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TITLE IX COMPLIANCE TRAINING



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WELCOME

welcome

Title IX Provides....

“[n]o 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.” 20 U.S.C. § 1681(a).



LEGISLATIVE UPDATE

IMPORTANT DEFINITIONS

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SEXUAL HARASSMENT

Conditioning the provision of an aid, benefit, or service of school on an individual's participation in unwelcome sexual conduct

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

Sexual assault dating violence, domestic violence, or stalking, as those terms are defined by federal law

ACTUAL KNOWLEDGE

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1

COMPLAINANT

2

RESPONDENT

3

PARTIES

INDIVIDUALS INVOLVED

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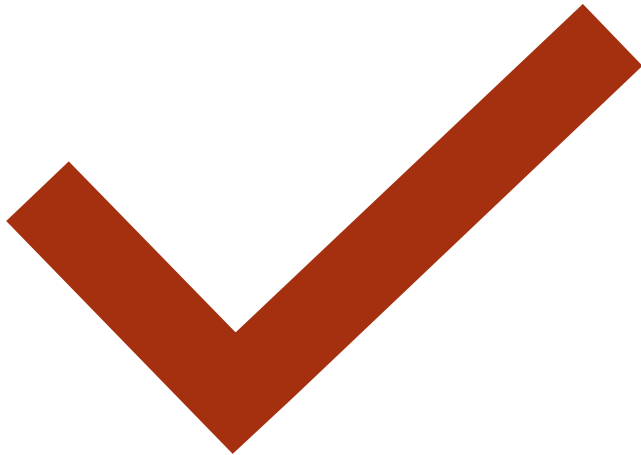
SUPPORTIVE MEASURES

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EDUCATION PROGRAM OR ACTIVITY





GENERAL RESPONSIBILITIES

FOR PUBLIC ELEMENTARY/
SECONDARY SCHOOLS

SCHOOLS MUST:

1

Have a Policy

2

Identify a
Title IX
Coordinator

3

Offer
Supportive
Measures

4

Have a
Grievance
Process



**RESPOND IN A MANNER THAT IS
NOT DELIBERATELY INDIFFERENT**

WHAT IS DELIBERATE INDIFFERENCE?

A response that is “clearly unreasonable in light of the known circumstances.”



ROLE OF THE TITLE IX COORDINATOR

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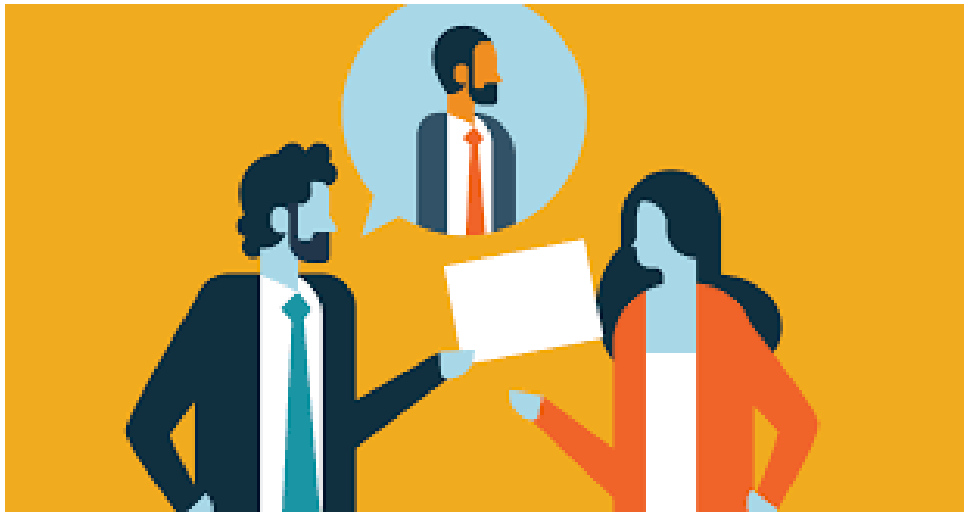
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RECEIPT OF A COMPLAINT

INITIAL EVALUATION OF A COMPLAINT

Immediate/Mandatory Dismissal

Permissive Dismissal



REFERRAL OF A COMPLAINT TO OTHER STAFF OR ENTITIES

NOTICE OF ALLEGATIONS



Who Must Receive the
Notice of Allegations



Contents of the Notice



Time Requirements



Interim Supportive
Measures

EMERGENCY REMOVAL OF RESPONDENTS

Student Respondents

- Presumption of Non-Removal
- Standards for Immediate Removal
- Procedural Requirements for Removal
- Non-Applicability to Conduct Outside Title IX

Employee Respondents

- Permissive Removal of Non-Student Employee
- Factors to Consider
- Directives During Administrative Leave

INFORMAL RESOLUTION

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ADVANCED MANEUVERS FOR RESPONDING TO COMPLAINTS

- Requests from Law Enforcement or Social Services Not to Investigate
- Public Comment at School Board Meetings
- Media Attention
- Restraining Orders
- Complaints Against Title IX Personnel
- Investigating Complaints Under Another Policy



ROLE OF THE TITLE IX INVESTIGATOR

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GENERAL RULES FOR CONDUCTING INVESTIGATIONS

Independent Investigator

Burden of Proof

Privileged Information

External Records

Data Privacy

GENERAL RULES FOR CONDUCTING INVESTIGATIONS CONTINUED...

Presentation of Evidence



Notice of Interviews (no longer required)



Review of Evidence



Investigation Reports

CONDUCTING AN EFFECTIVE INVESTIGATION

1. Before Investigating, Do Up-Front Reporting
 1. Suspected Crimes
 2. Maltreatment of Minors
2. Act Promptly
3. Data Considerations
4. Determine the Scope and Strategy
5. Determining Who Will Be Present at the Interview
6. Prepare a Response to Common Distractions



INTERVIEW BASICS

- Explain the Purpose of the Interview
- Define Your Role
- Explain the Process
- Do Not Promise Confidentiality

INTERVIEW BASICS CONTINUED...

- Ask Specific Questions
- Ask Tough Questions
- Ask for Documents
- Ask the Interviewee to Identify Other Witnesses
- Do Not Guarantee Results



TIPS FOR INTERVIEWING COMPLAINANTS AND WITNESSES

Ask Short, Open-Ended Questions

Who, What, Where, When, Why, How

Assume the Investigator Will Defend
Interview Questions in Court or
Administrative Appeal

Keep Bias in Mind

Observe Demeanor

Follow Up

Visual Representation

**TIPS FOR
INTERVIEWING
COMPLAINANTS
AND WITNESSES
CONTINUED...**

Disclose as Little as Possible
As if Extent of Complaint Covered
Impact
Understand Concerns
Take Appropriate Action
Do Not Make Promises
Retaliation
Supportive Measures

TIPS FOR INTERVIEWING RESPONDENTS

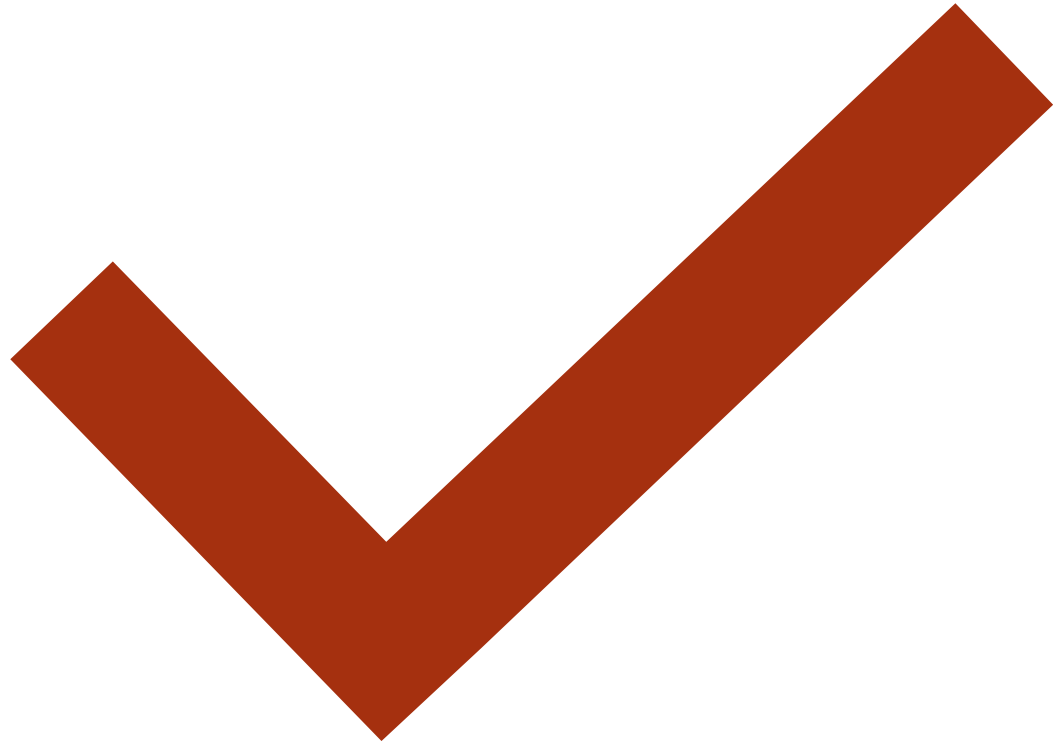
Avoiding Bias

Opening Remarks

Refusals to Answer

Follow-Up Questions

Additional Tips for Interviewing Respondents



ASSESSING CREDIBILITY

PRESERVING ELECTRONIC EVIDENCE



COMPUTER
EVIDENCE



VIDEO
SURVEILLANCE



SOCIAL MEDIA

The Title IX Final Rule defines “relevant” as related to the allegations of sex discrimination under investigation as part of the grievance procedures under 34 C.F.R. § 106.45. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred. 34 C.F.R. § 106.2 (as amended).

RELEVANCE

WRITING AN INVESTIGATION REPORT

- Time of Completion of Investigation Report
- Required Contents
- Providing Report to Parties
- Tips

AVOIDING BIASES AND CONFLICTS OF INTEREST



CONFLICTS OF
INTEREST



BIAS



ADDRESSING
IMPLICIT BIAS

ADVANCED MANEUVERS: HIGH STRESS INVESTIGATION SCENARIOS



ROLE OF THE DECISIONMAKER

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REVIEW OF INVESTIGATION REPORT

Standard of Review

Opportunity for the Parties
to Respond

Notification of Rights to a
Hearing/Written Questions



PARTIES' SUBMISSION OF QUESTIONS



A QUICK NOTE ON LIVE HEARINGS

**WRITTEN
DETERMINATIONS
REGARDING
RESPONSIBILITY**

Obligation of Decisionmaker to
Issue a Written Determination

Contents of Determination

Referral of the Determination

Finality of the Determination

ADVANCED MANEUVERS: HIGH STRESS SCENARIOS FOR DECISIONMAKERS



IMPLEMENTATION OF THE DECISION AND APPEALS PROCESS



**AFTERMATH OF
TITLE IX GRIEVANCE
PROCESS AND
ADDRESSING
RETALIATION**

Retaliation

Peer Retaliation

Retaliation Requirements

QUESTIONS?

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