

**The Men in Black Are
Back!**



NEW TITLE IX RULES AND REGULATIONS

*Coming to a
District Near
You*

August 14th

NEW!

TITLE IX REGULATIONS



➤ Prior to this latest amendment to the Title IX regulations, we knew Title IX in the context of equality in sports and non-discrimination based on sex.

**BUT HASN'T
TITLE IX
BEEN AROUND
FOR YEARS???**



➤ Title IX States:

“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.”

**ISN'T
TITLE IX
MAINLY
ABOUT
EQUITY IN
SPORTS?**



- Title IX did NOT originally refer to sexual harassment.
- Two important Supreme Court cases established definitions and standards used in context of allegations of sexual harassment in educational institutions.

**ISN'T
TITLE IX
MAINLY
ABOUT
EQUITY IN
SPORTS?**



➤ **Gebser**
Established:

- Supreme Court ruled (5–4) that, under Title IX, damages cannot be awarded in a teacher-student sexual harassment case **unless a school official** “who at a minimum has authority to institute corrective measures...has **actual notice of, and is deliberately indifferent to,** the teacher’s misconduct.

***GEBSER V.
LAGO VISTA
INDEP. SCH.
DIST.,
524 U.S. 274 (1998).***



➤ *Davis v. Monroe*
Established:

- Supreme Court ruled (5–4) that, under Title IX, school boards are **liable for failing to stop student-on-student sexual harassment** under certain circumstances.

***DAVIS V.
MONROE
COUNTY BD.
OF EDUC.
526 U.S. 629 (1999).***



➤ **Davis v. Monroe**
Established:

- School System is liable when: **deliberately indifferent to sexual harassment**, of which they have **actual knowledge**, that harassment is so **severe, pervasive, and objectively offensive** that it can be said to **deprive the victims of access to the educational opportunities or benefits** provided by the school.

**DAVIS V.
MONROE
COUNTY BD.
OF EDUC.
526 U.S. 629 (1999).**



OCR published non-binding Dear Colleague Letters (2011-2015)

- In the absence of any official rule amendments, OCR operated by way of Dear Colleague Letters.

Enter the Men In Black



- September 2017, USDOE published guidance on Title IX, replacing some prior DCLs.
- *“The September 2017 guidance serves as interim guidance during the formal rulemaking process.”*
- November 2018, USDOE published proposed Title IX Regulations for comment.

Enter the Men In Black



- May 6, 2020, OCR released the long-awaited final rule.
- Final Rule and Regulations go into effect on August 14, 2020.

Enter the Men In Black



WHAT DOES THIS HAVE TO DO WITH ME?



Confused.

**Doesn't this just
apply to the
Athletic
Department?**

**Isn't this in Mr.
Bailey's court?**

MAJOR PROVISIONS OF TITLE IX FINAL RULE

- Title IX continues to prohibit sexual discrimination.
- Title IX now also prohibits sexual harassment.
- Sexual harassment includes sexual violence and stalking.
- Applies to ALL school programs, whether on or off campus.

DEFINITION OF SEXUAL HARASSMENT

Conduct on the basis of sex that satisfies one or more of the following:

(1) 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; or

DEFINITION OF SEXUAL HARASSMENT

Conduct on the basis of sex that satisfies one or more of the following:

(2) 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 System's education programs or activities; or

DEFINITION OF SEXUAL HARASSMENT

Conduct on the basis of sex that satisfies one or more of the following:

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

DEFINITION OF SEXUAL HARASSMENT INCLUDES

- Student → Student
- Student → Employee
- Employee → Student
- Employee → Employee



WHAT OCR PLANS TO DO

- February 2020 Announcement by Secretary DeVos
- “The number of K-12 sexual harassment and violence complaints filed with OCR is nearly 15 times greater than it was a decade ago.”
- OCR has been directed “to focus our enforcement, technical assistance and data-gathering activities on this issue.”
- “We are going to make it a **priority** going forward.”

WHAT OCR PLANS TO DO

- The new initiative “enhances OCR’s enforcement of Title IX” and “strengthens the ability of schools to respond to all incidents of sexual harassment and assault.”
- Implementing “Pass the Trash” provisions, which prohibit schools from just moving employees who have committed acts of sexual misconduct.”

WHAT OCR PLANS TO DO

- **Compliance Reviews (Nationwide in Schools and Districts)**
- **Public Awareness and Support**
- **Data Quality Reviews**
- **CRDC Detailed Data Collection on Sexual Assault**

What Do We Need to KNOW? What Do WE Need to DO?



**Know The
Forms!**

- ✓ Read through new documents and be familiar with the process.
- ✓ Post the NOTICE posters around your school/department.
- ✓ Place the Notice Statement in any Handbooks.
- ✓ Assist in placing information on school website.
- ✓ Know where to find the Formal Complaint Form.

What Do We Need to KNOW? What Do WE Need to DO?



**Know The
Coordinators!**

- ✓ **District Title IX Coordinator is Dr. Aronica Gloster.**
- ✓ **Each school site has a Title IX Coordinator. Be prepared to work with your Title IX Coordinator.**
- ✓ **Have contact information for each handy.**

What Do We Need to KNOW? What Do WE Need to DO?



Training!

- ✓ Training is required for administrators, Title IX Coordinators and for some other staff.
- ✓ Training materials must be posted on RCBOE website. Be familiar with these and where to find them.
- ✓ Train all employees to report ANY allegations of sexual harassment, whether it involves a student or another employee.

What Do We Need to KNOW? What Do WE Need to DO?



- ✓ Report any and all allegations of sexual harassment, whether it involves a student or an employee...or both.
- ✓ Report allegations to your school Title IX Coordinator, with a copy to System Title IX Coordinator, Dr. Gloster.
- ✓ Report Code of Conduct violations regarding harassment [Rules 5(B), 8(A), 8(B)] to your coordinator.

What Do We Need to KNOW? What Do WE Need to DO?



- ✓ Follow existing discipline procedures but dovetail new procedures with Title IX Coordinator.
- ✓ Follow existing personnel procedures but dovetail new procedures with Title IX Coordinator.
- ✓ Follow existing mandatory reporting (child abuse, certain criminal acts, PSC) but report to Title IX Coordinator.

Title IX: A Few New Concepts



**Supportive
Measures**

Non-disciplinary, non-punitive individualized services offered to BOTH complainant and respondent.

Designed to restore or preserve equal access to the educational program or activity.

Examples: counseling, extensions of deadlines, modifications of work or class schedules, mutual restrictions on contact between the parties, increased security and monitoring.

Title IX: A Few New Concepts



**Informal
Resolution**

**May be offered at
any time prior to
reaching a
determination.**

**Participation is
voluntary.**

**Either party may
withdraw and
resume the
grievance process.**

TITLE IX MAIN TAKE-AWAY

Report, Address and Document Our Response to EVERY Report of Sexual Discrimination, Harassment or Violence



**Work together
with the Title IX
Coordinator!**