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Title IX Overview for K-12 Staff

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Disclaimer

Please note that these presentations are intended for informational and educational purposes and to provide general statements from federal law, state law and agency guidance. Federal and state law may differ on particularized areas and this outline does not include all legal considerations. Each situation varies based on the individualized facts and the law is constantly evolving.

Please consult with your attorney for specific legal information, advice or individualized inquiries.

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Carrie Weber

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Webinar Agenda

1) Title IX Overview
2) Definition of Sexual Harassment
3) Reporting Requirement
4) Definition of Actual Knowledge
5) Prohibition on Retaliation
6) District-Specific Policies and Expectations

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What is Title IX?
Equality in Athletics to Sexual Violence

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Law: Title IX, 20 § U.S.C. 1681

- Prohibits discrimination "on the basis of sex";
- Education programs and federally funded schools (whether or not sponsored by the educational institution);
- Protects students, employees, applicants, & all other persons

The U.S. Department of Education's Office of Civil Rights ("OCR") interprets Title IX to prohibit sexual violence and harassment as forms of "sex discrimination".

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Title IX Implementing Regulations

1) Designation of a Title IX Coordinator to coordinate school's responsibilities
2) Disseminate Notice of Policy/Title IX Obligations
   - Title IX/Sexual Misconduct Policies
   - Anti-Bullying and Harassment Policies
3) Grievance/Complaint Procedures

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Definitions: Sexual Harassment

1. A school employee conditioning an educational benefit or service upon a person's participation in unwelcome sexual conduct (often called quid pro quo harassment);

OR

2. Unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity (often called hostile work/educational environment harassment),

OR

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- **Dating Violence:** Violence 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 is determined by:
  - The length of the relationship.
  - The type of relationship.
  - The frequency of interaction between the persons involved in the relationship.

- **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner, a parent of a shared child, a former or current cohabitor as a spouse or intimate partner, or someone similarly situated to a spouse under domestic or family violence laws. . . , or by any other person against a victim who is protected under the domestic or family violence laws[.]

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- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress.
- **Sexual assault**: An offense classified as a forcible or nonforcible sex offense by the FBI's uniform crime reporting system:
  - Rape,
  - Fondling,
  - Incest, or
  - Statutory rape

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Scope of "Educational Program or Activity"

- Conduct must occur in "educational program or activity"
  - Does not mean geography – no on/off-campus bright line rule
  - Includes "locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the harassment occurs"
- Conduct must be against a person "in the United States"
  - Does not apply to study abroad

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Your Reporting Responsibilities

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Actual Knowledge Standard

- Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the recipient, ***or to any employee of an elementary or secondary school.***

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When must you report?

- Anytime you:
  - Witness sexual harassment,
  - Hear about sexual harassment from any party,
  - Receive a written or verbal complaint, or
  - "By any other means."
- Applicable to incidents involving students and/or employees
- When in doubt, report!

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To whom should you report?

- Title IX Coordinator
- If not available or you are unsure who this is:
  - Building Principal
  - Direct Supervisor
  - Other District Administrator

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When should you report?

- As soon as possible after you witness or learn of potential sexual harassment!

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What Else Should I Do?

- Unless you have been designated by your District with a specific role (e.g., Title IX Coordinator, Investigator), your responsibility is simply to report what you know.
  - Do not promise confidentiality - you must report to the Title IX Coordinator;
  - Do not conduct your own investigation;
  - Do not discuss or disclose information, other than to report it to the Title IX Coordinator, for a complaint in which you are not a party.

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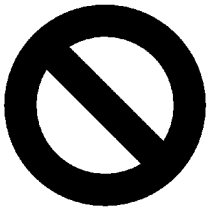
Retaliation Prohibited



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Retaliation means:

"No District or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part."

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Retaliation

Potential retaliation should be reported immediately to the Title IX Coordinator or other appropriate District administrator.

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District Specific Requirements

- Please read your District's Title IX Policy and Procedures for additional information about your rights and responsibilities under Title IX
- Direct questions to your Title IX Coordinator or building administrator

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