Title IX Coordinator.
  - Maximizes the LEA's ability to obtain evidence;
  - Identify potential witnesses;
  - Conduct a thorough, prompt, and impartial investigation;
  - Take prompt corrective action;
  - Delay may result in the loss of relevant evidence and witness testimony, impairing the LEA's ability to respond and take appropriate action.

# General Response to Complaints of Sexual Harassment

## Equitable treatment of the parties

- Both the complainant and respondent must be treated equitably
- Supportive measures will be offered to both complainants and respondents
- The formal grievance process must be followed before imposing any disciplinary sanctions against a respondent



# General Response to Complaints of Sexual Harassment

## Emergency removal of students

- Removal of a student respondent on an *emergency* basis provided the LEA:
  - Undertakes an individualized safety and risk analysis;
  - Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; **and**
  - Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- **Not** an appropriate action to address emotional or mental health needs, which should instead be addressed by supportive measures.
- Consider Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act
- Consult with Student Services or Superintendent before any emergency removal.
- Open issue – interplay between emergency removal and ED § 7-305 and COMAR 13A.08.01.11

# General Response to Complaints of Sexual Harassment

## **Emergency Removal of Staff (i.e., Administrative leave)**

- Subject to applicable education laws and collective bargaining agreements, LEAs may place an employee on administrative leave during the pendency of the Title IX grievance process
- Placement of any employee on such administrative leave must be made in accordance with other applicable laws, including but not limited to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.
- Consult with Human Resources or the Superintendent

# General Response to Complaints of Sexual Harassment

- **Title IX Coordinator's Response to Report of Sexual Harassment (regardless of whether a formal complaint is filed).**
  - Upon receiving a report of alleged sex discrimination, including sexual harassment, regardless of whether a formal complaint is filed, the Title IX Coordinator shall promptly:
    - Contact the complainant to discuss the availability of supportive measures;
    - Consider the complainant's wishes with respect to supportive measures;
    - Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
    - Explain to the complainant the process for filing a formal complaint.

# General Response to Complaints of Sexual Harassment

- **Title IX Coordinator's Response to Report of Sexual Harassment (regardless of whether a formal complaint is filed)**
  - If the complainant does not wish to file a formal complaint and the Title IX Coordinator concludes that misconduct has occurred that does not meet the definition of sexual harassment as defined in the Title IX grievance procedure, the Title IX Coordinator shall refer the matter to:
    - The Director of Human Resources (Title IX Coordinator for employees) if the respondent is an employee; or
    - The school principal of the school the respondent attends if the respondent is a student.



# General Response to Complaints of Sexual Harassment

- **Suspected Child Abuse/Neglect or Crime**

- If the alleged conduct involves suspected child abuse or neglect, the Title IX Coordinator shall notify appropriate social service and law enforcement agencies and shall suspend the local investigation until the outside agency/agencies have completed the evidence gathering process
  - LEAs should implement appropriate interim steps during an outside agency's investigation to provide for the safety of the respondent and the school community and the avoidance of retaliation
- If the alleged conduct involves a potential crime, the Title IX Coordinator shall notify law enforcement and discuss whether the local investigation should be suspended pending the completion of law enforcement's investigation
- Follow existing LEA procedure governing reported suspected child abuse.

# Formal Grievance Process – Formal Complaints

## Basic Requirements

- Equitable treatment of the parties
- Remedies designed to restore or preserve equal access to the education programs or activities
- Objective (non-biased) evaluation of all relevant evidence
  - Include both inculpatory and exculpatory evidence
  - Prohibit credibility determinations based on a party's status as complainant, respondent, or witness.
  - Do not presume guilt or innocence simply because the party is the complainant or respondent.
- Title IX Coordinator, investigators, decision-makers, and informal resolution facilitators will not have a conflict of interest against complainants or respondents generally, or the particular complainant or respondent in a given case

# Formal Grievance Process – Formal Complaints

## Basic Requirements (continued)

- Respondent is presumed not responsible for alleged conduct until a determination is made at the conclusion of the formal grievance process
- Prompt resolution of the formal grievance process. Follow the timelines stated in Title IX Grievance Procedure. Delays are permissible for good cause and upon providing notice to the parties.
- Description of the range of possible disciplinary sanctions and remedies provided in Title IX Grievance Procedure
- Application of the preponderance of the evidence standard for formal complaints
- Avenue for appeal provided in Title IX Grievance Procedure
- Supportive measures available to the parties
- The formal grievance process will not rely on evidence that is protected by a legally recognized privilege (e.g., attorney-client privilege)
- FERPA governs the process: keep complaint and investigation confidential to the extent possible

# Formal Grievance Process – Formal Complaints

- **Written Notice of Allegations:** Upon receipt of formal complaint, the Title IX Coordinator shall promptly (no more than 3 business days) provide written notice to all parties containing the following:
  - **Notice of the grievance process**, including the informal resolution process;
  - **Notice of the allegations**, including sufficient details known at the time (i.e., names of known parties, the conduct alleged to be sexual harassment, the date and location of the conduct, if known) and a deadline (between seven (7) calendar days and fourteen (14) calendar days) by which the respondent shall provide a written response to the allegations to both the Title IX Coordinator and the investigator, whom the Title IX Coordinator shall identify;
  - **A statement that the respondent is presumed not responsible for the alleged conduct and that responsibility will be determined at the conclusion of the grievance process;**
  - **Notice of the parties' right to have any advisor**, who may be, but is not required to be, an attorney;
  - **Notice of the parties' right to inspect and review evidence;** and
  - **Notice of any provision in the code of conduct that prohibits knowingly making false statements or providing false information during the grievance process.**
- A new notice must be used if allegations outside of the written notice are investigated
- Title IX Coordinator shall also provide copy of the written notice to the investigator

# Formal Grievance Process – Formal Complaints

## Mandatory Dismissal of Formal Complaint

- The investigator must dismiss a formal complaint if the conduct alleged in the formal complaint:
  - Would not constitute sexual harassment as defined in Title IX Grievance Procedure even if proved;
  - Did not occur in the LEA's education program or activity; **or**
  - Did not occur against a person in the United States.
- A mandatory dismissal shall not preclude action under another provision of the LEA's code of conduct or other Board policies/regulations.
- Upon dismissing any formal complaint, the investigator shall promptly inform the Title IX Coordinator, who shall promptly refer the matter to: (a) the Director of Human Resources if the alleged perpetrator is an employee; or (b) the school principal of the school the alleged perpetrator attends if the alleged perpetrator is a student.



# Formal Grievance Process – Formal Complaints

## Permissive Dismissal of Formal Complaint

- The investigator or decision-maker may dismiss a formal complaint or any allegations therein if at any time during the investigation or other proceeding:
  - A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
  - The respondent is no longer enrolled or employed by the LEA; or
  - Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- **Notice Required.** Upon a dismissal required or permitted under this subsection, the Title IX Coordinator, investigator, or decision-maker must promptly send written notice of the dismissal and reasons therefor simultaneously to the parties.

# Formal Grievance Process – Formal Complaints

## Consolidation of Formal Complaints

- LEAs may consolidate formal complaints that arise out of the same facts or circumstances:
  - Against more than one respondent;
  - By more than one complainant against one or more respondents; or
  - By one party against the other party.

# Formal Grievance Process – Formal Complaints

## Investigators

- Title IX Coordinator for employee respondents
- Assistant Principals for student respondents

Investigators must:

- Be non-biased
- Be without a conflict of interest
- Receive Title IX training

# Formal Grievance Process – Formal Complaints

## Investigation Steps

- Interview complainant and respondent within seven (7) calendar days of the investigator receiving respondent's written response
- Interview any individuals identified in the Title IX Coordinator's written notice, the respondent's written response, and/or the interviews with the complainant and respondent within fourteen (14) calendar days following the interviews of the complainant and respondent
- Provide both parties:
  - An equal opportunity to inspect and review any evidence obtained as part of the investigation; and
  - At least ten (10) calendar days from the provision of such evidence to submit a written response to such evidence
- Create an investigative report that fairly summarizes relevant evidence and, at least ten (10) calendar days prior to a time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

# Formal Grievance Process – Formal Complaints

## Investigation: General Principles

- Provide an equal opportunity for the parties to gather and present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence
- Provide parties written notice of the date, time, location, participants, and purpose of all meetings or proceedings, with sufficient time for the party to prepare to participate
- Parties get equal opportunity to have others present during any meetings or proceedings, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney
- The investigator and/or decision-maker may establish restrictions regarding the extent to which the advisor may participate in the meetings or proceedings, as long as the restrictions apply equally to both parties



# Formal Grievance Process – Formal Complaints

- **Tips for conducting an investigation:**
  - Keep an open mind
  - Gather statements and put the pieces together
  - Let the statements drive your follow up questions
  - Dig deeper when something doesn't add up
  - Witness statements – document, in writing, time/date, location
  - Take and keep notes
  - Date everything (including the year)

# Formal Grievance Process – Formal Complaints

- **Tips for conducting an investigation:**
  - Ask open-ended questions
  - Be specific: restate the profanity, harassing statement, conduct
  - Use students' names; sort out FERPA issues later
  - Keep students separated when taking statements
  - Ensure legibility and clarity of statements
  - Use Q & A to clear-up any responses and have the students sign statements
  - The purpose of the interview is to learn information and not to elicit admissions of guilt

# Formal Grievance Process – Formal Complaints

- **Tips for conducting an investigation:**
  - Determine credibility
  - Maintain confidentiality to the extent possible
  - Never promise that witnesses' names will not be revealed; explain that the matter will be kept as confidential as possible
  - Run down your sources
  - Keep Title IX Coordinator apprised of investigation

# Formal Grievance Process – Formal Complaints

## Informal Resolution

- Viable only after a formal complaint filed but before a determination regarding responsibility issued
- Doesn't involve full investigation and adjudication
- Informal resolution possible as long as the BOE:
  - Provides the parties written notice disclosing:
    - The allegations;
    - The requirements of the informal resolution process, including any party's right to withdraw from the informal resolution process and resume the grievance process; and
    - Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
  - Obtains the parties' voluntary, written consent to the informal resolution process.

**Note:** Informal resolution not available where employee allegedly sexually harassed a student

# Formal Grievance Process – Formal Complaints

## Determination Regarding Responsibility

- Decision-maker shall issue a written determination regarding responsibility, applying preponderance of the evidence standard, containing the following:
  - Identification of the allegations potentially constituting sexual harassment;
  - A description of the procedural steps taken from receipt of the formal complaint through the determination;
  - Findings of fact supporting the determination;
  - Conclusions regarding the application of the LEA's code of conduct to the facts;
  - A statement of, and rationale for, the result as to each allegation; and
  - LEA's procedures and permissible bases for the complainant and respondent to appeal.



# Formal Grievance Process – Formal Complaints

## Determination Regarding Responsibility

- Sexual predisposition or prior sexual behavior of complainant is not relevant unless offered:
  - To prove that someone other than the respondent committed the conduct alleged by the complainant; or
  - If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- If a party proposes such questions, the decision-maker must explain any decision to exclude such a question as irrelevant

# Formal Grievance Process – Formal Complaints

## Determination Regarding Responsibility:

- The decision-maker shall provide the written determination to the parties simultaneously and shall also provide a copy to the Title IX Coordinator
- The determination becomes final either:
  - If an appeal is filed: On the date that the determination regarding an appeal is issued; or
  - If an appeal is not filed, the date on which an appeal would no longer be considered timely (10 days).

# Formal Grievance Process – Formal Complaints

## Range of Disciplinary Sanctions and Remedies

- Disciplinary sanctions and remedies only implemented after a determination of responsibility is made
- Students:
  - Examples: change of educational placement, suspension, expulsion.
  - If the disciplinary sanction is a suspension for more than ten days or expulsion, the decision-maker shall follow the procedure set forth in Board Policy governing student discipline under Maryland Code, Education Article Section 7-305 and COMAR 13A.08.01.11
- Employees:
  - Examples: suspension without pay, termination of employment.
  - If the disciplinary sanction is suspension without pay or termination of employment, the decision-maker shall comply with Section 4-205 or 6-202 of the Education Article as appropriate.

# Formal Grievance Process – Formal Complaints

## Range of Disciplinary Sanctions and Remedies

- If the determination is that the alleged conduct occurred but it did not meet the definition of sexual harassment under Title IX:
  - The Title IX Coordinator shall refer the matter to:
    - The Director of Human Resources if the alleged perpetrator is an employee; or
    - The school principal of the school the alleged perpetrator attends if the alleged perpetrator is a student.

# Formal Grievance Process – Formal Complaints

## Appeals

- Either party may appeal a determination regarding responsibility or a dismissal of a formal complaint or any allegations therein on the following bases:
  - Procedural irregularity that affected the outcome of the matter;
  - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; and
  - The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter .



# Formal Grievance Process – Formal Complaints

## Appeals

- An appeal must be made in writing to the Title IX Coordinator within ten (10) calendar days of the issuance of the decision being appealed
- Appeal must provide in detail the grounds supporting the appeal
- The Title IX Coordinator shall promptly notify the other party in writing when an appeal is filed and simultaneously provide a copy of the appeal materials.
- The Title IX Coordinator shall also notify both parties regarding the identity of the decision-maker who will preside over the appeal (cannot be the same person as the decision-maker below, the investigator, or the Title IX Coordinator)
- Each party shall have the opportunity to submit a written response to any appeal no more than fourteen (14) calendar days after the Title IX Coordinator provides a copy of the appeal materials
- The decision-maker presiding over the appeal shall issue a written decision simultaneously to both parties and to the Title IX Coordinator describing the result of the appeal and the rationale for the result

# Formal Grievance Process – Formal Complaints

- **Retaliation is Prohibited**

- A retaliation complaint may be filed and processed through the Title IX grievance procedures

- **Conduct Not Constituting Retaliation**

- The exercise of rights protected under the First Amendment does not constitute retaliation
- Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding does not constitute retaliation

# Formal Grievance Process – Formal Complaints

## **Serving impartially, without pre-judgment, without conflict of interest, and without bias**

- View each party/witness as a blank slate – do not make assumptions about a party based on their status as a complainant or respondent, their sex, their looks, their academic level/achievement, etc.
- Keep facial expressions and tone of voice neutral – do not express shock, disbelief, anger, etc.
- Observe and listen – do not lead (but ask relevant questions if follow-up is needed)
- Maintain objectivity – do not take sides
- Give each party/witness the same opportunities to be heard
- Treat each party/witness with respect and in calm demeanor

# Formal Grievance Process – Formal Complaints

## **Serving impartially, without pre-judgment, without conflict-of-interest, and without bias**

- If you suspect you may have a conflict of interest (i.e., personal involvement in case, prior knowledge of circumstances, personal/familial relationship to party), immediately inform the Title IX Coordinator before proceeding
- If bias, prejudice, or anything else may prevent you from serving fairly and impartially, immediately inform the Title IX Coordinator before proceeding
- If you have any questions about maintaining impartiality, avoiding pre-judgment, avoiding conflict of interest, and non-biased investigating or decision-making, contact the Title IX Coordinator



# SEE TITLE IX FLOWCHART

- Please turn to your handout containing the Title IX flowchart.



# Hypothetical 1

- Jessica, a 7<sup>th</sup> grade student at Public Middle School, reports to Ms. Jacobs, her math teacher, that Jimmy, one of Jessica's classmates, has been making comments to her about her looks, has been staring at her in class, and keeps brushing up against her back side in the hallway. She reports that this behavior started two weeks ago and has been happening every day since.
- What should Ms. Jacobs do next?
- As the Title IX Coordinator, what actions do you take?

# Hypothetical 2

- James, a freshman on the Public High School Football team, reported to his coach that seniors on the team hazed him and other freshman on the team by subjecting them to sexually humiliating taunts in the locker room, weight room, and during other team activities. James also reported that members of the team have a group chat on social media where seniors post lewd, vulgar, and harassing messages directed towards freshman players. Finally, James reported that members of the team met at the football field at midnight the previous Saturday to engage in hazing rituals, which included more sexually humiliating taunts.
- What should the Coach do next?
- As the Title IX Coordinator, what do you do?
- Does it matter that the alleged respondents are the same sex of the alleged complainant's?
- Does the LEA have jurisdiction over all aspects of this harassment complaint? What aspects of this scenario inform your decision?



## Hypothetical 3

- Rachel tells the Title IX Coordinator that Rich, a fellow student in Rachel's U.S. history class, made comments in class against women's suffrage and argued that women should not be permitted in the military. Complainant stated that this was devastating to her because she interpreted this as an attack on her and other women in the class.
- As the Title IX Coordinator, what do you do?
- Does this scenario present any First Amendment concerns?

# Hypothetical 4

- It is the first day of school and Sierra, a high school sophomore, tells the Title IX Coordinator that her boyfriend hit her in the face and wants to file a complaint against him. Sierra states that he hit her six months ago when she was a freshman and he was a senior, but they just broke up over the summer and she felt she should report it.
- As the Title IX Coordinator, what do you do?
- Does the LEA have jurisdiction over this Title IX Complaint?
- If you cannot implement any remedies against the respondent, are there any other actions you can take?

## Other Title IX Action Items

- 1) Notification of identity and contact information of Title IX Coordinator(s) to employees/applicants, students, parents, unions;
- 2) Notification of Nondiscrimination Policy to employees/applicants, students, parents, unions;
- 3) Publication of Title IX Coordinator(s) identity and contact information;
- 4) Adoption and Publication of Title IX Grievance Procedures;
- 5) Training of Title IX Coordinators, Investigators, Decision-Makers, and Information Resolution Facilitators;
- 6) Publication of Training Materials on Website;
- 7) Recordkeeping (7 years).



Questions

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## **TITLE IX GRIEVANCE PROCEDURE FLOWCHART**

