



**It's Really *Still* Not Just About Sports:
Title IX Compliance 2023 – 24
*Training for Title IX Decision Makers***

Mr. Marcus Allen, Assistant Superintendent of Support Services

Dr. Aronica Gloster, Director of Student Services/Title IX Coordinator

August 2023





OUR VISION AND MISSION

VISION STATEMENT

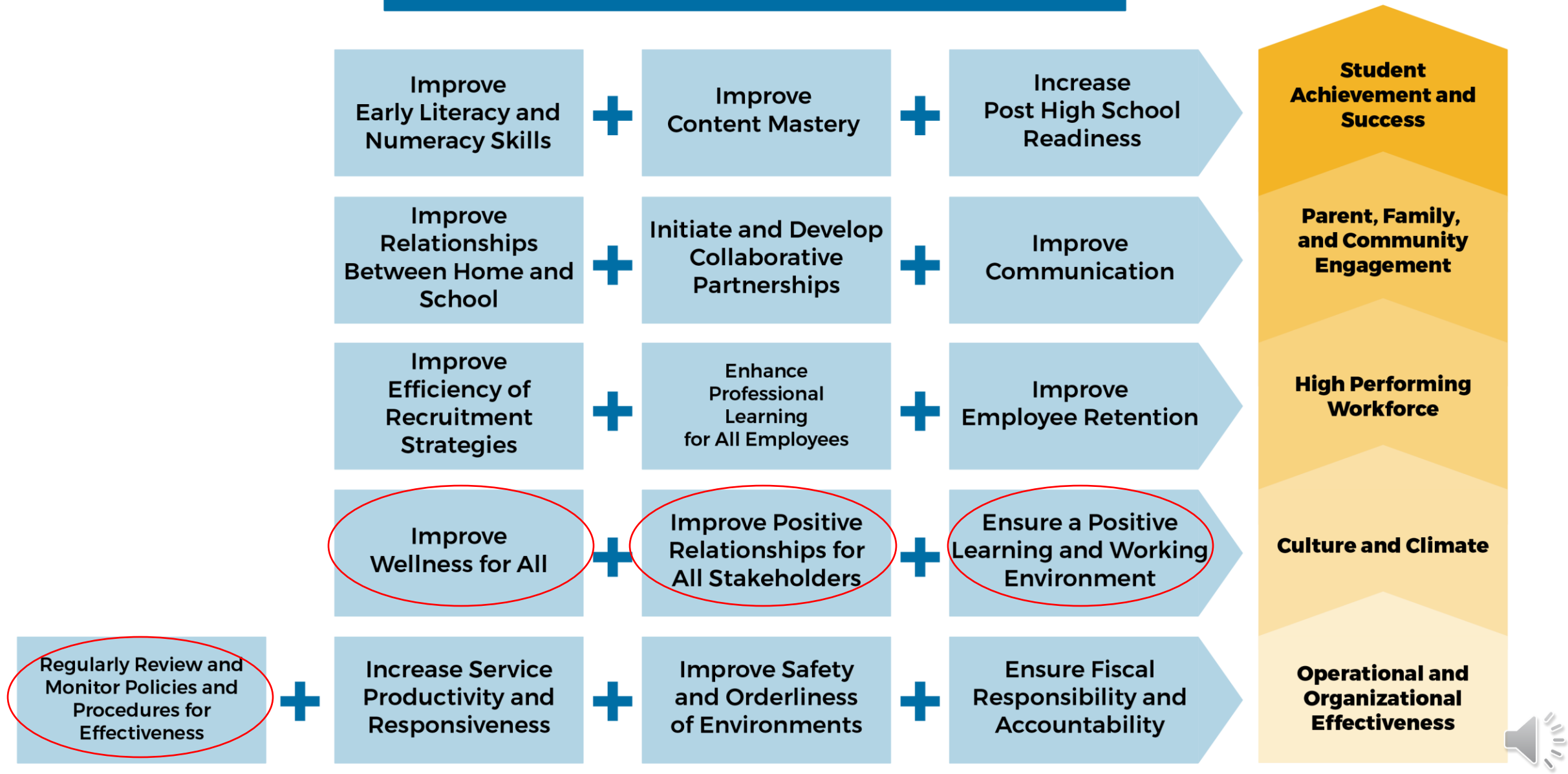
The Richmond County School System will provide an equitable education for all students to prepare them for life beyond the classroom.

MISSION STATEMENT

Building a globally competitive school system that educates the whole child through teaching, learning, collaboration, and innovation.



Strategy Map: 2020-2025







Learning Targets

Participants will learn about:

- General history of Title IX legislation
- Definition of sexual harassment
- Scope of school jurisdiction
- Investigation/ Grievance Process
- Role of the Decision Maker/ Appellate Decision Maker
- Avoiding Bias/ Conflicts of Interest
- Recordkeeping
- Special Situations



Success Criteria



Participants will be able to:

- Understand the general history of Title IX, current guidelines and procedures.
- Apply federal guidelines to make unbiased decisions regarding responsibility for alleged Title IX violations.





Title IX Overview and Updates



Title IX of the Education Amendments Act, 1972

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)



Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX specifically states that:

"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 educational program or activity receiving Federal financial assistance."



Timeline - Title IX of the Education Amendments Act, 1972

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)

1972:

Title IX signed into law

1975:

Regulations first issued by Department of Health, Education and Welfare to address sex discrimination in athletics. Did not address sexual harassment as a form of discrimination.

1997 – 2017:

Department of Education addressed the topic through series of guidance documents (“Dear Colleague Letters”)

Important Supreme Court cases that impact handling of sexual harassment.

2018:

The Department published proposed regulations to address the topic.

2020:

The new regulations are the first time the Department has addressed sexual harassment as a form of sex discrimination via regulations.

2022:

Notice of Proposed Rule-Making (NPRM)

October 2023:

Release of new regulations



The “Heart” of the 2020 Regulations -- Due Process



- Standard of evidence, “preponderance of Evidence”
- Requirements for “Emergency Removal”
- Detailed Notice of Investigation and Allegations (NOIA)
- Providing investigation report and evidence for review/response
- Title IX investigations are an exception to FERPA Rights
- Involvement of an advisor of choice
- Presumption of non-responsibility for Respondent
- Limited ability to take any punitive or disciplinary actions prior to completion or grievance process.
- Required opportunity to appeal for all parties
- Requirement to publicly post all training materials
- Parties may discuss the allegations under investigation



NPRM Top 10 Things To Know

- 1 Scope Expanded
- 2 Mandated Training Expanded
- 3 Additional/Modified Definitions
- 4 Complexity of Title IX Coordinator Role
- 5 Sexual Harassment is now Sex Based Harassment
- 6 Less Prescriptive Grievance Process
- 7 Informal Resolution-Initiated w/o "Formal Complaint"
- 8 Retaliation Protections
- 9 Discrimination Based on Pregnancy
- 10 Expands Recordkeeping



Typical Title IX – Related Concerns



Discrimination

Program Equity
Recruitment, Admissions and Access
Pregnancy
Athletics
Employment, Recruitment & Hiring
Extra-curricular activities
Access to Course Offerings
Salaries and Benefits
Financial Assistance
Facilities
Funding
Sex, Gender, Gender Identity

Sexual Harassment

Stalking
Domestic Violence
Dating Violence
Sexual Assault
Sexual Violence
Sexual Exploitation
Sexual Intimidation
Sexual Misconduct
Bullying and Cyberbullying
Retaliation



RCBOE Related Policies

Policy	General Information	Related Legislation	District Actions
GAAA - Nondiscrimination Policy Equal Opportunity Employment	<ul style="list-style-type: none">• No Discrimination on the basis of sex (including gender identity) age, race, disability religion or national origin• Applies to education programs and activities• Applies to admissions to facilities operated by the Board• Applies to employment practices	<ul style="list-style-type: none">• Title IX• Title VI and VII of the Civil Rights Acts of 1964 and 1999• Section 504• Age Discrimination in Employment Act• Equal Pay Act• Americans with Disability Act.	<ul style="list-style-type: none">• Superintendent will<ul style="list-style-type: none">• Coordinate efforts to comply• Keep records• Investigate complaints• Administer a grievance procedure for employees & students• Provide for publication of policy to all students, parents, employees, employment agencies and professional associations





Policy	General Information	District Actions
GAEB – Sexual Harassment of Employees	<ul style="list-style-type: none">• Prohibits harassment of students or employees by students or employees based on race, color, sex, national origin, religion, age, or disability (protected classes)• Harassment can include – conduct or speech entailing unwelcome sexual advances, requests for sexual favors, taunts, threats, vulgar comments, physical contact that creates hostile environment – and others acts• Report to principal or appropriate coordinator designated by policy• No retaliation for reporting• If it is abuse, it should be reported to proper authorities (DFACS)	<ul style="list-style-type: none">• ALL employees must promptly report• Supervisors must tell of this policy• Principals must put in handbooks and share verbally that harassment is forbidden• Violations will be investigated• Appropriate discipline actions as well as rehabilitative actions taken and outlined• Possible Discipline<ol style="list-style-type: none">1. Conference;2. Letter of Direction;3. Reassignment;4. Letter of Reprimand;5. Suspension; or6. Termination.7. Report to PSC• Due process will be afforded to all affected employees.



Board Policy GAEB: Sexual Harassment of Employees

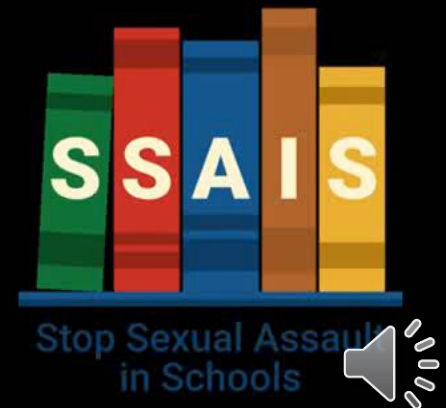
– Supportive Measures & Consequences



1. Student counseling;
2. Family counseling;
3. Specialized training;
4. Referral to outside agencies;
5. Detention;
6. In-School and Out-of-School Suspension, including Long-Term Suspension;
7. Class or School Transfer;
8. Revocation of Out of Zone School Assignments or Exceptions;
9. Expulsion.



Sexual Harassment is Happening
at ***My*** School?!



Why Title IX is Important

Potential Impact of Sexual Misconduct

Individual Impact

- Shame
- Humiliation
- Stress
- Anxiety
- Depression
- Loss of sleep
- Impaired learning/poor work performance
- Absenteeism/turnover

School/System Impact

- Culture of discrimination
- Civil liability (monetary damages, attorney fees)
- Negative media attention and public outcry
- OCR Resolution Agreement
- Loss of federal funds



Office for Civil Rights (OCR) and Title IX



- Office for Civil Rights (OCR) The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX.
- New Department regulations became effective on August 14, 2020. These changes required us to amend the RCSS procedures for responding to complaints of sexual harassment and sexual violence.
- Evidence of “**deliberate indifference**” is what can get schools and systems into serious trouble.



Office for Civil Rights (OCR) and Title IX



- OCR standard indicates that upon receipt of notice, **school/district must take immediate and appropriate steps** to investigate what occurred and take prompt and effective action to **end** the harassment, **remedy** the effects, and **prevent** the recurrence.
- OCR administratively enforces Title IX by:
 - Conducting investigations from complaints filed with the U.S. Dept. of Education.
 - Engaging in voluntary compliance investigations.



Title IX of the Education Amendments Act, 1972

2020 Legislation



Important Notes

- Goal of 2020 Legislation: Predictable, Consistent and Reliable means of securing non-discrimination
- Robust protections for all of those involved in Title IX cases
- Creates framework for how schools must respond to complaints
 - Grievance process – fair and transparent
 - School can't be discriminatory in responses (must apply to all regardless of sex)
 - Maintenance of records for 7 years
- Transparency of Training: Title IX training materials must be available for the public to review.



School Requirements – Title IX

- **Annual Training/Awareness**

- Employees
- Students
- Parents (*make information available*)

- **Poster**

- Display in visible places
- Updated with school-specific TIX Coordinator information

- **Handbook Statement**

- Include statement on non-discrimination and Title IX



- **Personnel**

- Designated School Title IX Contact
- Will maintain all files related to Title IX cases

- **Website**

- [RCSS Title IX Website](#)
- School sites – link to RCSS Site

- **Reporting Requirements:**

Report to the System's Title IX Coordinator, as well as any additional designated individuals (school site administrators and school Title IX Coordinator), any known claims of potential sexual harassment.



Roles



- **System Title IX Coordinator:**

- ☐ ensures fidelity and compliance
- ☐ facilitates investigation process
- ☐ arrange for appeals process
- ☐ ensures training
- ☐ Maintain records

- **School Title IX Contact (School-level):**

- ☐ Ensures training of employees and students on Title IX
- ☐ Receives reports and complaints
- ☐ First point of contact
- ☐ Implements supportive measures and decisions
- ☐ Keeps records pertaining to Title IX complaints

- **Title IX Investigator (System-level):**

- ☐ Investigates alleged misconduct
- ☐ Can be the Title IX Contact/Coordinator

- **Decision-Maker & Appellate Decision-Maker (System-level):**

- ☐ Makes a decision based on the Title IX Investigator's investigative report
- ☐ Cannot be the Title IX Contact/ Coordinator or Title IX Investigator

- **Informal Resolution Facilitator:**

- ☐ Must be trained
- ☐ Facilitates process between complainant and respondent
- ☐ Can be School Title IX Contact
- ☐ Cannot be Investigator or Decision-Maker



RCSS Title IX Personnel

**Dr. Kenneth Bradshaw,
Superintendent**

Title IX System Coordinator
Dr. Aronica Gloster, Student Services

Complaints Against Employees
Dr. Cecil Clark,
Chief HR Officer

Complaints Against Students
Dr. Aronica Gloster,
Student Services

Athletics Complaints
Mr. Scott McClintock, Athletics

System Investigators
Mrs. Kourtney Bell
Mr. Gregg Riddle
Officer Henry Jackson

Decision-Maker
Mr. Horace Dunson,
Deputy Superintendent

Appellate Decision-Maker
Dr. Kenneth Bradshaw,
Superintendent



RCSS Title IX Terms



- **Complainant** – means an individual who is alleged to be the victim of conduct that could constitute sexual harassment, or on whose behalf the Title IX Coordinator has filed a formal complaint.
- **Respondent** – means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment
- **Advisor** -- a friend, a family member, an attorney, a neighbor, or other individual of the party's choosing who may support complainant or respondent. Can review documents, attend meetings but not actively participate in interviews.
- **Actual Knowledge (notice)** -- means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any k-12 school employee
- **Deliberate Indifference** – response is unreasonable given what is known



Important Information and Training Deadlines



- ❑ **July 24, 2023** – Training for School-level Title IX Contacts
- ❑ **August 31, 2023** - Deadline for presenting face-to-face Title IX training for all local school staff about reporting responsibilities (*Employees hired after the start of the year must be trained, also*)
 - ❑ *Verification must be submitted to District Coordinator by **September 8***
- ❑ **Mid-August** - Update on RCSS Title IX and Discipline Process
- ❑ **September 19, 2023** - Informal Resolution Training for Title IX Contacts

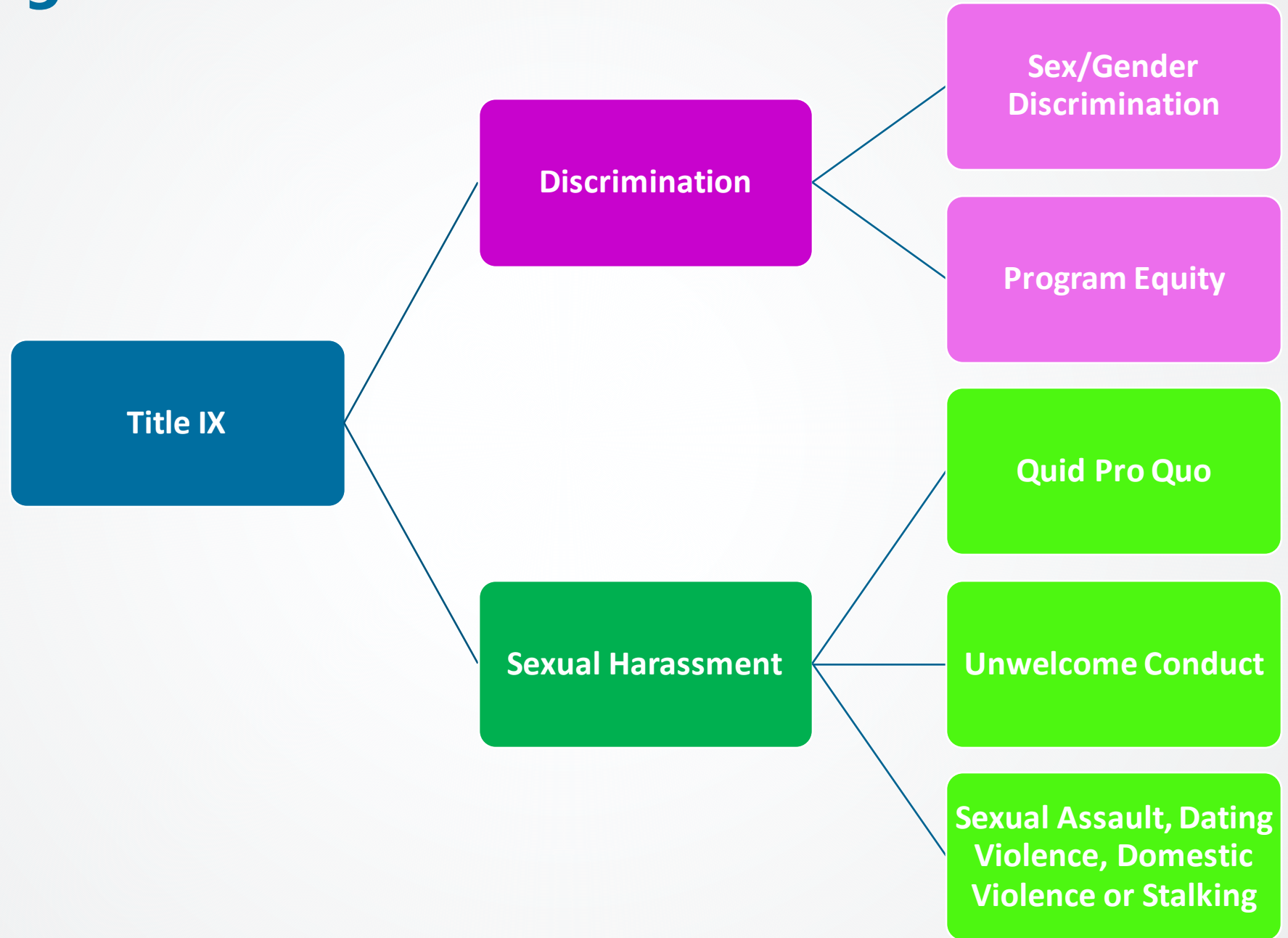




Defining and Identifying Sexual Harassment



Title IX Categories



Sexual Harassment Definition – 3 Categories

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

All of these types of sexual harassment jeopardize the equal access to education that Title IX is designed to protect

Quid Pro Quo

An employee of the School System conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

Unwelcome Conduct

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 System's education programs or activities

The Big 4 (Clery Act)

- **“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).



Quid Pro Quo

- “Quid pro quo” means “something for something”
- Applies only employee to student
- Sexual demands are made the condition of educational benefits or access to educational opportunities regarding the individual
- Not evaluated for severity, offensiveness, pervasiveness, or denial of equal educational access – existence is enough



Severe, Pervasive, AND Objectively Offensive



**UNWELCOME
CONDUCT**



**SEVERE, PERVASIVE, AND
OBJECTIVELY OFFENSIVE**

- Severe- can be non verbal through sexual assault (touching/fondling)
- Pervasive- how often and how widespread
- Objectively Offensive- behavior that would be offensive to a reasonable person under the circumstances



**DENIES
EQUAL ACCESS**



Unwelcome Conduct – Circumstances to Consider

Totality of the circumstances to consider:

- frequency (persistence or pervasiveness); how often & how widespread,
- nature
- severity of the conduct.
 - Whether the conduct was physically threatening.
 - Whether the conduct was humiliating.
 - The relationship between the alleged harasser and the subject or subjects of the harassment.
 - The age of the alleged harasser and the subject or subjects of the harassment.
 - The size of the school, location of the incident(s), and context in which conduct occurred.
 - Curiosity or gratification?



What is “Severe?”

- Something more than just juvenile behavior among students
- Something more than behavior that is even antagonistic, non-consensual, and crass
- Simple acts of teasing and name calling are not enough, even when based on sex



What is “Pervasive”?

- Systemic, widespread
- Multiple incidents—usually one incident is likely not enough
- Spreading of information through social media in a one-time incident could qualify



What is “Objectively Offensive”?

- Consider surrounding circumstances, expectations and relationships
- Is the act offensive based on the perspective of a reasonable person in the Complainant’s position?



Unwelcome Conduct – Circumstances to Consider



Sample indicators of a student experiencing unwelcome conduct :

- skipping class to avoid a harasser,
- a decline in a student's grade point average, or having difficulty concentrating in class
- a third grader who starts bed-wetting or crying at night due to sexual harassment,
- high school football player who quits the team but carries on with other school activities following sexual harassment.

A complainant does not need to have “already suffered loss of education before being able to report sexual harassment

- *Complainants do not need to have “dropped out of school, failed a class, had a panic attack, or otherwise reached a ‘breaking point’”*
- School officials turning away a complainant by deciding the complainant was “not traumatized enough” would be impermissible = deliberate indifference!



Sexual Assault/ Dating Violence – “The Big 4”

(3) “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).

- Based on Clery Act and Violence Against Women Act – higher education
- Includes rape, sodomy, forcible fondling, stalking



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 based upon the reporting party's statement with consideration of several factors:
 - (i) The length of the relationship,
 - (ii) The type of relationship,
 - (iii) The frequency of interaction between the persons involved in the relationship
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Sexual Assault

- An offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Crime Reporting system.
- A sex offense is any sexual act directed against another person, without



Types of Sexual Assault

RAPE:

The 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.

FONDLING:

The touching of the private body parts of another person 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 incapacity.

INCEST:

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

STATUTORY RAPE:

Intercourse with a person under the age of consent(16) and not his or her spouse,

SODOMY:

A person commits the offense of sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.



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;
 - a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - 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
 - 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.
- 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.



Title IX Jurisdiction – Where Did it Occur?



Schools must respond when sexual harassment occurs within the scope of a school's "education program or activity" **and** in the US.

- This should be a consideration in the initial interview with complainant and also if the formal complaint is filed.
- Includes locations, events, or circumstances over which the school exercises substantial control over both the respondent and the context in which the sexual harassment occurred, whether such programs or activities occur on-campus or off-campus.
- Examples:
 - At school
 - Extracurricular activities
 - Field trips
 - School bus
 - Distance education
 - School Gyms
- A formal complaint filed for an allegation outside of the Title IX jurisdiction must be dismissed
- • A school may address sexual harassment affecting its students or employees that falls **outside** Title IX's jurisdiction in any manner the school chooses, including providing supportive measures and/or pursuing discipline





**BREAK
TIME !!**

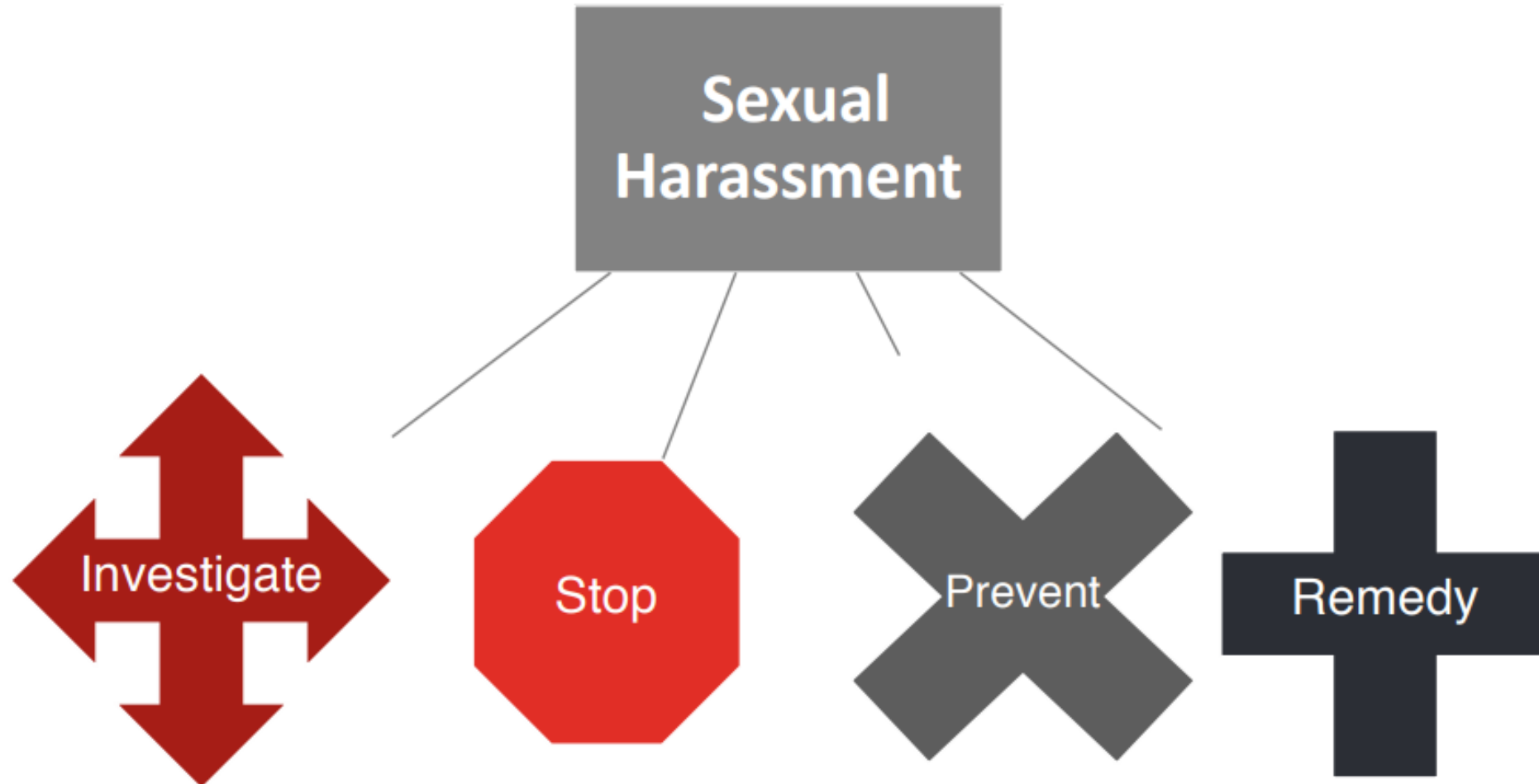




School Response to Allegations & Grievance Procedures



School Responsibilities for Responding to Sexual Harassment



Actual Knowledge (Notice)

What is Actual knowledge (notice)? When do you have it? Who can receive it?

- Actual notice occurs when an individual notifies the Title IX coordinator or other **responsible employee**. A responsible employee:
 - Has the authority to take action to redress the harassment; or
 - Has the duty to report harassment or other types of misconduct to appropriate officials; or is
 - Someone a student could reasonably believe has this authority or responsibility;
- Individual complains to school police or security official.
- Staff member witnesses harassment
- Rumors, gossip, social media, etc. *can* be notice
- **This means that ALL EMPLOYEES are responsible and must report any allegations of sexual harassment. Not doing so is being “deliberately indifferent.”**

Once actual notice exists, the duty to investigate is absolute.

- ☐ Small “i” preliminary inquiry.
- ☐ Big “I” comprehensive investigation (Formal Complaint.)

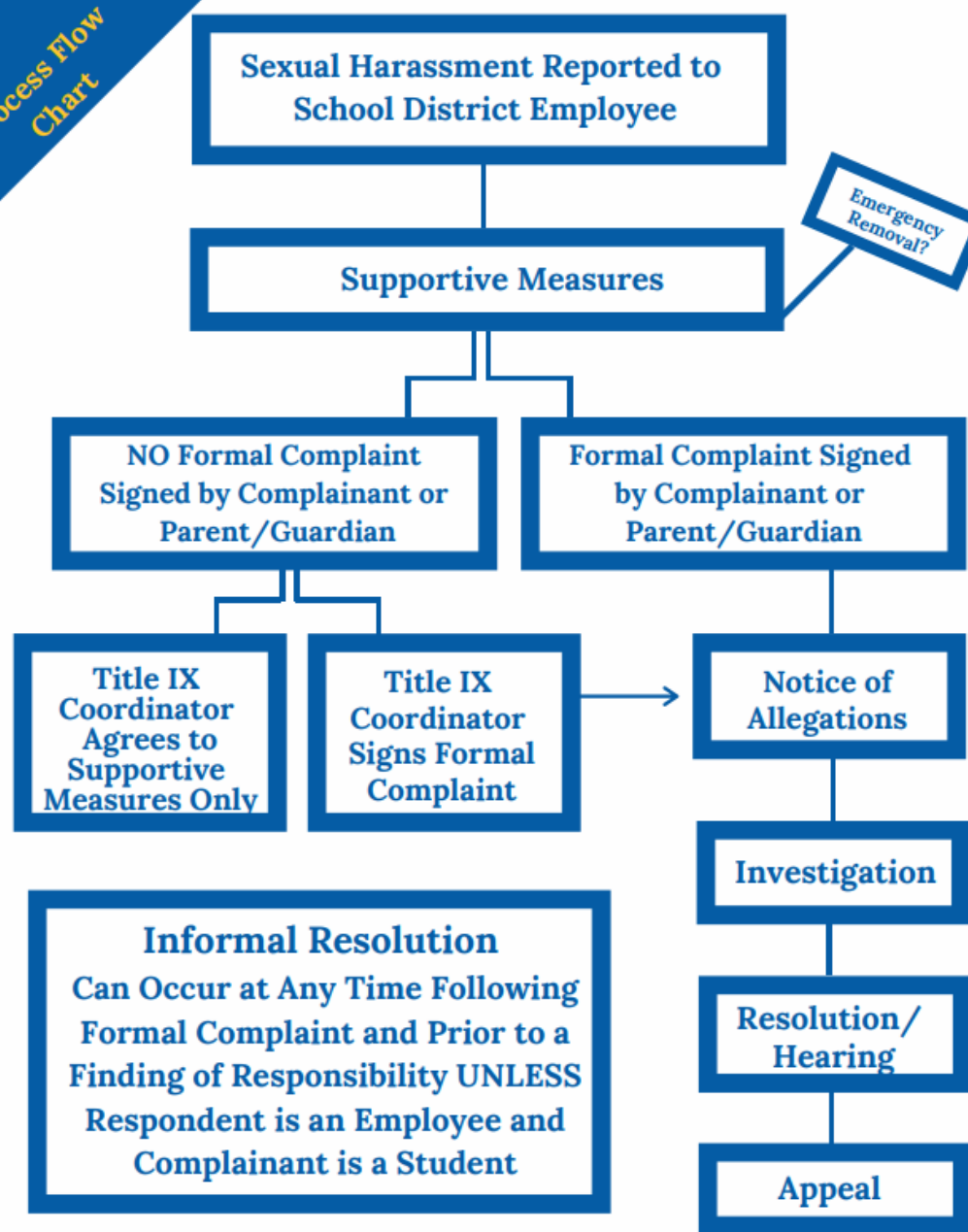


Actual Knowledge (Notice) Summary



- **Actual knowledge (notice)** triggers the obligation to offer supportive measures, explain grievance process
- **Formal complaint** triggers the obligation to investigate
- Parent/guardian has “right” to make report or complaint for students in K-12.





Formal Complaint

- Must be in writing (paper, email, online)
- Completed by complainant or the TIXC
- Copy submitted to the System TIXC
- Discuss the opportunity for Informal Resolution
- If Informal Resolution not agreed upon by both parties (Complainant and Respondent) – must pursue formal investigation



Formal Complaint - Dismissal

- **MUST** dismiss when the conduct does not meet the jurisdictional requirements:
 1. If the allegations would not constitute sexual harassment even if proven (still must investigate; contact complainant and seek more information)
 2. If the sexual misconduct did not occur in institution's program/activity
 3. If the sexual misconduct did not occur against a person in the United States (respondent doesn't need to be in the United States)

- **MAY** dismiss:
 1. If complainant requests to withdraw their complaint
 2. If respondent is no longer enrolled or employed
 3. When specific circumstances prevent gathering evidence sufficient to reach a determination



Formal Complaint - Dismissal

- If a complaint is dismissed:
 - Parties must receive simultaneous written notice of dismissal with reason(s) – *(template provided)*
 - Parties must have opportunity to appeal dismissal
 - Dismissal does not preclude other institutional action



Grievance Process -- Informal Resolution



- Considered a worthy practice, when voluntary.
- A formal complaint must be filed
- Allowed at any time prior to a final determination at discretion of TIXC
- Voluntary, written consent of the parties and their parent/guardian
- Cannot be used when allegations are that an employee harassed a student
- Must still stop, prevent, remedy, and document response



Grievance Process – Informal Resolution

- Examples of Informal Resolution

- Mediation
- Restorative Justice Practices
 - – Circles
 - – Conferences
 - – Hearings



- Can be done at the school level with the School Title IX Coordinator.
 - ***Coordinator must be trained***
- Training for Informal Resolution will be provided – September, 2023



Grievance Process Overview



Emergency Removal



The regulations provide that a respondent may be removed on an emergency basis (prior to adjudication) “provided that the [institution] 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 removal.” (§ 106.44(c))

Notes on Emergency Removal

- Applies to students
- Don’t call it a “suspension” = discipline
- Due to risk and safety concerns; immediate threat to health or safety (i.e. dating/domestic violence)
- Do it carefully, although may seem punitive
- Provide DUE process to allow opportunity to challenge removal
- Emergency removals are not going to be appropriate in all circumstances → fact specific inquiry
- Do not act based on generalized or hypothetical scenarios; judge on a case-by-case basis
- Employees – can be put on administrative leave(not ER)



Grievance Process – Retaliation



- To avoid retaliation concerns, regulations require institutions to keep the identity of parties and witnesses confidential (exceptions: FERPA, state law, or hearing concerns)
- Retaliation complaints may be made through grievance process
- May not retaliate because participation or refusal to participate in an investigation, proceeding, or hearing
- RCSS Code of Conduct and Board Policy prohibit retaliation





Role of the Decision Maker & Avoiding Bias & Conflicts of Interest



Grievance Process - Decision-Making

- Investigator will notify Decision Maker (Mr. Dunson) of evidence/ provide investigative report
- Decision Maker will objectively evaluate evidence and draw conclusions
 - Independent, free of bias & conflict of interest
 - Must be trained
- Burden of Proof
 - School has burden of proof to show met by a preponderance of the evidence
 - Greater than 50% chance claim is true



Role of Decision Makers

- **Conduct an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence**
 - ☐ Review evidence collected during the investigation
 - ☐ Must render a sound, reasoned decision on every charge
 - ☐ Determine what evidence to believe, the importance of evidence and the conclusions to draw from the evidence
- **Facilitates written cross examination –**
 - ☐ Sends written notice to both parties allowing them the opportunity to submit relevant, written questions that they want asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions for each party, prior to a final determination regarding responsibility
 - ☐ Explain to the party proposing the questions any decision to exclude a question as not relevant



Role of Decision Makers, Con't.

- Make relevancy determinations
- Determines whether District policy has been violated
- Make independent judgment on responsibility and sanctions
 - ☐ Determines appropriate sanctions/discipline when a policy violation is found
 - ☐ Sends out a written determination letter to the involved parties which outlines the rationale for their decision



Role of Decision Makers

Appellate Decision Maker

- Review written determination
- Review appeal document(s)
- Grant parties opportunity to respond
- Review party responses
- Make independent judgment on appeal



Conflict of Interest & Bias

- Watch for **conflicts of interest** or **bias** throughout the process
 - Title IX Regulations prohibit conflicts of interest or bias with Coordinators, Investigators, and Decision-Makers against parties generally or an individual party.
 - Separation of roles - Bias and Conflict of Interest on the part of the Title IX Coordinator, Investigator, or Decision-Maker = grounds for appeal
- A **conflict of interest** occurs when personal or private interests may compromise one's judgment, decisions, or actions
 - ☐ Simply knowing a student or an employee is typically not sufficient to create a conflict of interest if objectively not compromised.
 - ☐ Previously disciplining a student or employee is often not enough to create a conflict of interest.



Conflict of Interest & Bias

- A **bias** is a tendency, inclination, or prejudice toward/against someone
 - Often based on stereotypes, rather than actual knowledge of an individual or a particular circumstance
 - Frequently based on a person's gender, race, or sexual orientation
- Pre-judgement
- Relationships/Friendships
- **Self-Reflect. Consult. Remove yourself from the process and reach out for assistance.**
- For concerns of bias or a potential conflicts of interest by a Title IX team member, contact the District Title IX Coordinator.



Not Everyone Thinks Like You

Difference in

- Cultural backgrounds
- Learned responses
- Age, gender, race, religion, height/weight, strength
- Adverse childhood experiences (ACES)
- Trauma in the moment or prior to the encounter
 - Delayed reporting
 - Difficulty remembering specifics (could also be due to substance use)
 - Reluctant reporting
 - Remaining in a relationship or living arrangement with the respondent
 - Being calm and composed after an assault
 - Failing to identify the accused
 - Respondent may also be dealing with trauma, as well as witnesses



Not Everyone Thinks Like You

- *Stop and consider carefully before you decide someone is lying because they responded in a way different from how you would have responded.*
- *Do not assume that because there are signs of trauma that the respondent is the cause.*
- *Don't assume that because there are no signs of trauma, nothing bad happened.*



Collecting Evidence

Types of Evidence

Documentary Evidence: Written statements and official documents

Electronic Evidence: Photos, text messages, videos, school video surveillance footage

Save video surveillance evidence immediately

Direct or Testimonial Evidence: “Eyewitness” personal observation or experience

Circumstantial Evidence: “Not Eyewitness”, but compelling

Real Evidence: Physical object (less common)

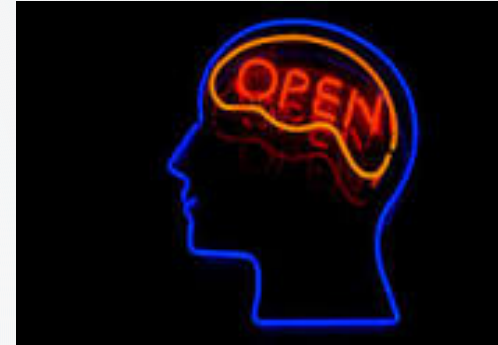


Considerations for the Decision-Making Process

Goal: Render a reasoned decision based on evidence

Avoid pre-judgement

- Suspend your judgement; keep an open mind
- Every case is different
- Listen/review ALL information before making a decision
- Remain unbiased and impartial
- Base decisions on relevant evidence alone
- Consider weight of evidence (remember standard: preponderance of the evidence)
- Recognize it may be more difficult than it sounds



Considerations for the Decision-Making Process

Be Impartial

- Impartiality when considering evidence and weighin the credibility of parties and witnesses
- Don't be swayed by prejudice, sympathy or a personal views
- Avoid sex, racial & cultural stereotypes; stereotypes based on diasability



Weigh the Evidence

- Quality isn't determined by volume or number of witnesses
- Weight (strength) matters
- Evaluate based on your own judgement



Evaluate Witness Credibility

- Give the testimony and information of each party/witness the degree of importance you reasonably believe it is entitled to receive
- Identify all conflicts and attempt to resolve those conflicts and determine where the truth lies
- Consider the reasonableness /unreasonableness or probability/improbability of the testimony.
- Does the witness have any motive?
- Is there any bias?
- Consistency, accuracy, memory, credibility, plausibility, inconsistency, unreliability, ulterior motives, lack of credibility –can be considered
- **Credibility is determined by fact, not by witness**
 - Most earnest and honest witness may share information that turns out not to be true.



Don't Consider Impact

- Don't consider the impact of your decision on either party when determining if the charges have been proven
- Focus only on the allegations and whether the evidence presented is sufficient to persuade you that the respondent is responsible for a policy violation.



Relevancy of Evidence and Questions



- Regulations do not define relevancy
 - ☐ Use standard definitions
 - ☐ Relevance: Does the evidence tend to make a fact more or less likely to be true
 - ☐ Must objectively evaluate questions and make determinations on relevancy
- Regulations define some things that are **NOT** relevant:
 1. **Treatment**, unless parties agree
 2. **Privileged Information** (Attorney-client communication, Confessions to a clergy member or religious figure, Spousal privilege)
 3. **Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior**





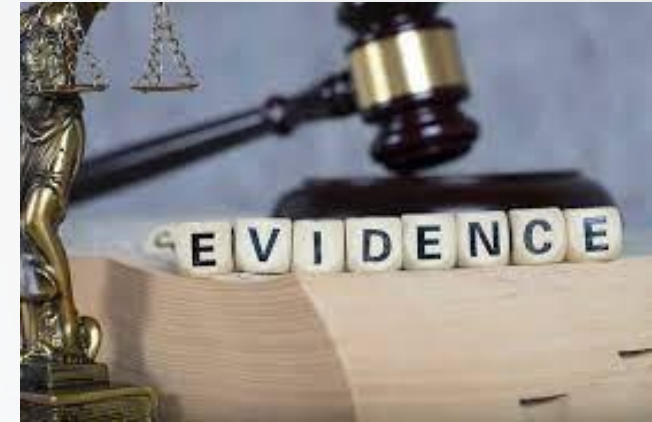
2 Exceptions to questions and evidence about the Complainant's sexual predisposition or prior sexual behavior

- a) offered to prove that someone other than Respondent committed the sexual harassment, or
 - b) if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with the respondent and are offered to prove consent (does not extend to Respondent)
- Provide reason(s) for irrelevance determination



Objective Evaluation of Relevant Evidence

- Must evaluate all evidence
 - **Inculpatory** – shows or tends to show how a Respondent's involvement in an act or event that can establish responsibility
 - **Exculpatory** – tends to exonerate Respondent of responsibility; favorable to a Respondent
- Admit and consider all relevant questions
- Remember that the Respondent is not responsible unless a preponderance of the evidence says so





After the Decision



Sanction and Remedies

- **Sanctions: Punishment; a strong action to make a person obey a law or rule**
 - No disciplinary sanctions prior to grievance process
 - Does not include supportive measures
 - Examples: suspension, expulsion, termination
 - Consider IDEA, ADA, 504
- **Remedies: designed to restore or preserve equal access to education program or activity**
 - May include supportive measures
 - Remedies need not avoid burdening Respondent
 - Can be disciplinary or punitive toward Respondent



Grievance Process - Written Determination

Identify	Identify the allegations
Describe	Describe procedural steps taken
Cite	Cite potential policy violations
Summarize	Fairly summarize all relevant evidence
Provide	Provide statement of result, with rationale, for each allegation
Appeal	Appeal procedures



Grievance Process - Articulating Decision & Rationale

- Articulate what you believe happened based on:
 - Standard of evidence
 - Elements of alleged violation
 - Connect rationale to each element
 - Identify facts supporting each element(s)
 - Identify facts that do not support the element(s)
 - Include any admissions that occur during the resolution process
- Document opportunities given to parties to provide information, review evidence, and provide rebuttal
- Explain if anything offered/mentioned was not considered/obtained and why



Grievance Process –Decision & Appeal

Procedural
Irregularity

New Evidence

Conflict of Interest

Other Additional
Bases (*erroneous
relevancy
determination*)



Grievance Process –Decision & Appeal

- Must be equitable to both parties
- Can't appeal because of not liking the decision!
- Written notice must be given to both parties when an appeal is filed
- Decision-maker for the appeal \neq initial decision-maker on the formal complaint, the investigator, or the Title IX Coordinator
- Both parties must have a chance to submit a written statement in support of or challenging the appealed decision.
- Must provide simultaneously to both parties the result of the appeal and rationale for the written decision



[RCSS Title IX Complaint Process Flowchart](#)

[RCSS Complaint Procedure – Narrative](#)

[RCSS Title IX District Site](#)

[Title IX Shared Folder for Schools](#)





Recordkeeping, Special Considerations, Prevention & Resources



Recordkeeping & Forms

Record keeping

- All Title IX records should be maintained locally for 7 years
 - ☐ All statements
 - ☐ Evidence
 - ☐ Communication
 - ☐ Logs
 - ☐ Decisions
 - ☐ Reports
 - ☐ Informal Resolution
 - ☐ Appeals
 - ☐ Everything related to an allegation
 - ☐ All Title IX training materials



- Copies of documents will also be maintained at Board Office.



Title IX Forms



Located in OneDrive Folder: [Title IX Shared Folder for Schools](#)

Alphabetical List of Forms

	Form	Purpose
1	Advisor/ Designee Form	Identification and permission for Advisor
2	Allegation Notice (Written Notice of Title IX Allegation)	Provided to Complainant and Respondent to notify of allegation of sexual harassment
3	Appeal Determination Letter	Explains outcome of appeal process
4	Appeal Process Acknowledgement	Acknowledges request for appeal of decision
5	Complaint Form	Initiate Formal Complaint Process
6	Consent to Informal Resolution	Used for Complainant and Respondent to indicate their agreement to participate in Informal Resolution
7	Cover Letter for Investigation Report	Accompanies Investigation Report; Cover sheet
8	Decision Appeal Form	Used to request an appeal of decision
9	Decision Form	Documents outcome of investigation process
10	Dismissal Form	To be used to explain why a complaint was dismissed
11	Dismissal of Complaint Notice	Notifies parties of a complaint dismissal
12	Documentation of District Response	Summary of School and District response to allegation
13	Informal Resolution Outcome Template	Used to document outcome of Informal Resolution
14	Intake Form	Used during initial conversation to gather basic information; Use when a report of sexual harassment is made
15	Intake Verification Form - Complainant/Respondent	Complainant/Respondent sign showing they have had an initial meeting with School Title IX Coordinator to discuss rights, allegation, supportive measures, informal resolution, etc.



Title IX Forms

Title IX Procedural Checklist



Date/Response/ Information	Action	Form
	Date Report/Complaint of allegations received.	
	Name/Title of person who received Report/Complaint.	
	Date Report/Complaint received by Title IX coordinator.	
	Does conduct, if proven, constitute sexual harassment? (see Policy GAEB)	Title IX Intake Forms
	Does conduct, if proven, lead to a reasonable belief that a child has been or may be abused or neglected? If so, contact DFACS and/or law enforcement within 24 hours of forming that belief.	Title IX Intake Forms
	Date of communication with Complainant to discuss supportive measures and advise about formal complaint procedure.	Title IX Intake Forms, Title IX Procedures; Advisor Designation
	Date and description of supportive measures for Complainant (if any).	Title IX Intake Form, Title IX Procedures; Advisor Designation
	Date of communication with Respondent to discuss supportive	Title IX Intake Form, Title



Discipline Process & Title IX



- Discipline process and Title IX process may have to parallel one another
 - Process isn't "clean cut"
 - **Will need to consult with System Title IX Coordinator and Board Attorney's Office. Call System Title IX Coordinator if suspected sexual harassment.**
 - Considering Emergency Removal or Suspension? **Consult with System Title IX Coordinator and Board Attorney before taking action.**
- Complainants must be made aware of right to file Title IX Formal Complaint
 - If DAP is not Title IX Coordinator, DAP must notify Title IX Coordinator
 - Advise parents and students that Title IX Formal Complaint Process may take up to 60 days



Discipline Process & Title IX



- In initial informal interviews, consider whether or not allegation meets definition and jurisdiction of Title IX sexual harassment.
- **If a Formal Complaint is filed:**
 - Be careful not to re-traumatize students
 - Statements collected during Title IX process can possibly be reviewed and updated in Tribunal process to prevent continual re-hashing of details
- A student could be found responsible through the Title IX Grievance Process and through the Tribunal process.



Special Situations & Considerations

- A. **DFACS reports** – continue to make immediate reports; must be made within 24 hours
- Intentional contact with another's private area
 - Intentional nudity/exposure of private area to another person
 - Alleged misconduct is unique to student's age and suggests abuse
- B. **Criminal Behavior** – must still be reported to school safety and law enforcement
- Notify Principal,
 - Notify SRO
 - Notify DFACS, as appropriate
 - Meet with parents to ensure safety measures
 - Document findings
 - **Must conduct a parallel Title IX investigation – under consultation with Board Attorney**



Special Situations & Considerations



C. Digital/ Online Students

D. Transgender Students – may have complaints under Title IX;

- compassion,
- Empathy
- due process

E. Confidentiality

F. Students with 504s or IEPs



Next Steps

1. Review the RCSS policies and procedures for Sexual Harassment
2. Review this training
3. Designate a place for keeping Title IX Records
4. Contact System Title IX Coordinator regarding when made aware of any Title IX Allegations



RCBOE Resources



RCBOE Title IX Website:

<https://www.rcboe.org/Page/62245>

System Contact:

Dr. Aronica Gloster

Director, Student Services & Title IX
Coordinator

glostar@boe.Richmond.k12.ga.us

(706)826-1000 x 5501

Richmond County School System Non-Discrimination Policy
[Non-Discrimination Policy](#)

Richmond County School System Bullying Policy
[Bullying Policy](#)

Georgia Department of Education - Equity
<https://www.gadoe.org/External-Affairs-and-Policy/Policy/Pages/Equity.aspx>

US Department of Education
Office of Civil Rights - Title IX and Sex Discrimination
https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

US Department of Education
Office of Civil Rights - Athletics
https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

US Department of Education
Title IX Site
<https://sites.ed.gov/titleix/>





Thank you!

