

The background of the slide features a photograph of a grand, classical building. In the upper portion, several large, fluted columns made of light-colored stone are visible. Below the columns, a wide set of stone steps leads up towards the building's entrance. The steps are made of rectangular stone blocks and recede into the distance, creating a sense of depth. The overall lighting is bright and even, highlighting the textures of the stone.

# Title IX Understanding Your Rights and Responsibilities

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# Objectives

Definitions

Grievance Processes

School Administration and Staff  
Responsibilities

Resources



## **Title IX of the Education Amendments of 1972**

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 Covers

- Financial Assistance
- Student Housing
- Employment Practices
- Admissions
- Counseling
- Access to Courses/Programs
- Pregnant/Parenting Students
- Athletics
- Student Rules and Policies (Discipline)
- Sexual Harassment & Sexual Violence

# New Title IX Regulations

Prior to new regulations, “sexual harassment” as a form of sex discrimination was never addressed.

**Title IX regulations released in May 2020 were intended to:**

- Clarify sexual harassment as a form of sex discrimination.
- Tighten up policies and investigation procedures and hold schools accountable for ensuring a more consistent and equitable response to sexual misconduct allegations.
- Ensure fairness in due process proceedings between both parties.
- Require the school to offer survivors supportive measures, to ensure educational access for both parties.

# Definitions

**Sexual harassment** means conduct on the basis of sex that satisfies one or more of the following:

(i) A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or

(ii) Unwelcome conduct that a *reasonable person* would determine is so **severe, pervasive, and objectively offensive** that it effectively denies a person equal access to the school's education program or activity; or

(iii) Sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VA WA).



# Sexual Assault

“An offense that meets the **definition** of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A **sex** offense is any **sexual act** directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.”

# Dating Violence

“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 the reporting party’s statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.”



# Domestic Violence

“A felony or misdemeanor crime 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 the jurisdiction in which the crime of violence occurred; 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 the jurisdiction in which the crime of violence occurred.”

# Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) fear for the person's safety or the safety of others; or
- (2) suffer substantial emotional distress.

**Course of conduct means** two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

**Substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

**Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.

# Grievance Process

# Overarching Principles

Written grievance procedures for dealing with sexual harassment must abide by the new regulations.

The grievance process cannot itself discriminate against a **complainant** or a **respondent** on the basis of sex or status. Practices must apply equally to both parties.

The remedies for a complainant must be designed to restore or preserve equal access to the school's education program or activity.

# On notice: What activates an investigation?

- Once a school has “actual knowledge” of sexual harassment, or allegations of sexual harassment, that activates the recipient’s **legal obligation** to respond promptly.
- “Actual knowledge” means notice or allegations received by Title IX coordinator, school official with authority to institute corrective measures on behalf of the school, or any school employee.
- A school must treat a person as a complainant any time the school has notice that the person is alleged to be the victim of conduct that could constitute sexual harassment (regardless of whether the person themselves reported, or a third party reported the sexual harassment), and irrespective of whether the complainant ever chooses to file a formal complaint.
- There is no time limit or statute of limitations on a complainant’s decision to file a formal complaint.


Each Charter School or District determines their policies and grievance procedures

# Retaliation is Prohibited (34 C.F.R. 106.71)

“No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing.”




# Responsibilities of School Administration and Staff



## Procedural Responsibilities of Building Administrators

- ▶ Promptly contact Title IX Coordinator when sexual harassment is reported
- ▶ Keep detailed records
- ▶ Assist in determining supportive measures and expediently put supporting measures into place
  - ▶ Regardless if a formal complaint is filed, the person who alleges sexual harassment should be treated as a complainant until further action is taken.
  - ▶ Both parties (complainant and respondent) should be treated equitably



## Training Responsibilities of Building Administrators

- ▶ Train everyone about how to file a complaint during business and non-business hours.
- ▶ Train everyone on non-discrimination policy and Title IX sexual harassment policies and procedures and where to locate them.
- ▶ Educate everyone who the District or Charter School (LEA) Title IX Coordinator is and how to contact them.

# Training is Required for Everyone

Administrators

Teachers  
(including  
substitutes)

School  
Counselors

Support Staff

Students

Social Workers

Para-educators

Food Service  
Workers

Building  
Maintenance  
Staff

Transportation  
Staff

School  
Psychologists



## Training Should Address

- Defining Title IX
- Policies of non-discrimination
- Sexual harassment policies and procedures for filing a grievance
- What is considered sexual harassment, sexual assault, sexual violence, dating violence, and domestic violence
- Confidentiality and adhering to Family Educational Rights to Privacy Act (FERPA) regulations

# Examples of Supportive Measures

## Range

- Non-disciplinary, non-punitive, individualized
- Not unreasonably burdensome
- Protect safety of parties and educational environment
- Deter harassment

## Examples

- No contact orders
- Academic accommodations
- Counseling
- Health and mental health services
- Disability services

# Emergency Removals

A school can remove a respondent from the school's education programs or activities on an emergency basis if the respondent poses an immediate threat to anyone's physical health or safety.

- Perform a risk analysis
- Provide responding party with notice and opportunity to challenge the decision immediately **following removal**
- Comply with IDEA/504/ADA – manifestation determination
- Refer to district policy and consult administration to determine what qualifies as an immediate threat



# Record Keeping

Records must be kept for seven years and includes:

- Records of a school's investigation
- Records of any appeals and materials associated with an appeal
- Records of any informal resolution process
- All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution
- Records of the supportive measures that were taken



## **Responsibilities of All School Staff**

- Inform students who they can go to in your building to report incidents of harassment
- Immediately report sexual harassment allegations to building administrator or LEA Title IX Coordinator
- Know grievance procedures and how to file a complaint
- Assist in offering supportive measures that are determined by building administrator
- Maintain confidentiality and adhere to Family Educational Rights to Privacy Act (FERPA) regulations

# Action Items

- Who is your District or Charter School (LEA) Title IX Coordinator?
- What are the LEA Title IX policies?
- What is the LEA grievance process for filing a complaint?

# Resources

- atIXa
  - Free resources <https://atixa.org/r3/>
  - Training (cost involved)
- Western Educational Equity Assistance Center (WEEAC) <https://www.msudenver.edu/weeac/>
- John Golom [jgolom@utah.gov](mailto:jgolom@utah.gov) and Sol Garcia [sgarcia@utah.gov](mailto:sgarcia@utah.gov) - Utah Division of Risk Management
- Office for Civil Rights (OCR)
  - Documents <https://www2.ed.gov/about/offices/list/ocr/newsroom.html>
  - Webinar <https://youtu.be/TdfT5R8ibm4>



# Disclaimer

Information provided is an overview of the Title IX regulations that K-12 educators need to know concerning sex discrimination, sexual harassment, sexual assault, sexual violence, and dating violence.

This is not legal advice as the presenter is not an attorney and you should consult with your District or Charter School (LEA) administrator and/or Title IX Coordinator for clarification on application of the law in your LEA.

# Contact information

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